

## Overview of the Title IV-E Guardianship Assistance Program (GAP)

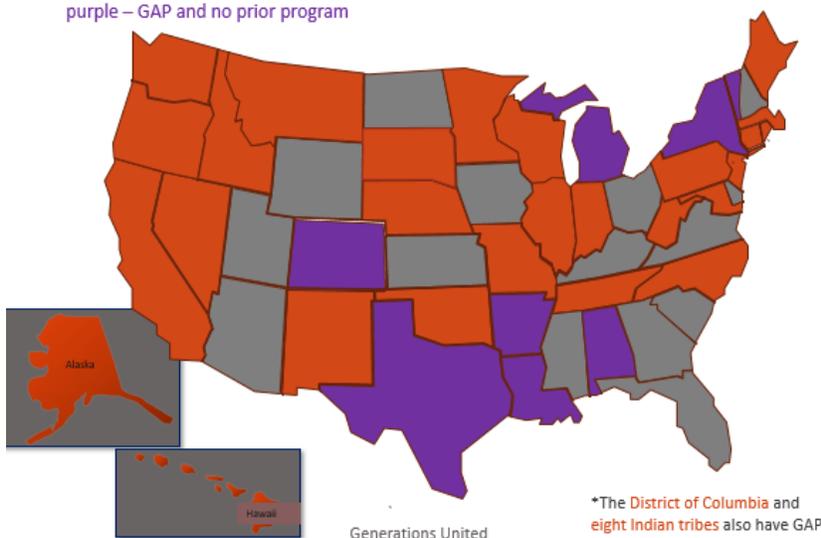
The Guardianship Assistance Program (GAP) offers states an option for providing permanency for children in foster care through legal guardianship with kin. The program provides federal funding for monthly financial assistance for kinship guardians, and research has shown the guardianship improves outcomes for children while providing a positive return on investment of public funds.

### Federal Policy

The federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (Fostering Connections Act) allows states to provide financial assistance to enable children who are in the care of relatives to exit foster care into permanent homes. States with federally approved Guardianship Assistance Program (GAP) plans are able to receive federal matching funds through Title IV-E of the Social Security Act to provide monthly subsidies to kin who have been granted legal guardianship. Federal reimbursement for GAP is provided to the state at the same matching level as federal funding for state foster care or adoption assistance.

### 35 States with GAP

orange – GAP and prior subsidized guardianship program  
purple – GAP and no prior program



### State Developments

Many states had subsidized guardianship programs prior to the federal GAP option, which were funded with state-only dollars, Temporary Assistance for Needy Families (TANF) funds, and/or through a previous federal waiver that was replaced by the Fostering Connections Act.

Under the GAP option, the guardianship subsidy cannot exceed the foster care rate, states must pay non-recurring costs of legal guardianship (e.g., legal fees) up to \$2,000, and children are automatically

eligible for Medicaid. The subsidy payments usually end when the guardianship terminates or when the child turns 18 (age 19 to 21 in some states). States may or may not need to make legislative changes to implement GAP.

### Elements of the Guardianship Assistance Program

The Fostering Connections Act allows states to receive reimbursement from federal Title IV-E funds for GAP if the following conditions are met:

- The guardian is a relative as defined by the state. Federal policy does not provide a definition of relative, and many states include fictive kin--adults not related by blood, marriage or adoption with whom the child has a significant emotional relationship.

- The child has been in licensed foster care with the relative for at least six consecutive months and meets Title IV-E foster care eligibility requirements.
- Reunification with the child's parents and adoption have both been ruled out as permanency options for the child.
- A child age 14 or older has been consulted about the guardianship.
- A court has ruled that the guardianship is in the "best interest" of the child and awarded the kinship caregiver with permanency legal guardianship of the child.

### **Benefits for Children and their Caregivers from Guardianship**

Research has demonstrated that subsidized guardianship can increase permanency for children. Benefits that children and kin may experience include the following:

- Children have permanent, stable homes with kin who are willing and able to care for them.
- Guardians are able to make decisions about the child's routine care, including consent to educational activities and medical treatment. Guardianship is responsive to cultural and family concerns by providing legal permanency for the child without the need to terminate parental rights when it may not be the most appropriate option. It supports the long and proud traditions of Native American, Latino, and African-American kin caring for children whose parents cannot.
- The child's parent retains certain rights and responsibilities, including the right to consent to adoption and the obligation of child support. The parent can visit with the child, unless the judge granting guardianship limits that right due to the best interest of the child.
- The child and family no longer experience public oversight including case worker visits and court hearings.
- Financial assistance in the form of monthly subsidy helps to offset the costs of raising a child for relatives who are often older, retired, and have lower income than other caregivers.
- The child has Medicaid coverage for health care, including mental health treatment.

### **Benefits for Child Welfare Systems and States.**

Research has shown there is a positive return on investment for taxpayers and child welfare systems when children are in safe, successful, long term living arrangements with caring kin.<sup>1</sup>

- The child welfare agency and the courts have fewer caseload and administrative responsibilities for than with an open foster care case. Caseworkers and child welfare agencies no longer make frequent child and home visits or conduct case management and administrative reviews. Judges no longer conduct permanency reviews and court hearings.
- The time and expenses of agencies and courts can be invested in protecting and monitoring children in their homes and in temporary out-of-home care.
- Federal financial reimbursement is available to support permanency with kinship families. In addition to GAP, some states provide financial assistance for guardianship for children who are not eligible for Title IV-E reimbursement with state-only funds.

## State Implementation Challenges

Some states have reported challenges as they have implemented GAP, and in certain communities and states, implementation has been limited and slow. Challenges include:

- Kin may be hesitant to get involved with child welfare systems, preferring to avoid the damage they fear to family relationships, the stigma they associate with agency oversight, and the burden and inconvenience of court appearances.
- State agencies and courts may actively “divert” children involved in alleged or substantiated child maltreatment to informal care with kin.
- One of the greatest barriers reported is the licensing requirements for kin to become foster parents. Federal policy allows states to waive non-safety licensing requirements (such as number of children in the home, square footage of the home, training and more) for kin on a case-by-case basis but safety requirements such as criminal background checks and home studies cannot be waived. Kin may be unaware of their ability to become licensed. State licensing agencies also may be slow to grant waivers.
- Attitudes of decision makers regarding the fitness of relatives may be a barrier. Both caseworkers and judges may believe that kin are likely to face the same issues and challenges that brought the child and his parents to the attention of the child welfare system.
- Training for and capacity of agency staff and judges is necessary to educate kin about the options of licensed kinship care followed by guardianship, to undo bias regarding kin, and to grant case-by-case licensing waivers and take other steps to expedite licensing.

## For Additional Information

**Grandfamilies. Org** <http://grandfamilies.org/Topics/Subsidized-Guardianship>

A collaboration between the American Bar Association (ABA) Center on Children and the Law, Generations United, and Casey Family Programs, this web portal serves as a national resource that can assist policymakers in exploring options to support relatives and children in their care.

## Casey Family Programs

*Guardianship Assistance Policy and Implementation A National Analysis of Federal and State Policies and Programs.* <https://www.casey.org/guardianship-assistance-policy-and-implementation-a-national-analysis-of-federal-and-state-policies-and-programs/>

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<sup>1</sup> Testa, M.F. & Cohen, L. (2010). *Pursuing permanence for children in foster care: Issues and options for establishing a federal guardianship assistance program in New York State.* School of Social Work, University of North Carolina at Chapel Hill.