

November 2016

Report Summary

I. Issues Facing Grandparents Raising Grandchildren in New Mexico

- A. Resources and assistance for grandparents raising grandchildren are provided through numerous different systems and agency staff is not trained to serve grandparents raising grandchildren.
- B. There is often no opportunity to plan in advance for the addition of children to the household; grandparents need immediate help to navigate the multiple systems involved to care for their grandchildren
- C. The long-term success of grandparent headed households depends on access to quality behavioral health services but New Mexico's behavioral health system is in disarray, especially in rural areas
- D. When grandparents attempt to enroll their grandchildren in school they are sometimes turned away, even though Federal law guarantees these children the right to enroll immediately
- E. Grandparents raising grandchildren identify legal services as a top priority, but current resources are not adequate to meet the need
- F. Children are often voluntarily placed by a biological parent with grandparents as part of an abuse/neglect investigation. However, grandparents receive little help or support during the investigation and none once the investigation is closed
- G. Children at risk for abuse and neglect sometimes fall into the gap between the requirements of the Kinship Guardianship Act and CYFD's requirements for taking a child into protective custody
- H. Grandparents and other relatives feel that CYFD places little value on their relationships with children, and that its policies too often result in family members being ruled out as placements, or for any contact with the children; often leading to a complete loss of contact between family members and children in CYFD custody

II. Recommendations (Updated 11/11/2016):

A. Support services

1. Appropriate funds to develop an array of supportive services including:
 - a) *general support services, parent training, support groups, case management, social activities, and enrichment activities for children.*
 - b) *A website, or webpage on an existing website, with information for grandparents raising grandchildren on available resources and assistance. This information should also be available through a telephone help-line for those who do not have access to the internet.*

B. Childcare

1. Fully fund subsidized child care through CYFD to ensure that grandparents raising grandchildren have access to affordable, quality child care.
2. Ensure that grandparents raising grandchildren can enroll their grandchildren in early intervention services, day care, Headstart, preschool, or K-12 school even when they do not have legal guardianship or custody.
3. Amend the New Mexico Administrative Code to allow grandparents raising grandchildren to obtain child care assistance benefits without regard to their income and without regard to their status as legal guardian of the child

C. Housing

1. Ensure that when grandparents take grandchildren into their homes they are not threatened with eviction by public housing authorities.

D. Behavioral Health

1. Make respite services available to grandparents raising grandchildren through Medicaid Behavioral Respite and/or subsidized child care.
2. Make Medicaid case management services available to grandparents raising grandchildren.

E. Education

1. Insert the requirements of the McKinney-Vento Act into state law to ensure that no children or youth who qualify under the Act are prevented from enrolling in school and participating in all school activities in a timely manner.

2. Require that all public schools have information posted, and detailed information available, about the rights of children and youth under the McKinney-Vento Act at all locations where students enroll in school.
3. Appropriate state funds to supplement funds received through the federal McKinney-Vento Act to ensure school personnel receive comprehensive training annually with a specific focus on the rights of children being raised by grandparents and unaccompanied youth.
4. Appropriate state funds to create an office at the Public Education Department to promote and support access to education for children and youth who qualify as homeless under the McKinney-Vento Act.

F. Legal Services

1. Ensure grandparents raising grandchildren have access to legal services by increasing the current appropriation to the Department of Aging & Long Term Services by an additional \$185,000.

G. Benefits

1. Ensure that ISD case workers are trained on the eligibility of grandparents raising grandchildren and the grandchildren themselves for public benefits.
2. Each ISD office to have an identified expert on the eligibility of grandparents raising grandchildren, and the grandchildren themselves, for public benefits

H. Children, Youth & Families Department

1. Create a workgroup composed of CYFD personnel, grandparents, and legal and community advocates, to develop recommendations for:
 - a) Improving CYFD's response to family members of children who come to its attention.
 - b) Supported diversion of children placed with kin.
 - c) Addressing the gap between the child welfare system and the Kinship Guardianship Act.
 - d) Aligning New Mexico's foster care licensing standards with the Model Family Foster Home Licensing Standards

1. Services and supports for grandparents raising grandchildren:

This bill requests an appropriation of \$200,000 to create a statewide network of services and supports to grandparents raising grandchildren, including, but not limited to: general support services, parent training, support groups, case management, social activities, and enrichment activities for children. The funds should be appropriated to the Aging and Long Term Services Department for disbursement to qualified community-based agencies across the state through a request for proposals process pursuant to the New Mexico State Procurement Code.

2. Revision of NMSA 40-10B-15. Caregiver's authorization affidavit.

The Caregiver's authorization affidavit currently makes it clear that kinship caregivers can authorize school enrollment for children in their care as well as healthcare. The affidavit does not, however, permit caregivers to authorize enrollment in early intervention services, day care, Headstart, and preschool programs. The proposed bill will add these types of educational programs and services to the Caregivers' Authorization Affidavit to ensure that these vulnerable children have access to these vitally important services.

3. Revision of NMAC 8.15.2.1 Child Care Assistance Requirements for Child Care Assistance Programs for Clients and Child Care Providers

This bill will amend NMAC 8.15.2.1 to allow grandparents raising grandchildren to obtain child care assistance benefits without regard to their income and without regard to their status as legal guardian of the child. Currently, grandparents who apply for child-only TANF cash assistance are automatically eligible for child care assistance regardless of their income or their status as legal guardians. However, if a grandparent applies for child care assistance directly, without first applying for cash assistance, the grandparent's income will be taken into account if the grandparent is the legal guardian of the child.

4. Renewal of the Taskforce on Grandparents Raising Grandchildren for FY 2018

The members of the Taskforce request that the taskforce be extended for an additional year to continue to study and recommend concrete policy changes that could be implemented to expand the availability of resources and assistance to grandparents raising grandchildren, including financial resources; legal services; food and housing assistance; and programs relating to medical care, child care, transportation and education.

NMSA 1978 § 40-10B-15 Caregiver's Authorization Affidavit

- A. A caregiver who executes a caregiver's authorization affidavit substantially in the form contained in Subsection J of this section by completing Items 1 through 4 of the form and who subscribes and swears to it before a notary public, is authorized to enroll the named child in ~~school and consent to school-related medical care for the child~~ early intervention services, day care, Headstart, preschool, or K-12 school ("school"), school-related medical care including, but not limited to, immunizations and sports physical examinations, and for the caregiver to be the authorized contact for school related purposes.
- J. The caregiver's authorization affidavit shall be in substantially the following form:

CAREGIVER'S AUTHORIZATION AFFIDAVIT

Use of this affidavit is authorized by NMSA 1978 § 40-10B-15.

Instructions:

- ~~A. Completion of Items 1-4 and the signing of the affidavit is sufficient to authorize enrollment of a minor in school and authorize school-related medical care.~~
- A. Completion of items 1-4 and the signing of the affidavit is sufficient to authorize:
- Enrollment of a minor in early intervention services, day care, Headstart, preschool, or K-12 public school ("school") and
 - School-related medical care including, but not limited to, immunizations and sports physical examinations.
 - A Caregiver to be the authorized contact for school related purposes.
- B. Completion of items 5-7 is additionally required to authorize any other medical care.

Print clearly:

The minor named below lives in my home and I am 18 years of age or older.

- Name of minor: _____
- Minor's birth date: _____
- My name: _____
- My home address: _____

5. Check one or both (for example, if one parent was advised and the other cannot be located):

- () I have advised the parent(s) or other person(s) having legal custody of the minor of my intent to authorize medical care, and have received no objection.
- () I am unable to contact the parent(s) or other person(s) having legal custody of the minor at this time, to notify them of my intended authorization.

- My date of birth: _____
- My NM driver's license or identification card number: _____

WARNING: Do not sign this form if any of the statements above are incorrect, or you will be committing a crime punishable by a fine, imprisonment, or both.

I declare under penalty of perjury under the laws of the State of New Mexico that the foregoing is true and correct.

Signature

Date

The foregoing affidavit was subscribed sworn to and acknowledged before me this ____ day of

_____, _____, by _____.

Notary Public: _____ My commission expires: _____

CAREGIVER'S AUTHORIZATION AFFIDAVIT
NMSA 1978 Section 40-10B-15

NOTICES:

1. This declaration does not affect the rights of the minor's parent(s) or legal guardian(s) regarding the care, custody, and control of the minor, and does not mean that the caregiver has legal custody of the minor.
2. A person who relies on this affidavit has no obligation to make any further inquiry or investigation.
3. This affidavit is not valid for more than one year after the date on which it is executed.

Additional Information:

TO CAREGIVERS:

1. "Qualified relative", for purposes of Item 5, means a spouse, parent, stepparent, brother, sister, stepbrother, stepsister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin, godparent, member of the child's tribe or clan, an adult with whom the child has a significant bond or any person denoted by the prefix "grand" or "great", or the spouse or former spouse of any of the persons specified in this definition.
2. If the minor stops living with you, you are required to notify any school, health care provider, or health care service plan to which you have given this affidavit.
3. If you do not have the information requested in Item 7, provide another form of identification such as your social security number or Medicaid number.

TO HEALTH CARE PROVIDERS AND HEALTH CARE SERVICE PLANS:

Senate Memorial 1 Taskforce: Proposed Bills

1. No person who acts in good faith reliance upon a caregiver's authorization affidavit to provide medical or dental care, without actual knowledge of facts contrary to those stated on the affidavit, is subject to criminal liability or to civil liability to any person, or is subject to professional disciplinary action, for such reliance if the applicable portions of the form are completed.
2. This affidavit does not confer dependency for health care coverage purposes.

House Memorial 008/Senate Memorial 1

Taskforce on Grandparents Raising Grandchildren: Recommendations for Increasing Resources and Assistance

I. Process:

House Memorial 008 (HM 008) was passed during the 2015 Legislative Session to follow up on Senate Joint Memorial 14 (SJM 14) which called on the Children Youth & 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).

HM 008 called on CYFD, the Aging & Long Term Services Department (ALTSD) and the Human Services Department (HSD) to convene a taskforce to: "...study and recommend concrete policy changes that could be implemented in order to expand the availability of resources and assistance to grandparents raising grandchildren, including financial resources; legal services; food and housing assistance; and programs relating to medical care, child care, transportation and education."

The HM 008 Taskforce was to submit its report to the Legislature in November, 2015. However, due to confusion about which agency should lead the effort, a taskforce was not convened until October, 2015. CYFD took the lead and reached out to the participants named in HM 008. The HM 008 Taskforce met four times in the month of October and submitted its report to the Legislative Health and Human Services Committee in November, 2016. Because of the short time frame, and limited participation by some of the agencies identified in the memorial, the taskforce requested that it be extended for another year.

The Taskforce was renewed by the 2016 Session in Senate Memorial 1 (SM 1). The SM 1 Taskforce met eight times to discuss a series of topics identified during the previous year and intends to propose several bills to the 2017 Session for its consideration. Although the SM 1 Taskforce is proud of its 2016 accomplishments, more work remains to be done. The members of the Taskforce will be requesting that the taskforce be extended for an additional year to allow them to address a number of outstanding topics.

II. Issues Facing Grandparents Raising Grandchildren in New Mexico

The HM 008 Taskforce benefitted from the participation of professionals who have been working with grandparents raising grandchildren for many years as well as several grandparents who are currently raising their grandchildren without a parent in the home. CYFD staff was extremely helpful in identifying existing resources that could be made available to grandparents raising grandchildren, and how current CYFD policies could be modified to improve its ability to work effectively with this population. The participants identified a number of issues that present challenges for grandparents raising grandchildren.

A. Resources and assistance for grandparents raising grandchildren are provided through numerous different systems and agency staff is not trained to serve grandparents raising grandchildren.

Grandparents must seek help from numerous, distinct public and private systems that do not share information. Often when they seek help from agencies, the individuals charged with determining eligibility are misinformed about the eligibility of grandparents raising grandchildren. Consequently, grandparents often must go to multiple agencies numerous times before they are able to access the resources and assistance to which they and the children in their care are entitled. The difficulty of accessing resources and assistance places added stress on grandparents who are already under considerable pressure due to the sudden addition of children to their household and the often traumatic process of separating the children from their biological parents.

In an ideal world, each community in the state would have a resource center for grandparents raising grandchildren like the centers described in SJM 14: a one-stop shop for kinship caregivers offering such services as health prevention, career guidance, mental health care, tutoring and creative arts activities for the children, peer mentoring, parenting education, support groups, health assessments, and respite activities for caregivers. New Mexico's current budget situation makes such a proposal unrealistic at this time, even for the larger metropolitan areas of the state. Even in good budget times, it would not make sense to have a center dedicated only to the needs of grandparents raising grandchildren in small rural towns. A low cost alternative is to significantly increase training for agency staff and to have certain staff members tasked with serving the needs of this population.

B. There is often no opportunity to plan in advance for the addition of children to the household; grandparents need immediate help to navigate the multiple systems involved to care for their grandchildren

Another problem for grandparents raising grandchildren is that, unlike adoption or even gestational birth where parents plan for months or years to welcome a child into their home,

grandparents frequently have no notice that a child, or two or three children, will be placed in their home. Since at least 50% of grandparents raising grandchildren have incomes below the federal poverty level, the addition of one or more children to the household places an immediate strain on their finances. Their housing situation may not accommodate additional residents and, if they are in subsidized housing, they could be threatened with eviction for having an unauthorized “guest” in the home. Many grandparents raising grandchildren work and must find daycare right away or risk losing their jobs. These and other logistical issues create an urgent need for access to resources and assistance, and help from someone who knows how to navigate the multiple systems involved.

C. The long-term success of grandparent headed households depends on access to quality behavioral health services but New Mexico’s behavioral health system is in disarray, especially in rural areas

Grandparents and grandchildren alike often have significant need for behavioral health services. The children have often been traumatized by abuse and neglect, and the separation from their biological parents. Grandparents experience trauma over many years while attempting to parent their adult child with mental illness, substance abuse, and/or criminal behavior. When they finally are compelled to step in for the sake of their grandchildren’s safety, they experience tremendous grief and loss. Yet, in many parts of the state, there are few, if any behavioral services. Even when behavioral health services are available, grandparents may lack understanding of how trauma has impacted them and the children in their care. A high quality behavioral health system would include outreach workers who could engage grandparents raising grandchildren and work with them to identify their behavioral health needs as well as those of the children in their care. Grandparents need quality outpatient therapy, support groups, and respite care. Grandchildren need early intervention services, developmentally appropriate outpatient therapy, and home-based services. Improving the long term outcomes for these vulnerable children depends on early and effective intervention.

Addressing the monumental problems and inadequacies of New Mexico’s behavioral health system is beyond the scope of this taskforce. However, this taskforce wishes to express deep concern about the state of our behavioral health system, and lends support to other efforts currently underway to address this critical issue such as the John Paul Taylor Taskforce.¹

¹ The J. Paul Taylor Early Childhood Task Force (JPT), originally conceived in 2012 via HM 75 and continued in 2013 via HM 5, has functioned to create a public health driven early childhood mental health action plan for infants and children to age eight (8) and their families; develop a system to identify un-served and underserved at risk children and families; promote evidence based local community programs in New Mexico; and identify how current systems can be used for the prevention of child abuse and neglect.

D. When grandparents attempt to enroll their grandchildren in school they are sometimes turned away, even though Federal law guarantees these children the right to enroll immediately

Children living apart from their parent or legal guardian are considered “homeless” under the federal McKinney-Vento Act. Pursuant to the Act, schools must enroll these children immediately and allow them to participate fully in all school activities. Nevertheless, grandparents attempting to enroll their grandchildren are sometimes turned away because they do not have documentation of legal custody or guardianship. School administrators and front office staff have frequently not received adequate training on the requirements of the McKinney-Vento Act. The New Mexico Public Education Department has only one staff member assigned to oversee the administration of the McKinney-Vento Act for the entire state. Consequently, some children being raised by their grandparents miss days, weeks, or even months of school.

E. Grandparents raising grandchildren identify legal services as a top priority, but current resources are not adequate to meet the need

In 2006, the Legislature acted on the recommendation of the Senate Joint Memorial 50 Taskforce to create a fund to give grandparents raising grandchildren, and other caregivers, access to the courts to establish legal guardianship of children who would otherwise be at risk for entry into the foster care system. The initial appropriation was \$200,000. Pegasus Legal Services for Children was awarded a contract to operate a statewide legal helpline for kinship caregivers and to provide direct representation in guardianship proceedings to kinship caregivers across the state.

The request for proposals contemplated the development of a network of pro bono attorneys to provide the direct representation. However, in spite of working closely with the Statewide Pro Bono Coordinator for the past eight years, Pegasus has been unable to recruit attorneys to provide pro bono legal help. Recruitment of attorneys to take cases on a pro bono basis is difficult; persuading them to take family law cases is even harder. Pegasus has had considerably more success engaging attorneys to take cases on a low-bono basis. It costs more to run a professionally staffed office with a network of low-bono attorneys around the state than the contemplated network of pro bono attorneys. Grandparents must often wait at least 30 days to receive services, and Pegasus periodically closes intake to allow staff to catch up with their cases.

The appropriation for legal services to kinship caregivers has been increased in the past two legislative sessions to \$248,000. Nevertheless, Pegasus Legal Services calculates that an additional \$185,000 are needed to fully serve the needs of the state, including active outreach

to potential clients and social work/case management services to connect clients to needed resources and assistance.

F. Children are often voluntarily placed by a biological parent with grandparents as part of an abuse/neglect investigation. However grandparents receive little help or support during the investigation and none once the investigation is closed

When a child comes to the attention of CYFD or law enforcement as the result of a referral for abuse/neglect, CYFD frequently develops a “safety plan” with the family to ensure that the child will be safe during the investigation. Often, the safety plan will include placement of the child with a grandparent or other family member. The CYFD investigation remains open for 30-45 days and then is closed because the child is “conditionally safe” with the grandparents. However, CYFD’s current procedures do not require the case worker to provide the grandparents guidance about their rights or the rights of the parents, and may provide minimal assistance about how to go about meeting the child’s needs with no follow up.

Other states are beginning to discuss “supported diversion” from foster care. “Supported diversion” means that the child welfare agency bears some responsibility for ensuring that the placement with the caregiver is stable and that the caregiver has the means and legal authority to provide for the child. Currently, CYFD does not track the number of children who are placed with a grandparent or other caregiver as the result of a “safety plan” during an investigation. A more thoughtful approach to these situations would reduce the number of children who come back to CYFD’s attention after a placement with a grandparent has failed.

G. Children at risk for abuse and neglect sometimes fall into the gap between the requirements of the Kinship Guardianship Act and CYFD’s requirements for taking a child into protective custody

There are situations where the risk of harm to a child is high but, by state and federal law, the department has a responsibility to seek alternatives to foster care. The practice is to request that the parents’ identify relatives or fictive kin who might be able to provide a safe environment for the child while the parent works to ameliorate the risks and increase their protective capacities. These situations require the parents to voluntarily agree to place with relatives. CYFD policy and procedure dictate that a conclusion to the allegations be made within 45 days of the referral. CYFD will often suggest that relatives or fictive kin seek legal guardianship, however, the current law states this can only be accomplished after the child has resided with the family for 90 days. This leaves a gap of 45 days between the date CYFD withdraws from the situation and the date the grandparents have legal standing to seek guardianship. During this period, CYFD is no longer involved and the grandparents have no

legal authority to prevent the parents from removing the child - leaving the child at high risk for abuse and neglect.

H. Grandparents and other relatives feel that CYFD places little value on their relationships with children, and that its policies too often result in family members being ruled out as placements, or for any contact with the children; often leading to a complete loss of contact between family members and children in CYFD custody

Research shows that children who are placed with family members, whether formally or informally, have better long-term outcomes than children placed in non-relative foster care. In addition, when children are placed in foster care with strangers, they have better outcomes when they maintain connections to their families of origin. Unfortunately, the institutional culture of some CYFD offices is seen as not “kin-friendly”. CYFD policies and procedures can create barriers that prevent children from being placed with relative caregivers or maintain connections to their birth families.

CYFD workers stretched thin by casework and demands from foster parents, teachers, supervisors, courts, and paperwork, do not prioritize working with family members who wish to be considered as placements for children or who want to maintain contact with the child even though they cannot go through the formal foster care licensure process. Family members are sometimes dismissed as too demanding and workers stop communicating with them or tell them the reasons they would not qualify even if they went through the licensing process.

Even when grandparents and other relatives are invited to go through the foster care licensing process, they may not qualify due to past criminal backgrounds or inability to meet the licensing requirements outlined in the licensing standards. The licensing standards can be cumbersome for grandparents to navigate and can create barriers and restrictions for them to successfully accomplish. The American Bar Association’s Center on Children and the Law has partnered with Generations United and the Annie E. Casey Foundation on Model Family Foster Home Licensing Standards² to “help ensure children in foster care are safe while also establishing a reasonable, common-sense pathway to enable more relatives and non-related caregivers to become licensed foster parents.” Alignment of New Mexico’s foster care standards with these model standards could not only increase the number of grandparents allowed to act as foster parents for their grandchildren, but increase the total number of foster homes available to take in children.

² <http://www.grandfamilies.org/Portals/0/Model%20Licensing%20Standards%20FINAL.pdf>

III. Recommendations (Updated 11/11/2016):

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 - a) *general support services, parent training, support groups, case management, social activities, and enrichment activities for children.*
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2. Each ISD office to have an identified expert on the eligibility of grandparents raising grandchildren, and the grandchildren themselves, for public benefits

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 - a) Improving CYFD's response to family members of children who come to its attention.

- b) Supported diversion of children placed with kin.
- c) Addressing the gap between the child welfare system and the Kinship Guardianship Act.
- d) Aligning New Mexico's foster care licensing standards with the Model Family Foster Home Licensing Standards

IV. Conclusion

The issues affecting grandparents raising grandchildren becomes more pressing as the number of grandparents raising grandchildren continues to rise. These "grandfamilies" are performing a great service for our state, and saving millions of state dollars every year. We owe it to them, and to the children in their care, to move forward with the recommendations listed above. These recommendations will not all become a reality in the upcoming session, or even in the one after that. However, this report and its recommendations can be a blue print for the future development of a policy framework that supports grandparents, and makes it possible for children raised by grandparents to enjoy a safe, secure and nurturing childhood as they mature into happy, positive, and contributing members of our society.

V. Participants

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