

## 2019-20 Kinship Legislative Initiatives

### Priority 1: Inform Kinship Caregivers of Benefits and Supports

Social Services Law section 392 currently requires social services districts to provide information on the financial assistance “nonparent” grant for kinship caregivers. OTDA 12-ADM- 01 provides information to counties about how to fulfill the requirement. However, as exemplified by *Matter of Yarde v Roberts*, 60 Misc.3d 686 (Albany Co. 2017) and identified by many kinship caregivers, frequently there still is a lack of information and/or provision of inaccurate information. Also, currently, the statute does not require child welfare information regarding caregiver “options.” Option information is required by FCA section 1017 and related regulations. However, option information is frequently inaccurate or not provided in writing as required. In order to ensure that caregivers receive accurate and complete information, the proposed amendment would require districts to provide written information on both benefits and options and to make referrals to a kinship care service provider.

**2018/19:**

A9956 S8047	<b>JAFFEE/SAVINO</b> – Relates to changing current law to require social services workers to give information about assistance as well as make a referral to kinship services
<b>Senate: In Children and Families</b>	
<b>Assembly: Passed</b>	

### Priority 2: Strengthen Legal Custody Powers for Caregivers

In family court, legal custody and legal guardianship of the person (FCA part three sections 651ff. and part four sections 661ff) have been considered practically interchangeable, but many statutes identify caregiving authority only for guardians (examples: FCA section 657(c), PHL section 2504(4)). Despite the lack of authority, common practice both by courts and child welfare departments is to place children with kin who become legal custodians. Recently, some judges have recognized the need to expressly grant authority, especially for medical care, but the fact remains that tens of thousands of kinship legal custodians lack the ability to make important decisions related to medical care for children. We propose adding legal custody to decision making powers regarding medical care (PHL sections 2164, 2504; FCA section 657(c)) and educational responsibility (EDL section 3212), in order to align the statutory grant of powers with the realities of custodial care provided by kin and thus to support stability and permanency for kinship children.

**2018/19:**

S6013 A8094	<b>AVELLA/JAFFEE</b> -- Relates to definition of person in parental relationship (ADDS LEGAL CUSTODIANS)
<b>Senate: In Higher Education</b>	
<b>Assembly: in Judiciary</b>	
S6015A A7928	<b>AVELLA/JAFFEE</b> -- Relates to medical decision making for minors (ADDS LEGAL CUSTODIANS)
<b>Senate: Out of Committee</b>	
<b>Assembly: Passed</b>	

### Priority 3: Expand a Family’s Right to Petition

Currently, DRL section 72(2) provides standing in custody disputes for grandparents who are caregivers of children for twenty-four consecutive months. This bill would amend the statute to also include other relative caregivers. Relatives must be within the second degree of consanguinity or affinity to one of the minor child’s parents. This provision would align the statute with the fact that more and more kinship care is provided by non-grandparent caregivers. The amendment would follow the overwhelming research evidence that children do better when they can live with a relative who they have a strong relationship with, and would provide close family members caregivers with clear standards for when they can petition. The amendment would also extend the same standard to guardianship petitions and exempt parents who have suffered domestic violence from the statute.

**2018/19:**

S1614A A7574A	<b>Golden/Wright</b> – Relates to changing domestic relation law regarding standing of certain relatives in custody and guardianship proceedings
<b>Senate: Out of Committee</b>	<b>Assembly: In Judiciary</b>

### Priority 4: Fix Supports for Families in Need

The primary financial assistance available to kinship families is the public assistance nonparent grant, commonly called a “child-only” grant. Eligibility for this grant is based solely on a child’s income when parents are not present in the home. Only 15% of all eligible families in New York receive this assistance. While outreach is sorely needed, even when caregivers apply, there are barriers to eligibility. Two such barriers are the eligibility rule that decreases the amount of the grant when a caregiver is already on public assistance or when a child applicant has a half-sibling who has income from the different parent, because that income is attributed to the child applicant.

**2018/19:**

S6017A A8172	<b>AVELLA/HEVESI</b> -- Relates to the option parents and non-parent caretakers to exclude a half-sibling from the public assistance household (ADDRESSES ELIGIBILITY RULES IN HOUSEHOLDS WITH MULTIPLE CHILDREN WITH DISPARATE INCOMES/RESOURCES AND HOUSEHOLDS WITH CAREGIVERS ON PUBLIC ASSISTANCE)
<b>Senate: In Social Services</b>	<b>Assembly: Out of Committee</b>

### Priority 5: Assign Legal Counsel for Indigent Caregivers

Court proceedings reach the best outcome for children when both parties are supported by legal counsel. But indigent caregivers are very often asked to take on the responsibility of either representing themselves or finding their own legal counsel, even when the child has been placed with them by Child Welfare pursuant to Article 10 proceedings. Indigent parents are assigned counsel pursuant to FCA section 262(v); indigent non-parent caregivers may be assigned pursuant to FCA section 262(b). But most judges either do not know that assignment is permitted or choose not to provide counsel. We support amending FCA 262 to provide a right of counsel for indigent kinship caregivers whose petitions show that children are already living with them for an extended period. No bill has been introduced.