

Discussion Papers

The Continuing Evolution of State Kinship Care Policies

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Assessing
the New
Federalism

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Program to Assess
Changing Social
Policies*

Assessing the New Federalism is a multiyear Urban Institute project designed to analyze the devolution of responsibility for social programs from the federal government to the states. It focuses primarily on health care, income security, employment and training programs, and social services. Researchers monitor program changes and fiscal developments. Alan Weil is the project director. In collaboration with Child Trends, the project studies changes in family well-being. The project provides timely, nonpartisan information to inform public debate and to help state and local decisionmakers carry out their new responsibilities more effectively.

Key components of the project include a household survey, studies of policies in 13 states, and a database with information on all states and the District of Columbia. Publications and database are available free of charge on the Urban Institute's web site: <http://www.urban.org>. This paper is one in a series of discussion papers analyzing information from these and other sources.

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Abstract

This study presents the findings of a 2001 survey of state kinship foster care policies. The survey is a follow-up to those conducted in 1997 and 1999. The results show that many states are continuing to offer kin leeway in, or alternatives to, the traditional foster care licensing process, yet simultaneously striving to meet the safety requirements of the Adoption and Safe Families Act (ASFA). Almost all states give preference to kin over non-kin foster parents, although states differ in how they assess and support kinship care families. Many states have instituted a stricter policy since the implementation of the ASFA final rule, and there are many kin caring for children in foster care who are not eligible to receive foster care payments.

Introduction

This paper reports the findings of a 2001 survey of state kinship foster care policies. The survey, a follow-up to surveys the Urban Institute conducted in 1997 and 1999, sought to assess changes in states kinship foster care policies since the U.S. Department of Health and Human Services (HHS) released a final rule to guide state implementation of the Adoption and Safe Families Act (ASFA) in January 2000. A follow-up survey was necessary as kinship foster care policy is continually evolving at both the federal and state level, potentially affecting millions of foster children who are in the care of kin.

The Kinship Care Population

In 1999, 2.3 million children, or 90 percent of children not living with their parents, lived with relatives, according to the 1999 National Survey of America's Families (NSAF). The vast majority (1.8 million) of these placements were private, without child welfare involvement. Data from the Adoption and Foster Care Analysis Reporting System (AFCARS) from 49 states (including the District of Columbia and Puerto Rico) that were able to provide data, show that in 1999 kin were caring for 151,864 children in foster care, 26 percent of all foster care children (US DHHS 2001b).

Many kinship care families face a variety of challenges. Kinship care children, whether or not they have been abused or neglected, are dealing with the emotional trauma of being separated from their parents. Research suggests that living with a relative may minimize the trauma by providing a sense of family support (Dubowitz et al. 1994). However, children in kinship care often live in families experiencing financial hardship, crowding, or trouble paying housing costs (Ehrle and Geen 2002). Kinship caregivers tend to be older than non-kin foster parents, face health challenges, and report high aggravation (Ehrle and Geen 2002).

Despite these challenges, many children living in kinship care do not receive the services they need. All kin who meet the state TANF definition of a relative are eligible for a child-only payment to help support the child. In addition, kin caring for a child in state custody are eligible for a foster care payment if the appropriate assessment standards are met. However, about a quarter of all children in

kinship care live in families that receive either a child-only grant or foster care payment (Ehrle and Geen 2002). Other services kinship care families may not be receiving include Medicaid, food stamps, housing assistance, and child care.

Kinship Care Policy Context

Children whose parents are unable to care for them often rely upon relatives or family friends to do so — a practice commonly referred to as kinship care. Many of these situations are privately arranged between parent and kin, without any contact from a child welfare agency. In the 1980s, child welfare agencies began to turn to kinship caregivers to act as foster parents for abused or neglected children. We refer to these placements as kinship foster care, and the policies addressing these placements are the subject of this report.

Although state use of kinship care increased rapidly in the 1980s and early 1990s, the federal government and state legislatures have had a difficult time responding to this phenomenon. Many questions still remain about how to use kin most effectively and to what extent they should be treated differently than non-kin foster parents. Debate continues on how kin who act as foster parents should be financially assisted, assessed as caregivers, and how child welfare agencies should approach permanency planning when children are placed with kin.

For the most part, federal financial support for the kin population stems from child welfare and income assistance policies. A 1950 Social Security Act amendment offered eligible relative caregivers financial assistance for children in their care through the Aid to Dependent Children (ADC) program.¹ They could apply to receive welfare benefits as a family unit if they themselves were poor, or they could apply and receive payment for only the related child regardless of their income (a child-only grant). When the Aid to Families with Dependant Children (AFDC) program was replaced by the Temporary

¹ The Aid to Dependant Children (ADC) program was renamed the Aid to Families with Dependant Children (AFDC) program in the 1960s.

Assistance for Needy Families (TANF) program, states were given the option to continue providing child-only grants for non-needy relatives. All states except Wisconsin have continued this benefit.²

Most kin who acted as foster parents initially received financial assistance through AFDC. However, in 1979 the U.S. Supreme Court found in *Miller v. Youakim* that states must make the same foster care maintenance payments to kin caring for title IV-E-eligible children (those eligible for federal reimbursement under title IV-E of the Social Security Act) as they make to non-kin foster parents, provided that kin meet the state foster care licensing standards. States were left with the decision of how to assist kin caring for non-IV-E-eligible children and those who do not meet certain licensing requirements.

There is an ongoing debate about how child welfare agencies should financially assist kin and how kin should be assessed. Some argue that kin have a familial responsibility for the related child and should not be paid (Kinship Care Advisory Panel 1998). Others contend that foster care payment rates (usually higher than TANF child-only grants) provide an incentive for private kinship caregivers to become part of the child welfare system (Berrick, Minkler, and Needell 1999; Johnson 1994). Yet, others argue that it is the government's responsibility to support these children, regardless of who is caring for them (Geen 2000; Geen and Berrick 2002).

While each state sets its own foster care licensing standards, the federal government provides financial reimbursement to states to cover certain costs associated with foster care placements. There are certain minimum procedural guidelines that states must meet to receive financial reimbursement. In 1997, Congress passed the Adoption and Safe Families Act (ASFA) that clarified conditions under which the federal government would provide financial reimbursement. The Act, and the ASFA Final Rule of January 2000 that documented how the Department of Health and Human Services (HHS) would implement the Act, included a number of provisions that affected or clarified the federal reimbursement of foster care payments made to children placed with kin. States may not collect federal reimbursement

² In Wisconsin, the child must be at risk of harm if living with biological parents in order for the relative caregiver to be eligible for a TANF child-only payment.

for all kin caring for IV-E eligible children. Instead, “relatives must meet the same licensing/approval standards as nonrelative foster family homes.” Waivers for certain licensing standards may only be issued on a case-by-case basis, not for kin as a group. No waivers can be granted for safety issues. In addition, the final rule prohibits states from claiming IV-E reimbursement for provisionally licensed or emergency placement kin homes.

While the federal government will not reimburse states for foster care payments made to kin who are not licensed the same as nonrelative foster homes, neither ASFA nor the Final Rule prohibits states from assessing kin differently than non-kin. Some argue that kinship care is a unique situation and should not be held to the same standards as non-kin placements. Traditional foster care requirements, especially those not related to safety, may be irrelevant in a kinship care placement. The potential benefits of living with a family member or close family friend may outweigh the need for non-safety requirements such as space requirements. However, safety is the most important concern to child welfare agencies, which may be reluctant to waive requirements or hold kin to less stringent standards than non-kin foster parents.

ASFA also clarified federal policy related to permanency planning, allowing states to make exceptions for kin. While ASFA specifically disallows long-term foster care and imposes tough new standards for termination of parental rights for children placed with nonrelatives, ASFA indicates that a “fit and willing relative” can provide a “planned permanent living arrangement,” and the termination of parental rights does not have to occur within the allotted time frame if, “at the option of the State, the child is being cared for by a relative.”

There are conflicting views on how to treat permanency planning for children placed with kin. Conventional wisdom, supported by some past research, has held that kin are unwilling to adopt their related children (Gleeson 1999; Thornton 1991). More recent research, however, suggests that kin can and will adopt if they are provided accurate information and they are reassured about ongoing payments (Testa 2001; Testa et al. 1996). Still many kinship advocates question whether adoption is necessary for children in kinship care to feel a sense of permanency. Because adoption has been an area of significant controversy for children placed with kin, many states began to experiment with subsidized guardianship

programs, programs that provide ongoing financial support to kin who accept permanent legal guardianship of related children instead of adopting them. However, whereas the federal government provides reimbursement for adoption subsidies under title IV-E, guardianship is not typically subsidized in general, and payments are not reimbursable under title IV-E.³

Methodology

In April 2001, we mailed the kinship survey to each state child welfare director. Attempts were made to maintain consistency between the 1999 and 2001 surveys, although some new questions were added based on information learned in 1999. Comparisons between the two years are made whenever they are significant, and analysis of how state policy relates to the ASFA final rule is included. The survey was also available online, and each state contact was given a user identification and password to enter data and make changes as necessary. Urban Institute staff conducted extensive phone, facsimile, and e-mail follow-up with each state to ensure the proper interpretation of their data. We received survey responses from all 50 states and the District of Columbia; 22 states completed the survey online. The data presented in this paper were sent back to the state child welfare director for final confirmation. For the purposes of this survey, the District of Columbia is counted as a state, therefore making the state total 51. This report presents a summary and analysis of state responses to the survey.

Definition of Kin

Many states have historically defined kinship care to include persons beyond blood relatives — anyone with a strong emotional bond to a child. The way states define kin is important because all states treat kin differently than non-kin, whether through preference, licensing, payment, etc. It is unclear whether a broad definition or a narrow one is better for states to use. Other programs outside of child welfare, such as TANF and Medicaid, traditionally serve only kin related by blood, marriage, or adoption.

³ The federal government has issued waivers to several states allowing them to seek title IV-E reimbursement for guardianship subsidies.

However, many child welfare experts note that what is important is the bond between the child and kin which may include other, non-related persons. Many states have taken this advice and are seeking out caregivers who are close to the child but may not be directly related, although many are still hesitant to consider this unrelated population as a preferred placement option. The states show a lack of consensus on which definition is better. Many states have changed the way they define kinship caregivers in the last few years, although the change has not been in a consistent direction.

Almost half of the states, 24, include only those related by blood, marriage, or adoption (“only”) in their definition of kin. This is the same number of states that reported defining kin this way in 1999. Almost as many states, 22, define kin as those related beyond blood, marriage, or adoption (“beyond”), one more than did so in 1999. The remaining states (five) reported having no definition of kin (“none”).

Between 1997 and 1999, many states changed their definition of kin, but approximately the same number of states narrowed their definition as did broaden them. We expected more states to switch from a broad definition of kin to a more narrow one after the implementation of ASFA limited the way states can use and support kin, but the changes in definition from 1999 to 2001 show little impact. The same number of states, three, changed from “beyond” to “only” as changed from “only” to “beyond.” One state each changed from “none” to “only,” “none” to “beyond,” and “only” to “none.” In total, 21 states have changed their definition of kin at least once since 1997.

It is also important to examine where states document their definition of kin. If the definition is found in state statute, it may mean that the decision was made outside of the child welfare agency and is probably more likely to be strictly adhered to and difficult to amend. If the definition is documented in an agency policy manual, the child welfare agency most likely set the definition, and there may be more discretion in frontline practice. A definition found only in an agency policy manual may also be easier to change.

States vary in where they document the definition of kin. Many of the states, 22, document their definition of kin only in an agency policy manual. Nine states report documenting the definition only in a state statute. Five states report documenting the definition of kin in another location, such as a procedures

manual or administrative rule. Several states also document the definition in more than one location; in 10 states the definition is found in both the agency policy manual and state statute. In fact, the most common change in definition location from 1999 was in the expansion of definition location. Between 1999 and 2001, nine states expanded the location of the kin definition from one (either agency policy manual or state statute) to both. This change may be seen as an effort to better align child welfare practice with state policy regarding kin.

Definitions found in state statutes tend to be narrower than those in agency policy manuals. Six of the nine states documenting kin in a statute use a narrow definition — only kin related by blood, marriage, or adoption. The broader definition of kin is used by 14 of the 22 states that document the definition in a policy manual. Of the ten states that use both a state statute and policy manual to define kin, eight use a narrow definition.

TANF Definitions of Kin

In twenty-eight states, the child welfare definition of kin is different than the definition used by TANF, which is usually limited to kin related by blood, marriage, or adoption. This comparison is important since child welfare offices often refer kin to the TANF office for a child-only payment. If kin meet the child welfare definition of kin, but are unable to meet the state's TANF definition, they may be unable to receive financial assistance.

Prior to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), AFDC established that a relative had to be within the fifth degree of relation⁴ to the child to collect child-only benefits. PRWORA allowed for state flexibility in determining the definition of relatives who are eligible to receive child-only benefits while caring for related children. Data collected from the Urban Institute 2001 TANF and Child Welfare Integration Survey show that 34 state TANF definitions include those related by blood, marriage, or adoption within the fifth degree. Two states

extend the definition to relatives of the sixth degree. Three do not specify what degree of relationship constitutes an eligible relative, and three states list a number of eligible relatives, but these relatives do not fit into a specific degree.

There were no major shifts in how child welfare definitions compare to TANF definitions between 1999 and 2001. Twenty-one states use a broader definition than TANF, 12 use the same definition, seven use a narrower definition, and seven state contacts reported not knowing how the child welfare definition compares to the TANF definition.

Although there were no major changes in how child welfare definitions compare with TANF definitions, in 17 states the comparison changed from 1999 to 2001. We are unable to know whether these changes were caused by a change in the child welfare definition, the TANF definition, or both. The most common shift was from a child welfare definition the same as the TANF definition to a narrower child welfare definition (four states).

As indicated above, in 21 states the child welfare definition is broader than the TANF definition, thereby putting those kin referred to the TANF office for a child-only payment at risk of receiving no assistance. Of these 21 states, 13 use a TANF child-only grant to support at least some kin caring for a child in state custody (during the pre-approval period or after they are fully assessed) because kin are unable or choose not to meet foster care approval standards. In these 13 states, there may be some kin caring for children in state custody who are unable to receive either a foster care payment or a TANF child-only grant to assist in caring for the children.

Identifying Kin

In almost all states (49), state policies require caseworkers to seek out kin when it is determined that that a child cannot remain in his or her parents' home following a child abuse and neglect

⁴ Fifth degree typically includes the following: grandparents, including great, great great, and great-great-great; aunt and uncle, including great and great-great; nephew and niece, including grand and great-grand; and first cousin, including first cousin once removed.

investigation.⁵ Two states — Georgia and Illinois — report that policies do not require caseworkers to seek out kin, but Georgia gives preference to kin who come forward to care for the child if they meet necessary state requirements.

States were asked if state policy discusses how workers should identify potential kinship care providers. Thirty-five state policies discuss identification, and 14 do not. Of the 35 state policies discussing identification, several sources of information about possible placement options are mentioned, including parents, child, other family members, family conference, and court locator service. The most common identification method is asking the parents, cited in six state policies. We know from front-line practice research that, although parents may have valuable information about kin, involving them in the identification process can be difficult, particularly if they are the perpetrators of abuse (Geen et al. forthcoming). Five states ask the parents, child, and others (including other relatives, neighbors, witnesses, and family friends). Three state policies mention holding family conferences to identify placement options for children. Nevada’s state policy mentions using the relative locator service through the court, and many other state policies refer to obtaining a court order if the sources do not want to identify potential kinship care providers.

States were also asked whether policy instructs workers how to prioritize between kin if more than one wishes to take the child. Twenty-nine state policies discuss prioritizing, and 20 do not. Of the 29 that discuss prioritizing, several methods are mentioned. Nine state policies instruct workers to prioritize kinship caregivers by suitability. This method may include examining the relative’s ability to keep the child safe (Alaska), keeping the child in the same community (Connecticut), an existing bond with the child (Washington), or the results of a home study (Rhode Island).

Another method mentioned in six state policies is prioritizing by relationship. For example, California gives preferential treatment only to adults who are the grandparents, aunt, uncle, or sibling of a child. Three states leave the prioritizing up to the family. In Colorado, the District of Columbia, and

⁵ In 1999, 44 states reported that caseworkers are required to seek out kin.

Oregon, state policy instructs workers to use family group conferencing to decide which kin are the most appropriate caregivers for the child.

Kin Involved with the Foster Care System

In order to understand how states treat kin caring for children involved with the foster care system, we devised three categories by which kin may be assessed. States were asked to report on cases in which, following an investigation, the family court adjudicates the child as abused or neglected and orders that the child be placed outside of his or her parental home with a kinship caregiver. The assessment options presented to states were:

1. *Full Licensure*: Kinship care providers are assessed based on the same standards as non-kin foster parents and are required to meet all of the same standards. No standards are modified or waived for kin that cannot be modified or waived for non-kin foster parents.
2. *Waived or Modified Standard*: Kinship care providers are assessed based on the same standards as non-kin, but the child welfare agency may waive or modify one or more standards that all non-kin foster parents are required to meet.
3. *Separate Approval Process*: Kinship care providers are assessed based on different standards than those for non-kin. The assessment standards for such kin, while different, may be more, less, or equally stringent as those used to assess non-kin.

Full Licensure

In 15 states kin are required meet the same standards as non-kin foster parents. No standards are waived or modified for kin that cannot be waived or modified for non-kin foster parents in these states, and no separate approval process is offered. The number of states that require kin to meet the same standards as non-kin has grown in the last few years. In 1997, seven states required all kin to be fully licensed, and in 1999, ten states required the same.

In addition to the 15 states requiring full licensure, 13 states allow kin to be either fully licensed or assessed under a separate approval process. Therefore, some kin may be required to meet full licensure in at least than 28 states. If states reported they offer full licensure but also waive standards for kin, they were placed in the waived category.

Custody. States were also asked who maintains legal custody of the child during the placement, assuming that the family court has adjudicated a child as abused or neglected and ordered that the child be placed outside of his or her parental home. Twenty-seven of the 28 states requiring full licensure maintain legal custody with the state, local child welfare agency, or the court. One state, Wisconsin, reported legal custody depends on the circumstances. If the child in Wisconsin is adjudicated abused or neglected, legal custody would be with the child welfare agency. If the child is not adjudicated, and the relative needs more financial support than the child-only payment, child welfare would consider licensing that relative, but custody would remain with the parent.

Supervision. All 28 states in this category provide the same level of supervision to kin as non-kin placements. While supervision is required regularly, it is possible that there is flexibility depending on the child's needs. For example, in Montana "the licensing agency is required to provide one visit a month for the first six months of the foster family's first placement. Beyond this point, the level of supervision is determined based on the child's needs and provider's capacity and needs" (Montana survey response).

Services. All services or resources available to non-kin foster parents are also available to kin assessed under this option in all 28 states. However, Oregon notes an important distinction between relatives caring for IV-E-eligible children and those caring for non-IV-E-eligible children. In Oregon, relatives caring for non-IV-E-eligible children are not eligible for the personal care benefits available to foster parents. On the other hand, there are a few states where services or resources not available to non-kin foster parents are made available to kin. In six of the 28 states, a variety of kin-specific services are provided. Three states — Oregon, Delaware, and Washington — offer kin-specific support groups as an additional service to this population. Colorado provides family group conferencing to kin assessed by this option.

Waived or Modified Standard

Twenty-three states apply non-kin foster care licensing standards to kin, but may waive or modify one or more standards that all non-kin foster parents are required to meet.⁶ Sixteen states offered this assessment option to kin in 1999. Also in 1999, more than half of the sixteen states waived requirements for kin as a group, not on a case-by-case basis. However, most likely due to the implementation of the ASFA final rule, all of the states that currently waive requirements do so on a case-by-case basis, and therefore many kin in these states meet the full licensing requirements of non-kin. Of the 23 states offering a waived option, 16 offer it alone; they do not offer a separate process in addition.

Waived requirements. The most commonly waived requirement for kin is space. Of the 23 states that offer a waived standard to kin, 12 waive or modify the space requirement. For example, Arkansas and Maine require a certain amount of square footage per occupant in non-kin foster homes, but may allow children to be placed in kin homes with less space. Other space-related requirements that may be waived include space between beds, number of children per room, and the timeframe given to secure adequate beds.

Eleven states waive training requirements for kin. While most of these states will waive training entirely for kin, a few of them have made kin-specific modifications to the training program. For example, Connecticut requires a 27-hour foster parent training for non-kin, but offers an individualized training program for kin. Kentucky also offers an individualized training plan for kin that is approved by the child welfare director, and Mississippi allows kin to watch a training-related videotape instead of attending classes.

States may also waive caregiver-specific requirements, such as age or income. Eight states waive age requirements, often lowering the non-kin requirement of 21 years of age to 18 years for kin. In Kentucky, non-kin must be under 65 years of age to care for a foster child, but the agency allows kin to be

⁶ New Jersey and Ohio require full licensure of broadly defined kin, but allow waivers for close relatives. These two states are included in the waived category.

over 65 if they can meet the needs of the child. In addition, income requirements are waived for kin in five states.

A few other requirements may also be waived for kin, including transportation, marriage, and other non-safety standards. For example, a foster family in Arkansas must have its own car, but kin are able to have this requirement waived. Kentucky requires non-kin foster parents to be married at least two years before they can care for a child, but kin married less than a year can be approved if they meet the needs of the child. Finally, a GED or high school diploma is required of non-kin in New Hampshire but is waived for kinship caregivers.

Custody. All 23 states offering this option maintain custody with the state, local child welfare agency, or the court.

Supervision. All but two of the states offering a waived or modified standard provide the same level of supervision to kin as non-kin. Georgia and Ohio may provide less supervision to kin assessed by this standard. Ohio leaves the discretion to the counties, which may decide whether to provide the same or less supervision to kinship care cases. In addition, Tennessee, which provides the same level of supervision to kin and non-kin, notes that “policy stipulates same amount of supervision; in practice, though it may be less because relatives often don’t want agency interference” (Tennessee survey response). This comment raises an important question of whether relatives who resist supervision may actually receive less supervision than non-kin foster parents.

Services. Twenty-two of the 23 states offering this option provide the same services and resources to kin and non-kin foster parents. Georgia reports a few differences in the services available: it does not provide respite care and child care to kinship caregivers assessed by the waived standard. Also, Ohio notes that services available to kin are at the discretion of the local agency. Five of these states provide additional services only to kinship caregivers. Support groups tailored to meet the needs of relatives are available to kin assessed by this option in three states (Idaho, New York, and Maine), and two states (Georgia and Maine) mention family group conferencing as a unique service for kin.

Separate Approval Process

In addition to a full or waived standard, states may offer a separate approval process for kin. These standards, while different, may be more, less, or equally as stringent as those used to assess non-kin. Twenty states offer this option to kinship caregivers, compared to 32 states that offered it in 1999. Fifteen states discontinued this option since 1999, and three states began offering it since then.

Requirements. Almost all states offering this option report the state considers this standard to be less stringent than the standards applied to non-kin foster parents. Only one state found the standard to be equally as stringent, and none found it more stringent. Although this standard may be considered less stringent in most states, there are a variety of standards by which kin are assessed. All of the 20 states assess kin by a criminal background check and a child abuse and neglect registry check. More than half (13) of the states require a home study before kin are approved by this standard. A few (six) states conduct an income check of the kinship caregiver. In addition, more than half (13) of the states listed other requirements by which kin are assessed, including court approval, training, DMV check, physical and mental health check, references, interview, and square footage requirements. For example, North Carolina's less stringent standard includes a kinship assessment, which is a home visit and an interview with the relative to ensure willingness and suitability to care for the child. In South Dakota, kin who are assessed by this option are encouraged to attend the same training as licensed foster parents, but it is not required of them.

Custody. Seventeen of the 20 states offering a separate approval process for kin maintain custody of the child with the state, local child welfare agency, or the court. Three of these states report that custody depends on a variety of circumstances, usually with the intent of transferring custody to the kinship caregiver. For example, Delaware maintains custody with the state until the relative is awarded custody. In Kentucky, the relative may get temporary custody of the child once the requirements are met. However, the case stays open until the relative gets permanent custody of the child. If the relative does not proceed with permanent custody of the child, consideration will be given to moving the child. Texas

will also maintain custody with the state for a period of time, but looks at transferring “managing conservatorship,” or custody, to the kinship caregiver as soon as possible.

Supervision. Fourteen of the 20 states offering a separate approval process to kin provide the same level of supervision to kin as non-kin. Four states provide less, one provides more, and one state reports that it depends on the circumstances. Michigan notes that supervision depends on who retains custody; if the court retains custody than the same supervision is required. Arizona, which provides the same level of supervision, notes that licensing and monitoring is not required in policy for kin assessed by a separate approval process. In addition, Florida notes that the court may terminate the supervision of stable, long-term relative placements assessed by this process at any time. Montana provides the same amount of supervision to kin, “but staff often report that kinship providers require more of the supervising worker’s time than do non-kin” (Montana survey response). Here it is apparent again that kin may influence how much supervision they receive.

Services. In five of the 20 states, various services are only available to non-kin foster parents. For example, four states (Florida, Michigan, Texas, and Maine) do not provide respite care to kinship caregivers, and two states (Alaska and Maine) do not provide child care.⁷ Other services withheld from kin are clothing allowances, transportation, foster parent support groups, laundry costs, and claims of risk management for damage to the home. Delaware provides kin-specific support groups as a service to kinship caregivers.

Changes in Stringency

While a few states switched from a stringent policy to a more relaxed policy for kin, it was more common for states to tighten up their policy toward kin. Of the 27 states that changed their policy between 1999 and 2001, 18 changed to a stricter policy. Thirteen states removed a separate process, four removed a waived option, and one removed both a separate and a waived option. Of the nine states that have become less stringent, four added a separate process and five added a waived option. These policy

changes, generally in the direction of more stringency, reflect the ASFA final rule in that states are attempting to make the kin assessment process more similar to that of non-kin foster parents.

However, states that changed to a stricter policy are not necessarily requiring kin to meet more stringent standards than they were in 1999. For example, a state may have changed from a waived policy to a full licensure policy, but adjusted its non-kin standards to be more lenient. Therefore, while kin would be meeting the same requirements as non-kin, the stringency of those requirements may be equal to those formerly required under the waived standard, or even less stringent.

In order to examine stringency changes, four categories of assessment options may be observed. Taking the above three assessment options into account, there are four combinations of assessment options states may offer to kinship caregivers (see table 1):

- A. States require all kin to meet full licensure standards = 15
- B. States allow kin to meet waived or modified standards = 16
- C. States offer full licensure and a separate approval process to kin = 13
- D. States offer a waived or modified standard and a separate approval process to kin = 7

⁷ Maine provides respite care and child care to kin on a case-by-case basis.

Table 1. State Assessment Categories and Stringency Changes since 1999

State	A	B	C	D	More stringent (what eliminated)	Less stringent (what added)
Alabama		X			separate	
Alaska			X			separate
California	X				separate	
Colorado	X				separate	
Connecticut		X			separate	
District of Columbia	X				separate	
Florida			X			separate
Idaho		X				separate
Indiana		X				waived
Kansas				X		waived
Kentucky				X		waived
Maine				X		waived
Michigan			X		waived	
Missouri	X				waived	
Nebraska				X		waived
New Hampshire		X			separate	
New Jersey		X			separate	
New York		X			separate	
Ohio		X			separate	
Oklahoma		X			separate	
Oregon	X				waived & separate	
South Carolina		X			separate	
Texas			X		waived	
Vermont	X				separate	
Washington			X			separate
West Virginia	X				waived	
Wyoming	X				separate	

A = States require all kin to meet full licensure standards, B = States allow all kin to meet waived or modified standards, C = States offer full licensure and a separate approval process to kin, and D = States offer a waived or modified standard and a separate approval process to kin.

Pre-Approval Placements

Unlike foster parents, kin are often unprepared when related children are placed with them. There is little time for them to buy new furniture, prepare mentally, or make other arrangements before the children are placed. There is an ongoing debate around the safety of these placements. Due to the urgency of these placements, the kinship caregiver may not be assessed as thoroughly as a licensed foster parent. Kin are often unable to meet the full standards in such a short period of time as may be required for these placements. In addition, state payments to kin are not federally reimbursed during this pre-approval period. However, agencies may see an advantage in being able to place children quickly with relatives and may be reluctant to move children again after the placement is stable.

Most states will place a child with kin who is seeking to meet the assessment standards under a given option but has yet to do so, sometimes referred to as provisional licensing or approval. In 42 states, this option is available to kinship caregivers. Of the 15 states that require full licensure, 13 pre-approve kin for this option. Eleven of the 16 states that require the waived/modified standard pre-approve kin. Of the 13 states offering both full licensure and a separate process, all pre-approve for full licensure, and 8 do so for the separate process. Eight states pre-approve for both full licensure and the separate process. Finally, five of the seven states offering waived/modified and separate process pre-approve for the waived standard, and three do so for the separate process. Three states pre-approve for both the waived and separate process. Therefore, eleven states offer a pre-approval process for more than one standard, making the total number of pre-approval possibilities 53. Many of these states are clear that they do not issue a provisional license to kin, nor do they refer to the practice as provisional licensing, yet they may place with kin before complete approval.

Requirements. Almost all of the states require a criminal background check and a child abuse and neglect registry check before a child can be placed with kin. Of the 53 pre-approval processes offered in 42 states, 48 require a criminal background check, and 47 require a child abuse and neglect registry check. Twenty-eight processes require a home study, and eight require an income check of the kinship caregiver. Other standards are required in 34 processes, including references, face-to-face interviews,

physical/mental health check, DMV check, and fire safety. Several of the states require abbreviated versions of the checks required for the full standard. For example, an abbreviated home study or a simplified criminal background check may be necessary for the child to be placed. Later, the state may require a more extensive version of the initial requirement.

Time frames. Typical time frames in which kin must meet pre-approval assessment standards range from 30 to 120 days. In 11 processes, kin are required to meet standards within 30 days. Nine require kin to meet them within 90 days, eight within 120 days, and six within 60 days. Eleven processes note other time frames, including “as soon as possible,” 72 hours, and six months. Generally, the more stringent the assessment standard, the less time kin have to meet the requirements. A few states do not stipulate a specific time frame, but recommend that kin meet standards as soon as possible. If kin do not meet standards within the given time frame, many states report the child may be moved to another relative’s home or to foster care. However, many states note they attempt to keep the child in the home, and some will offer an extension to the time frame, often in response to a court order. In cases where the child remains but the kin has not yet met the appropriate requirements, it is likely there is no financial assistance provided by the child welfare agency. A few policies also allow caseworkers to work with the family to ensure that standards are met regardless of time frame.

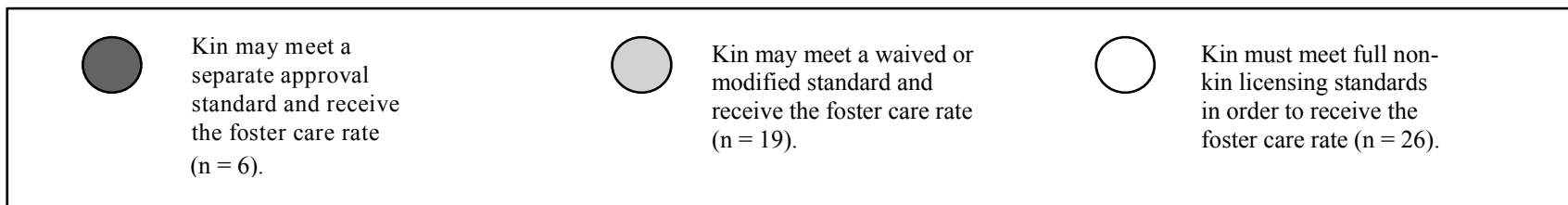
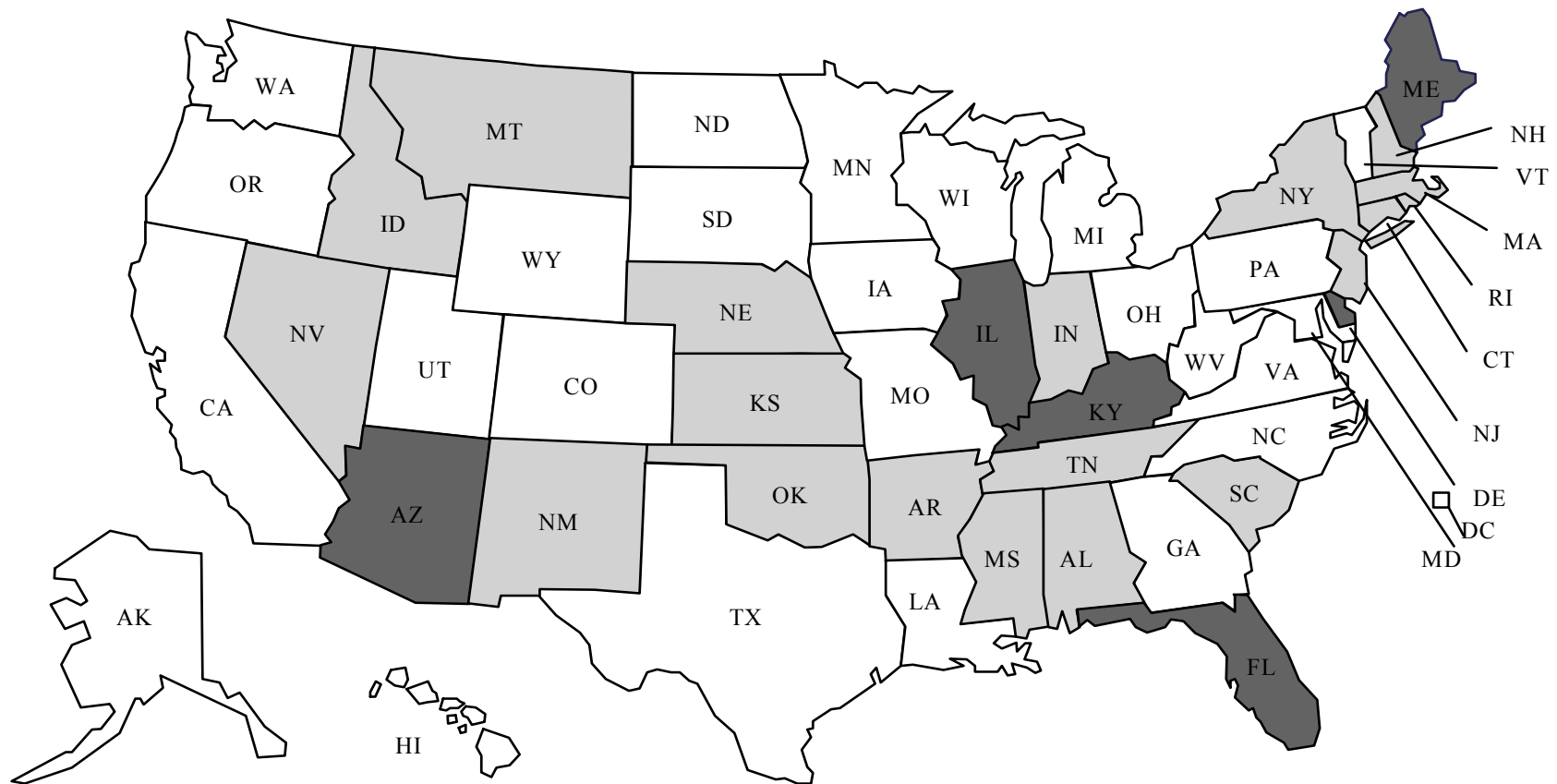
Payment of Kin

Kinship caregivers may be eligible to receive financial assistance from a variety of sources such as state- or federally funded foster care payments, TANF child-only grants, or Social Security benefits. As mentioned earlier, *Miller v. Youakim* required states to provide all kin caring for IV-E eligible children with foster care payments if they meet licensing requirements. If kin are not licensed or the children are not IV-E-eligible, the state can decide whether or not to provide financial assistance in another form. All kin who are related by blood, marriage, or adoption are eligible for a TANF child-only payment, which is usually much less than a foster care payment. In addition, child-only payments are prorated at a declining rate for each additional child and do not vary depending on the age of the child.

Full licensure. Payment after kin are fully licensed or approved can vary across categories. This variation is partly due to regulations regarding the use of federal money to support kinship caregivers and state flexibility in using state funds to support this population. All states give state- or federally funded foster care payments to kin who meet the full licensure standards except for California and Oregon, two states that deny foster care payments to kin who do not care for IV-E-eligible children, regardless of how they are licensed.

However, there are many kin caring for children in state custody who do not receive foster care payments. In 26 states, kin may be denied foster care funds for a variety of reasons, and often there is more than one way to be denied funds in a given state (see figure 1).

Figure 1. Licensing Standards and Payments for Kinship Foster Parents



Waived or modified standard. Several states do not provide foster care payments for children placed with kin assessed by a waived or modified standard. Two states, Georgia and Ohio, offer only TANF payments to kin assessed by the waived or modified standard, and two states, Indiana and Rhode Island, deny foster care funds if the child is not IV-E-eligible. In all four of these states, kin who meet the full licensure standard are eligible for federal or state foster care payments.

Separate approval process. In addition, many states offering a separate approval process for kin do not pay foster care for this option. Of the 20 states offering this option, 14 of them do not pay foster care. Instead, kin may be referred to the TANF office where they can receive assistance if they are eligible.

Pre-approval placements. Kin who are pre-approved may also be denied foster care funds during this pre-approval period. Nineteen states deny kin foster care funds while pre-approved. In nine states kin who are pre-approved for the full licensure process are not eligible for foster care. Five states withhold foster care from kin who are pre-approved for the waived standard, and 10 do so for kin pre-approved for the separate approval process.

Types of payment received. In the 14 states with multiple licensing options that pay different amounts, nine were able to estimate the percent of kin receiving foster care payments. In these states, an average of 24 percent of kin receive some type of foster care payment, with a range between 0 and 75 percent. Wisconsin reported providing 100 percent of kin with a TANF payment and 0 percent of kin with a foster care payment, as the majority of kin in Wisconsin are assessed by a separate approval process which provides only a TANF payment (see table 2).

Note: Unless otherwise indicated, Fed and State refer to foster care funds in the table below.

Table 2. Licensing Options Offered to Kin and Source of Payment Provided

State	Full Licensure	Waived	Separate Approval Process
Alabama		Fed, State, other ^a	
Alaska	Fed, State ^a		TANF
Arizona	Fed, State ^a		State, other ^a
Arkansas		Fed, State	
California	Fed, TANF ^b		
Colorado	Fed, State, other ^a		
Connecticut		Fed, State ^a	
Delaware	Fed, State ^a		State ⁸ , TANF
District of Columbia	Fed, State ^a		
Florida	Fed, State, other ^b		Fed ⁹ , other ^b
Georgia		TANF, other ^b	
Hawaii	Fed, State ^a		
Idaho		Fed, State ^{10a}	
Illinois	Fed, State ^a		State
Indiana ¹¹		Fed, TANF, other ^a	
Iowa	Fed, State ^a		
Kansas		Fed, State ^b	TANF
Kentucky		Fed, State, other	Fed
Louisiana	Fed, State, other ^a		TANF, other
Maine		Fed, State ^a	State
Maryland	Fed, State ^a		TANF, other ^b
Massachusetts		Fed, State ^a	
Michigan	Fed, State ^b		TANF, other ^b
Minnesota	Fed, State ^a		
Mississippi		Fed, State, other ^a	TANF ^b
Missouri	Fed, State ^a		
Montana		Fed, State, other ^a	TANF, other ^b
Nebraska		Fed, State ^b	TANF
Nevada		Fed, State, other	TANF, other
New Hampshire		Fed, State ¹⁰	

⁸ Federal payment is only offered to non-related kin in Delaware; related kin are referred to TANF for payment.

⁹ Nonrelated kin and others not eligible for the Relative Caregiver program (which provides a Fed payment) might receive TANF.

¹⁰ The TANF payment in Idaho and New Hampshire may be higher than a foster care payment.

¹¹ Indiana and Rhode Island provide only a TANF payment to those kin who are not IV-E eligible.

Table 2. Licensing Options Offered to Kin and Source of Payment Provided

State	Full Licensure	Waived	Separate Approval Process
New Jersey ¹²		Fed, State	
New Mexico		Fed, State ^a	
New York		Fed, State ^a	
North Carolina	Fed, State ^a		TANF ^b
North Dakota ¹³	Foster care		
Ohio ¹²		TANF	
Oklahoma		Fed, State, other ^b	
Oregon	Fed, TANF ^b		
Pennsylvania	Fed, State ^a		
Rhode Island ¹¹		Fed, TANF, other ^a	
South Carolina		Fed, State, other ^b	
South Dakota	Fed, State ^b		TANF ^b
Tennessee		Fed, State ^a	
Texas	Fed, State ^b		TANF ^b
Utah	Fed, State ^b		
Vermont	Fed, State ^a		
Virginia	Fed, State ^a		
Washington	Fed, State ^b		TANF ^b
West Virginia	Fed, State ^b		
Wisconsin	Fed, State ^a		TANF ^b
Wyoming	Fed, State		

^aState provides foster care payments to pre-approved kin.

^bState allows pre-approval of kin but does not offer foster care payments.

Nonadjudicated Cases

Most states, under certain circumstances, will help arrange for a child who has not been adjudicated abused or neglected to live with a kinship care provider following an investigation. However, fewer states reported making such arrangements in 2001 than did in 1999.¹⁴ We found that 31 states may

¹²New Jersey and Ohio require full licensure of nonrelated kin and provide them with a federal or state foster care payment.

¹³North Dakota was unable to identify the source of foster care funds.

¹⁴In the 1999 survey, 39 states reported that they help arrange kinship placements without seeking state custody. Fewer than half reported they conduct background checks on kin or perform a home study.

intervene for a limited amount of time to help arrange for a child to be placed with a kinship care provider in cases which have not been adjudicated. In many states this type of arrangement is known as a “voluntary placement” in which the birth parent(s) voluntarily place the child with kin without much involvement from the child welfare agency. The agency’s main responsibility in these cases is to ensure the ongoing safety of the child in this new home, but custody usually remains with the parent/guardian or kinship caregiver.

Requirements. Although agency involvement is limited in these situations, there are a number of standards kinship caregivers are required to meet before the child is placed. Kin are assessed by a criminal background check in 21 states and a child abuse and neglect registry check in 22. Less frequently required are the home study in nine states and income check in two states. Eleven states require an additional standard of kin, usually a variation to one of the above requirements. For example, Texas, Georgia, and Indiana conduct a general home inspection that may be less formal than an average home study. Arizona requires a simplified criminal background check and Wyoming asks the kin to provide references. Several states note some type of safety standard is applied along with a measure of the relative’s willingness to cooperate with the agency. In addition, six states note that kin are not required to meet specific standards. Two states place requirements on kin assessed under this option that are not placed on foster parents. Arizona and Wisconsin require kin to cooperate with child support enforcement, and Wisconsin requires kin to apply for all benefits for which the child may be eligible.

Overall, this option requires less of kin than the adjudicated options do. Not surprisingly, 24 of the 31 states consider this option to be less stringent than the standards applied to non-kin foster parents. An additional four states consider it to be equally as stringent as non-kin foster parent standards. A few states emphasized that these placements are not intended to be long-term. For example, Georgia notes “This is a temporary placement during the investigation made by the parent; we just check the home out to make sure it is appropriate. The investigation must be completed in 30 days, so the placement is considered temporary” (survey response). Nevada adds, “Within this option, CPS can help parents arrange for placement with a relative. CPS does not arrange” (survey response). Wyoming explains,

“These placements are made informally with the help of child protection in low-risk cases (generally where there are temporary safety concerns). In these cases child protection is not formally involved and doesn’t make the placement” (survey response).

Custody. By definition, these cases are not adjudicated, and therefore the court, child welfare agency, or state does not typically take the child into custody. In 17 of the 31 states, custody remains with the parent(s)/legal guardian in these situations. In five states the kinship caregiver maintains custody of the child. An additional nine states report custody depends on the circumstances of the case, usually going to either the parent or kinship caregiver. For example, in Alabama, “the relative may petition for custody or parent may sign an agreement for the relative to care for the child” (survey response). In Maine custody is the parent’s decision, as “the parent has custody, but may choose to sign over guardianship of the child in probate court” (survey response). In several states, the agency may urge the kinship caregiver to pursue custody if the placement becomes more than a short-term arrangement, or the agency itself may pursue custody.

Supervision. When compared to non-kin foster parents, the level of supervision child welfare workers are required to provide kinship care providers assessed by this nonadjudication standard varies. In almost half of the states (14), workers are not required to provide any supervision to kinship care families. Less supervision is provided in eight states, and the same level is provided in four states. Overall, states note the actual amount of supervision is decided on a case-by-case basis and varies greatly according to need and risk factors.

Payment. Since children in these types of placements are not in the custody of the state, they are not eligible for foster care payments. However, a TANF child-only payment is available to kin who meet the appropriate state definition of a relative caregiver, and ten states offer another type of payment to kin, such as Social Security benefits, pending eligibility. Some of these caregivers may also be eligible for subsidized guardianship, depending on program requirements.

Services. Most of the services available to non-kin foster parents and children in foster care (e.g., respite care, child care, clothing allowance, mental health services, and transportation) are not available to

kin caring for nonadjudicated children. However, a few states make exceptions for these types of placements. For example, kin in Indiana who cannot afford services but need them can make a service request of the agency. If approved, they can potentially receive the same services as non-kin foster parents. New York will provide subsidized child care to kin if it is for preventive purposes, meaning the child needs it to avoid placement in foster care. North Carolina notes “This is not a formal placement because the child is not in the custody of DSS, but the agency may offer services as needed” (survey response). In addition, some states may offer services to kin that are not available to non-kin foster parents. For example, California, Alabama, and Tennessee have kin-specific programs that offer unique services to kin. California’s Kinship Support Services Program (KSSP) offers varied support services, depending on the county, for kin caring for relative children in, or at risk of entering, the dependency system. Alabama’s Kinshare program provides kin with 32 hours of respite care — a service not available to foster parents in Alabama. Kin in Tennessee’s pilot project may receive legal services or attend support groups. Colorado and Michigan offer Family Group Conference services to kin.

Pre-approval placements. A few states will place children with kin who are seeking to meet the assessment standards under this option but have yet to do so. This type of arrangement is allowed in six states, and three states reported it may occur depending on the circumstances. Twenty states will not place children with kin before they are fully approved under this option.

Four of the six states that will pre-approve relatives for placement under this option require a criminal background check and five require a child abuse and neglect registry check. Two states require a home study, and some require other standards which may be at the discretion of the caseworker. Kin are required to meet the standards within various time frames. Three states give kin 30 days to meet the requirements, one gives kin 45 days, and another state notes the standards must be met “quickly.” If the kin does not meet the requirements within the specified time frame, the child may be removed, payment may be withheld, or the timeframe may be extended. Payment during this pre-approval period would include a TANF child-only payment in every state, and another type of payment in two states.

Proportion of Kin Assessed by Each Option

Although many states do not maintain data on how each kinship care provider is assessed, some were able to estimate the percent of kinship care providers in the state that have been assessed based on each option described above. Of the 15 states that require kin to meet the full licensure standard, ten were able to estimate how many kin have been assessed in this way. The responses ranged from five percent to 100 percent, with an average of 75 percent. The other 25 percent of kin in these states was assessed by a nonadjudication standard.

Of the 36 states that require less than full licensure, 16 require kin to meet a waived or modified standard. Twelve of these states were able to estimate the percent of kin assessed by this standard. Responses ranged from 8 percent to 100 percent, with an average of 78 percent.

An additional 13 states offer both full licensure and a separate approval process to kin. Seven of these states were able to estimate how many kin are assessed by either full licensure or a separate process. They estimated a range of 95 to 100 percent, with an average of 99 percent. These states also estimated kin assessed by only full licensure. The seven states' responses ranged from 3 to 28 percent, with an average of 13 percent of kin being assessed by full licensure in states that offer both full licensure and a separate approval process. In these seven states, an average of 86 percent of kin are assessed by a separate approval process, with a range of 72 to 97 percent.

Finally, seven states require kin to meet either the waived/modified standard or a separate approval process. Five of them were able to estimate the percent of kin assessed in each way. An average of 90 percent of kin are assessed by either the waived or separate standard in these states, with a range of 60 to 100 percent. Fifty-three percent of kin are assessed by the waived standard in these states, with a range of 5 to 100 percent, and 37 percent are assessed by a separate standard, with a range of 0 to 95 percent.

In relation to the adjudication assessment standards, the nonadjudication option is used to assess a smaller proportion of kinship caregivers. Twelve of the 31 states offering this option were able to estimate the percent of kin assessed by it. With a range between 2 and 95 percent, on average 32 percent of kinship

caregivers are assessed by a nonadjudication standard. Based on this estimation, it would seem that at least 32 percent of kin known to the child welfare agency in these 12 states are caring for children without the protection of state custody and guaranteed child welfare services.

Private Kin

Sometimes children are already living with kin when the child welfare agency becomes aware of them, often referred to as non-removal placements. These private kin may contact the agency for a variety of reasons, such as to find a new placement for the child or to receive financial or supportive services. Although the agency did not participate in the original placement of the child with kin, it may open a case or provide assistance to kin caring for a related child. These placements, also called constructive or paper removals, are addressed in the ASFA final rule. The federal legislation allows states, under certain circumstances, to recoup foster care expenses for children who were already living with kin when child welfare became involved.

The child welfare agency may become aware of kin if an investigation of abuse or neglect was conducted in the past and kin previously accepted responsibility for the child without child welfare assistance. In 26 states some type of assistance would be offered to kin in this situation, ranging from opening a case to community referrals. For example, Wisconsin would open a case in this situation pending parental approval and refer kin to TANF for financial assistance. Services would be determined on a case-by-case basis depending on the needs of the child and the family in New Jersey. Massachusetts would “at the very least provide referrals” (survey response). Texas would not provide assistance because the agency has no legal responsibility in this case.

In another situation, kin may claim the child he or she is caring for was abused or neglected, but no investigation occurred. Assistance of some type would be offered to kin in this scenario in 24 states. Alabama would conduct an investigation and offer relatives services to prevent the child from coming into foster care. In Connecticut, an investigation would be conducted, and

If no abuse or neglect was substantiated, the Department may inform the relative of the option to seek financial assistance under TANF and the option of seeking guardianship through Probate Court. Referrals to community services are often made in cases of unsubstantiated abuse or neglect. In addition, DCF has the child mental health mandate, and we have a program to which we could refer appropriate families for mental health services for the relative child. (Connecticut survey response)

Montana would also conduct an investigation, and if abuse or neglect were substantiated, “the caregiver would have the option of becoming a licensed provider for the child and receiving foster care payments” (survey response). It is unlikely that Texas would investigate the case unless the child was in current danger, and no services would be provided in this circumstance.

If kin report no abuse or neglect but say they are unwilling to continue caring for a child without assistance, 35 states would provide assistance. In this case, Florida would respond to assist the caregiver in arranging another placement if necessary. Virginia’s assistance depends on the locality and local resources available, however all 121 local agencies in the state would probably become involved in this scenario because foster care prevention funds could be used to assist the kinship caregiver. This situation would spur an investigation in Rhode Island, and South Dakota would open a case and provide the same services available to other families with children in state custody.

States also provided examples of other circumstances which would prompt their attention and/or assistance. For example, Alaska may petition for custody of a child if “there is reason to believe the parent(s) will pick up the child from the relative, thereby placing the child at risk for abuse” (survey response). Iowa would provide services if kin report no abuse or neglect, but request services and the child is determined to be at risk. Many states noted that, regardless of the circumstance, they would follow normal investigative and assessment protocol to determine if a kinship caregiver was in need of agency services. Also, many states noted that if the agency was not able to provide such services, the family would be referred to the proper community resources.

Permanency

In the child welfare system, permanency means securing a safe and stable placement as quickly as possible for children who must be removed from their birth parents. Kin caring for children in state custody may be offered various permanency options if reunification is not possible. These options may include long-term foster care, adoption, or guardianship.

ASFA requires states to file a petition for the termination of parent rights (TPR) when a child has been in foster care for 15 of the most recent 22 months. However, states have the option not to file for TPR on a case-by-case basis if the child is being cared for by a relative.¹⁵ ASFA also identifies kin as a permanent placement option, stating that a child may be “placed permanently with a fit and willing relative,” although this phrase is not defined by the federal government. The flexibility of this legislation gives states discretion and allows for a variety of permanency policies.

Long-term Foster Care

Almost all states (43) allow children to remain in long-term foster care with kin. The circumstances by which this type of placement is allowed vary across states. While few states set strict policy guidelines for long-term foster care, there are standards several states have in common. For example, age and length of time in care are requirements used often in long-term foster care policies. Alaska and the District of Columbia require the child to be at least 12 years old, and Ohio only allows long-term foster care for children 16 years or older. In Maryland, children of consent age, 10 years old, can be placed in long-term foster care if they are unwilling to consent to adoption. Minimum length of time in care usually ranges from one to two years.

States frequently cite the lack of an alternative permanency option as a reason for children to enter long-term foster care with kin. Many states note that adoption or reunification must be unlikely or not possible before long-term foster care may occur. Some states, such as Alabama and California,

¹⁵ In addition to the relative placement provision, ASFA also gives states the authority to not file for TPR in placements where other designated circumstances are present.

mention the relative's unwillingness to adopt as a justification for long-term foster care. Utah and Arizona note the child's unwillingness to consent to adoption as a cause for this permanency plan. Some states explain the criteria more generally. For example, Wisconsin offers long-term foster care "When other options have been explored and determined to not be in the child's best interest" (survey response).

Fit and willing relative. Of the 43 states placing children in long-term foster care with kin, less than half (19) define the ASFA requirement of a "fit and willing" relative. However, a few state policies are very specific in what this definition means. For example, in Oklahoma,

A fit and willing relative has met all the requirements to be an approved placement: 1) must be at least 21 years of age; 2) must be able to manage own income to meet financial needs without foster care reimbursement; 3) can provide a safe and nurturing environment with sufficient and appropriate beds or bedroom to offer privacy for an additional child or children; 4) all members of household are in sufficiently good physical & mental health to provide for child(ren) placed in the home; 5) have the ability to understand love, care for & accept a child to whom they did not give birth; 6) no member of the household has a prior conviction of any sexual offense & a national criminal history records search does not identify any concerns; 7) positive references; 8) complete preservice training, & 9) have an approved home study. (Oklahoma kinship policy)

Like Oklahoma, many states refer to placement assessment standards when addressing the definition of a "fit and willing" relative. The District of Columbia assesses the strengths, weaknesses, and capabilities of potential kinship caregivers to determine whether they are fit and willing, and Pennsylvania addresses this issue "indirectly in foster care regulation and adoptive home study requirements" (Pennsylvania survey response).

Termination of parental rights. Although ASFA gives states the option not to file for the termination of parental rights (TPR) on a case-by-case basis when a child is placed with a relative, many states file for TPR when children are placed in kinship care. Most of the states reporting chose not to terminate parental rights in less than a quarter of their kinship cases in the last year. Of the 36 states reporting in what percentage of kinship cases the state has chosen not to file for TPR after the child was in care for 15 months in the last year, 20 chose not to file in less than 25 percent of the cases. Ohio and Louisiana filed for TPR in every kinship case. Ohio explains that state law does not permit the option of a child being cared for by a relative as a reason not to file for TPR after 12 months. Six states chose not to

file for TPR in between 25 and 50 percent of cases, two did not file in between 51 and 75 percent of the cases, and eight states did not file in more than 75 percent of cases.

Subsidized Guardianship

Many states use subsidized guardianship as a permanent living arrangement for children in kinship care. This option allows kin to assume long-term care of the child without terminating the parental rights.¹⁶ Financial assistance is often comparable to a foster care payment, although states may not receive federal reimbursement for subsidized guardianship payments.¹⁷

More states than ever before are offering subsidized guardianship as a permanency option to kinship caregivers, and most of them are providing services in addition to the financial assistance. While 25 states offered subsidized guardianship in 1999, 35 states are currently doing so.¹⁸ We collected information from these states about when subsidized guardianship is offered, how the programs are funded, and what services are offered in addition to payment. We also asked about ongoing supervision and adjudication requirements.

Subsidized guardianship is offered under a variety of circumstances. The requirements are similar to those of long-term foster care. For example, in 11 states the child's age is a factor in eligibility for these programs. These states are mostly likely to offer subsidized guardianship to kin caring for older children, and usually the children are required to be at least 12 years old. Two states, Missouri and Nevada, have age requirements for the kinship caregiver. Missouri's TANF-funded program offers subsidized guardianship to grandparents or other eligible relatives who are age 50 or older. Only relatives age 62 or older qualify for Nevada's subsidized guardianship program. Some states also consider how long the

¹⁶ While not required, child welfare agencies can continue to pursue TPR under subsidized guardianship arrangements.

¹⁷ Seven states (Delaware, Illinois, Maryland, Montana, New Mexico, North Carolina, and Oregon) have been granted IV-E waivers by the U.S. Department of Health and Human Services to test the effectiveness of subsidized guardianship programs for kinship care families and therefore are receiving federal reimbursement for these payments.

¹⁸ Some states do not call these programs subsidized guardianship. For example, Pennsylvania has a Subsidized Permanent Legal Custody program and Wisconsin has a Kinship Care Payment Program. Wisconsin is in the

child has been placed with the kinship caregiver. Of the nine states that consider length of time in placement, most require that the child has been with kin for six months or one year. Another common requirement for these programs is the absence of an alternative permanency option. In nine states, adoption, reunification, and other permanency options must be ruled out before subsidized guardianship is considered. In addition, seven states require that the child is a member of a sibling group, six states require that the child has special needs, and four states only offer subsidized guardianship to kin with financial needs.

States fund subsidized guardianship programs in several different ways. Nineteen states use state funds for the program, 12 use TANF funds, seven use IV-E funds through a waiver, three use other federal funds, and one uses county funds. Payment amounts are generally close to, or the same as, the foster care payment in the state.

Most of the states offering subsidized guardianship provide services in addition to the financial assistance. Twenty-five states offer a wide range of services, with many (11 states) offering Medicaid or health services to children in subsidized guardianship. Six states provide counseling or mental health services, six provide child care, four offer respite care, and four offer family support or preservation services. Three states note they offer the same services to kin in the subsidized guardianship program as they offer to licensed foster parents. A few states also offer housing assistance, transportation, legal assistance, support groups, parent training, and clothing allowances to kinship caregivers in the program. Two states provide start-up financial assistance to kin when they enter the program.

Several states maintain ongoing supervision of subsidized guardianship cases to prevent disruption of the case. Ten of the 35 states continue to supervise the family after entering the program. Most of these states (eight) maintain annual contact with the family in order to re-evaluate the family's eligibility for the program. For example, Indiana policy is to "Monitor one time per year. Guardian must submit information to determine ongoing and continuing eligibility of the subsidy. Monitor to insure that

process of developing a separate program which they will call subsidized guardianship. In addition, Montana and Missouri have two programs; distinctions are made when necessary.

child has medical coverage and that guardian is still supporting child. This continues until guardianship is dismissed or child ages out [of the program]” (survey response). Other states monitor families every six months, or when supervision is requested by the family. Although many states do not provide ongoing supervision, they may conduct periodic reviews of the cases in which eligibility for the program and the subsidy are re-determined.

Subsidized guardianship programs are primarily designed to serve kinship care families who are involved with the child welfare system but are seeking an alternative permanency option to adoption or reunification. However, some programs also allow kin caring for a child who is not adjudicated abused or neglected to be eligible for subsidized guardianship. Nine states have programs that are open to these “private kin” who may not have had contact with the child welfare system, but are seeking financial or other assistance.

Flexibility of Kin Policies

Some states tend to be flexible in their policies toward kin, often approaching kin differently than non-kin foster parents, and other states are more stringent in how they treat this population. While we examine how flexible states are in their approach to working with kinship foster parents, we do not intend to suggest that flexibility is necessarily positive. Because we lack rigorous research that links kinship care policies with outcomes for children, we cannot make any judgment about whether a more flexible approach towards kinship care is better or worse than a stringent approach.

Many states are flexible in some ways, stringent in others. In order to understand how states treat kin, the flexibility of states may be measured at certain points throughout the period of agency involvement. For example, states that are flexible with kin when they first enter the agency may not be as flexible with kin during service receipt or at the back-end, when kin are working toward permanency. On the other hand, states that offer multiple permanency options to kin may have limited definitions of which kin they will serve. A five-point scale was developed to measure states’ flexibility. It contains one variable early in the service process (definition), two in the middle (options and payment) and two at the

end (long-term foster care and subsidized guardianship).¹⁹ The flexibility of states is measured by the following criteria:

1. **Definition of kin** is broad — beyond those related by blood, marriage, or adoption
2. **Waived or separate** assessment standard is offered for kin
3. **Foster care payment** is provided to kin who meet a waived or separate standard
4. Children are permitted to remain in **long-term foster care** with kin
5. **Subsidized guardianship** is offered to kin

States are flexible if they meet 5/5 or 4/5 of the criteria, somewhat flexible meet 3/5, less flexible meet 2/5, and not flexible meet 1/5 or 0/5. Based on these criteria, 40 states fit into the flexible or somewhat flexible categories. Seventeen states are flexible, and 23 states are somewhat flexible. Within these two categories, there are a few notable clusters. For example, in the flexible category, six states meet all of the above criteria. These six states have policies that are flexible with kin at the beginning, middle, and end of the service spectrum. An additional five states are flexible with kin in every way but at the beginning; these states have a narrow definition of kin.

The somewhat flexible category also has notable clusters. For example, seven states are flexible in the middle and part of the end of the service spectrum (criteria 2, 3, and 4 are met), but they have a narrow definition of kin and do not offer subsidized guardianship to kinship caregivers. These states choose to limit the kin population they allow into the system, but support them in a flexible manner. In addition, four states are flexible at the beginning and the end (criteria 1, 4, and 5 are met), but they do not offer a waived/separate standard and therefore no payment for these options. These states choose to open the system to a broader definition of kin and offer them permanency options, but limit the flexibility of the assessment and payment options available.

¹⁹ A second early variable, whether or not states seek out kin, was considered, but since 49 states seek out kin this variable would not be as significant as the others.

Eleven states are in the less flexible and not flexible categories. Of the eight states that are less flexible, six represent an interesting cluster. They serve kin in a flexible way at the end of the process (criteria 4 and 5 are met), but they have a narrow definition, do not offer waived/separate standards, and therefore do not pay foster care for these standards. In these states, the stringency occurs up-front and in the middle phase of service, but they are able to support kin in a flexible way during permanency planning.

We questioned whether states' flexibility in their approach to kinship foster care was related to their reliance on kin to care for children in state custody (see Table 3). To learn if there is a correlation between the flexibility of a state and the percent of kin family foster care placements, we compared the flexibility measures above with 1999 data from the Adoption and Foster Care Analysis and Reporting System (AFCARS). Forty-six states were able to provide data for the AFCARS, which includes only children in state custody. The 46 states were divided into three categories: those using kin in more than 20 percent of placements (17 states), those using kin in 10 to 20 percent of placements (15 states), and those using kin in less than 10 percent of placements (14 states).

States using kin often as placement resources also tend to be flexible in how they treat and support kin. For example, 13 of the 17 states using kin in more than 20 percent of placements fit into the flexible or somewhat flexible category. The rest are less flexible.

States using kin moderately are able and willing to be more flexible with them than states using kin more often. States in the second category, those using kin in 10 to 20 percent of placements, provide consistent results. All but one of the states using kin in this moderate way fit into the flexible or somewhat flexible category. The other state fits into the less flexible category.

The third category, those states using kin in less than 10 percent of placements, tend to be less flexible than the above categories, although 9 of the 14 states fit into the flexible or somewhat flexible category. The notable characteristic of this category is that some of the less flexible and all of the not flexible states fit into it.

A few comments can be made regarding the above flexibility and use of kin findings. It is important to note that the relationship found between the use of kin and flexibility does not indicate which direction the causation goes, or if one variable is a result of the other. Overall, states using a moderate or large percent of kin as placement resources tend to be more flexible in the ways they treat and serve kin. This finding may be partly due to the demand kin place on the agency. We know from site visits to child welfare agencies and focus groups with kinship caregivers that many services to kin are a result of grass-roots efforts. Often times, the voice of the kin population greatly affects the treatment they receive. The greater the voice, the greater the services. In addition, more kin may be attracted to the child welfare agency if the agency is known for being flexible and providing services to kin. It is possible that some states using few kin decide there is not a need to be flexible given that the population, and possibly the demand, is small. Also, states that are not flexible may be attracting, and therefore utilizing, less kin than the more flexible states.

Table 3. Flexibility of States' Kinship Care Policies and the Use of Kin as Foster Parents

<i>State</i>	<i>Broad Definition</i>	<i>Waived or Separate Standard</i>	<i>Foster Care Payment</i>	<i>Long-term Foster Care</i>	<i>Subsidized Guardianship</i>	<i>Kin foster homes as a % of all foster homes</i>
Most Flexible States						
Arizona	X	X	X	X	X	25
Massachusetts	X	X	X	X	X	16
Montana	X	X	X	X	X	28
New Mexico	X	X	X	X	X	15
Oklahoma	X	X	X	X	X	25
Rhode Island	X	X	X	X	X	22
More Flexible States						
Connecticut		X	X	X	X	24
Delaware		X	X	X	X	15
Idaho		X	X	X	X	12
Illinois	X	X	X		X	29
Indiana	X	X	X		X	18
Louisiana	X	X		X	X	14
Maryland	X	X		X	X	39
Nebraska		X	X	X	X	12
Nevada		X	X	X	X	N/A
New Hampshire	X	X	X	X		0
New Jersey	X	X	X	X		3
Somewhat Flexible States						
Alabama		X	X	X		16
Alaska		X		X	X	N/A
Arkansas		X	X	X		16
Florida		X	X		X	54
Georgia		X		X	X	20
Kansas		X	X		X	13
Kentucky		X	X		X	9
Maine		X	X	X		4
Michigan	X	X		X		N/A
Minnesota	X			X	X	11
Mississippi		X	X	X		34

<i>State</i>	<i>Broad Definition</i>	<i>Waived or Separate Standard</i>	<i>Foster Care Payment</i>	<i>Long-term Foster Care</i>	<i>Subsidized Guardianship</i>	<i>Kin foster homes as a % of all foster homes</i>
New York		X	X	X		21
North Carolina	X	X			X	19
Ohio	X	X		X		23
Pennsylvania	X			X	X	8
South Carolina		X	X	X		6
South Dakota		X		X	X	20
Tennessee		X	X	X		10
Texas	X	X		X		17
Utah	X			X	X	6
Washington		X		X	X	26
West Virginia	X			X	X	8
Wisconsin		X		X	X	4
Less Flexible States						
California				X	X	38
Colorado	X			X		7
District of Columbia				X	X	N/A
Hawaii				X	X	34
Missouri	X				X	25
North Dakota				X	X	10
Oregon				X	X	25
Wyoming				X	X	14
Least Flexible States						
Iowa						0.5
Vermont				X		9
Virginia				X		2

Discussion

The survey results show that many states are continuing to offer kin leeway in, or alternatives to, the traditional foster care licensing process, yet simultaneously striving to meet ASFA's safety

requirements. These tasks are difficult for states to accomplish, as they often conflict with one another. It is clear from this survey that agencies regard kin as valuable resources, yet are struggling to determine when to hold kin to the same standards as non-kin and when to make exceptions to take advantage of the benefits kin can offer for abused and neglected children.

The Needs of Kin

Although most states prefer to place a child with a suitable kin caregiver as opposed to a non-kin foster parent, they realize that kin have different needs. Many states have developed or are in the process of developing kin-specific programs or services, tailored to meet these unique needs. Portions of licensing standards, although more stringent overall than they were in 1999, are often waived or specifically designed for kin. More states were waiving some foster care standards for kin in 2001 than were in 1999, and many states will place children with kin before they meet all of the licensing requirements. The question many states struggle with is how to recognize the different needs of kin while still maintaining the safety and stability of the placement.

In July 2001, the U.S. Department of Health and Human Services' Administration for Children and Families released an information memorandum to the state child welfare agencies addressing the definition of licensing standards (US DHHS 2001a). The memo suggested that states using broad language to define their licensing standards may allow agency workers to have more discretion in licensing caregivers, while satisfying federal requirements at the same time. Several states have implemented broadly defined licensing standards. For example, California's policy manual uses broad language in describing foster care standards. The placement is based on, but not limited to, a series of factors. One factor is "the willingness and ability of a relative to meet the child's needs, to facilitate family reunification, and provide the child's permanency alternative, if necessary" (California kinship policy manual). The phrase "meet the child's needs" is broad enough that it may leave some discretion to the worker while also helping to ensure safety in the placement.

Aligning Policy with Practice

A second challenge states face is aligning policy with practice. States may prefer the leeway offered by broad policy language, but consistent implementation of such a policy can present problems. For example, according to ASFA, waivers can be made only for non-safety related standards. If states do not clearly define which standards are safety-related and which are not, how do caseworkers decide? Even if states are able to distinguish between the two, can child welfare workers be expected to remain consistent in their decisions? Would two different workers in the same state make identical decisions about the same case? Workers may benefit from specialized training focused on working with the kin population, their needs and unique circumstances (Beeman and Boisen 1999; Gleeson and Hairston 1999).

In regards to ensuring the safety of children, some may wonder did ASFA go far enough? If kin are allowed to meet waived or different standards than non-kin foster parents, are children in their care as safe as children in foster care? It seems inconsistent for HHS to suggest that kin must be fully licensed for states to receive federal reimbursement because of safety concerns but not require states to license those kinship homes for which they do not seek federal reimbursement (Geen and Berrick 2002). As our survey data show, kin who are assessed by a waived or separate standard may not receive the same supervision and services as non-kin. The absence of these supports further challenges the safety of these placements.

Many of the kin who are assessed by a waived or separate standard are diverted to the TANF system for financial assistance, since the state may be unable to claim federal reimbursement for these placements. In addition, kin who are voluntarily caring for a child, whether with child welfare involvement or not, often have only TANF as a source of financial assistance. Therefore, a significant number of kin are dependant on this funding stream to support the relative placement. Considering only the best interests of the child, there appears to be no legitimate reason for providing kin caring for children in state custody less financial support simply because they are unable to meet certain licensing requirements. However, at the same time, policy makers have argued that offering foster care payments to kin may provide an unintended incentive for parents to abandon their children so kin can get a foster

care payment that is much higher than the TANF payment. Moreover, kin caring for children not in state custody may have an incentive to seek out child welfare involvement to get the higher payment.

ASFA permits states to approach permanency planning differently when children are placed with kin, and many states have taken advantage of this flexibility. The majority of states allow, under certain circumstances, for children to remain in long-term foster care with kin. In addition, many states are not initiating TPR proceedings for a sizable portion of their kinship care caseload in which children have been in care for at least 15 of the past 22 months. Finally, largely with state dollars and the flexibility allowed by TANF and title IV-E waivers, most states now offer subsidies for kin who choose not to adopt but are willing to accept permanent legal guardianship. However, federal and state permanency planning policies for kin have been established and implemented with very little research evidence to inform them. For example, no research is available to suggest when it is in the best interests of a child not to pursue TPR when a child is in kinship care. Likewise, research cannot tell us how guardianship is different than adoption, both in how children perceive their permanency as well as the long-term stability of the arrangement.

Although child welfare agencies have been using relatives to act as foster parents for many years, states are still struggling with how to conceptually approach kinship foster care. Many states are learning how to serve this population by trial and error, trying different requirements and services to find the most desirable outcomes. Between 1997 and 2001, 21 states changed how they define this population; many are serving a significantly larger or smaller population than they were four years ago. In addition, 27 states changed their assessment policies in the last two years. Some of the changes are a direct response to ASFA's requirement that kin are held to the same standards as non-kin foster parents. However, these shifts also reflect the ambivalence many states have toward kinship care as they struggle to serve the unique needs of kin, while also keeping children in kinship care safe from harm.

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