

**SUPPORTS FOR PARENTS AND RELATIVE AND NON-RELATIVE CARETAKERS  
ASSEMBLY STANDING COMMITTEE ON CHILDREN AND FAMILIES  
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**TESTIMONY OF NYS KINSHIP NAVIGATOR**

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Good Morning, Members of the Committee and especially Chairwomen Jaffee and Assemblywoman Mayer, our 2017 Kinship Champions, who were honored last September at our Kinship Care Month celebration.

After all these years of kinship advocacy, today marks a new day for kinship care. This the very first legislative hearing about kinship care. I deeply appreciate that this day has arrived, and would like to express my gratitude to Assemblywoman Jaffee, the Committee members, and to their staff.

My remarks will highlight just a few issues and make reference to our submitted testimony, with appendixes. I am sharing my time with the Navigator's regional specialist, Ryan Johnson, who will present some typical cases and will briefly address barriers in accessing benefits.

Since 2001, there have been four statewide kinship care summits in Albany, the first two sponsored by AARP, the others by the Kinship Navigator. The summit reports are available online at the Kinship Navigator policy page, and offer in depth recommendations on a host of kinship related issues. Today, however, I'll focus on just a few.

I have been the director of the Kinship Navigator since 2006. Previously, for seven years I was director of Hunter College's Grandparent Caregiver Law Center. I published my first kinship policy paper in 1996.

The Kinship Navigator is the state leader for the kinship community, serving all 62 counties via its information and referral network. The Navigator has a website with extensive legal information, a help line, and works to inform, make referrals, educate and to advocate at both the state and local levels. It assists with many complex kinship issues. Just recently, we are informing parents facing deportation on how they can arrange kinship care for their children.

Primarily we help stabilize kinship families when they first assume care, advising them on their rights and benefits, which can differ depending on whether the caregivers have informal custody, legal custody, guardianship, foster care, direct custody, or KinGAP.

Beginning in 2000, the Legislature enacted a series of laws supportive of kinship families, including but not limited to: an amendment to its standby guardianship statute, the Grandparents Rights Act, which

amended Domestic Relations Law 72 to create a two year extraordinary circumstance and amended Family Court Act 1017 to add a grandparents' right to notification of removal (later codified in the 2008 federal Fostering Connections to Success and Increasing Adoptions Act), a parental power of attorney, a procedure for kin to become foster parents after placements with non-relatives, and a requirement for local departments to provide information about child-only grants, as well as a handful of regulatory changes.

In 2004/05, NYS began funding OCFS kinship programs and the Kinship Navigator. After the 2008 financial crisis, advocacy switched from rights and benefits for caregivers to maintaining funding for these programs, which were almost completely eliminated in 2010. The good news is that in 2017 we currently have the highest funding ever for kinship services.

After 2010, the only significant kinship legislation was the kinship guardianship program. An important program but one that supports less than one percent of New York's kinship population. It is important to recognize that there are more than 200,000 children in kinship care in NYS; less than 3,500 are in kinship foster care. Last year, only 449 children were placed with relatives through KinGAP.

For the past five years, a large part of our kinship advocacy has focused on how kin become foster parents, highlighting diversion practices in upstate New York. Only when kin become foster parents can they qualify for KinGAP. Please see the submitted tables for county data on OCFS 2015/16 relative placements, which shows many counties where there are very few kinship foster care placements, as well as over-use of "direct" relative placements (i.e. "foster care on the cheap"). For instance, Rockland County, where in 2016, there were 38 "direct" relative placements and only one relative foster care placement, and Erie County where there were 584 "direct" relative placements and only 52 kinship foster care placements. In contrast, the SUNY Research Foundation, as part of our demonstration project, found that in a sampling of 455 children in kinship care, 80% had CPS records, yet none were in foster care.

"Diversion" is the term for how Child Welfare and the courts place children with kin who do not become foster parents. Please see my submitted testimony to the NY Senate's Task Force on the Heroin/Opioid Crisis for details on how counties divert kin. It describes three placements: placed with kin but no removals ("alternative living arrangements"), and after removals, kin becoming "direct" custodians or Article Six custodians. While some of this diversion is appropriate, much of it occurs because departments misinform, dissuade, or construct unnecessary legal obstacles.

The NYSBA Task Force on Family Court Final Report (2013) noted, that such practices cause inconsistency and unfairness, with many children who need foster care services not getting them. Other reports and my yearly testimony to the Human Services Budget Hearing also support this position ([www.nysnavigator.org](http://www.nysnavigator.org) policy pages).

This concern is further exacerbated by the heroin crisis. As the Buffalo New recently reported, there is a “tsunami” of children who need homes, overwhelming family courts and local departments.

Here are three recommendations:

1. **OCFS must clearly describe the requirements for kin to become foster parents and eliminate county practices that create unnecessary barriers.** NYC’s Administration for Children Services, Orange County, and a few other counties currently use emergency placements, expedited home studies, waivers of non-safety requirements, simplified foster education tools, and other techniques that approve more kin as foster parents. But many counties, often assisted by family court judges - who do not follow FCA 1017 where they are required to inform caregivers of their opportunity to become foster parents - still divert, obfuscate, delay or refuse placements with relatives, causing relatives to acquiesce to non-foster care arrangements. The Navigator has asked OCFS to draft an ADM describing the minimal legal requirements for approval and delineating how stronger oversight can end unfair diversion practices. **It is extremely critical that the Legislature investigate this issue and assist OCFS in establishing stronger oversight and best practices.**
2. Most kin can raise children without foster care supports. But they should still receive assistance in accessing existing benefits and services for non-foster kinship families. For rural NYS, hit hard by the opioid crisis, there are no kinship programs in 40 counties. **The Kinship Navigator needs additional funding for outreach to these counties.** Our funding recommendation also includes expressly permitting the Navigator to provide limited legal assistance via its helpline. Please see our written proposal for expansion of services.
3. **Counties should be required to refer to the Kinship Navigator.** In our federal demonstration project, where we collaborated with five upstate departments, we had a 600% increase in referrals (when utilizing our permission to contact procedure). We reached many more kin and could help them to understand their legal rights and their benefits. If implemented statewide, no longer would we hear, “CPS gave me my grandchild since six years ago, this is the first time that I found out there’s help.” **Social Services Law 392 should require that departments make referrals for kinship caregivers.** Our federal project implemented a referral procedure that ensured prompt contact with kin. This addition to SSL 392 would ensure that kin know their options and can seek approval as foster parents before it’s too late.

As part of our submission, you’ll find the bills that Assemblywoman Jaffee has introduced at our request, along with updated suggested bill text. With that said, thank you, and here is Ryan Johnson.

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Thank you, members of the Committee, and Chairwoman Jaffee, for convening this hearing on supports for caregivers. As Jerry mentioned, I have served as a Regional Navigator for the NYS Kinship Navigator for 3 years. In my time here, I have had the opportunity to speak with hundreds of caregivers on our helpline and throughout the state in support groups and trainings I've conducted.

Part of my job as a regional resource has been to collaborate with county agencies to help improve permanency outcomes for children in kinship care by advising on best practices and information on needs, services, and benefits available to this community. This year, the Navigator and Onondaga County have partnered to create such a collaboration, and we continue to act as part of a permanency team created by the county to address the needs of children who come into contact with county agencies by supporting kinship families.

In the testimony you just heard, Jerry mentioned the term "Diversion" as a practice in which caregivers have children placed with them by the Child Welfare System and are not offered the opportunity to become foster parents, which leaves them without the supports of the foster care system. The NYS Kinship Navigator hears these same stories from caregivers every week, and I will take this opportunity to tell the story of a caregiver, in her own words:

"Hello, my name is Geraldine P.

On September 25, 2017 a CPS worker from Suffolk County called me while I was at work and asked me if I could take my three young siblings in for a few days. I said yes and told the worker I live in a one bedroom apartment, but she said it was only for a few days, so I took the children. The children came to my home with no clothing because their previous home was infested with bedbugs and roaches. I told the worker that I needed clothing and food for the children and she said she had to speak with her supervisor and would get back to me.

A week went by and she still had not called me. I called again and told her I needed to go back to work, and that in order to do so I needed to get the children into daycare after school so I could go back to work. I asked what assistance she could offer me, and what the plan was for the children to return home. She told me that she needed to talk with her supervisor because she had not talked to her yet.

I had spoken with the children's school counselor about the financial difficulty I was having providing for the children, and she told me I could ask my case worker about becoming a kinship foster parent. I asked my case worker if I could become a kinship foster parent and she said they could not give me any assistance because this was a "private" case. I asked multiple times afterward about becoming a foster parent for the children and was denied access to foster care each time I asked.

My worker called me back later and said her supervisor told her I needed to go down to the court and file for permanent custody of the children or they would have to be removed and placed in foster care. I asked my worker that if they took the children into foster care, would they be able to place them all together, and she told me they would be split up because it was hard to find foster homes that would take three children. Because of this, I felt forced to keep the children and petition the court for permanent custody.

At the custody hearing, I spoke with the lawyer for the children about the difficulty I was having financially and my desire to become a kinship foster parent for the children. The lawyer told me that the judge was going to give me custody, and I should just take the custody instead of trying to become a foster parent.

I am now caring for a 7 year old autistic child who requires special needs assistance, a 12 year old who the school says has an IQ of 65, and I also have an 11 year old that I'm in the process of having evaluated for a disability as well. Due to the fact that I'm now unable to work I can't afford to pay my bills, I am living in a one bedroom apartment with three children, and I'm now afraid we might just end up homeless due to the lack of assistance I received from CPS. I need help PLEASE! The county will not help me. I was never given the option to become a foster care provider for the children so that they could help me care and provide for the children.”

I spoke with Geraldine on a Navigator helpline call yesterday, December 13, 2017, and she was gracious enough to write down her story to be added to today's testimony. Her case is a perfect example of the diversion practices that happen on the front lines. In addition to conversation with her, I spoke with two other caregivers, one from Erie County and one from Steuben County, both of whom were given direct custody of their relative children without being given the opportunity to become foster parents, and both of whom expressed to me over the phone that they would like to become foster parents.

Diversion practices are not just a theoretical issue that we talk about to regulatory bodies, but are practices that are prevalent throughout the state and country, and as Geraldine's story indicates, can have real negative impacts on caregivers and their families.

The other topic that is addressed further in the appendices to my written testimony are barriers in accessing benefits for caregivers who do not enter into the foster care system. Geraldine confirmed to me that she does receive the TANF Child Only Grant for the children in her care, but that makes her only one of 15% of eligible caregivers throughout the state that currently receive the benefit. As Jerry mentioned in his testimony, estimates range between 200,000 and 300,000 children in kinship care, with the majority of them not in foster care. While research would indicate that the majority of kinship families would qualify for a TANF Child-Only Grant, as of April 2017 OTDA reports that only 24,693 children are currently receiving that benefit.

Barriers to accessing benefits like the TANF Child Only Grant are discussed in detail in the Issue Brief titled: "Utilizing the TANF Child Only Grant: Increasing Accessibility" in the appendix.

Thank you for your time.