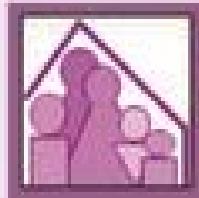
Re-Visiting the Adoption-Guardianship Discussion: Helping Caseworkers Better Understand and Communicate the Permanency Implications of Adoption and Guardianship

February 20, 2014



National Resource Center for Permanency and Family Connections

Silberman School of Social Work at Hunter College

a service of the Children's Bureau – ACF/DHHS and a member of the T&TA Network



National Resource Center for Adoption

A Service of the Children's Bureau & Member of the T/TA Network

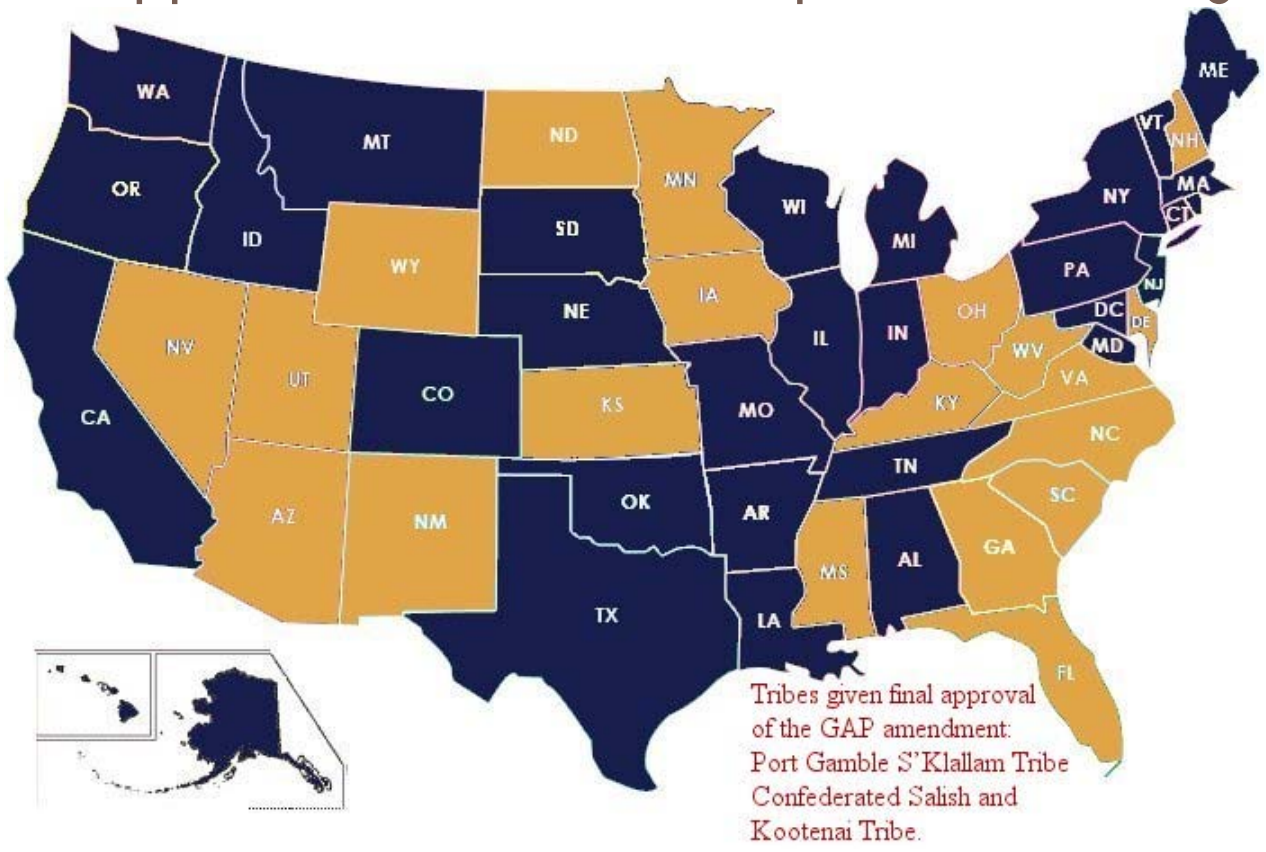
Agenda

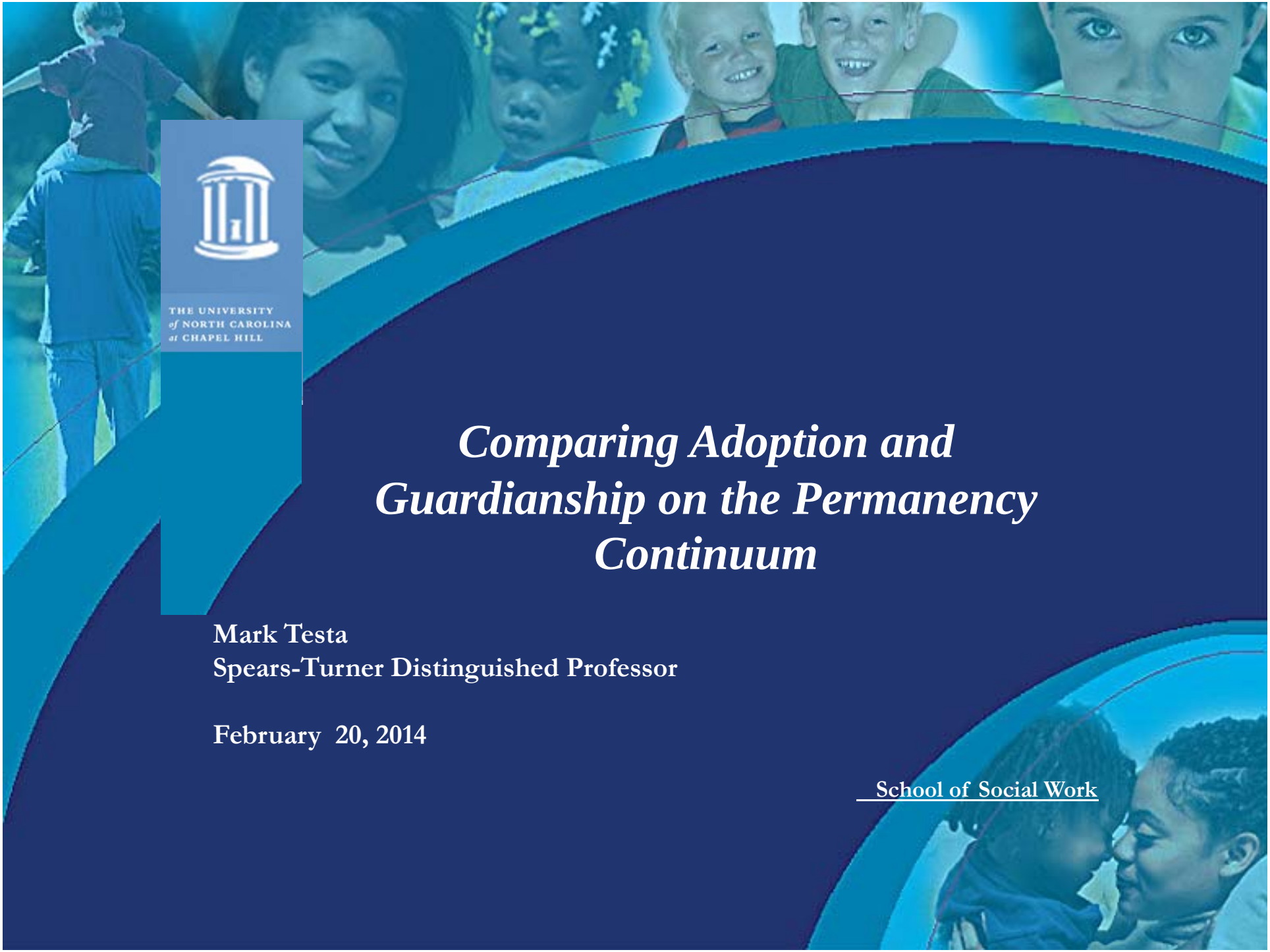
- **Comparing adoption and guardianship on the permanency continuum**
  - Overview
  - Myths and Facts
  - Program Components
  - Implementation
- **Key guardianship populations**
  - Youth
  - Relatives
  - Native Americans
- **Bridging the gap between policy and practice in Tennessee**
  - Eligibility Criteria
  - Role of Kinship Coordinator
  - Considerations

Key Points

- The historical origins of guardianship
- Permanence as lasting or binding
- Guardianship in comparison to adoption with respect to the qualities of permanence
- Guardianship evaluation findings
- Populations that can benefit from the availability of guardianship
- Facilitating the guardianship process in Tennessee

States with Approved IV-E Guardianship Assistance Programs (GAP)





Comparing Adoption and Guardianship on the Permanency Continuum

Mark Testa
Spears-Turner Distinguished Professor

February 20, 2014

School of Social Work

Topics

A. Historical perspective

B. Permanence as lasting or binding

C. Qualities of permanence

D. Findings

E. Conclusions

Historical Perspective

- Law of guardian and ward preceded adoption, but law but applied primarily to the guardianship of the person and property of orphaned children with inheritances (Taylor, 1935).
- Right of every child to guardianship of the person, either by birth, adoption, or court appointed guardianship, was first championed by child welfare professionals in the 1950s (Smith 1955).
- Consideration given in the 1960s to promoting legal guardianship as a permanency option by offering subsidies to foster parents and relatives who assumed legal responsibility for foster children (Taylor 1966).

Adoption Assistance Instead

- Support for subsidized legal guardianship faded in the 1970s and was overtaken by the permanency planning movement to conserve children's natural guardianship through family preservation and reunification, and when this was not possible, to secure its substitution through adoption assistance (Emlen, Lahti & Downs 1978).
- Even though the Adoption Assistance and Child Welfare Act (AACWA) of 1980 recognized legal guardianship as a permanency option, the law made no special provision for guardianship assistance payments similar to the assistance made available to adoptive parents of foster children (Testa & Miller, 2005).

Subsidized Guardianship for Kin

- Interest in subsidized legal guardianship rekindled in the 1980s for the thousands of neglected and abused children placed formally in foster care with kin. States were searching for novel permanency options that were less disruptive of existing familial relationships than adoption.
- Unlike adoption, legal guardianship does not require termination of parental rights. Birth parents retain residual rights to visit their children, and children retain rights of association with their siblings, grandparents, and other extended family members, which usually become unenforceable once the links through the birth parents have been legally severed through termination of parental rights.

SG Endorsements

- 1993 New York Mayor's Commission for the Foster Care of Children
- 1994 Child Welfare League of America
- 1997 American Public Welfare Association
- 1999 American Bar Association

Save one….

HHS Secretary's Report (2000)

- "[T]here is not currently sufficient evidence to support a major change in Federal reimbursement policies under the IV-E foster care or adoption assistance program in order to provide long-term income support to relative caregivers.
- Several issues would need to be carefully considered before the Department could adequately anticipate the consequences of Federal funding for subsidized guardianships."

USDHHS (2000)

Altered Meaning of Permanence

- Original meaning of permanence as lasting
  - Rooted in the psychology of attachment that defines permanence as a lifelong relationship that arises out of feelings of belongingness among persons.
- Newer meaning of permanence as binding
  - Rooted in law that defines permanence as a lifelong commitment that is legally enforceable.
- Redefinition demoted guardianship as a permanency goal
  - Guardianship is less binding because it is more easily vacated by the caregiver and more vulnerable to legal challenge by birth parents than termination of parental rights and adoption. Newer thinking required ruling-out of reunification and adoption prior to pursuing guardianship.

Lasting or Binding

- Permanence as lasting
  - Relationship not certain to last forever but intended to last indefinitely.
  - Least restrictive (most family like) principle.
  - Full disclosure of permanency options that allows kin to choose option that best fits cultural norms and sense of belongingness.
- Permanence as binding
  - Commitment needs to be legally binding to qualify truly as permanence.
  - Hierarchy of permanency goals: reunification, adoption, followed by guardianship.
  - Strict interpretation of "rule-out" that adoption needs to be ruled out independently of the desires of the family.

Assisted Guardianship (IV-E) Waivers

- In 1995, HHS invited states to submit applications for subsidized guardianship demonstrations "which would allow children to stay or be placed in a familial setting that is more cost effective than continuing them in foster care (Federal Register 1995:31483).
- Five states—Delaware, Illinois, Maryland, North Carolina, and Oregon—initially received waivers to mount subsidized guardianship demonstrations.
- An additional five states—Minnesota, Montana, New Mexico, Tennessee and Wisconsin—were later approved before HHS authority to grant new IV-E waivers expired in 2005.

Research Addressed Safety Concerns

- Concern: Pressure to place children with relatives while providing children less protection.
- Fact: Estimated percentage with at least one re-report within 6 months of the Index Report lowest for formal kin care.

Setting	*N*	*%*	*SE*
In-Home: Bio and Adopted	2,719	14.60	1.47
Formal Kin Care	457	6.52	1.22
Informal Kin Care	456	12.52	2.82
Foster Care	1,046	15.11	2.49
Group Home/Res Program	61	15.78	5.58

RTI. (2012). Data File User's Manual: National Survey of Child and Adolescent Wellbeing II

Data Addressed Caseload Concerns

- Concern: Potential to undermine the primary protective function if child welfare becomes (or is viewed as) more a system of financial support for relatives than one of protection for children.
- Fact: No growth in state foster care caseloads. Declines have been greatest in states with guardianship programs.

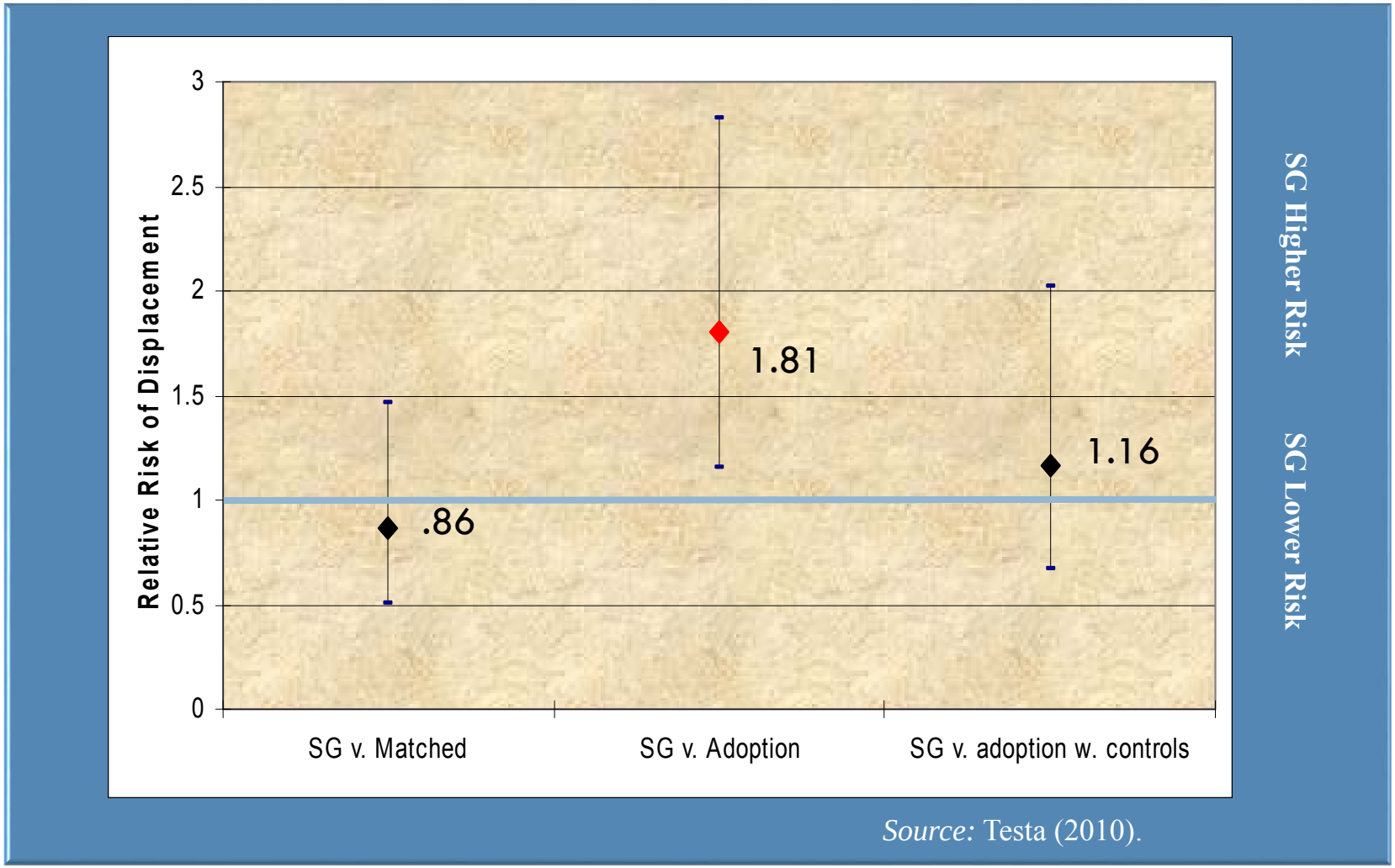
Experiments Addressed Money Concerns

- Concern: Significant cost implications if Federal child welfare funding were used for arrangements supported by TANF.
- Fact: In Illinois after 10 years, offering families the SG option reduced the average length of foster care by 269 days or 22% compared to what would have happened in the absence of the offer.
- In Wisconsin after 3 years, offering family the SG option reduced the average length of foster care by 133 days or 32% compared to what would have happened in the absence of the offer.

Study Addressed Permanency Concerns

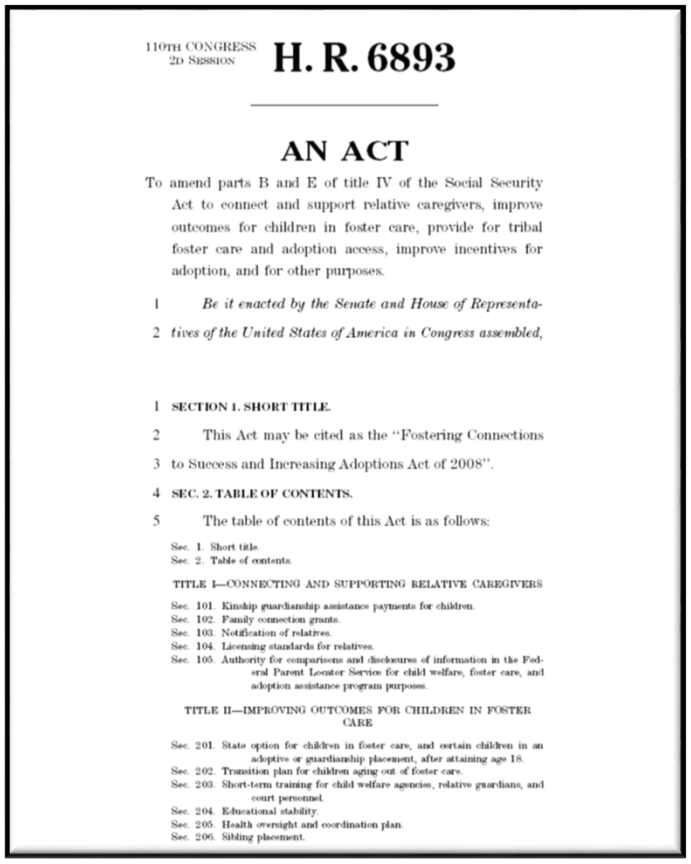
- Concern: There is little evidence regarding the long-term stability of guardianship arrangements. Do they actually become permanent situations for children or do they merely delay accomplishing a permanent placement?
- Fact: No difference when comparison takes into account differences in child age and other characteristics and the fact that some children would have remained in foster care if subsidized guardianship were unavailable.

Relative Risk of Placement Discontinuity



Source: Testa (2010).

U.S. Kinship Guardianship Assistance Program



110TH CONGRESS
2D SESSION

H. R. 6893

AN ACT

To amend parts B and E of title IV of the Social Security Act to connect and support relative caregivers, improve outcomes for children in foster care, provide for tribal foster care and adoption access, improve incentives for adoption, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fostering Connections to Success and Increasing Adoptions Act of 2008".

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—CONNECTING AND SUPPORTING RELATIVE CAREGIVERS

Sec. 101. Kinship guardianship assistance payments for children.
Sec. 102. Family connection grants.
Sec. 103. Notification of relatives.
Sec. 104. Licensing standards for relatives.
Sec. 105. Authority for comparisons and disclosures of information in the Federal Parent Locator Service for child welfare, foster care, and adoption assistance program purposes.

TITLE II—IMPROVING OUTCOMES FOR CHILDREN IN FOSTER CARE

Sec. 201. State option for children in foster care, and certain children in an adoptive or guardianship placement, after attaining age 18.
Sec. 202. Transition plan for children aging out of foster care.
Sec. 203. Short-term training for child welfare agencies, relative guardians, and court personnel.
Sec. 204. Educational stability.
Sec. 205. Health oversight and coordination plan.
Sec. 206. Sibling placement.

- The Kinship Guardianship Assistance Program (KinGAP) was authorized under the Fostering Connections to Success and Increasing Adoptions in 2008.

- KinGAP gives states the option to use federal title IV-E funds for subsidized guardianship payments to relatives who are committed to caring for these children permanently when they leave foster care.

Qualities of Permanence

- Continuity: A permanent family will survive geographical moves and the vicissitudes of life because belonging to a family involves commitment.
- Belonging: A permanent family is one in which the sense of belonging is rooted in cultural norms and has definitive legal status.
- Intent: A permanent home is not one that is certain to last forever, but one that is intended to last indefinitely.

Source: Emlen, Lahti & Downs (1978).

Post-Permanency Continuity I

- Belonging: Definitive legal status & kinship

Status*	N	Still Intact as of 2012	
Adoption	296	91.9%	
Guardianship	50	92.0%	
			χ^2 ns
Relative	163	90.2%	
Non-relative	183	93.4%	

*Adoption or guardianship 1998-2002 χ^2 ns

Source: 2005 Illinois Post-Permanency Survey linked to administrative data

Post-Permanency Intent I

- Intent: How often do you think of ending the [ADOPTION/GUARDIANSHIP]?

Asked in 2005	N	Still Intact as of 2012
Never	304	93.4%
Not very often	18	94.5%
Sometimes	19	84.2%
Frequently	4	25.0%

$\chi 2$ $p<.001$

Source: 2005 Illinois Post-Permanency Survey linked to administrative data

Post-Permanency Continuity II

- Belonging: Definitive legal status & kinship

Status*	N	Still Intact as of 2012
Adoption	276	94.6%
Guardianship	162	92.6%
		χ^2 ns
Relative	367	93.7%
Non-relative	71	94.4%

*Adoption or guardianship 1997-2004 χ^2 ns

Source: 2008 Illinois Post-Permanency Survey linked to administrative data

Post-Permanency Intent II

- Intent: How often do you think of ending the [ADOPTION/GUARDIANSHIP]?

Asked in 2008	N	Still Intact as of 2012
Never	344	95.3%
Not very often	35	91.5%
Sometimes	42	90.5%
Frequently	11	72.7%

$\chi 2$ $p<.001$

Source: 2008 Illinois Post-Permanency Survey linked to administrative data

Conclusions

- Appears to be little advantage in agencies' and courts' delaying the awarding of legal guardianship in the hopes of encouraging kin to adopt or finding an alternative home to adopt.
  - More than 90% of permanent homes remain intact 8 to 15 years after discharge from foster care regardless of permanency type or relatedness.
  - Most relatives are choosing adoption on their own. The minority of families who select legal guardianship do so for cultural and family reasons.

Conclusions

- Kin are in the best position to assess whether adoption or guardianship fits their cultural norms of family belonging, respects their sense of social identity, and gives legal authority to their existing family commitments.
  - Even though permanency commitments are intended to last indefinitely, it is important to check in periodically with families about the sustainability of those commitments.
  - Caregiver's thoughts about ending the permanency relationship is a powerful predictor of future risk of post-permanency discontinuity.

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THE UNIVERSITY
of NORTH CAROLINA
at CHAPEL HILL

Key Guardianship Populations

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National Resource Center for
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February 20, 2014



National Resource Center for
Permanency and Family Connections
at the Hunter College School of Social Work



Let's Look at Three Types of Guardianship:

Guardianship for Youth
Guardianship in Relative Care
Guardianship in Tribal Communities

3 Key Features of Legal Guardianship

- The legal relationship between the guardian and child or youth does not end and may outlive the jurisdiction of the court.
- Unlike an adoption, where a parent's right to custody is completely and permanently terminated, legal guardianship suspends the parent's custodial rights, but allows the parent to continue to play a role in the young person's life.
- While guardians often have a blood relationship with the young person, ASFA explicitly states that a guardian need not be a relative, they can be fictive kin.

Guardianship for Youth

I lived in a Residential Treatment Center for the past six years. Before that I had been in five different foster homes, none of them lasted. After being in the RTC a while, my social worker asked if I would like a Mentor.

At first I thought, "oh great another well meaning person who will take me out a few times and then drop me." But then they found me my mentor, a guy named Bob.

Bob was a really nice guy, he's a lawyer, and lives alone in the town near where the RTC is located. I visited him a few times and after a while I invited him to my case conference because I thought he is the only person who is not paid to cared about me.

After a year and a half as my mentor, Bob and I talked about making our relationship more permanent and we started to talk about Bob being my guardian. Last week, the court approved Bob as my legal guardian and on Friday I am moving into Bob house.

Youth need to be actively engaged in permanency efforts.

Legal Guardianship Has Relevance for Youth

- Guardianship may be appealing for youth in kinship foster care because it allows relative caregivers to provide permanency and stability without ongoing state oversight and without termination of parental rights.

AND

- Guardianship permits the young person to identify non-related adults (fictive kin) with whom they may be able to form lifetime permanent connections through legal guardianship.

Guardianship in Relative Care

My younger brother and I live with my grandmother because my mother has a drug problem. I am 17, my brother is 10. My mom has been in several drug treatment programs and always drops out before she finishes. We always hope that this time will be the time she gets it together, but she never does. My grandmother is a great lady and takes great care of us. Every time we got to court she tells the judge that she is willing to keep being our parent, but she feels guilty about adopting us. After a bunch of court dates, the judge finally asked to meet with us and asked what we thought about adoption. We told her that we just wanted to stay with our grandmother and not be adopted–she is already our family. The judge said that she would permit our grandmother to maintain custody–which means that we can stay with her permanently–that works for us.

Defining Relative Care

Kin are in the best position to assess whether adoption or guardianship fits their cultural norms of family belonging, respects their sense of social identity, and gives legal authority to their existing family commitments.

Defining Relative Care

Relative Care is defined as the placement of a youth in custody in a home in which one of the responsible caretakers is a person related to the child by blood, marriage or adoption who is the youth's:

- siblings;
- grandparents, great-grandparents, great-great-grandparents–on both side of family;
- uncles or aunts, nieces or nephews, or first cousins–on both sides of the family;
- the current or former spouse of any of these persons; or
- the child's stepparent.

Advantages of Relative Care

Relative care has many advantages for young people, among them are:

- Enable youth to live with persons they know and trust;
- Reinforce youth's personal and cultural identity;
- Encourage families to cultivate and rely on their own resources and strengths;
- Enable families to participate as responsible and essential members of the youth's and family's support team;
- Exemplifies the child welfare system's commitment to "protect children and strengthen families in partnership with families and communities."

Permanency in Tribal Communities

Our family would be incomplete without anyone of these children. You see, our two girls were biologically born to my son and daughter-in-law. The three boys were gifted to us in another way.

When we heard that he boys had been removed from their home and that they were currently in a shelter, no blood family members were available or eligible to be considered for their care, and they would be separated.

We knew there was no question as to what would happen next. We spoke with all of the family and we all agreed that the boys would come to stay with them for whatever time was needed.

We would do what ever it took to keep these boys in community, with relatives and raised as Ojibwa children.

Guardianship in Tribal Communities

- Traditionally and today, the extended family system in tribal communities is the core of the natural helping network that protects children and participates in their upbringing.

- Tribal children's services routinely look first to relatives when a child needs foster care placement.

Indian Child Welfare Act

ICWA makes the termination of parental rights in Indian families more difficult than in mainstream families, and when a child is separated from his or her parents, provides explicit preferences for placing the child in an adoptive home: (1) with a member of the child's extended family, (2) with other members of the child's tribe, or (3) with other Indian families.

Permanency in Tribal Communities

Keeping children in need of permanent families without relinquishment of birth parents rights, could not happen without the opportunities, supports, and protection of the Indian Child Welfare Act, without the special conditions allowed under non-relinquishments of rights, and guardianships, and tribal and state agreements.

Guardianship in Tribal Communities

- Going outside the child's extended family system is uncommon and risks alienating the child, the family, and other community members in the healing process.
- When subsidized guardianships have been available (as it in in 31 states and 2 tribes) for tribal children and their relatives, all have significantly benefited.

Guardianship in Tribal Communities

Relatives who could not otherwise afford care for additional children in their families receive needed support and American Indian/Alaskan Native children have the opportunity to retain and nurture important family connections. Title IV-E support for subsidized guardianship is seen as vital to providing relative caregivers with ongoing and reliable support. Tribal governments welcome the opportunity to offer subsidized guardianships to their community caregivers.

Permanency in Tribal Communities

- One of the most promising developments for Indian children incorporates traditional forms of adoption into customary adoption.
- This approach to permanency can be viewed as a midway point on a continuum between termination of parental rights and legal guardianship.

Customary Adoption

- A customary adoption is a practice, ceremony, or process conducted in a manner which is long-established, continued, reasonable, and certain; and is considered by the people of a Tribe to be binding or found by the tribal court to be authentic.
- Customary adoption gives a child a legally recognized permanent parent-child relationship with a person other than the child's biological parent without termination of parental rights.

Guardianship and Customary Adoption

- In many Tribes, customary adoption and guardianship are the process of creating relatives and joining individuals into family relationships.
- It expands family resources for a young person without terminating pre-existing relationships.
- Guardianship modifies the custodial and legal relationship of the birth parents with the child but does not terminate a birth parent's emotional relationship with the child, the child's relationships with the birth parent or extended birth family, or the extended family's relationship with the child.

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Subsidized Permanent Guardianship

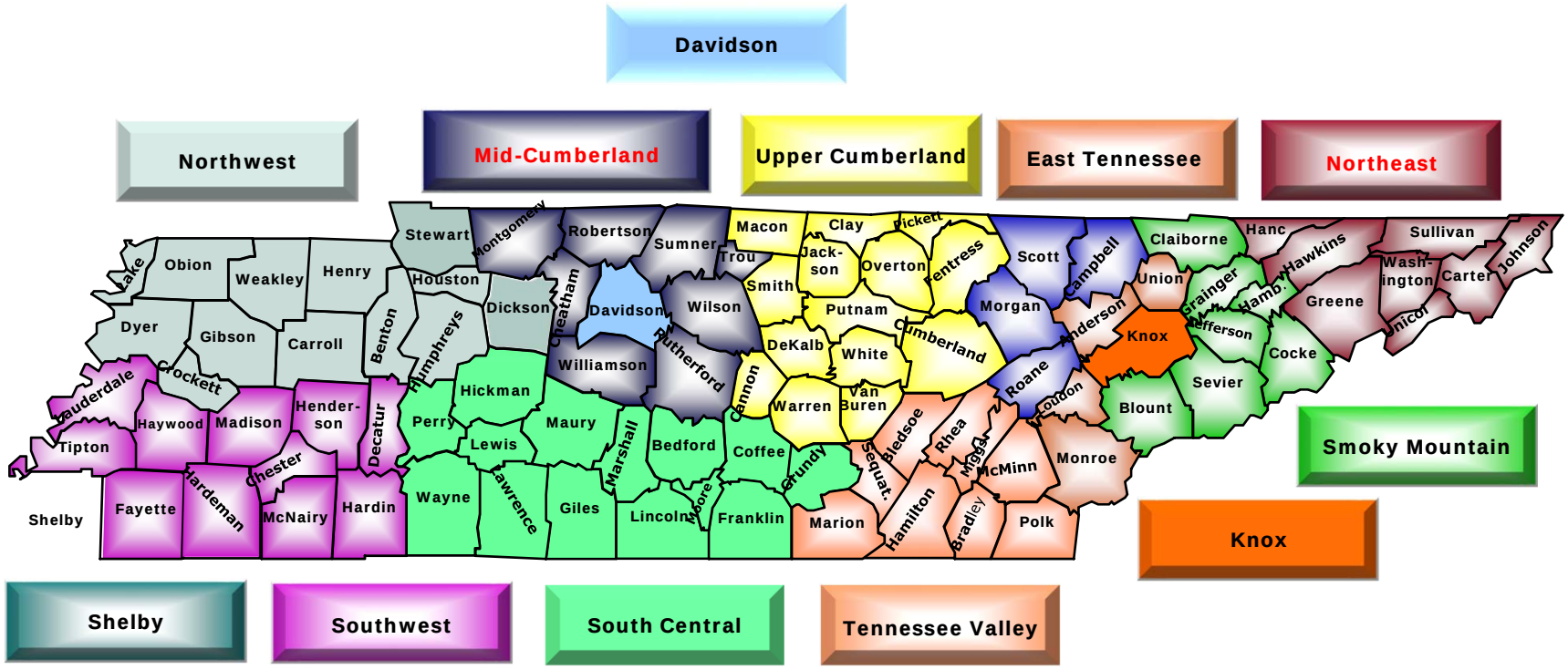
Bridging the GAP in Tennessee

John L. Johnson, MS
Director of Foster Care and Adoption Services for the Tennessee Department of Children Services

Important Things To Remember

- The Public Child Welfare System in Tennessee is State Administered and Regionally Supervised.
- The SPG/GAP Waiver Demonstration Program began in December 2006 and ended on 3/31/09, when we transitioned to the Federal GAP.
- On 10/01/10 our State implemented the Extension of Foster Care afforded by Fostering Connections To Adoptions Success Legislation.

TN Regional Designations



Eligibility Criteria for SPG

- Child must be in the custody of the Public Child Welfare System (Tennessee DCS).
- Child/Youth will qualify for a subsidy if they are placed in the *fully-approved* relative/kin home for six (6) months, prior to the exit.
- Meets definition of "relative/kin relationship" that has been approved by the Federal government is: "All children and youth in Tennessee who have been living for 6 consecutive months in an approved home of a person with whom he/she is related by blood, marriage, or adoption or another person with whom the child has a significant relationship that pre-existed placement such as, a godparent, friend, neighbor, church member, minister, teacher, etc."

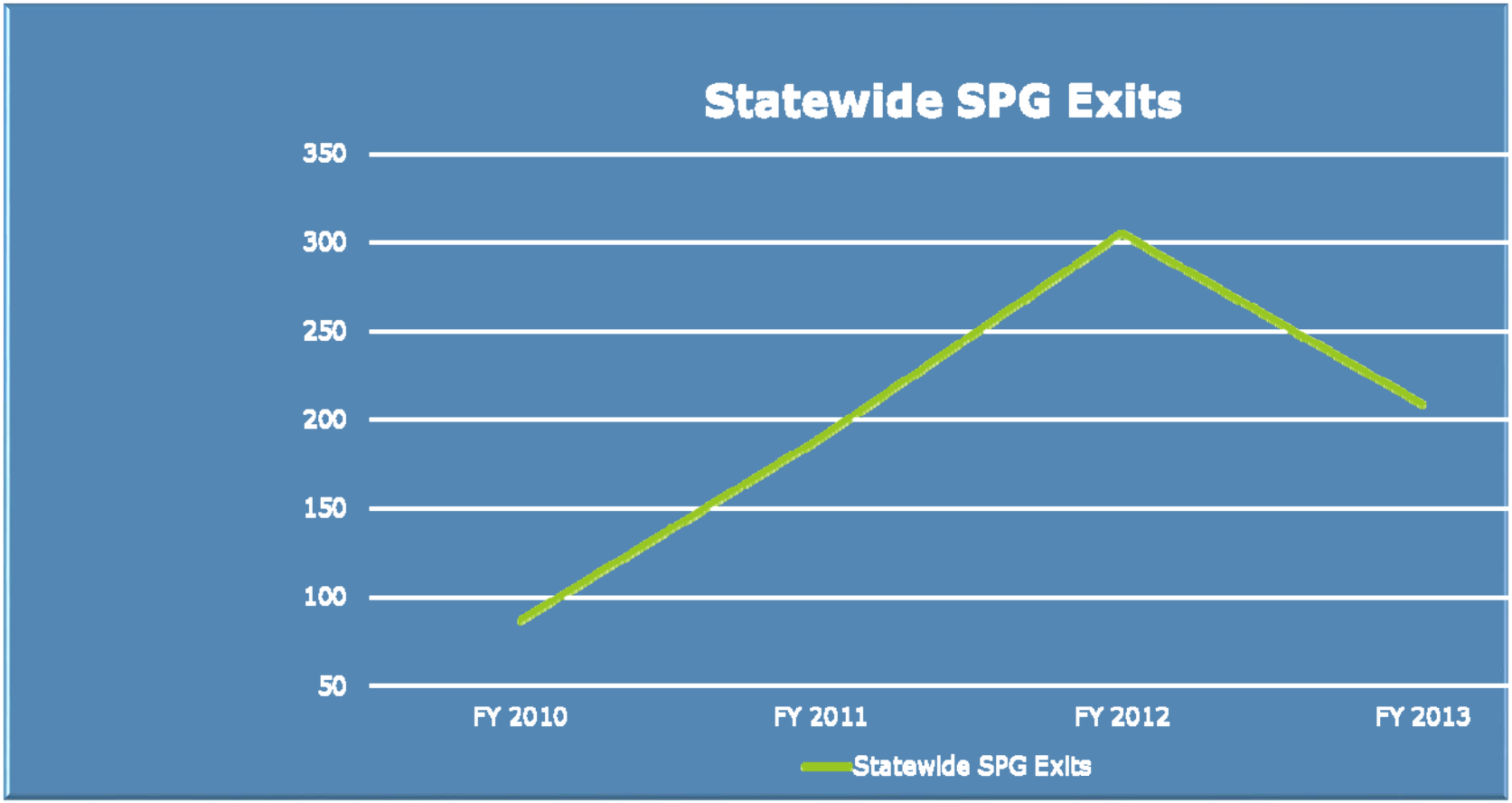
Additional Criteria

- The State must determine that reunification and adoption are not appropriate options for the children.
- Youth over the age of 12 must be consulted about guardianship arrangements.
- Youth who leave custody after age 16 for relative/kin guardianship will be eligible for education and training vouchers for higher education or other vocational training. These children are also able to access Independent Living Services.
- The subsidy will be available up until the age of 18, unless they except the Extension of Foster Care (EFC) and meet the criteria.

Criteria for EFC Eligibility

- Youth continues with high school education.
- Youth is in post-secondary education or vocational program.
- Youth not capable of participating in the above due to a medical, developmental or intellectual condition, which is supported by regularly updated information on the young adult's progress and that the individual complies with the recommended course of treatment.
- Youth is employed at least 80 hours per month (being considered for implementation July 1, 2014).

of Statewide Exits to SPG



How we got here . . .

- 2006 Federal Waiver Program for GAP.
- 2009 Child Focus provided T/TA on improving our kinship/relative placements.
- Determined each region needs a "Champion" to lead engagement of kin/relatives.
- Created the position of Kinship Coordinators in each of our 12 geographic regions.
- Policy enhancement and targeted training to CPS staff on importance of engaging kin/relatives.
- Implemented a process for documenting exceptions to kinship/relative placements.
- A focus of time/energy on discussing options to relative caregivers when placement is made (created a handout).

Role of the Kinship Coordinator

- When it is determined a child cannot safely remain in their home, the Kinship Coordinator and CPS Investigator partner to identify potential relative/kin.
- Kinship Coordinator follows up and contacts potential caregivers to determine ability to care for the child.
- Ensures that background checks are completed and a formal walk through of the caregiver's home is completed prior to placement.
- Responsible for ensuring disclosure of options for relative caregivers.
- Review of Comparison Chart of Permanency Exits with Caregivers.
- Provides T/TA to local staff on policy and practice related to their work.

Additional Kinship Coordinator Responsibilities

- Assists with referrals for families to local community resources and supports.
- Guides families to PATH training and through approval process to become "approved" as a resource parent.
- Attends Child and Family Team meetings to support families.
- Participates in Kinship Orientation.
- Maintains regional data (outside of SACWIS system).
- ***Continues to give options for relative caregivers so that they can determine the BEST permanency path for their family.***

Comparison Chart

	Adoption	Permanent Guardianship	Exit Custody to Custody of Relative or Kin
Legal Status	The adoptive parent(s) is/are given all the rights and responsibilities that once belonged to the birth parent(s). When the adoptive parents are married, both spouses must adopt. Adoption is a permanent, lifelong, legal relationship.	A permanent guardian is given legal responsibility for the child and assumes the rights of care, custody, and supervision of the child. When married, either one or both spouses may be named as a permanent guardian. Guardians may also be single parents. The court makes all decisions regarding the permanent guardianship, but the birth parent(s) can request that the permanent guardianship be vacated and that the child be returned to their care if parental rights have not been terminated.	A custodian is given legal responsibility for the child and assumes the rights of care, custody, and supervision of the child pursuant to T.C.A. § 37-1-140 When married, either one or both spouses may be named as a legal custodian. Legal custodians can also be single parents. In some cases, it is the burden of the parents to prove to the court that circumstances have changed significantly, that they are able to provide proper care to their children, and that the change is in the child's best interests.

Comparison Chart

	Adoption	Permanent Guardianship	Exit Custody to Custody of Relative or Kin
	Birth parents' rights are voluntarily relinquished or involuntarily terminated	It is the burden of the parents to prove to the court that circumstances have changed significantly, that they are able to provide proper care to their children, and that the change is in the child's best interests. Birth parent(s)' rights may or may not be voluntarily relinquished or involuntarily terminated. If the birth parent(s)' parental rights are terminated the Permanent Guardian may decide to Adopt.	New Petitions must be filed to in order for biological parents to retrieve custody of their children. Birth parent(s)' rights may or may not be voluntarily relinquished or involuntarily terminated. If a termination occurs, a relative relationship no longer exists. The legal custodian may legally adopt the child.

Comparison Chart

Inheritance	An adopted child has all of the same rights as birth children when the adoptive parent(s) does not have a will. Otherwise, inheritance rights are established through a valid will as they are for birth children. Additionally, adopted children automatically are entitled to survivor's benefits such as pension or Social Security in the event of an adoptive parent's death.	The child has no rights of inheritance from the permanent guardian unless the child has been included in the permanent guardian's will. The child continues to have the right to inherit from their biological parents if the parents' rights have not been terminated.	The child has no rights of inheritance from the legal custodian unless the child has been included in the legal custodian's will. The child continues to have the right to inherit from their biological parents if the parents' rights have not been terminated.
Decision Making	All decisions are made by the adoptive parent(s).	Major decisions regarding school, medical treatment and consent for most other major life decisions are made by the permanent guardian. Birth parent(s) retains important rights, e.g., visitation and consent to adoption when parental rights have not been relinquished or terminated and as granted by a court.	Major decisions regarding school, medical treatment and consent for most other major life decisions are made by the legal custodian. Birth parent(s) retains important rights, e.g., visitation and consent to adoption when parental rights have not been relinquished or terminated and as granted by a court.

Comparison Chart

Financial Assistance	The adoptive parent(s), whether receiving a subsidy or not, are financially responsible for the support of the child. Financial assistance is available for the adoption for many Department children. Adoption Assistance can be discussed with the Permanency Specialist assigned to the child's case.	A permanent guardian, whether receiving a subsidy or not, is financially liable for the support of the child. Financial assistance is available for eligible children. The permanent guardian is responsible for financially supporting the child until DCS stops the subsidy payment, (if the child has received a subsidy,) and/or the court vacates permanent guardianship (whichever event happens last). If the birth parents' rights have not been terminated, they generally will be held responsible for contributing to the financial support of the child.	A legal custodian is responsible for the financial support of a child. If the birth parents' rights have not been terminated, they generally will be held responsible for contributing to the financial support of the child through court order and enforcement.
Relationship with the Birth Parent(s) and Siblings	The adoptive parent's have the right to determine if the child will have any relationship with the birth parent/s. However, in many cases connections with birth parents or siblings will remain important to a child. Adoptive parents may determine that those connections are in the child's best interest and can choose to maintain them in a way that works well for the child and the adoptive family.	For many children moving to permanent guardianship, relationships with birth parents or siblings is very important. In establishing a permanent guardianship, the court must specify the sharing of information with birth parents, as well as visitation and/or contact. Connections to the birth family can be maintained in a way that works well for the child and the permanent guardianship family.	For many children moving to legal custody of a relative, relationships with birth parents or siblings is very important. Legal custodians are often given complete discretion on allowing visitation of biological parents unless a court order is specific. Connection to the birth family can be maintained in a way that works well for the child and the legal custodian subject to court order.

Comparison Chart

Child's Legal Name	The adoptive parent(s) determine the child's legal name.	The child generally retains his/her own legal last name.	The child generally retains his/her own legal last name.
Consent of the Child	A child who is 14 years of age or older must consent to his/her own adoption.	The court shall consider the consent of a child 12 years of age or older in determining whether to establish a permanent guardianship. DCS is required to consider the opinion of a child 14 years of age or older in determining whether the family qualifies for a subsidy.	The court may consider desires of the child in determining exit custody.
Death of Adoptive Parent/Guardian or Termination of Adoption/ Guardianship	A child adopted with adoption assistance remains eligible for adoption assistance when he/she is orphaned due to the death of his/her adoptive parent/s or when a court terminates the adoptive parent/s parental rights. He or she can continue to receive adoption assistance if adopted by someone else.	A child for whom a permanent guardianship subsidy was received does not remain eligible for the subsidy when he/she is orphaned due to the death, or incapacity of his/her permanent guardian/s, however, another person can become permanent guardian for the child.	Not Applicable

Comparison Chart

Returning a Child to DCS	An adoptive child would have to be found by the court to be abused, neglected or dependent in order to have DCS again assume legal responsibility for the child. Good cause must exist in order for DCS to regain custody of the child.	A child for whom an individual has been named a permanent guardian would have to be found by the court to be abused, neglected or dependent or other good cause must exist in order for DCS to again assume legal responsibility for the child. Otherwise the permanent guardian or other interested party would have to petition the court to have the permanent guardian relieved of the responsibility of the permanent guardianship. The decision would be at the discretion of the judge.	A child for whom an individual has been named a legal custodian would have to be found by the court to be abused, neglected or dependent or other good cause must exist in order for DCS to again assume legal responsibility for the child. Otherwise the legal custodian or other interested party would have to petition the court to have the legal custodian relieved of the responsibility of the legal custody of the child. The decision would be at the discretion of the judge.
Eligibility of Subsidy or an Exceptional/ Negotiated Rates	Follow procedures provided in the Adoption Agreement Policy 15.11 and are reviewed by the agency periodically. Note: Adoption assistance and subsidized permanent guardianship are ongoing monthly payments that are comparable to the DCS Foster Care Board Rates.	Follow procedures outlined in the Subsidized Guardianship policy 16.39 and are reviewed by the agency periodically. Note: Adoption assistance and subsidized permanent guardianship are ongoing monthly payments that are comparable to the DCS Foster Care Board Rates.	Not Applicable

Comparison Chart

Post Secondary Education	When completing the Free Application for Federal Student Aid or FAFSA application for college/university/trade school, an adoptive child can check the box stating they were a ward of the court(after age 13), should they desire; however, proof may be difficult because records are sealed.	When completing the Free Application for Federal Student Aid or FAFSA application for college/university/trade school a guardianship child CAN check the box stating they were a ward of the court(after age 13). This will allow this child who was a ward of the state additional financial supports during their post secondary education.	
Note: Adoption assistance and subsidized permanent guardianship are ongoing monthly payments that are the same as the DCS Foster Care Board Rates.(Not private provider rates)			

Data on Kinship Placement

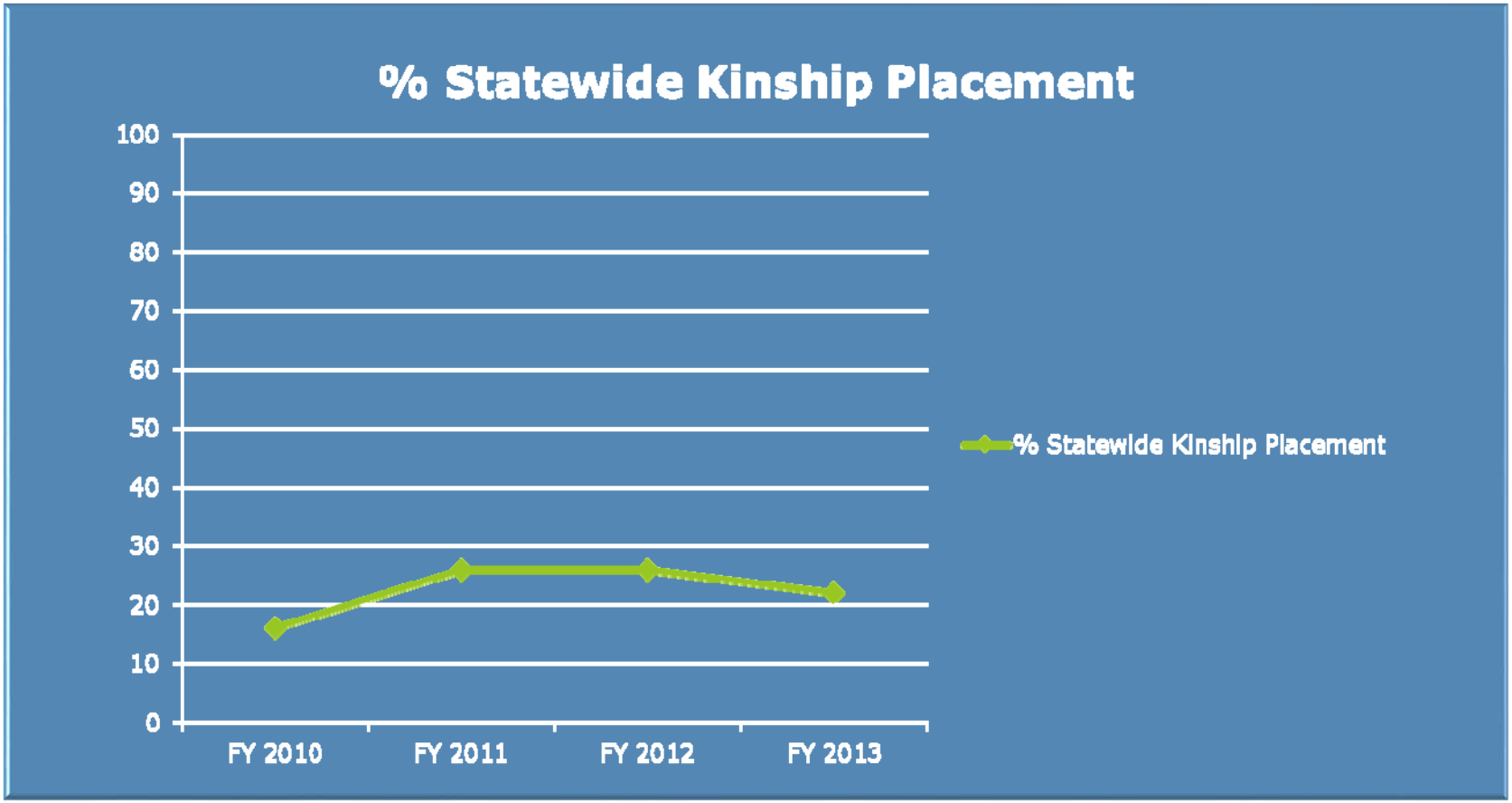
Before

FY 2009-2010	All	Kinship	% Kinship
Southwest	201	14	7%
Tennessee Valley	455	87	19%
Shelby	767	36	5%
Davidson	313	95	30%
Knox	359	50	14%
Mid-Cumberland	437	83	19%
Northwest	144	28	19%
South Central	341	33	10%
Smoky Mountain	431	85	20%
East	309	52	17%
Northeast	321	104	32%
Upper Cumberland	315	42	13%
Statewide	4,393	709	16%

After

FY 2012-2013	All	Kinship	% Kinship
Southwest	207	4	2%
Tennessee Valley	411	41	10%
Shelby	606	101	17%
Davidson	271	52	19%
Knox	386	78	20%
Mid-Cumberland	680	137	20%
Northwest	162	38	23%
South Central	270	65	24%
Smoky Mountain	484	116	24%
East	395	101	26%
Northeast	388	116	30%
Upper Cumberland	485	200	41%
Statewide	4745	1049	22%

Statewide Kinship Data



Challenges and Benefits of GAP

- Supports the best practice of placing children with relative/kin.
- Allows a viable exit from the system TPR might not be in best interest of the agency or family.
- Provides long-term support to caregivers of children that might otherwise languish in the system.
- Caregivers can receive post-permanency support from post-adoption provider.
- Diligent search and identification of relatives/kin.
- Caregivers have to be approved/licensed prior to exit and "the clock" for exit does not begin until that occurs.
- Caregivers full understanding of other permanency alternatives to make the best decision.
- Caregivers could possibly receive more financial assistance from other TANF programs.

Closing Considerations

- Engagement of kin/relatives has to occur when it is determined the child cannot safely remain at home.
- The Kinship Coordinator and resource parent support staff are involved with relative/kin guiding them through the child welfare system.
- A change in culture that values kin and relatives has to occur for families to feel supported and valued.
- Data is important.
- Continued discussion of options for caregivers; such as, custody, adoption, guardianship, etc.
- Post-permanency services include: linkage to services in the community and adoption support and preservation (ASAP) services.
- If you are successful in placement with relative/kin, so goes your potential exits to guardianship permanency.

Contacts in Tennessee

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Guardianship Resources



The following resource list was compiled by the National Resource Center for Permanency and Family Connections (NRCPFC) for the webinar, "Re-Visiting the Adoption-Guardianship Discussion: Helping Caseworkers Better Understand and Communicate the Permanency Implications of Adoption and Guardianship." This event is co-sponsored by NRCPFC and the National Resource Center for Adoption (NRCA).

Guardianship Resources

Guardianship: A Web-based Primer

Guardianship is an extremely important area of child welfare policy and practice, and is huge in scope. Rather than attempting to address all guardianship issues in this document, in this online resource, NRCPFC strategically presents an overview of the salient issues. It is intended as an online tool for programs, states and tribes where promising practices, programs and resources are made available. For this primer, NRCPFC thoroughly reviewed provisions in the legislation that address guardianship. Our goal is to provide the field with information on the components that support guardianship. This primer provides a broad array of resources from research, state policies, procedures and practice and includes an organizational self-study guide. (Last Updated: February 2014)

http://www.nrcpfc.org/toolkit/guardianship/

Guardianship Resources

Federal Title IV-E Guardianship Assistance Program State Policies and Laws

The Children's Bureau and NRCPFC have compiled information from States that have been approved to operate the Title IV-E GAP program. Based on the information provided in States' IV-E plans, this list provides links to States' Guardianship laws, policies, and other additional forms, such as the Guardianship Agreement. State contact information is also provided here when available. (Last Updated: October 2012)

http://www.nrcpfc.org/fostering_connections/state_gap.html

Guardianship Resources

Making It Work: Using the Guardianship Assistance Program (GAP) to Close the Permanency Gap for Children in Foster Care

This report focuses specifically on states' implementation of the Title IV-E Guardianship Assistance Program, which was established in the Fostering Connections Act of 2008. At the time of publication, 29 states, the District of Columbia and one Indian tribe, had received approval to operate GAP from the Children's Bureau, ACYF, DHHS; officials in each were interviewed for the report. The goal of this report is to highlight the leadership and good work being done by those state child welfare agencies and the Port Gamble S'Klallam Tribe, sometimes in partnership with relative caregivers and other stakeholders, to ensure more children in foster care have access to permanent families and relative guardians when appropriate. The report describes key elements and challenges of GAP implementation and lessons learned to date. It offers suggestions to states that have not yet applied for GAP funds or are in the early stages of GAP implementation. It also includes for each of the jurisdictions interviewed a narrative summary and fact sheet describing GAP implementation activities. This report was a collaborative project of the Children's Defense Fund, Child Trends, American Bar Association Center on Children and the Law, Casey Family Programs, Child Focus, and Generations United. (October 2012)

http://www.childrensdefense.org/child-research-data-publications/data/making-it-work-using-the.pdf

Guardianship Resources

Synthesis of Findings: Subsidized Guardianship Child Welfare Waiver Demonstrations

This report is based on findings from evaluation reports submitted by several States that received title IV-E waivers to implement subsidized guardianship demonstrations, including Illinois, Iowa, Minnesota, Montana, Oregon, Tennessee, and Wisconsin. It includes the following sections: Executive Summary; History and Legislative Context of Title IV-E Waivers; Subsidized Guardianship Waiver Demonstrations; Eligibility Criteria for Subsidized Guardianship Demonstrations; Programmatic Features of Subsidized Guardianship Demonstrations; Guardianship Planning and Casework Process; Evaluation Methodologies; State Outcome Evaluations – Summary of Key Findings; Factors Affecting the Offer, Acceptance, and Exits to Guardianship; Cost Analysis; and, Lessons Learned from the Subsidized Guardianship Demonstrations. This report was published by the U.S. Department of Health and Human Services, Administration for Children and Families. (2011)

http://www.acf.hhs.gov/sites/default/files/cb/subsidized.pdf

Guardianship Resources

NRCPFC Fostering Connections – Kinship/Guardianship Webpage

This webpage of the NRCPFC Fostering Connections micro-website provides resources on kinship and guardianship that relate to the Fostering Connections Act of 2008. This webpage highlights a variety of web-based resources from National Resource Centers, the Children's Bureau, and the T/TA Network, as well as materials from collaborating organizations. This webpage also offers state examples and resources that address: relative search, notice of placement to relatives, and relative engagement; foster care licensing standards; and, Kinship Guardianship Assistance.

http://www.nrcpfc.org/fostering_connections/kinship_guardianship.html

Guardianship Resources

Subsidized Guardianship: Testing the Effectiveness of an Idea Whose Time Has Finally Come

This report discusses findings from demonstration projects in Milwaukee, Wisconsin, and Tennessee that tested the efficacy of encouraging related and non-related foster parents to assume permanent legal guardianship of foster children by offering them financial subsidies in amounts similar to the subsidies they could otherwise receive as licensed foster or adoptive parents. Interim findings from these two subsidized guardianship waiver demonstrations replicate the key results from the original Illinois waiver demonstration: federally subsidized guardianship is a permanent and cost effective alternative to retaining children in long-term foster care. This report was authored by Mark F. Testa and published by the Children and Family Research Center at The University of Illinois at Urbana-Campaign School of Social Work. (May 2008)

http://www.nrcpfc.org/is/downloads/SG_Testing%20Effectiveness%20(Testa%202008).pdf

Guardianship Resources

The Fostering Connections Kinship Toolkit

The Fostering Connections Kinship Toolkit from the Children's Defense Fund includes resources designed to assist states that are considering whether to apply for the Guardianship Assistance Program (GAP) funding and how to make the case for the investment. The toolkit also includes resources to help states implement the GAP option and identification and notice requirements and answer questions regarding all of the provisions that will affect children being raised by grandparents and other relatives.

http://www.childrensdefense.org/policy-priorities/child-welfare/fostering-connections/toolkit.html

For additional guardianship resources, visit the NRCPFC Guardianship Hot Topic webpage at:

http://www.nrcpfc.org/is/guardianship.html

Resources and Technical Assistance

Resources and technical assistance regarding Subsidized Guardianship can be obtained from the National Resource Center for Permanency and Family Connections.



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Resources and Technical Assistance

Resources and technical assistance regarding Subsidized Guardianship can be obtained from the National Resource Center for Adoption.

NATIONAL RESOURCE CENTER for Adoption
A Service of the Children's Bureau & Member of the T/TA Network

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E-mail: nrc@nrcadoption.org
Web site: www.nrcadoption.org

This National Resource Center for Adoption is funded through a cooperative agreement with the Department of Health and Human Services, Administration for Children and Families, the Children's Bureau Grant #CZ-0019. The National Resource Center for Adoption is a service of the Children's Bureau and member of the T/TA Network.

Children's Bureau

QUESTIONS

