

## Virtual Training Studyguide: Legal Issues For Kin Caregivers

"Kinship" means the relationship that exists between a child and a relative of the child, a godparent, a member of the child's tribe or clan or an adult with whom the child has a significant bond.

### Kinship Caregiving in the United States

- At least 7.8 million children live in households headed by grandparents or other relatives (this includes those in which the child's parent may or may not also live).
- 2.7 million (4%) of all U.S. children are being raised in grandfamilies or kinship care situations.
- Children placed with relatives are 26% of all children in the foster care system.

### The Benefits of Kinship Care

- Family preservation.
- Child's psychological and emotional stability more easily maintained within the family system.
- Kinship caregivers can intercept and help the child avoid family life cycle interruptions and family legacies such as substance abuse, family maltreatment and codependency.
- Children placed in kinship care are better able to address unresolved family issues and traumas.
- Minimizes the child's feelings of abandonment and/or rejection by being placed with kin.

### Challenges of Kinship Care: Who's the Boss?

- Role and boundary confusion can be problematic for the child, caregiver and bioparent.
- Adults may be threatened by the need to establish a hierarchy for decision-making and authority.
- Children may find it challenging to accept the new hierarchies and roles.

### Kinship Guardian Act

- After 90 days of you taking guardianship you are allowed to be appointed as a legal guardian
- Contest any appointments
- Will appoint a kinship guardian if it is in the best interest of the child

### Types Of Guardianship

- Power Of Attorney
- CYFD Placement
- Caregiver Affidavit
- Kinship Guardianship

### Short-Term Option: CYFD Placement

CYFD can voluntarily place a child with a caregiver without granting the caregiver custody. These placements are called voluntary placement agreements or safety plans. The agreement is signed by a parent in order to keep a child out of CYFD custody.

## **Short-Term Option: Power Of Attorney**

- A legal document in which a parent authorizes another adult to act in the parent's place on behalf of the child. A Power of Attorney is a "permission slip" which tells others, such as doctors or teachers, that when a parent's signature is needed, the other adult has authority to sign in place of a parent. By signing a Power of Attorney the parent does not give up any parental rights.
- The parent retains all legal rights. With a Power of Attorney, the parent shares the authority to make decisions with a designated adult.
- The parent decides which duties he/she wishes to share with the other adult, and the length of time that the Power of Attorney will be in effect.
- Can be used for a limited purpose such as taking a child to a specific doctor appointment or registering a child for school. A Power of Attorney can also be used for broad purposes such as all decisions regarding care, custody, or property of the minor child.
- Only valid for up to six (6) months.
- A Power of Attorney can be revoked by the parent at any time.

## **Long-Term Options: Caregiver Authorization Affidavit**

- A legal document, filled out by the Caregiver, that allows the caregiver to enroll the child in school and consent to medical treatment.
- This affidavit is valid for one (1) year from the date on which it is executed.
- Does not take away or suspend parent's legal rights.

## **Long-Term Options: Kinship Guardianship**

- An Order for Kinship Guardianship suspends the rights of a child's parents and transfers most of those rights to a guardian when parents are unable or unwilling to care for the child. The child must have resided with the guardian for 90 days without a parent in the home.
- This is not 100% permanent.
- If a parent, guardian, or child 14 years old or older wants to revoke the guardianship they have to file in the Court.

## **Legal Resources**

- GUARDIANSHIP LEGAL HELPLINE: 1-833-355-6944 or 505-217-1660
- DNA LEGAL SERVICES: 1-928-871-4151, DNALEGALSERVICES.ORG
- NEW MEXICO LEGAL AID: 833-545-4357 (833-LGL-HELP)