

**REPORT ON LEGISLATION BY THE
CHILDREN AND THE LAW COMMITTEE,
THE FAMILY COURT AND FAMILY LAW COMMITTEE AND
THE SOCIAL WELFARE LAW COMMITTEE**

**A.7554-A
S.4833-A**

**M. of A. Hevesi
Sen. Avella**

AN ACT to amend the social services law, in relation to eligibility of children for subsidized kinship guardianship assistance to expedite permanency for foster children before the family court

THIS BILL IS APPROVED

PURPOSE

The New York City Bar Association's Children and the Law Committee, Family Court and Family Law Committee and Social Welfare Law Committee support the proposed legislation. The Children and the Law Committee, which includes among its members Judges of the Family Court, attorneys for children, attorneys for parents, and attorneys for the Administration for Children Services and its contracted agencies, addresses legal issues that impact the quality of life for children and families. The Family Court and Family Law Committee addresses a broad range of substantive and procedural issues regarding Family Court and family law. The Social Welfare Law Committee focuses on legal issues impacting low income New Yorkers and seeks to address public policies which concern income disparities and the social safety net. The Committees agree that by making modifications to the Kinship Guardianship Assistance Program (KinGAP), this bill will significantly improve outcomes for children in foster care by providing children who currently lack a pathway to exit the foster care system with opportunities to find permanent homes with kin.

REASONS FOR SUPPORT

KinGAP has been in place in the state of New York since 2011. The program provides children in foster care who cannot be returned to their parents and cannot be adopted with a permanent home with a relative.¹ The program has been a remarkable success. Since its inception in 2011, through the end of 2015, the program enabled more than 1,000 children to exit

¹ See Office of Children and Family Services, Report to the Governor and Legislature on Kinship Guardianship Assistance Program (KinGAP), January 1 - December 31, 2015.

the foster care system and achieve permanency.² But New York State still ranks low compared to other states when it comes to the speed at which children are placed into permanent homes.³ This Bill will improve New York’s KinGAP program by filling gaps and removing barriers that prevent children from finding permanent homes through this arrangement.

The Bill expands the definition of relative guardian to include additional adults with close relationships to the child.

New York’s current KinGAP law defines a “prospective relative guardian” as “a person or persons who is related to the child through blood, marriage, or adoption”⁴ As family court practitioners, we know that for many children in foster care, family encompasses a broader set of personal relationships than those covered by the current definition, including godparents, stepparents, neighbors, and members of the community. By expanding the definition to cover a wider set of relationships, and more closely reflecting the realities faced by children in foster care, the bill allows KinGAP to provide a permanent home to more children.

Our clients’ experiences illustrate both the beneficial impact of the KinGAP program and why the existing language is inadequate to fully meet their needs. For instance, KinGAP’s current definition of a guardian relative has unintentionally created barriers for half siblings seeking to use this option to exit the foster care system. “Jenna” (fictitious name) and her two half brothers have the same mother and different fathers. All three children were removed from their mother’s care and placed in the care of the half brothers’ paternal grandmother. The siblings cannot be returned to their mother or adopted by their grandmother. Jenna’s half brothers will be able to exit foster care under a KinGAP arrangement with their paternal grandmother, because she is their biological relative. But under the current program, Jenna will remain in foster care because she is not related by blood to her half siblings’ paternal grandmother. This bill would allow Jenna to exit foster care by clarifying that if a relative is related by blood to a child in foster care, she is also a KinGAP resource for the child’s half siblings.

The Bill allows guardianship assistance payments to continue until a child reaches the age of 21, regardless of the child’s age when the guardianship arrangement is finalized.

Currently, New York’s KinGAP provides that if the guardianship arrangement is entered before the child becomes 16, guardianship assistance payments continue only until the child reaches age 18.⁵ But if the arrangement is entered after the child becomes 16, payment continues until the child reaches 21. The current program unintentionally keeps KinGAP-eligible teenagers

² *Id.* at 3-4.

³ See Schuyler Center for Analysis and Advocacy, *Federal Analysis Shows that New York State is Failing to Keep Children Safe or to Find Permanent Homes for Children in Foster Care within a Reasonable Time*. April 2016. (available at <http://www.scaany.org/policy-areas/child-welfare/>) (last visited Mar. 28, 2017). The Child and Family Services Review (CFSR) conducted by the federal Health and Human Services Administration for Children and Families in 2015 found that New York State ranked well below other states when it came to exits from the child welfare system.

⁴ New York Social Services Law § 458-a(3).

⁵ New York Social Services Law § 458-b(7)(a)

in foster care for longer periods. For instance, if a child in foster care is 14 or 15 years old, the parties are incentivized to postpone finalizing the KinGAP arrangement until after the child turns 16, undermining KinGAP's effectiveness in removing children from foster care.

Guardianship assistant payments should be provided for all children in the KinGAP program until they reach the age of 21. Youth in their late teens and early twenties frequently receive support from their families as they seek higher education and job training. Indeed, when children are adopted from foster care, the adoptive family receives adoption subsidies until the child reaches the age of 21. This bill would bring KinGAP subsidies in line with foster care and adoption subsidies and promote the earlier finalization of the KinGAP arrangement.

The bill will expand and strengthen the KinGAP program, allowing more children to leave foster care and find permanent homes. For these reasons, the Committees support the bill and urge its passage.

Children and the Law Committee

Sara Hiltzik, Chair
Grace Park, Secretary
Yuval Sheer, Primary Drafter
Rachel Stanton, Secondary Drafter

Family Court and Family Law Committee

Glenn Metsch-Ampel, Chair
Lena McMahon, Secretary
Betsy Kramer, Legislative Subcommittee Chair

Social Welfare Law Committee

Susan Welber, Chair

Reissued June 2017