

Senate Joint Memorial 14: A Study on the Availability of Resources to Grandparents Raising Grandchildren

Fifty-First Legislature, Second Session, 2014

Senator Richard C. Martinez, sponsor

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Introduction

Senate Joint Memorial 14, passed in 2014, called on the Children Youth and Families Department (CYFD) to study the situation faced by grandparents raising grandchildren, including an examination of the issues affecting custody and guardianship, and the availability of resources and assistance, including financial resources, legal services, food and housing assistance, community-based support organizations, and programs related to medical care, transportation, and education. The Memorial asked that CYFD incorporate input from the Human Services Department (HSD) and the Public Education Department (PED).

1. History of Legislative Efforts

In 2005, Senate Joint Memorial 50 requested the creation of a multi-agency task force charged with developing an interdepartmental plan to assess the needs of children and youth living with kinship caregivers. After identifying the number of children living with grandparents and their demographics and needs, the following recommendations were made:

1. Create a standing committee on grandparents and kinship caregivers composed of state agency staff from the Aging and Long Term Services Department (ALTSD), CYFD, HSD, PED, New Mexico Corrections Department (NMCD), the Administrative Office of the Courts (AOC), and other agencies. Under direction of the New Mexico Children's Cabinet, the committee would be charged with creating an advisory committee to monitor and evaluate a system of support for kinship caregivers and grandparents raising grandchildren, gather data and information to identify gaps in the system of support and prepare legislation to address these gaps, continue to develop and implement plans to meet the needs of these families through the establishment of support centers in Bernalillo and Dona Ana Counties and a model guardianship program, and oversee and assure completion of the further recommendations.

*Bills introduced in 2006 to fund this recommendation did not pass.*

2. Create a kinship caregivers website that posts resources available to kinship caregivers, including legal information, benefits available, and links to resources, including income support and medical assistance.

*Bills introduced in 2006 to fund this recommendation did not pass.*

3. Create a fund to allow kinship caregivers access to the courts to establish legal relationships between caregivers and children who would otherwise enter the foster care system.

*Since October 2006, ALTSD has contracted with Pegasus Legal Services to provide Kinship Caregiver Legal Advocacy Services to support any individual raising a child who is not his or her legal child. Through this contract, kinship caregivers have access to a guardianship legal helpline, community*

*outreach and education, legal advice, information and services, legal representation for kinship caregivers in guardianship cases, and counseling for kinship caregivers representing themselves in guardianship legal proceedings. During that time period, the Kinship Guardianship Program has provided legal assistance to 3,325 families; legal representation to 1,003 families; and provided outreach and education materials and workshops to 58,429 people. On average, the program serves 536 families and provides outreach and education to 7,256 people every year.*

4. Train HSD, schools, and CYFD agency staff to help kinship caregivers access all the benefits for which they and their children are eligible.

*Status: CYFD provides extensive training to relatives, including grandparents, to ensure they are aware of resources and services that are available to them as they prepare to become relative foster parents. When the grandparents are caring for the children outside of foster care and CYFD Protective Services are involved, CYFD employees refer grandparent caregivers to needed community services and resources, including behavioral health services, housing, income support, Medicaid, and others.*

5. Train staff in all New Mexico schools about the McKinney-Vento Act's provisions allowing for caregivers to enroll children without a legal guardian's signature, and other protections provided by the Act for children living away from parents or legal guardians.

*Status: unknown.*

6. Preserve connections between children and their biological families, including parents who are incarcerated, by supporting the initiative of the Court Improvement Project and CYFD to improve judicial and social service systems.

*Status: When children come into foster care, CYFD makes significant efforts to identify potential relative caregivers for said children, including grandparents. CYFD is committed to ensuring that children's connections to their families are preserved, including the priority of reunifying children with their parents whenever parents can safely parent their children. When grandparents or other relatives are identified to become relative foster parents, CYFD may expedite the licensing process in order to ensure these connections are preserved.*

Additional efforts have been made by the legislature to address aspects of these recommendations, including a 2014 bill to fund foster grandparent programs in San Miguel and Guadalupe Counties, a 2011 memorial requesting a study of grandparent visitation rights, a 2009 bill to expand grandparent visitation privileges, a 2008 memorial calling for a plan to help grandparents who are raising grandchildren, and a 2007 bill to fund grandparents raising grandchildren in Dona Ana County.

Finally, the 2005 taskforce identified three promising practices from other states that it felt worthwhile for the Children's Cabinet, if funded, to look more closely at. These practices are discussed in Section 3, Promising Practices.

## 2. Demographics<sup>1</sup>

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<sup>1</sup> All statistics courtesy the 2005 American Community Survey and the 2010-2012 American Community Survey 3-year estimates published by the US Census unless otherwise noted.

At the time of the 2005 study, 48,087 grandparents were serving as the heads of household for their grandchildren. Today in New Mexico, 54,638 grandparents are serving as the heads of household for 52,098 grandchildren. Of these multi-generational families, parents are present in only 22,503 of these arrangements, while 26,696 grandparents are responsible for 31,182 grandchildren.

	2005	2012	Trend
Grandparent head of house	48,087 4.4% of population over 18	54,638 4.5% of population over 18	Up 6,551, or 0.1%
Parents present	18,069 (38%)	22,503 (41%)	Up 4,434 (or 3%)
Grandparent responsible	25,995 (54%)	26,696 (48%)	Up 701 (down 6%)
Grandchildren affected	n/a	52,098	

These numbers suggest that the current trend is more toward multi-generational households, than toward a transfer of responsibility from parent to grandparent – while the number of grandchildren and parents living with grandparents is up, the per capita number of grandparents responsible for their grandchildren is down. A comparison of the median incomes of types of households further suggests that there is an economic benefit to multi-generational households. That benefit, though, diminishes when the grandparents are responsible for their grandchildren; and disappears entirely when the parents are absent.

Median Income	2005	2012	Trend
All households	\$37,492	\$43,518	Up 14%
Multi-generational households	\$36,224	\$49,271	Up 27%, and 12% above median
Households where grandparent is responsible for grandchildren	\$29,604	\$44,467	Up 34%, and 2% above median
Parents absent	\$23,338	\$32,279	Up 28%, but 16% below median

Similarly, while the per capita number of households in poverty where grandchildren live with grandparents has dropped since 2005, the fact remains that in half of those households, the grandparents bear sole responsibility for their grandchildren.

Grandparent/grandchildren households in poverty	2005	2012	Trend
All households	11,119 (23%)	11,718 (22%)	Down 2%
Households where grandparent is responsible for grandchildren	7,845 (70%)	5,948 (50%)	Down 20%

The third piece of this economic picture is household access to public benefits. While no trend data is available, the fact remains that multi-generational households with parents present, access public assistance at a significantly higher rate, even if the grandparents are responsible for the grandchildren, than households with parents absent. This suggests that the greatest need for assistance in accessing benefits programs is with grandparents raising grandchildren in the absence of the parents.

Households with grandchildren accessing public assistance in past 12 months	2005	2012	Trend
All households	n/a	50.3%	n/a
Households where grandparent is responsible for grandchildren	n/a	51.6%	n/a
Parents absent	n/a	36.3%	

Other trends emerge: the number of grandparents over age 60 who are responsible for their grandchildren is going up; the number of grandchildren aged 12 to 17 years whose grandparents are responsible for them is going up; the number of grandparents with responsibility for grandchildren less than two years, or for five or more years, is going up.

	2005	2012	Trend
Age of child – under 6 years	13,496	13,688	Up 1%
Age of child – 6 to 11 years	9,898	9,822	Up 1%
Age of child – 12 to 17 years	6,756	7,671	Up 9%

Age of grandparents – 30 to 59 years	18,285	17,705	Down 4%
Age of grandparents – over 60 years	7,710	8,991	Up 15%
Time responsible – less than 6 months	2,372	2,613	Up 9%
Time responsible – 6 to 11 months	2,226	2,309	Up 4%
Time responsible – 1 to 2 years	6,469	6,386	Down 1%
Time responsible – 3 to 4 years	5,294	4,688	Down 12%
Time responsible – 5+ years	9,634	10,700	Up 10%

There is also a noticeable ethnic disparity for these households: predominately Hispanic (57.4%, up 3% from 2005) and American Indian (24.4%, up 4% from 2005), with only 14.8% of these households White (14.8%, down 7% from 2005).

Finally, although the number of grandparents with disabilities who are responsible for grandchildren is down 18% from 2005 (from 7,845 to 6,513), the number of grandparents who are responsible for grandchildren and employed is up 10% (from 14,453 to 16,106).

Overall, the population of grandparents responsible for raising their own grandchildren is growing, it is aging, and its earning power, despite an increase in the number of grandparents still working, has the potential to be significantly below that of the average New Mexico household.

Other issues that grandparents face include the legal process for obtaining kinship guardianship for grandchildren for whom they are responsible but whose parents may nevertheless be absent (a number not tracked by the US Census). A lack of legal guardianship combined with absent parents can disrupt the child's education and access to necessary medical services in profound ways.

### 3. Promising Practices

In San Francisco, the Edgewood Center for Children and Families functions as a one-stop shop for kinship caregivers, offering such services as tutoring, health prevention, career guidance, mental health care, creative arts activities for the children, peer mentoring, parenting education, support groups, health assessments, and respite activities for the caregivers. Today, in addition to a broad variety of services, Edgewood provides training and technical assistance to the twenty counties with a state-contracted kinship program, and hosts three regional conferences every year providing networking and educational opportunities for these programs.

In the State of Washington, the Kinship Caregivers Support Program pilot program assisted kinship caregivers with expenses such as utility hookups, bedroom furnishings, school supplies, uniforms, and medications; and provides case management services in Yakima and Seattle. Today, the Kinship Care Program provides access to kinship navigators and resource persons, provides short-term financial support statewide, works to connect kinship caregivers with support, services, and legal aid, and operates a statewide family health hotline.

In the State of Florida, a training center was established at the University of South Florida's School of Social Work in 1998, which resulted in the development of 18 new support groups, and which also offers a statewide warm line, legal line, and legal handbook; and a school-based kinship care connection program and training curricula. This work is now being carried on by the Kinship Support Services at The Children's Home, a non-profit located in Tampa.

Finally, there were three states – Florida, Louisiana, and Missouri – which had subsidized guardianship programs which support kinship caregivers who have legal custody through court-ordered kinship guardianship. These programs were funded through state TANF block grant funds. Today, only one of these programs still operates: Louisiana, where TANF block grant funds provide \$280 per month per child to families where a relative other than the parent has legal custody or guardianship of the child. Joining it is Kansas, where eligible households – those where the parent is not present, the relative raising the child is cooperating with Child Support Enforcement, the child's own income and resources are limited, and the children are not in state custody – can receive up to \$186 per month per child depending on location of residence and number of children.

#### 4. Existing Resources

Although New Mexico does not have a subsidy program, the following resources are available to grandparents raising grandchildren:

1. *Legal resources.* Through funding from ALTSD, Pegasus Legal Services, in conjunction with Law Access New Mexico, Pegasus operates a helpline for kinship caregivers, which can offer information and advice; legal assistance for low-income individuals representing themselves; and referrals for direct legal representation to those who need help or have questions concerning kinship guardianship of a child. Pegasus assists with cases where the parents do not agree to a kinship guardianship while Advocacy Inc. assists with cases where the parents do agree.

A parent can consent to a grandparent becoming the child's legal guardian. A legal guardianship suspends the parent's rights, and transfers most of them to the legal guardian. Securing legal guardianship requires petitioning the district court where you and the child live.

If the parent objects, under the Kinship Guardianship, once certain conditions have been met – the child has lived with the grandparent for 90 or more days, the parent objecting has not lived in the household for that same period, and the judge finds the parent is unable or unwilling to provide proper care and that it is in the child's best interests the grandparent be appointed – the court can appoint the grandparent as the kinship guardianship. Temporary court-awarded guardianships last six months; otherwise, a guardianship extends to the child's 18<sup>th</sup> birthday, or until revoked by the courts.

2. *Educational resources.* Under the McKinney-Vento Homeless Assistance Act, children who meet the Act's definition of homeless have a right of access to the educational and other services they need in order to meet the state's academic achievement standards. Children and youth who are sharing the housing of other persons – such as grandchildren living with grandparents – due to a loss of housing, economic hardship, or similar reason, qualify under the McKinney-Vento Act for the protections afforded by that act, including the right to enroll in school without proof of legal guardianship.

For kinship caregivers such as grandparents who are working with a child in a special education setting, according to PED's "Parental and Child Rights in Special Education Procedural Safeguards," issued March 2014, the hierarchy of decision makers for the purpose of special education is "natural or adoptive parent... a person acting in the place of a parent, such as a grandparent; a step-parent or other relative that lives with the child; a legal guardian; a foster parent who is willing to make educational decisions; [and] if none of the above are available, a surrogate parent appointed by the district..." (pg 2<sup>2</sup>)

Recommendation: develop a central directory of available resources, services, and supports available through each local educational agency.

3. *Financial resources.*

The **Human Services Department**, as the statutory Medicaid authority for the state of New Mexico, handles Medicare and Medicaid dollars, Temporary Assistance for Needy Families, and the Supplemental Nutrition Assistance Program. HSD is also responsible for Child Support Enforcement, the Low Income Home Energy Assistance Program, and the Emergency Food Assistance Program. HSD's mission is to reduce the impact of poverty on people living in New Mexico by providing support services that help families move beyond the need for public assistance; and they operate field offices across the state. Applications for assistance can also be found and submitted online at [www.hsd.state.nm.us](http://www.hsd.state.nm.us). HSD also operates field offices throughout the state. A complete list of offices can be found online at [http://www.hsd.state.nm.us/LookingForAssistance/Field\\_Offices\\_1.aspx](http://www.hsd.state.nm.us/LookingForAssistance/Field_Offices_1.aspx).

For grandparents raising grandchildren, the Temporary Assistance for Needy Families program allows for child-only applications. Provided the child has limited assets and the parent does not live in the home, the child may be eligible for TANF. For more information, HSD is online at [http://www.hsd.state.nm.us/LookingForAssistance/Temporary\\_Assistance\\_for\\_Needy\\_Families.aspx](http://www.hsd.state.nm.us/LookingForAssistance/Temporary_Assistance_for_Needy_Families.aspx), or can be contacted at (800) 432-6217.

HSD does not, at this time, track households receiving assistance by their composition, making it difficult to determine how many grandparents caring for grandchildren take advantage of these programs, or how much support they are receiving.

The **Aging and Long-Term Services Department** provides a range of supports for seniors and adults requiring long-term services. In particular, ALTSD

- a. operates the Family Caregiver Support Program, which targets kinship caregivers, including grandparents caring for children with disabilities;
- b. funds Kinship Caregiver Legal Advocacy Services through a contract with Pegasus Legal Services to support any individual raising a child who is not his or her legal child. Through this contract, kinship caregivers have access to a guardianship legal helpline, community outreach and education, legal advice, information and services, legal representation for kinship caregivers in guardianship cases, and counseling for kinship caregivers representing themselves in guardianship legal proceedings;
- c. through their Aging and Disability Resource Center, offers the Prescription Drug Assistance and New Mexico MEDBANK programs to help uninsured and under-insured individuals to get the medication they need at a cost they can afford; and
- d. collaborates with the AARP New Mexico, who provide forums for grandparents raising grandchildren and other kinship caregivers. The AARP is also an excellent resource center for fact sheets on state-specific data and programs, and information on foster care, public benefits, educational assistance, and state laws. They can be found online at <http://states.aarp.org/category/new-mexico/>.

ALTSD can be found online at <http://www.nmaging.state.nm.us/>, and offers an online resource directory of social services at <https://www.nmresourcedirectory.org/SitePages/Home.aspx>.

The **Children Youth and Families Department**, in addition to being the statutory authority for child protective services, also manages the state's child care subsidy dollars and the Child and Adult Care Food Programs. Eligibility for the child care subsidy extends up to 200% of the federal poverty level (FPL). Those families at or below 150% of the federal poverty level and who demonstrate a need for care are enrolled in the program. There is, however, a waiting list for those between 150-200% FPL. Not all child care providers accept subsidy dollars. The child care assistance/subsidy program is a federally funded program, therefore, federal regulations must be followed including families demonstrating a need for care such as working and/or attending an educational program. Grandparents who have custody of their grandchildren and who qualify by income and demonstrate a need for care are considered eligible applicants for the child care assistance program. Once grandparents qualify for child care assistance the usual co-pay that families are required to pay out of pocket is waived.

The Child and Adult Care Food Program (CACFP) is administered by the Early Childhood Services Division's Family Nutrition Bureau. The purpose of the CACFP is to reimburse child care providers (licensed and registered) for meals fed to children in their care. Grandparents who utilize a child care provider by either subsidy or private pay can and do benefit from the CACFP program.

For children involved with the child protective services system, CYFD does prefer grandparents as possible placements as part of its efforts to disrupt families as little as possible; and grandparents who have been licensed as a relative foster home do receive foster care payments and other payments for incidental needs to help grandparents care for their grandchildren who are in CYFD custody. CYFD can be found online at [www.cyfd.org](http://www.cyfd.org).

#### 4. *Community Resources*

Las Cumbres Community Services provides a range of services in northern New Mexico (Española, Chama, Santa Fe, and Los Alamos) and can be found online at <http://www.lascumbres-nm.org/>. Their services fall into three categories:

- child and family services, including behavioral health, a community infant program, the Conjunto Therapeutic Preschool, a family infant toddler program, the Grandparents Raising Grandchildren program, a fatherhood program, and children's respite;
- adult services and support, including independent living transition and supported employment; and
- respite and personal care services, which support parents, family members, and guardians caring for family members with developmental disabilities.

Enlace New Mexico, engaging Latino communities for education, is a statewide collaboration and network serving five regions across the state to create an educational pathway for New Mexico's youth. Administratively connected to the University of New Mexico, they can be found online at <http://enlacenm.unm.edu/>. They focus on increasing retention through coaching, mentoring, and tutoring, and promoting graduation at elementary, middle, and high school levels. They also administer a Legislative Internship and an Ambassador Program.

The Adelante Development Center in Albuquerque is a non-profit agency which was recently selected by the National Council on Aging to operate a Benefits Connection Center that will help low-income seniors identify government benefits they are eligible, and enroll for them. These services are free of charge for low-income seniors aged 65 years or older, and people with disabilities age 21 years or older, regardless of geographical location. The Benefits Connection Center can be found online at [www.connect2benefits.com](http://www.connect2benefits.com), or reached at (844)CON2BEN (844-266-2236). Adelante also provides support services for people with mental, physical, and developmental disabilities, and for disabled veterans and elderly, and can be found online at <http://www.goadelante.org/>.

The AARP works to help individuals aged 50 years and older improve the quality of their lives. Their New Mexico office can be found online at <http://states.aarp.org/category/new-mexico/>, or contacted at 1-866-389-5636. Their resources for grandparents raising grandchildren can be found at <http://www.aarp.org/relationships/friends-family/info-08-2011/grandfamilies-guideresources.html>, and their GrandFacts state fact sheets provide information on resources, supports, and services. New Mexico's is online at <http://www.aarp.org/content/dam/aarp/relationships/friends-family/grandfacts/grandfacts-newmexico.pdf>.

