

# Overview

## Introduction

The enactment of the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Fostering Connections Act) represents the most significant federal reform for children in foster care in more than a decade. This law offers new hope for tens of thousands of children spending part of their childhood in foster care without the permanent family connections so critical to their overall well-being and development. The Fostering Connections Act contains a number of provisions intended to help keep families together and improve children's outcomes. It establishes the federal Title IV-E Guardianship Assistance Program, referred to in this report as "GAP." GAP is the first time that federal dollars were made available exclusively for supporting children exiting foster care to permanent homes with relative guardians.

GAP was a critically important step in a variety of efforts to increase support for relative caregivers and other guardians. Thirty-seven states and the District of Columbia had offered subsidized guardianship assistance funded primarily with state dollars prior to Title IV-E GAP. Members of Congress from both sides of the aisle, recognizing the importance of guardianship in the permanency continuum, introduced legislation in the 109<sup>th</sup> Congress and again in the 110<sup>th</sup> Congress to garner federal support for children being raised by relative guardians, which was incorporated in part in Title IV-E GAP. A handful of states received time-limited Child Welfare Waiver Demonstrations that allowed them to use existing federal dollars intended for foster care for guardianship assistance payments. However, it was not until the passage of the Fostering Connections Act that every state had the option to claim federal reimbursement for children served by the new federal Guardianship Assistance Program.

GAP provides assistance for children who are removed from the care of their parents and are being raised by their grandparents or other relatives in foster care when those relatives become their guardians. More specifically, the new federal GAP resources help children who are eligible for federal foster care payments under Title IV-E of the Social Security Act and have been cared for by prospective, licensed relative guardians for at least six consecutive months to leave foster care to live permanently with the relatives who then become their legal guardians. More detailed eligibility requirements for the GAP Program are described in Appendix E.

Financial assistance for guardians raising children who were in foster care is an essential component of the supports relatives need in order to offer these children permanent families. However, financial assistance alone is insufficient, and the Fostering Connections Act includes, in addition to GAP, other critically important components related to supporting those relatives wishing to step forward and help.

### How the Guardianship Assistance Program (GAP) Benefits Individual Children

- Promotes a sense of belonging; helps children stay connected to family and to their culture
- Increases stability and continuity
- Prevents children from remaining in foster care when reunification and adoption are not appropriate permanency options
- Reduces agency supervision and intervention in children's lives once they are in a permanent family
- Does not require the termination of parental rights for children who have relationships with parents who cannot care for them
- Provides relatives with assistance to care permanently for children

The Fostering Connections Act requires that child welfare agencies identify and notify relatives when a child is about to enter foster care. It establishes grants for Kinship Navigator Programs to help link caregivers to the supports they need, for intensive family finding efforts to locate relatives when children first come to the attention of the system or are preparing to leave care, for family group decision-making meetings to bring birth families and kin to the table as decisions are being made about children, and for comprehensive family-based residential substance abuse treatment programs. The Fostering Connections Act also requires agencies to make reasonable efforts to keep siblings together, efforts to help keep children in school and minimize the number of school moves, and efforts to promote the coordination of health care children need. It extends care beyond age 17 for children who exit foster care for relative guardianship at age 16 or older in order to enable children with relative guardians to benefit from independent living services and education and training vouchers. The Fostering Connections Act also provides that certain non-safety related licensing standards for relative homes can be waived on a case-by-case basis in order to make it easier for relatives to become licensed foster homes. All of these provisions are intended to improve safety, permanence and well-being for children living with kinship care families. See Appendix F for reference to this and other selected federal programs that offer opportunities to promote permanent families with relatives for children.

This new support for kinship families has been applauded by relatives raising children, youth currently or formerly in foster care, other advocates, policymakers, providers and the legal communities. The Guardianship Assistance Program recognizes the importance of family commitments to children and builds upon the longtime commitment of relatives to care permanently for related children.

*Making It Work: Using the Guardianship Assistance Program (GAP) to Close the Permanency Gap for Children in Foster Care* examines the benefits of GAP for children, their siblings and other family members, and those seeking to find permanent families for children in foster care. This report examines stakeholder involvement; strategies to train stakeholders about the new program and its importance to permanence for children; challenges faced in implementing GAP; and lessons learned and advice for states still deciding whether to take and/or how to best implement the GAP option.

This Overview and the individual state narratives and state fact sheets that follow capture GAP activity at a given moment in time. As of September 2012, 29 states, the District of Columbia (D.C.) and the Port Gamble S'Klallam Indian Tribe in Washington state had applied to and been approved by the Department of Health and Human Services for federal funding from the new Title IV-E Guardianship Assistance Program (See Box 1 below.) All are now working to implement GAP in order to help children leave foster care and move to permanent homes with relatives.

**BOX 1: States and American Indian Tribes with Approved Title IV-E Guardianship Assistance Programs (GAP) As of September 2012**

Alabama	Louisiana	Oklahoma
Alaska	Maine	Oregon
Arkansas	Maryland	Pennsylvania
California	Massachusetts	Rhode Island
Colorado	Michigan	South Dakota
Connecticut	Missouri	Tennessee
District of Columbia	Montana	Texas
Hawaii	Nebraska	Vermont
Idaho	New Jersey	Washington
Illinois	New York	Wisconsin

Port Gamble S'Klallam Indian Tribe

Staff from the ABA Center for Children and the Law, Casey Family Programs, Child Focus, Child Trends, Children’s Defense Fund and Generations United—all organizations with a long-standing commitment to helping children in foster care connect to family—conducted interviews with individuals responsible for guardianship programs in each of the 29 states and the District of Columbia with approved GAP plans and with additional stakeholders in some states. The goals for this report are threefold:

- to provide a snapshot of state activities early in the implementation process so progress can be tracked over time;
- to identify the benefits of GAP and best practices in GAP implementation to share among states; and
- to make a case for broader efforts to increase the number of children reached by GAP and to provide permanent families for many more children.

Partnering organizations anticipate that this report describing state experiences, including challenges and lessons learned, will be beneficial to states in different stages of implementation and states that have not yet implemented GAP.

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## Abigail’s Story

Imagine getting a call tonight that nine of your nieces and nephews need a place to stay to keep them safe. When you ask how long you will need to care for them, you hear it really just depends on what the court requires. Aunt Abigail didn’t hesitate to take in her nieces and nephews while her sister addressed serious mental health concerns that placed the children in grave danger. While caring for the children, Abigail looked for ways to help support the parents’ progress by coordinating visits for all of the children together, demonstrated ways to keep the children engaged, and helped the parents understand ways to support the children's positive behavior.

After a year with their aunt, the children were slowly reunified with their parents. Shortly after reunification, their safety was once again threatened while with their parents. Abigail again stepped up to help care for all of the children. She went through the process to become a foster/ adopt home to help meet any possible permanency outcome for the children. When Child Protective Services sought to terminate parental rights to free the children for adoption by their aunt, the courts gave permanent managing conservatorship to the department without terminating parental rights, thus ending the hopes of adoption. Because Abigail had become a verified foster home with the support of the kinship program, the children were able to benefit from the Permanency Care Assistance program (the state’s Title IV-E Guardianship Assistance Program) when Abigail was granted permanent managing conservatorship. The Permanency Care Assistance program allowed Abigail to keep such a large sibling group together while meeting all of their needs and to help the children continue other family connections, including contact with their parents as appropriate.

## Key Findings

### Jurisdictions with and without previous experience with subsidized guardianship recognize the benefits of GAP for children.

Eight of the 30 jurisdictions listed in Box 2 that have approved GAP plans did not previously have subsidized guardianship programs. Prior to the federal GAP option, no monetary assistance, other than child-only grants under the Temporary Assistance for Needy Families (TANF) program, was available in those states for guardians caring for children, even when they were helping to keep children out of, or remove them from state-supported foster care. Many children raised by relatives in foster care in these states remained in foster care long-term. Staff from New York, one of the eight states, said their previous efforts to pass a subsidized guardianship law had been unsuccessful, but the availability of federal funds for GAP provided the state with the impetus it needed to make guardianship assistance a reality. Michigan passed subsidized guardianship legislation for the first time just before GAP was enacted, but postponed implementation until it could apply for GAP funds.

#### **BOX 2: States that had Subsidized Guardianship Programs Prior to GAP (Including Primary Funding Source)**

Alaska (State Funds)	Montana (Title IV-E Waiver and State Funds)
California (State Funds)	Nebraska (State Funds)
Connecticut (State Funds)	New Jersey (State Funds and TANF)
District of Columbia (Local Funds)	Oklahoma (TANF and State Funds)
Hawaii (State Funds)	Oregon (Title IV-E Waiver)
Idaho (State Funds)	Pennsylvania (State and County Funds)
Illinois (Title IV-E Waiver)	Rhode Island (State Funds and TANF)
Maine (State Funds)	South Dakota (State Funds)
Maryland (Title IV-E Waiver and State Funds)	Tennessee (Title IV-E Waiver)
Massachusetts (State Funds)	Washington (State Funds)
Missouri (State Funds)	Wisconsin (Title IV-E Waiver)

#### **States that Did Not Have a Subsidized Guardianship Programs Prior to GAP**

Alabama	Colorado	Michigan	Texas
Arkansas	Louisiana	New York	Vermont

Twenty-one states and the District of Columbia already had state, local, Title IV-E waiver- or TANF-funded guardianship assistance programs when the Fostering Connections Act was enacted. However, those programs differed significantly in scope and in the groups of children served. For instance, state-subsidized guardianship programs in Maine and Montana previously limited eligibility for guardianship assistance to children with special needs or those categorized as “hard to place” (a practice often used by adoption assistance programs).

Eight states previously offered assistance to children with guardians, but without the requirement that the child first live with the relative in foster care for six consecutive months as required by GAP. Fourteen of the 21 states and the District of Columbia did not require that the guardian be a relative. In Pennsylvania, the guardian did not need to be a relative and the six months in foster care could be cumulative. Some states, like California, Illinois and New Jersey, required that the child live with the caregiver for 12 months in order to be eligible for the subsidy. Illinois, New Jersey and several others did not require that the homes be licensed. Idaho and Hawaii required that a child’s parental rights had to be terminated prior to placing the child with a guardian. South Dakota imposed a means test on the guardian.

A number of states that already had subsidized guardianship programs used the new availability of GAP funds as an opportunity to alter the requirements of their existing state programs to accommodate the new federal requirements. Some of these changes allowed GAP to reach more children and families than their previous state programs by broadening the base of children who were eligible for GAP. For example, before applying for GAP six states and the District of Columbia expanded their definition of “relative” to include not only persons related by blood, marriage or adoption, but also persons who had a significant relationship with a child but who were not related to the child by blood, marriage or adoption, often referred to as fictive kin.

**Most states implementing GAP also extend subsidies to additional children.**

Of the jurisdictions with operating GAP programs for Title IV-E eligible children, 26 states and the District of Columbia also operate separate state-funded subsidized guardianship programs to meet the needs of children who do not meet all the GAP eligibility requirements (See Box 3). In most cases the state-funded programs offer guardianship assistance for children who are not eligible for Title IV-E foster care or who have not lived in foster care with the relative or in a licensed foster home for six months prior to moving to guardianship. In some states American Indian children are also funded through the state program. States operating both a federally-funded guardianship assistance program and a state-funded subsidized guardianship program are able to offer permanent families for more children and families, not just those who qualify for GAP.

<b>BOX 3: States that Provide Subsidized Guardianship for Both Children Eligible for Title IV-E GAP and Those Ineligible for Title IV-E GAP</b>			
Alaska	Idaho	Missouri	Rhode Island
Arkansas	Illinois	Montana	South Dakota
California	Louisiana	Nebraska	Tennessee
Colorado	Maine	New Jersey	Texas
Connecticut	Maryland	New York	Vermont
District of Columbia	Massachusetts	Oklahoma	Wisconsin
Hawaii	Michigan	Pennsylvania	
<b>States that Do Not Provide Subsidized Guardianship For Children Ineligible for Title IV-E GAP</b>			
Alabama			
Oregon			
Washington			

**Children are truly benefiting from GAP implementation.**

GAP plans for the 29 states and the District of Columbia were approved by HHS between July 2009 and February 2012. Some states began implementation efforts before plans were finally approved, even though funding claims could not yet be made. Others started right after the plan was approved. Others had long delays between approval and implementation for many reasons including the need for additional field training, delays in securing updates to their Statewide Automated Child Welfare Information Systems (SACWIS) or challenges in getting Medicaid for the newly eligible children. All states with approved GAP plans also were given the opportunity to review the circumstances of children who already left care to live with relative guardians to determine if they met all the GAP requirements and might be eligible for GAP assistance. See Appendix H for the approval and effective dates for the GAP program in individual states. States like Illinois and Montana that operated subsidized guardianship programs under federal Child Welfare Demonstration

Waivers were allowed to grandfather into GAP those children who were eligible for guardianship assistance under their waiver programs even if these children did not meet all the new GAP eligibility requirements.

GAP implementation efforts are having a positive impact in states. In some states there are several thousand children, and in others, hundreds of children, being cared for by relative guardians who are benefiting from federally- and state-funded subsidized guardianship assistance programs. In a number of states, a decision to apply for GAP funds increased attention to subsidized guardianship and in some resulted in more children being eligible for the existing state-funded guardianship assistance program as well as the new GAP program. Certain categories of children, such as sibling groups and older youth, are especially benefiting in states.

### *Siblings are kept together*

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**Four young children, ages 9-12, were placed in foster care in 2008. They were moved about and separated at times because of lack of space in the homes or behavior problems. Two years later an older brother, Arnold, age 27, came forward with his girl friend as a placement resource, and all of his four siblings were placed in his home. Arnold is now licensed and GAP is the plan for the family. The four young children are excited that they are all together.**

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The role of GAP in helping to keep siblings together was highlighted by a number of states. The Fostering Connections Act requires that all states make reasonable efforts to place siblings together in foster care or to maintain sibling connections when it is not in the best interest of the children for them to live together. It makes clear that siblings of an eligible child may be placed together in a guardian's home and become eligible for GAP even if the siblings do not meet the GAP eligibility requirements. Federally-supported guardianship assistance payments may be made on behalf of each sibling placed with the guardian. In Illinois, for example, a high percentage of sibling groups of three to five children are placed together with the same guardian with GAP assistance and the state is considering even larger groups of six to seven. Montana noted that 90 percent of its new tribal cases under GAP are sibling groups being placed together. Texas and Washington also noted that GAP allows more relatives to provide long-term permanence for children, especially sibling groups.

### *Older youth receive additional benefits*

While most children benefiting from GAP are under the age of 18, the Fostering Connections Act gives states two options to extend care to youth age 18 and older. States may choose to extend care to age 21 for children with a mental or physical disability which warrants the continuation of assistance. States may also opt to extend guardianship assistance to age 19, 20 or 21 for certain youth who were age 16 or older when their kinship guardianship assistance agreement became effective. These are youth who are completing high school or an equivalent program, enrolled in a post-secondary or vocational education program, working or preparing for work, and youth with medical conditions that prevent them from doing any of these activities. There are also a few states that continue guardianship assistance for children to age 19 who are expected to graduate by that time. (See Box 4, page 9.)

Eighteen states and the District of Columbia extend GAP to age 21 either because the youth have disabilities and/or are engaged in school, working and/or preparing for work. Several of the nine states that stop GAP at 18 mentioned during the interviews that they would like to extend GAP to older youth.

The Fostering Connections Act also allows states to offer additional aid to youth who leave foster care for kinship guardianship at age 16 or older. These youth are eligible for independent living services to age 21. They are also eligible for educational and training vouchers (ETVs) to age 21 and, if eligible at 21 may

## BOX 4: States that Extend GAP Beyond Age 17

Extend GAP Until 21	Extend GAP Until 19
<i>For the five categories of youth listed in the Fostering Connections Act<sup>1</sup></i>	<i>For youth with mental or physical disabilities that warrant continued assistance</i>
<i>For youth in high school or equivalent educational program and expected to graduate by age 19</i>	
Alabama	Alabama
Arkansas	Arkansas
California*	California
District of Columbia	District of Columbia
Maryland	Hawaii
Massachusetts	Illinois
Michigan	Maine
Nebraska (only to age 19)	Massachusetts
New York	Oregon
Oregon*	South Dakota
Pennsylvania*	Vermont
Tennessee*	Washington
Texas	Wisconsin
Vermont	
Washington*	

### States that Do Not Extend GAP Beyond 17

Alaska	Idaho	Montana
Colorado	Louisiana	New Jersey
Connecticut	Missouri	Rhode Island

<sup>1</sup> Under Fostering Connections, states may choose to extend Title IV-E GAP to a child 18 or older who is in foster care under responsibility of the state, was age 16 before a guardianship assistance agreement took effect, has not attained 19, 20 or 21 years of age as the state may elect, and is:

1. completing secondary education or a program leading to an equivalent credential;
2. enrolled in an institution which provides postsecondary or vocational education;
3. participating in a program or activity designed to promote, or remove barriers to, employment;
4. employed for at least 80 hours per month; or
5. incapable of doing any of the activities described in subclauses (1) through (5) due to a medical condition, which incapability is supported by regularly updated information in the case plan of the child.

(§475(8)(B), ACYF-CB-PI-08-007 p. 5)

\* State has more limited coverage. For more detailed information about the state's coverage, see the state's fact sheet in Appendix I.

remain eligible to age 23 as long as they are enrolled in a post-secondary education or training program and are making satisfactory progress toward completion of that program. Independent living services often include life skills preparation classes, youth conferences and similar services designed to prepare youth for adulthood. The ETV program provides vouchers of up to \$5,000 per student annually for post-secondary education or training. (See Appendix G.)



### *“Hard to place”*

Several states mentioned that they were targeting, although not exclusively, special groups of children through GAP. Maryland, for example, is targeting children with a permanency goal of Another Planned Permanent Living Arrangement (APPLA) in order to reduce the number of children who remain a long-term foster care. Idaho is paying special attention to promoting permanency for older youth and tribal youth. Vermont is hoping that GAP will help provide permanency to a specific group of children—those with strong attachments to parents who are recovering from substance abuse. Several states noted that GAP has helped increase the number of younger children who are in permanent families.

### *What the numbers show*

A look at the reported numbers of children benefiting from guardianship assistance programs in states, starting with states with the most children in those programs, highlights important progress being made for children<sup>1</sup>:

- California had 5,852 children in its Title IV-E KinGAP program and another 9,848 children in state-funded KinGAP.
- Illinois had 4,184 children in its KinGAP program and 550 of the children entered guardianship since KinGAP began in November 2009. Of these 550 children, 437 are Title IV-E eligible.
- Missouri estimated it had between 3,500 and 4,000 children in its subsidized guardianship program; about 28 percent of them are Title IV-E eligible.
- New Jersey had a total of 2,229 children in its previous subsidized guardianship program and 478 children in its GAP program since October 1, 2009. The others continue to get state assistance.
- Pennsylvania had 2,165 children in subsidized permanent legal custody but it could not differentiate between children in its federal, state or local programs.
- Seventeen hundred children were being served by Maryland’s GAP program. The state noted that number actually “doubled or tripled” when subsidized guardianship payment rates were increased to make them closer to foster care rates.
- Hawaii had approximately 1,000 children in its subsidized guardianship program, but it could not say how many were in the federal Title IV-E-funded program.
- Four hundred fifty-nine children in Texas had exited foster care at the end of March 2012 and were approved for Permanency Care Assistance (PCA). This number included both Title IV-E-funded children and state-funded children who were ineligible for Title IV-E funds.
- Tennessee had established 492 guardianships since the beginning of GAP.
- There were 316 children receiving guardianship assistance in Rhode Island in April 2012; there had only been approximately 20 active guardianships prior to implementation of GAP.

Some states with small numbers of children in subsidized guardianships are in the very beginning stages of implementation. A number of these are states that did not previously have subsidized guardianship programs. In Alabama, for example, only two children had received GAP assistance at the time of the interview. However, when Alabama was initially deciding whether to apply for GAP funding, it projected 190 children might be eligible for the new program, so the number of children in the program is likely to increase. Louisiana also did not have a previous subsidized guardianship program, and had 85 children in the program, which was approved in October 2011 but was effective October 2010. Even some states with previous subsidized guardianship programs have found start-up slow. For example, about four months after Idaho implemented GAP, the state had three children who were awaiting final approval for Title IV-E GAP assistance.

At the time of the interview, Wisconsin had 217 children receiving Title IV-E guardianship assistance payments statewide, 195 of whom were children grandfathered in from the state’s previous guardianship waiver program.

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<sup>1</sup> All estimates were as of the time of the interview.



Alaska had 149 children receiving guardianship assistance subsidies, eight of whom have become eligible for GAP. Montana had finalized 28 guardianships since its GAP plan was approved in May 2010, and 20 of those were eligible for Title IV-E GAP assistance. Montana noted an increase in the number of Title IV-E eligible children going into guardianship rather than remaining in permanent foster care.

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**GAP helped a paternal grandmother, Mrs. Y, who had previously taken custody of a 17-year-old grandchild, the oldest child in his family, to also take legal custody of two younger siblings and have the support of the monthly GAP payments.**

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### **Children in American Indian Tribes are benefiting from Title IV-E Guardianship Assistance Programs.**

Before the Fostering Connections Act, Indian tribes could not access federal Title IV-E funds directly to administer their own foster care or adoption assistance programs, but instead had to have an agreement with a state government to access Title IV-E funds. The Fostering Connections Act enables tribes or tribal consortia to apply directly to HHS for Title IV-E funds and also allows states and tribes to continue to operate or create state/tribal agreements to administer the Title IV-E program. At the time of this publication one Indian tribe, the Port Gamble S’Klallam Tribe, had applied to and been approved by the Department of Health and Human Services for federal funding for Title IV-E GAP. More than a third of the states interviewed had state/tribal Title IV-E GAP agreements or had arranged for tribal children to benefit from GAP. (See Box 5.)

**Box 5: States Interviewed that had State/Tribal Title IV-E Guardianship Assistance Program Arrangements**

California	Montana	Oregon
Connecticut	Nebraska	South Dakota
Michigan	Oklahoma	Washington

Tribes in Montana are taking advantage of implementation of Title IV-E GAP. All seven American Indian tribes in the state now have state/tribal agreements. Only three of the seven participated in Montana’s previous subsidized guardianship waiver program. State staff note sibling groups are specifically benefiting from GAP, with sibling groups making up 90 percent of Montana’s new tribal cases.

Oregon is facilitating the state/tribal GAP agreement process by assigning a specific staff person within the Office of Child Welfare Programs to work directly with tribes submitting applications for GAP and to negotiate with tribal families. Washington has state/tribal GAP agreements with four tribes, and had its Children’s Administration staff present about GAP to the statewide Indian Policy Advisory Committee (IPAC) and the Children’s Administration subcommittee of IPAC. Connecticut works closely with tribes and has regular joint meetings between local tribes and the local Department of Children and Families.

There are 12 federally recognized tribes in Michigan, and Michigan’s Department of Human Services is currently working with the Keweenaw Bay Indian Community on operating a guardianship assistance program. Michigan cited challenges operating state/tribal GAP agreements with some tribes because their territories span across state lines, which would require Michigan to work with other states’ jurisdictions in order to operate a guardianship assistance program.

**GAP helps highlight the importance of permanency and kin to a range of stakeholders.**

In addition to the growing number of children who achieve permanency through GAP a number of the states interviewed noted that the introduction of the new federal assistance provided an additional opportunity to educate staff and the community about the importance of relative placements in the continuum of permanency options for children. Texas, which did not have a subsidized guardianship program before GAP, said GAP helped to demystify the use of kin as a permanency option. Staff there also noted that implementation has helped the community and the judiciary better understand that relatives cannot be expected to care for children without financial support. Rhode Island noted that now that GAP is part of the continuum, the state is working with staff to look at its suitability on a case-by-case basis and taking steps to ensure that return home and adoption are ruled out before guardianship may be considered a permanent plan for a child. Implementation efforts have helped staff recognize and be responsive to the needs of individual family members. Tennessee cited the importance of ensuring that the philosophy of kinship care is clearly embedded in practice. California noted that GAP was more “guardian friendly” than its state-funded program. Benefits can follow a family if it moves out of state and the guardians can renegotiate the assistance payment based on the changing needs of the child and the guardian.

Some states cited the importance of GAP as an alternative to adoption, especially in those situations where caregivers do not want to terminate parental rights because they are hopeful that their adult children will later be able to resume their parenting responsibility. Other states noted that somewhat unexpectedly GAP has become a bridge to help more guardians consider and decide on adoption. In Maine, for example, an

**Box 6: Maximum Guardianship Assistance Program (GAP) Payment Compared to Foster Care Payment in States**

<b>Less Than Foster Care</b>	<b>Equal to Foster Care</b>	<b>May Not Exceed Foster Care</b>	<b>Other</b>
Colorado	Alabama	Alaska	Massachusetts*
Louisiana	Maine	Arkansas	Tennessee**
Montana	New Jersey	California	
Texas	Rhode Island	Connecticut	
Washington		District of Columbia	
		Hawaii	
		Idaho	
		Illinois	
		Maryland	
		Michigan	
		Missouri	
		Nebraska	
		New York	
		Oklahoma	
		Oregon	
		Pennsylvania	
		South Dakota	
		Vermont	
		Wisconsin	

\* Massachusetts – Benefit computation is linked to child’s foster care maintenance cost (including supplements to base rate). Actual benefit amount will be net of income singularly available to the child.

\*\* Tennessee – Equal to the foster rate minus 5 cents a day plus an enhanced rate where appropriate not to exceed \$60 per day

estimated 20 or 30 children moved from guardianship to adoption during the first two years of GAP. Montana also experienced children moving from guardianship to adoption.

### **Fiscal benefits of GAP are being reviewed.**

At this early stage of implementation, interviewers reported that few data were yet available on the different fiscal impacts of guardianship. While in most states the maximum GAP payment cannot exceed the state's foster care payment (see Box 6, page 12), data on the actual GAP expenditures were not yet available. However, states that had guardianship programs before GAP was approved anticipated state savings now that new federal Title IV-E dollars are available to help with the cost for guardianship assistance. They anticipated that some state dollars for administration as well as subsidies will be freed up with federal dollars now available. California, for example, believes that there is a 20 to 30 percent decrease in state funds used for guardianship assistance payments because the federal dollars are offsetting the need for state funds. Rhode Island said that GAP has helped reduce the number of children in foster care, which is a much more expensive option than guardianship. Hawaii expects to experience savings from implementation of GAP given that it was previously supporting guardianship assistance exclusively through state funds. It estimates having up to \$1.5 million in state savings after the first full year of implementation. At the time of the interview the state had not yet determined what will be done with the anticipated state savings realized through GAP.

A couple states had mixed reviews of GAP fiscal benefits. In Maryland, for example, the state is saving money by moving more children into guardianships rather than keeping them in more expensive foster care placements. However, at the same time Maryland increased its guardianship payment, which has drawn more families to foster care and guardianship than there were before GAP.

## **Key Elements of GAP Implementation**

As states began to implement GAP, most reported when interviewed that there are at least four key elements to implementing GAP effectively. First, it is critical to ensure GAP is used appropriately as permanency decisions are being made for individual children. Careful attention should be given to defining "relative" in a way that GAP can reach all the children who can benefit from guardianship. Licensing rules should be examined so they are not a barrier to GAP implementation. Finally, all staff and stakeholders must be helped to understand how guardianship and GAP fit in the permanency continuum and engaged to ensure all eligible children truly benefit from GAP.

### **Ensuring appropriate use of GAP among other permanency options**

The Fostering Connections Act requires that the state child welfare agency must determine that reunification and adoption are not appropriate options for a child before kinship guardianship assistance may be offered to a family. In most of the states interviewed, consideration about permanency options is addressed as part of a permanency staffing process, often including child protective services staff, family resource specialists and permanency specialists as well as the child's family. Before guardianship may be considered, some states require a specific finding that reunification is not in the child's best interest or that adoption is not in the child's best interest because the child does not want to be adopted or lives with kin who do not want to adopt. Several states require a determination that termination of parents' rights is not in the child's best interest. In New York, the focus is on a determination, first by the agency and then the court, as to whether there are compelling reasons for the child not to be returned home or adopted. In Vermont, a court must find, by clear and convincing evidence, that neither return home nor adoption are likely permanency results "within a reasonable amount of time." In states where permanency committees or conferences are used, they generally must recommend guardianship and the plan for guardianship must be reviewed and signed off on by the court.

Relative caregivers who were interviewed emphasized the importance of states making clear to relative foster parents that financial assistance is available with guardianship. They said that often potential guardians were not aware subsidies were available and moved ahead toward guardianship without first completing a guardianship assistance agreement, thus denying them needed financial and other assistance. The Fostering Connections Act requires that the guardianship assistance agreement specifying payment and services must be in place before the court awards guardianship.

In some states, a higher level of review is required before guardianship becomes the permanency plan for children under a certain age. These states want an additional level of certainty that reunification and adoption have been ruled out. One state, drawing on the narrow interpretation in the Children's Bureau guidance on GAP, restricts GAP eligibility to children over a certain age. Doing so misses the caution from Bryan Samuels, Commissioner of the Administration on Children, Youth and Families, that such a policy may not serve an individual child's best interest. Some states require that children as young as 12 be consulted about guardianship, even though federal law only requires consultation at age 14.

As federal law requires, states noted the need to document efforts to discuss guardianship arrangements with the child's birth parents and to discuss adoption with the prospective guardian as a more permanent legal alternative than guardianship.

As will be mentioned later in the discussion of training, some states have done an especially good job in preparing written materials that differentiate permanency options for a child. These materials can help workers, birth families and prospective guardians determine which option is most appropriate in an individual case.

As mentioned earlier in this Overview, several states have seen a positive impact of guardianship on adoption and a few states have seen children move out of foster care more quickly. However, generally the interviews made clear that it is too early to determine how the availability of additional federal assistance is impacting children's length of stay in foster care, reunification or adoption. Although a number were collecting relevant data, no state yet had a formal analysis of these outcomes.

### **Broadening the pool of relatives eligible for guardianship**

The Fostering Connections Act requires guardians to be relatives of the child in order to be eligible for federally-supported guardianship assistance. However, federal law does not specify how "relative" must be defined or even require the state to define "relative." If a state chooses to define "relative," it could be defined as a person related by blood, marriage or adoption and/or a godparent or family friend with whom the child has a close relationship. The latter is often referred to as "fictive kin." The states' definitions of "relative" used for purposes of GAP are included in the state fact sheets and narratives in Appendix I. See also Box 7 on page 15 for a list of states that include some variation on fictive kin in their definition of relative.

Several of the states with approved GAP plans did not require a guardian to be a relative under their previous subsidized guardianship program. And among the states that did require a guardian to be a relative in their previous programs, most used a narrow definition of "relative," defining it in terms of blood, marriage or adoption, and in some cases specifying a godparent.

The interviewers found that a number of states expanded their definitions of "relative" when GAP was enacted and are using the expanded definitions in their new GAP programs. Alaska, the District of Columbia, Louisiana, Maine, Maryland, New Jersey, Oregon and Rhode Island expanded the definition used in their earlier subsidized guardianship programs to include fictive kin. California also broadened its definition of relative to include fictive kin in late September 2012. Fictive kin generally includes anyone who has familial-type relations with the child or family of the child but is not related by blood, marriage or adoption. In South Dakota, fictive kin must be approved by the Foster Care/Kinship Program Specialist and the Division Director before the kin can

### **BOX 7: States that Include Fictive Kin in their Definition of Relative**

Alaska	Massachusetts	South Dakota
California*	Montana	Tennessee
Colorado	Nebraska	Texas
District of Columbia	New Jersey	Vermont
Hawaii	Oklahoma	Washington**
Louisiana	Oregon	Wisconsin
Maine	Pennsylvania	
Maryland	Rhode Island	

### **States that Do Not Include Fictive Kin in their Definition of Relative**

Alabama	Idaho	Missouri
Arkansas	Illinois	New York
Connecticut	Michigan	

\*Federal approval pending

\*\*Only for tribal children. The state of Washington's definition of "relative" includes language for "extended family members," which is defined by the law or custom of a tribe. The state includes fictive kin for tribal children if the tribe defines "extended family members" that way.

be the child's guardian. Some fictive kin definitions, like those used in D.C. and Louisiana, specifically state that the relationship or emotional tie must predate the child's placement or the child's entry into care. This precludes a foster parent from becoming a relative guardian unless the foster parent had a relationship with the child prior to becoming the child's foster parent. Although Tennessee did not expand its definition of "relative," its definition has always stated that it "does not include traditional Resource Parents unless the Resource Parent had a pre-existing significant relationship with the child/youth." Oregon, in its revised definition of relative, states that a foster parent may only be considered a relative when he or she has cared for the child for at least the past 12 consecutive months, there is a compelling reason adoption is not an achievable plan, the child has a plan of guardianship and the foster parent has been recommended by a special committee for consideration as a guardian.

Other states were explicit in their discussions that their definition of fictive kin was expanded specifically to include foster parents, regardless of whether they had a preexisting relationship with the child or the child's family. For example, Alaska, which broadened its definition of relative, explicitly states that it may include foster parents.

Montana's earlier Title IV-E child welfare waiver program was not limited to relatives, and, as the state prepared to implement GAP, it chose a definition of "relative" that reflects the needs of tribal children. Indian tribal representatives in Montana wanted to ensure that children could be placed with those with whom they had significant emotional ties. Montana's definition specifies that a "child or family's tribe, godparents, person to whom the child, child's parents and family ascribe a family relationship and with whom the child had a significant emotional tie that existed prior to the agency's involvement with the child or family" is eligible to become a child's guardian and potentially receive funding through GAP.

Some of the states that do not include fictive kin still extend the definition of "relative" beyond children related by blood, marriage or adoption. In Illinois, for example the definition includes godparents, spouses of relatives, step-fathers, step-mothers, and adult step-brothers and sisters. The term "relative" also includes a person related in any of the ways specified to a sibling of the child, even though the person is not related to the child, where the child and their siblings are placed together with that person. Michigan includes putative fathers in its definition and also goes to the fifth degree of relationship.

A few states with new guardianship assistance programs reported challenges with the narrow definition of “relative” they chose for GAP. Alabama, for example, which did not have a subsidized guardianship prior to GAP, limited its definition to individuals related by blood, marriage or adoption, within the fourth degree of kinship. This definition, the state said, makes children who are half-siblings with no biological connection to the prospective guardians, ineligible for GAP, even though the children might benefit from being placed together.

In discussions with state staff, interviewers heard that a number of states that define “relative” broadly for purposes of GAP eligibility use a narrower definition when requiring identification and notification of relatives in situations where a child is removed from the custody of his or her parents. Maine, for example, expanded the definition to include fictive kin for GAP, but defined it as those related by blood or marriage for purposes of the identification and notification to relatives that must be given within 30 days of a child’s removal. Texas also uses a narrower definition of relative for notice than it does for GAP and it was noted in the interview that such a distinction may limit the early involvement of some potential relative guardians for the child and, as a result, slow down later permanency efforts for the child.

### **Addressing challenges in licensing homes**

To qualify for GAP, the Fostering Connections Act requires that children be in licensed relative foster homes. Some states with approved GAP plans had previous subsidized guardianship programs that did not require the guardians’ homes be licensed. In several states there has been recent positive attention to different licensing issues as a result of GAP.

Illinois is one good example. The subsidized guardianship program it operated under its earlier federal Title IV-E child welfare waiver did not require that the guardian’s home be licensed. Under GAP, however, Illinois has seen an increase in the number of licensed relative homes. The fiscal pressure to license homes to receive federal reimbursement has spurred attention to some of the barriers that made licensing difficult for the state in the past, such as staff shortages and high caseloads. Although the requirement for background checks can still delay the licensing process in Illinois, nearly 60 percent of all relative caregivers in the state are currently licensed, compared with only 29 percent of caregivers two years ago.

Texas is another interesting example. There, the number of “verified” (licensed) relative homes has increased significantly from 39 to 737 since GAP was implemented. The licensing standards are the same for relatives and non-relatives, but staff may request variances, which take into account the relationship between the applicant and the child. Some training and capacity standards can also be waived for relatives. The training curriculum, for example, was modified for relatives so they are only required to complete 12 hours instead of 30 hours of training. It is also important to note that the Fostering Connections Act clarified the ability of states to waive non-safety related licensing standards for relative foster homes on a case-by-case basis because it recognized that often certain licensing standards, such as the square footage requirements in the home, may create barriers to approval for prospective foster parents who are related to the child.

There seemed to be an increased awareness among interviewees of the need to license relatives early in the process, in order to avoid delays when a permanency plan is being prepared and guardianship appears to be the best option for a child. Washington state set up a special licensing unit to focus on the unique strengths and benefits of relatives who are caring for children involved with the state’s public child welfare system. Agency leadership and staff are trying to be clear to relatives who may be hesitant to be licensed that if they care for a child in foster care the state will be in their lives regardless of whether they are licensed or not. The state is also implementing a unified home study for licensing, during which staff will discuss all permanency options with every out-of-home care provider, including relatives. The same approval standards will be used for foster parents, guardians and adoptive parents.



## Engaging staff and stakeholders in GAP implementation

In interviews, state staff were asked about the steps they took to train and prepare agency staff for GAP and how other stakeholders were included in the development and implementation of the GAP program. Not surprisingly, these efforts were most limited in some of the states that had been operating subsidized guardianship programs for some time and felt staff and other stakeholders were already familiar with the program. In other states, however, even some that had been operating guardianship programs, staff saw GAP as an opportunity to reengage staff and the broader community about a commitment to guardianship as part of the permanency continuum.

Several states that were offering guardianship assistance for the first time undertook significant efforts at training and outreach. For example:

- New York started off with a KinGAP teleconference in March 2011 and a special email mailbox was set up for questions regarding GAP. An Administrative Directive was issued that included the relative notification letter and a series of forms including the application, guardianship assistance agreement and certification forms, as well as fair hearing notices. A KinGAP Practice Guide for Caseworkers, aimed at those who will be working directly with KinGAP, describes how to decide if KinGAP is appropriate, explains the steps in a KinGAP case and assists districts and agencies in assessing their implementation readiness. An “iLinc” computer-based KinGAP eligibility course was developed, as was a KinGAP Frequently Asked Questions publication. A forum was held for foster care providers in New York City to explain GAP and answer questions about policies and procedures. The state also developed helpful materials for kin and for youth to compare KinGAP with adoption and foster care and to learn about its benefits. The state Office of Children and Families Services also worked closely with the Office of Health to ensure Medicaid coverage for non Title IV-E children, as well as Title IV-E eligible children, receiving guardianship payments. Efforts have been made to ensure that all local social service districts know about the children’s eligibility for Medicaid as well as to facilitate the continuation of Medicaid when children in guardianships move in and out of the state. Special materials were developed for the Department of Health on Medicaid coverage for Title IV-E eligible and non Title IV-E eligible children.
- Texas set up an on-line training program for its Department of Family and Protective Service (DFPS) staff. It initially trained state office and regional leadership staff, then expanded to regional kinship staff and foster home development staff. It created a website for the public with information about the Fostering Connections Act and has worked closely with the legislature, the legislative budget board and with the Texas Court Appointed Special Advocate (CASA) Program and the Permanent Judicial Commission for Children, Youth and Families to train CASAs, attorneys and judges.
- Michigan sent letters to all county offices and private agencies describing the new requirements, released publications and hosted several webinars to reach staff and court personnel. Michigan thought it was critical to engage the courts and other kinship advocates. Their State Court Administration Office also conducted a webcast before GAP was implemented and posted the policy and other handouts online for others to reference. The state also engaged advocates at the Kinship Care Resource Center, a statewide program authorized through the School of Social Work at Michigan State.

Other states conducted onsite and teleconference training. Some asked all workers carrying cases and their supervisors to participate. Idaho and several other states reached out to foster care licensing staff so they could share information about the program up front with foster parents and potential guardians. In several



states, a strong case was made for close follow-up with workers after the training. Illinois established a Central Advocacy Office where people can call with questions about KinGAP. The state also emphasized the need for a champion for guardianship policies in each region. Other states emphasized the importance of having guardianship experts available to consult with staff. Links to all these and other useful training and implementations materials are included in the state narratives in Appendix I.

Montana actually pushed back full implementation of GAP by a few months to ensure all field staff were properly trained. During that time, it also conducted training with CASAs and other court officials. Work continues to help staff understand how to ensure that guardianship is the appropriate option for a child. The state wants to encourage staff to recognize guardianship as an available option for ensuring permanent families for children.

Montana has also been doing special outreach to tribes, by including them in the state training webinars and doing onsite training. Only three out of the seven tribes participated in Montana's previous subsidized guardianship waiver program; however, since implementation of GAP, all seven tribes in Montana have state/tribal agreements. In South Dakota, where GAP is just getting underway, the Indian Child Welfare Act specialist and Foster Care/Kinship specialist will conduct special trainings with the tribes.

Several states engaged foster and adoptive parents and the kinship care community. However, many of those states already operating guardianship programs did not because they believed these stakeholders were already familiar with the program and viewed GAP as just a new funding source for their ongoing support for relative guardians. Some states that reached out to stakeholders believed it was important to do separate targeted training with different groups given their separate interests, but others believed that all stakeholders should be present at the same training so they could understand the specifics of the program, including its benefits and limitations.

In Louisiana, planning meetings were held with judges; attorneys for birth parents, children and kinship caregivers; the Grandparents Raising Grandchildren Council; the Law Institutes' Children's Code Committee; the Louisiana State University Law School; mental health attorneys; and tribal members. Vermont also convened a Subsidized Permanent Guardianship Subcommittee, consisting of a parents' attorney, juvenile defenders, the Department of Children and Families Adoption Chief, and the Department of Children and Families Deputy Commissioner, a judge, a legislator, and several local non-profits. Idaho used the statewide foster care conference held each spring as an opportunity to discuss the program with resource families. Idaho also made sure that the trainers for the Parent Resources for Information, Development, and Education (PRIDE) foster parents had information about GAP.

Washington state is sharing information about GAP through its Department of Social and Health Services (DSHS) Statewide Kinship Work Group, which includes staff from the Children's Administration, other state agencies including Aging and Disability Services Administration, Economic Services, Department of Health, and Department of Early Learning, and community-based agencies that closely collaborate on kinship issues. Washington also connected GAP to its eight-and-a-half full-time Kinship Navigators who cover 30 of the state's 39 counties and help kinship care families in and out of the child welfare system connect to the supports they need. The Rhode Island Foster Parent Association received a Family Connection Grant for a Kinship Navigator Program that helps to educate kinship families about the guardianship option. The Grand Divas, a group of kinship caregivers in Rhode Island, also provide support to kinship families and educate them about guardianship.

## Challenges in Implementation

When interviewers asked state staff and stakeholders about challenges faced in implementing GAP, a number of challenges emerged:

- **Demystifying guardianship as a permanency option.** Texas talked about the importance of “demystifying” guardianship; other states raised the same challenge. However, a number of states noted there was not enough time, given other demands on staff, to familiarize staff or caregivers with guardianship and its differences from other permanency options. One state said stakeholders sometimes found it difficult to comprehend the differences between guardianship with and without assistance attached. Another state expressed concern that guardianship was not really permanency when the birth parent could petition to regain custody, a fact that adds to the confusion in seeing guardianship as a permanency option. In another state, there was concern at first among some staff that relatives could “sit on the fence” and keep children in a quasi-permanent state. Work still needs to be done.
- **Finding time to familiarize all staff with GAP and run the program smoothly.** At least one state raised the need to ensure that staff at the front and back ends of the system are adequately trained about guardianship, but noted that this is challenging when front line staff already are overwhelmed by multiple demands. Another state noted time as the biggest challenge – the number of staff assigned to the program is very limited and revising forms, training staff and implementing new eligibility procedures are all challenging and time consuming.
- **Tracking the programmatic and fiscal impact of GAP.** Little formal tracking was being done at the time of the interviews. However, states seemed interested in what was happening to individual children, what patterns there were, and what impact GAP and the state-funded guardianship programs were having on other parts of the child welfare system. On a related note, a number of states were unable to use the data they did collect to differentiate children eligible for or receiving federally-funded GAP from those receiving state-funded assistance.
- **Aligning different data systems and administrative rules with GAP.** Several states mentioned problems in aligning Statewide Automated Child Welfare Information System (SACWIS) with the new GAP rules. Other states described challenges in working with their Medicaid agencies or offices to make sure GAP children could receive Medicaid. A couple of states were trying to get Medicaid for children in their state-funded guardianship assistance programs.
- **Requiring six continuous months in foster care for GAP eligibility.** Some states believed that reunification and adoption could be ruled out in less time than six months and that it was wrong in those cases to delay permanence. Other states complained that the six month rule created a specific barrier for relatives who did not want to go into the formal child welfare system. On the other hand, some states previously had a requirement of twelve months and wanted to ensure enough time to rule out other permanency options. The Fostering Connections Act does allow states to require children to spend more than six months with a licensed relative in foster care.
- **Requiring relative homes to be licensed.** Some states said the licensing requirement created a specific barrier for adults who did not want to be involved in the child welfare system or for some non-safety reason could not be licensed by their state. They asked for more education about the use of waivers and variances when licensing relatives.

- **Covering non-recurring costs related to guardianship.** A number of states expressed problems with the \$2,000 cap in GAP on expenses related to establishing guardianship. Most often the concern raised by states was that guardians normally incurred only minimal costs (especially in states that applied for guardianship for the family) or much lower costs than \$2,000 and that the higher cap might result in higher claims. At least one state mentioned that its cap for adoption-related expenses was lower and it wanted the two to be the same. Oklahoma resolved its concern by requiring a written justification and approval for expenses above \$500. Missouri, on the other hand, was concerned that the limitation was too low for some families, especially guardians from out of state, and said that it had been told by federal regional office staff that it could not use even state-only funds to pay expenses above \$2,000.
- **Limiting GAP eligibility only to a select group of children who have been in foster care.** Several states raised concern that GAP is limited in the number of kinship families it can reach. Community stakeholders believe the federal GAP dollars should be available to a broader group of children raised by guardians and not just to children raised in foster care by certain relative foster parents. Children with relatives in non-Title IV-E eligible foster homes are not eligible for GAP. Neither are relatives raising children to keep them out of foster care. Some states also mentioned that caregivers or potential caregivers aren't always told up front about the limitations in the program.
- **No provision in GAP for coverage of successor guardians.** States that were interested in establishing successor guardian programs that allow the designation of a new guardian should the current guardian no longer be able to continue in that role, were sometimes discouraged from doing so because of the lack of ongoing federal financial assistance. They noted that federal GAP eligibility would not continue automatically for these guardians, as it would for adoptive parents under the federal adoption assistance program.
- **Additional challenges.** Finally, several challenges or barriers came up only once or twice, but they are mentioned here because they seemed to be issues that might be of concern in other states as well. Idaho had issues with caregivers relating to collection of back child support. Sometimes caregivers refused to share information about birth parents and have been uncooperative in helping the agency locate them, although there have been improvements. Another state, where compulsory school attendance ends at age 16, was working to clarify the obligation imposed on guardians by the Fostering Connections Act to ensure that children are enrolled in school.

## Lessons Learned

When asked about lessons learned, the state staff interviewed for the GAP implementation survey had a number of recommendations for other states. Some will be especially helpful for states still considering GAP or those that have just applied, although many are helpful for states already in the early stages of implementing GAP or those struggling with specific implementation concerns. The state fact sheets and narratives in Appendix I. also elaborate on many of these.

1. **Build support for the importance of permanent families and relatives for children as a way to build support for GAP.** It is essential to see GAP within the bigger context of permanency and support for kin. Several states emphasized how important it is to improve your kinship system first, or while establishing a guardianship program. Staff have to value kin, understand their unique concerns, be willing to take the extra steps that kinship placement may require, and want to see children gain permanency with kin. This may mean dealing with staff attitudes and values within the agencies, the courts and legal communities first. Help staff to understand the department's philosophy about kin and to reconcile it with

their own beliefs. Interviewees believe it is important to educate staff and stakeholders about the benefits of guardianship as a permanency option and to ensure they understand the differences between guardianship and adoption. At the same time, some states cautioned how important it is to ensure that there is a careful assessment of the appropriateness of guardianship in individual cases and a thorough review of the safety and capacity of the relative caregivers and the presence of the protective factors that are key to the child's well being.

## **2. Distribute information about GAP and its benefits early to staff, the courts, state legislators, relative caregivers and other stakeholders and keep them engaged throughout the process.**

Those interviewed, state staff and stakeholders, recommend that states begin educating about GAP while they are preparing their GAP plan and waiting for it to be approved. Ensure that agency staff, court staff and other stakeholders get continuous education on GAP. Once engaged, these stakeholders can be effective advocates at family team meetings and other events where planning for the child is being addressed. Specific suggestions include:

- Centralize assistance on guardianship for staff; designate a kinship contact for follow up.
- Ensure caseworkers, court staff and families are clear on the differences between the paths to guardianship and adoption.
- Distribute outreach materials directed at kinship caregivers explaining the legal and financial ramifications of each permanency option.
- Keep explaining how reunification, guardianship and adoption differ, and the differences between guardianship for children who have been in foster care and guardianship for children who are not in state custody.
- Include front-line staff in the GAP work throughout development of state policies and procedures.
- Involve the judiciary as soon as possible to prevent families from being awarded guardianship prior to the families meeting the six-month placement requirement, which would preclude them from entering into the subsidized guardianship agreement and receiving a guardianship subsidy.
- Bring kinship caregivers and kinship care organizations to the table so they can help the agency plan, gain support for the plan and do the outreach necessary to ensure relative caregivers know about and take advantage of the plan.
- Engage foster and adoptive parent groups, as they can become strong advocates for the program when they are brought in early.
- Partner with child advocacy groups to help raise awareness about the issue and assist with implementation.

## **3. Be direct with all involved, including birth parents, and especially caregivers and others stakeholders about the limitations of GAP.**

Several states recommended using child and family team meetings and other established forums to discuss options with families and prospective guardians. These settings are valuable because they allow families to comfortably ask questions. There is usually a system already in place in these settings to record the results of the discussion. Make sure state agencies are realistic with caregivers about the application process and the time it takes. Inform foster parents and kinship caregivers about specific eligibility requirements. It is easy for stakeholders to be frustrated because not all relatives raising children permanently are eligible for GAP assistance, not even all of those relatives raising children in foster care. In some states foster parents with no prior relationship to a child will be eligible for GAP, in others they will not.

**4. Find ways to promote licensing so it becomes less of a barrier to placing children with relatives.**

Build on the experience of Illinois and Texas. Commit the staff resources necessary to get relative homes licensed early in the process, rather than beginning only when guardianship becomes the plan. Streamline systems for background checks and use waivers and variances as appropriate to avoid non safety-related requirements from preventing children from being placed in relatives homes.

**5. Don't try to reinvent the wheel. Look at what other states have done. Follow the Children's Bureau guidance and try to work within processes already in place.**

A number of states mentioned how helpful it was to be able to borrow from policies, guidance and materials from other states. Links to useful state materials are included at the end of each state narrative in Appendix I. Contacts for states implementing GAP are in Appendix B. Additional materials for states considering the GAP option are in Appendix D. At the same time, states mentioned the importance of trying to implement GAP within a state's current policy framework so the agency does not have to reorient everyone on every detail of the new plan. For example, a state agency might modify its assessment tool for foster homes so it can be used to both assess the home as a safe and appropriate foster care placement for the child and a permanent placement should the foster parent later choose guardianship.

**6. Capture the information in the state's data system that will be needed to track the impact of GAP and to ensure that those in the program receive all the services and assistance for which they are eligible.**

Few of the states interviewed had yet implemented extensive tracking systems to monitor the impact of GAP on children, on permanency and on their state budgets. However, a number emphasized their importance, suggested collecting as much data as possible from the beginning, and emphasized the importance of helping staff understand how valuable such data can be to them. Several states talked about making changes to SACWIS so they could assess whether the timeliness of permanency decisions is impacted by GAP and whether more relatives become licensed foster parents. Other states are tracking age, race/ethnicity, length of time in care, and sibling placements. In New York, the agency must submit data annually to the governor, as well as leaders in the Senate and the Assembly, detailing the implementation and progress of KinGAP. Data required in New York include: the number of children entering KinGAP during the year and since implementation by age; those applications that were denied; the number of fair hearings and their outcomes; changes seen since implementation of KinGAP in the percentage of foster care children adopted, reunified and released to other permanency outcomes; changes since implementation in the percentage of children directly placed with relatives; and changes in the average length of stay for children in foster care.

## Conclusion

*GAP helps children by: enabling them to stay connected to family and to their culture, reuniting them with siblings from whom they were separated, alleviating their concerns about being moved from kin to another foster home, preventing the need to give up on a birth parent by terminating parental rights, maintaining a connection with birth parents with whom they have a relationship, eliminating the need for agency approval to spend the night with a friend or travel out of state, allowing them to apply for a driver's license when they reach age 16, and the list goes on.....*

*Making It Work: Using the Guardianship Assistance Program (GAP) to Close the Permanency Gap for Children in Foster Care* reinforces, through experiences of jurisdictions implementing the GAP program, the importance of permanent families for children and kin and the role that GAP can play to move children in foster care who cannot return home or be adopted to permanent homes with relative guardians. The findings reported are from interviews with staff from public child welfare agencies in the 30 jurisdictions that as of September 2012 were implementing the Title IV-E Guardianship Assistance Program.

The good news is that even in difficult economic times, more than half the states, eight of which had no prior experience with subsidized guardianship, have implemented help for children because they understand its value to children, even though it means new costs for some of them. Many of the states opting to implement GAP highlighted its benefits in promoting permanency for children and youth in foster care, maintaining family connections, helping sibling groups stay together, and respecting cultural and tribal norms. A number also cited the opportunity for financial benefit in the future as fewer children remain in foster care for long periods of time.

Most of the states that are implementing GAP have also taken advantage of options that increase the reach of subsidized guardianship. All but three, for example, are providing state-funded guardianship assistance to children who are not eligible for the federally-funded GAP program. Twenty-three states and D.C. have taken the option to define “relative” broadly for purposes of eligibility for assistance and to include fictive kin – generally meaning individuals who have a family-type relation with the child or family of the child but who are not related by blood, adoption or marriage. Eighteen states and District of Columbia have taken the option to extend GAP beyond the age of 17. Twenty-two states have availed themselves of the option to offer independent living services and/or education and training vouchers for higher education to youth who leave foster care for guardianship at age 16 or older.

Most states recognize that for GAP to work it must be part of a broader plan to ensure all children in foster care permanent families. Specific attention must be paid to kin not only at the back end of the system when children are preparing to leave foster care but also at the front end when placement is first being considered. The groundwork for guardianship must be laid when a child first comes to the attention of the child welfare system.

To make permanence real for children, agency and court staff and also relative caregivers and foster and adoptive parents must believe in the importance and effectiveness of guardianship assistance as one of the avenues to permanence. GAP is an important piece, but only a piece, of the continuum of family-centered options for children. Continuing efforts to demystify GAP are needed to ensure it is used appropriately and seen as a permanency option when reunification and adoption assistance are not appropriate. Myths about relative placements must be debunked. Broad-based education is essential to ensure as many children as possible benefit from GAP. Education, training, and awareness building for staff and a broad range of stakeholders can help make permanency efforts successful and ensure that GAP is used only when appropriate for individual children.

For kin to become part of the permanency continuum and GAP to be fully utilized there must be more intensive outreach to relative caregivers and potential relative guardians. Relatives must be educated about the child welfare agency’s obligation to exercise due diligence to identify and provide notice to adult relatives when a child has been or is being removed from his or her parents’ custody and to tell relatives about their right to participate in the care and placement of the child if they choose. Staff must be trained to have conversations about the importance of permanence for children so they can decide, with caregivers, the best permanency options for children in their care. Individual members of the extended family must be called in to assist with decision-making about related children and to better understand the roles they can best play in ensuring permanence for them. Judges and attorneys representing children and parents also must be engaged.

As a group, relative caregivers in states must be involved in the development and implementation of GAP, helped to understand the financial and legal ramifications of guardianship and engaged to help spread the word about the importance of kinship care to children and the opportunities that GAP provides. Older youth who are alumni of kinship care can be important advocates for GAP. Legislative staff, legislators and others involved in the development of budget and policy proposals and reviews also must be engaged.



## *Next Steps*

All states should take full advantage of GAP. A number of states interviewed spoke to the benefits of building on what other states have done. Hopefully this report will help states not yet implementing GAP move ahead and encourage those with GAP programs to increase their outreach efforts, recognizing the benefits to children and the state that can result. Strong involvement of the courts, relative caregivers and other stakeholders is essential to build support for GAP in a state. This report highlights various ways that stakeholder support can help GAP reach more children. Broad enthusiasm for permanent families for children and for GAP can also help build good will for supports in the future for an even broader group of children with relative caregivers in need of permanency support.

States must begin early to conduct data gathering, monitoring and analysis to document how GAP truly impacts permanence for children. These data can help answer a variety of questions: What is the effect of GAP on the length of time children spend in foster care? What is its effect on the reunification and adoption of children in foster care? How many children are exiting foster care to federally-funded GAP? To a state-funded guardianship assistance program? What is the fiscal impact or projected fiscal impact of these changes? When there are savings, how are states taking dollars no longer needed for foster care or guardianship and investing them in other ways to promote the safety, permanence and well-being of children who come to the attention of the child welfare system? Such data can also help predict what the impact might be of broader permanency initiatives. States and relative caregivers together can make the numbers come alive with stories of children who are now in permanent families. There is no better way to dramatize the immense value of permanence for children.

At the policy level, there must be attention to broadening financial support for children placed permanently with kin. Assistance should be provided to more children with relative foster parents and to children whose relatives have stepped in to care for them early and kept them out of foster care. As indicated above, GAP does not currently reach all children in need of permanent placements with relative guardians, often because they do not meet the Title IV-E eligibility requirements. GAP requires that children must be Title IV-E eligible and in licensed foster family homes for at least six continuous months with a prospective relative guardian. GAP funds cannot be used for children in foster care who are not Title IV-E eligible or for children who are being cared for by relatives who stepped in to care for children when their parents were not able to and are preventing them from entering more costly foster care. The reach of GAP should be expanded.

There needs to be increased attention to the licensing of relatives as foster parents and to whether and how it continues to be a barrier to moving children to permanency with relative guardians, and how those barriers can best be addressed. While some states use waivers and variances to reach more children with kin; others never do. Core health and safety protections are essential for relative foster parents, but those should be sufficient.

Federal policy should also provide for the appointment of a successor guardian for a child and allow GAP payments to continue when the guardian appointed for a child dies or is no longer able to serve in that role. There is already a similar provision in federal law for children adopted with federally-supported adoption assistance payments. A successor adoptive parent may assume care of the child and continue to receive adoption assistance payments without reapplying for such assistance. There is no parallel provision in the federal guardianship assistance program.

It has been four years since the Fostering Connections to Success and Increasing Adoptions Act, which established GAP, was enacted. Important progress has been made. Since then, new opportunities for federal child welfare waiver demonstration programs and other federally-supported activities to promote permanence and well-being for children have been established. There is much to build on. We must make all these work for children. Further action is needed now—children have only one childhood. They cannot wait.