



Testimony
Hearing on family involvement in the child welfare and Family Court systems
Assembly Committee on Children and Families
Assembly Task Force on Women's Issues
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Presented by
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The Schuyler Center would like to thank the chairs and members of the respective committees for the opportunity to submit testimony on family involvement in the child welfare and Family Court systems.

Since 1872, Schuyler Center for Analysis and Advocacy has advanced policies that strengthen New York families and improve child well-being so all New York children have a fair opportunity to thrive. As a co-lead of the CHAMPS-NY campaign, we are grounded in research that shows that loving, supportive families – whether birth, kin, foster or adoptive – are critical to the healthy development of all children. CHAMPS-NY is dedicated to ensuring that when children are unable to remain safely with their parents, they are placed in a family-based setting whenever possible.

For more about Schuyler Center and our work, please visit our website www.scaany.org. For more about CHAMPS-NY, please visit www.fosteringchamps.org/ny.

OVERVIEW

The child welfare system serves some of the state's most vulnerable children and families. The system includes the Statewide Central Register (SCR), child protective services, preventive services, foster care, and adoption/post-adoption. The responsibilities placed upon the child welfare system are enormous and adequate resources are required if the system is to fulfill them.

While the state has made significant efforts to reduce the number of children entering foster care and to improve outcomes for children who do come into care, significant challenges still remain. Too many children, and particularly children of color, still come into foster care when, in some cases, they may be able to remain safely at home with the right resources and supports. When children enter foster care, too often they are not placed with kin when kin may be an appropriate, viable, and less traumatic option for the child.

In 2018, the groundbreaking federal Family First Prevention Services Act (FFPSA) was passed, which makes prevention a priority while simultaneously aiming to strengthen foster care supports for children who need it. FFPSA places significant new requirements into place, with the goal of encouraging the placement of youth in family-based settings while reserving placements in group home care for children in need of clinical services. FFPSA presents New York with a tremendous opportunity to bolster its preventive services and strengthen family-based foster care services.

To make the most of this opportunity, we urge the State to do the following:

STRENGTHEN PREVENTIVE SERVICES – INCLUDING IN COMMUNITY-BASED PRIMARY PREVENTION – TO KEEP FAMILIES STRONG AND INTACT

Preventive services are resources provided to families that can allow children to remain safely at home by targeting the problems that are known to drive abuse and neglect, including substance use, mental health issues, poverty, and lack of parenting skills.

FFPSA will allow states to seek federal reimbursement for **evidence-based preventive services**. To take advantage of this aspect of the law, each state needs to affirmatively opt into the prevention provisions, and take steps to prepare for implementation. New York has opted for a two-year extension to make this decision.

We urge New York to use the remainder of this two-year period to prepare for implementing the prevention provisions, and then fully adopt them to help fund existing services, and to expand access to evidence-based preventive programs.

What is more, each year since 2008, the enacted Budget has reduced the State share of preventive funding to 62% from 65% (as is written in statute). Localities use this open-ended, matched funding stream to pay for services that include child protective services and services to prevent children from entering, or re-entering, foster care. If New York is serious about keeping children safely at home and out of foster care, we should fund counties' preventive efforts as written in statute.

The State should also expand its investment in primary prevention – a more strategic approach to prevention that makes services available further upstream, before there is any documented risk of entry into foster care.

We urge the State to resume the 65% State share, as provided in statute, and to reserve that increased funding for community-based primary prevention services that reach families before there is a risk of removal to foster care.

STRENGTHEN KINSHIP GUARDIANSHIP ASSISTANCE (KINGAP) BY FUNDING IT AS A PERMANENCY OPTION OUTSIDE OF THE FOSTER CARE BLOCK GRANT

A relative, or an individual who acts as a relative – such as a godparent, neighbor or close family friend -- is a preferred caregiver for children who are removed from their birth parents because such placements help to maintain connections to family and culture. Children who are placed with kin show better health, mental health and well-being outcomes. The state should provide robust funding for programs that support families willing to step in and care for young relatives when the parents cannot, and should prioritize permanency options for those children and families.

Through the Family First Transition Fund, initiated in the 2019-2020 Enacted Budget, the state has begun the work of ensuring that more children who enter foster care are placed with kin. Under the Transition Fund, all counties have set targets to increase their number of certified kinship foster care placements. However, as more children come into foster care with kin, appropriate

permanency options will become increasingly important. The Kinship Guardianship Assistance Program (KinGAP), a permanency option for children in foster care with kin, does not require that parental rights be terminated and provides a significantly quicker path to permanency than adoption.

However, the current funding structure for KinGAP acts as a disincentive to counties. KinGAP is currently funded through the Foster Care Block Grant (FCBG), diverting scarce funds from critical programs that aid foster youth, to a program that is not foster care, but a permanency option. This diversion of funds is particularly problematic given the sharp cuts to the Foster Care Block Grant in 2017-2018. In 2011, New York implemented KinGAP using funds from the FCBG, with the intent to use the FCBG for a period of just one year, but KinGAP continues to be funded through the block grant. Although the number of children in foster care has declined, the health and service needs of the children who are in care are significant and costly. The FCBG funds must be preserved to meet their needs.

Relatives in approved or certified foster care settings can apply for KinGAP when both adoption and family reunification are ruled out. Many of these families need financial assistance to continue caring for a foster child in their home. With this option, kin families can exit the foster care system and continue to receive financial support while still caring for the relative child.

New York should continue the good work it is doing to prioritize placement with kin through the Family First Transition Fund, and fund the Kinship Guardianship Assistance Program as an uncapped permanency option outside of the Foster Care Block Grant to incentivize more counties to use this important permanency option.

ENSURE PARENTS ENGAGED IN THE CHILD WELFARE SYSTEMS HAVE EARLY ACCESS TO LEGAL REPRESENTATION AND SOCIAL WORKERS TO CREATE BETTER OUTCOMES FOR THE ENTIRE FAMILY

It is well established that when children are separated from their families even for short periods of time, they and their parents experience an enormous emotional cost, which endures for the children. One proven strategy for preventing, or shortening, family separations in the child welfare system, is providing families involved in the child welfare system with early access to legal representation and social workers.

The New York Commission on Parental Legal Representation, in a February 2019 report, found that access to lawyers and defense team social workers for parents during child welfare investigations: mitigates disruption to the lives of children and their families because parents have the information they need in order to make informed decisions about their interactions with CPS workers; helps families more quickly access individualized services; and supports the agency's attempts to comply with the constitutionally required obligation to "make reasonable efforts" to prevent removal of children from their families. Timely access to legal representation may also help reduce the disproportionate percentage of children of color in the foster care system.

Timely access to legal representation has also been shown to help resolve cases more quickly and keep cases out of court, thus conserving child welfare and family court resources for those cases

that need government intervention and oversight. Interdisciplinary legal representation at the court process stage (lawyers, social workers, and parent advocates) has been shown to save millions of taxpayer dollars by decreasing entry into foster care and shortening time in foster care by over 3 months on average.¹ It also hastens permanency for children in foster care.

We urge the State to ensure that parents are provided timely access to legal representation as an important strategy for preventing, or shortening, family separations.

MAKE REDUCING CHILD POVERTY IN NEW YORK A TOP PRIORITY - THIS YEAR.

New York children are more likely to live in poverty than in 31 other states.² This is not a new trend. For more than a decade, the percentage of New York children living in poverty has stagnated at about 20%. And, due to structural inequities, child poverty New York children of color has long exceeded 30%. In some New York communities, the child poverty rate approaches 50%.³

Childhood poverty can contribute to numerous negative outcomes for children in all areas of their lives, with effects that can last well into adulthood.^{4,5} Among the most devastating impacts of childhood poverty is that it can lead to – or be mistaken for – child maltreatment. Indeed, poverty is widely considered to be the single best predictor of child maltreatment, particularly neglect.⁶ According to a widely cited government report, poor children are seven times more likely to experience neglect than other children.^{7, 8} This correlation is attributed to a number of factors, including that poverty causes families tremendous stress, a factor in abuse and neglect.⁹ In addition, children living in poverty face a greater risk of being misidentified as neglected because impoverished families are more likely to struggle to meet their children’s basic needs, which is a central element of child neglect.

Whether poverty causes or worsens maltreatment, or poverty is mistakenly (and unfairly) labeled as maltreatment, it is essential that we work to reduce childhood poverty as part of our efforts to reduce child maltreatment and improve the health, safety and well-being of New York State’s children.

New York should commit to cutting child poverty in half by 2030, and begin, this year, to implement strategies proven to reduce child poverty, including creating a robust young child tax credit, and expanding investment in child care supports for low-income families.

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¹ Gerber, L. A., Pang, Y. C., Ross, T., Guggenheim, M., Pecora, P. J., and Miller, J., 2019. Effects of an interdisciplinary approach to parental representation in child welfare.
<https://www.sciencedirect.com/science/article/pii/S019074091930088X>

² Kids Count Data Center: A Project of the Annie E. Casey Foundation. State rankings by children in poverty. 2018. <https://datacenter.kidscount.org/data/tables/43-children-in-poverty?loc=1&loct=2#ranking/2/any/true/37/any/322>

³ U.S. Census Bureau. (2017). Children characteristics: 2012-2017 American Community Survey 5-Year Estimates. <https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=CF>. (Buffalo - 47.2%, Rochester - 51.9%, Syracuse - 46.7%)

⁴Children's Defense Fund. (2015). Ending Child Poverty Now, ch. 1.

<http://www.childrensdefense.org/library/PovertyReport/EndingChildPovertyNow.html>

⁵ Bernstein, J. and B. Spielberg. (June 5, 2015). Inequality Matters. *The Atlantic*.

⁶ Houshyar, S. (Jan. 27, 2014). Child Poverty and Neglect: What We Know and What We Need to Do. Washington, DC: *First Focus*. <https://firstfocus.org/blog/poverty-and-child-neglect-what-we-know-and-what-we-need-to-do/>

⁷ Sedlak, A.J., Mettenburg, J., Basena, M., Petta, I., McPherson, K., Greene, A., and Li, S. (2010). Fourth National Incidence Study of Child Abuse and Neglect (NIS-4): Report to Congress. Washington, DC: U.S. Department of Health and Human Services, Administration for Children and Families.

http://www.acf.hhs.gov/sites/default/files/opre/nis4_report_congress_full_pdf_jan2010.pdf

⁸ Shaughnessy, J. M. (2014). An Essay on Poverty and Child Neglect: New Interventions. *Washington & Lee Journal of Civil Rights & Social Justice*, vol. 21, 1, pp. 4-15.

<https://scholarlycommons.law.wlu.edu/crsj/vol21/iss1/5>

⁹ Houshyar, S. (2014, Jan. 27). Child Poverty and Neglect: What We Know and What We Need to Do. Wash. D.C.: *First Focus*. <https://firstfocus.org/blog/poverty-and-child-neglect-what-we-know-and-what-we-need-to-do/>