



WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

Memo No. 6

TO: MEMBERS OF THE SPECIAL COMMITTEE ON STRENGTHENING WISCONSIN FAMILIES

FROM: Anne Sappenfield, Senior Staff Attorney

RE: Other States' Laws Relating to Relative Finding and Kinship Navigator Programs

DATE: November 26, 2008

This Memo describes several other states' laws relating to identifying relatives of a child who is taken into custody in a child protective services proceeding. In addition, the Memo discusses two states' kinship navigator programs.

RELATIVE FINDING

Under Wisconsin's Children's Code, a child may be placed with a relative when the child is taken into temporary custody, as a disposition, or as a permanent placement. [See ss. 48.207 (1) (a), 48.345 (3) (a), 48.427 (3m) (a) 5., and 48.835, Stats.] In addition, in a child's dispositional order for a child in need of protection or services (CHIPS) proceeding, if there is no less drastic alternative for a child than transferring custody from the parent, the judge must consider transferring custody to a relative whenever possible. [s. 48.355 (1), Stats.] The agency preparing a permanency plan for a child must also include in the plan a statement as to the availability of a safe and appropriate placement with a fit and willing relative of the child and, if a decision is made not to place the child with an available relative, a statement as to why placement with the relative is not safe or appropriate. [s. 48.38 (4) (bm), Stats.] Finally, before the Department of Children and Families (DCF), a county department or a child welfare agency may place a child for adoption, that agency must consider the availability of an adoptive placement with a relative of the child who is identified in the permanency plan or otherwise known by that agency. [s. 48.834 (1), Stats.]

In Wisconsin, the Department of Health and Family Services (now DCF) has established a practice guide for locating and involving non-custodial parents, alleged fathers, and relatives, but state statutes do not require agencies to search for relatives.

Connecticut

In Connecticut, if a child is removed from the custody of a parent, best efforts must be made to identify and notify the grandparents of the child not later than 15 days after the child is removed from the home. A grandparent may provide contact information for the purposes of this notice if the child is the subject of a child protective services investigation or under the supervision of an agency. [Conn. Gen. Stat. s. 17a-10b.]

Texas

Under Texas law, if there is a determination that removal of a child from the home may be warranted, the parent or legal custodian of the child must be provided with a proposed child placement resources form that instructs the parent or custodian to identify three individuals who could be relative caregivers or designated caregivers. A “designated caregiver” is an individual who has a longstanding and significant relationship with a child and is appointed to provide substitute care for the child but is not licensed to operate a foster home. [Tex. Fam. Code Ann. ss. 261.307 and 264.751.]

New York

Under New York statutes, when a court determines that a child must be removed from his or her home, the court must direct the local commissioner of social services to conduct an immediate investigation to locate any other parent of the child and any relatives of the child, including all of the child’s grandparents, and all suitable relatives identified by the child’s parent or by a child over the age of five as a relative who plays or has played a significant positive role in the child’s life. The commissioner must inform any relative identified of the pendency of the proceeding regarding the child and of the opportunity for becoming a foster parent or for seeking custody or care of the child, and that the child may be adopted by foster parents if attempts at reunification with the birth parent are not required or are unsuccessful. [N.Y. Fam. Ct. Act s. 1017.]

Minnesota

Minnesota statutes provide that, when a child is placed in an out-of-home placement, the child-placing agency must place the child in a family foster home selected by considering placement with relatives and important friends in the following order: (a) with an individual who is related to the child by blood, marriage, or adoption; or (b) with an individual who is an important friend with whom the child has resided or had significant contact.

The responsible social services agency must identify relatives of the child and notify them of the need for a foster home for the child and of the possibility of the need for a permanent out-of-home placement of the child. The statutes provide that the relative search must be reasonable and comprehensive in scope and may last up to six months or until a fit and willing relative is identified. The relative search must include both maternal relatives of the child and paternal relatives of the child, if paternity is adjudicated. The relatives must be notified that they must keep the social services agency informed of their current address in order to receive notice that a permanent placement is being sought for the child.

When the placing agency determines that a permanent placement hearing is necessary because there is a likelihood that the child will not return to a parent's care, the agency may send notice to relatives and adults with whom the child lives or has lived for one year or longer. Relatives may not be notified when the child is placed with an appropriate relative or a foster home that has committed to being the permanent legal placement for the child and the agency approves of that foster home for permanent placement of the child.

In general, when an agency determines that it is necessary to prepare for the permanent placement determination hearing, or in anticipation of filing a termination of parental rights (TPR) petition, the agency must send notice to the relatives, any adult with whom the child is currently living, any adult with whom the child has resided for one year or longer in the past, and any adults who have maintained a relationship or exercised visitation with the child as identified in the agency case plan. The notice must state that a permanent home is sought for the child and that the individuals receiving the notice may indicate to the agency their interest in providing a permanent home. [Minn. Stat. s. 260C.212.]

KINSHIP NAVIGATOR PROGRAMS

Several states have established kinship navigator programs to assist relative caregivers in identifying services and resources available to them.

Indiana

Indiana law requires the Indiana Department of Child Services to collaborate with at least one nonprofit community-based organization to develop a grant proposal for submission to potential funding sources, including governmental entities and private foundations, to establish at least three kinship care navigator pilot projects to assist kinship caregivers with understanding and navigating the system of services for children in out-of-home care. The implementation of the pilot projects is contingent upon receipt of non-state or private funding for the projects.

For purposes of this program, a "kinship caregiver" is a person who is related to the child by blood, adoption, or marriage or is a godparent or stepparent of the child and is the primary caregiver for and provider of financial support of the child. The term includes a grandparent, great grandparent, sibling, uncle, aunt, nephew, niece, or first cousin.

A person who acts as a kinship care navigator under a pilot project must be required to do the following:

- Have an understanding of the various state agency systems serving kinship caregivers.
- Work in partnership with local community service providers.
- Track trends, concerns, and other factors related to kinship caregivers.
- Assist in establishing stable, respectful relationships between kinship caregivers and the staff of the Indiana Department of Child Services.

The Department of Child Services must report annually to the legislature and the governor on the implementation of the kinship care navigator pilot projects with recommendations on statewide implementation. The report must provide data that demonstrates whether the kinship care navigator pilot projects reduced barriers of access to services by kinship caregivers; identify statutory and administrative barriers for kinship caregivers; and provide recommendations to reduce or eliminate the barriers to services without adverse consequences to children placed with kinship caregivers. [Ind. Code s. 31-25-2-20.]

Kentucky

In Kentucky, the Cabinet for Health and Family Services is required to create a centralized statewide service program that provides information and referrals through a statewide toll-free telephone number to grandparents who are caring for minor grandchildren. The program is entitled the “KinCare Support Program.”

The program must provide information on a wide variety of services, including:

- Kentucky Transitional Assistance Program (a cash assistance program for certain low-income individuals and families).
- Medical coverage and services, including the Kentucky Children’s Health Insurance Program.
- Educational services.
- Child care.
- Child support.
- Support groups.
- Housing assistance.
- Legal services.
- Respite care for low-income kinship caregivers.

[Ky. Rev. Stat. Ann. s. 405.023.]

AS:ksm