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Kinship Guardianship Assistance Law for New York

The Council on Children of the New York City Bar Association is a diverse group of legal professionals representing eight City Bar Association committees and various child and family legal services and advocacy organizations. We are writing to urge you to pass a Kinship Guardianship Assistance Law for New York.

Background: In October 2008 Congress passed and President Bush enacted the Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351), which is arguably the most significant federal child welfare law to be enacted in the last decade. Notably, this Act gives states the option to use federal Title IV-E funds for kinship guardianship payments for children raised by relative caregivers who care for them in foster care and are committed to caring for them permanently when they leave foster care, but for various reasons do not wish to adopt. The federal rate of reimbursement for New York is 50% for IV-E eligible children and may be 57% for the next two years as per the federal stimulus package.

Benefit to Children and Families: Subsidized kinship guardianship would create an important permanency option for many children and youth who spend far too long in foster care, by enabling kinship caregivers to become permanent guardians outside the foster care system, while maintaining a subsidy to care for the child without having to adopt. Although for many children reunification and adoption are the best options, for some families, relatives such as grandparents, aunts and uncles want to retain their familial relationship to the child without supplanting the biological parent by becoming the legal parent through adoption. And most importantly, subsidized kinship guardianship will provide children with a sense of stability that can only be achieved through permanency outside of the foster care system.

Fiscal Considerations: Subsidized kinship guardianship, as opposed to remaining in kinship foster care, alleviates child welfare agency administrative costs because they no longer have to pay a foster care agency to supervise the home. In addition, as more children achieve permanency, it will free up valuable Family Court resources, as these children will no longer need permanency hearings every six months. It will also enable the family constellation to be free from expensive government interventions and home visits.

We urge you to fund the state's share for subsidized kinship guardianship outside the

foster care block grant, as this is indeed a permanency option for children and youth and not a form of foster care. We suggest modeling this program on the adoption subsidy program. Finally, we urge the state not to decrease the funding in the state's foster care block grant based solely on the implementation of this program, as the state block grant already fails to compensate counties for 50% of the non-federal share for foster care and it is far too early to know what the foster care savings might be.

Proven Success: Thirty nine states and the District of Columbia have already moved children out of foster care to subsidized guardianships. Experience in those states has shown that this is, indeed, an effective means of achieving permanency for children.