

## **House Memorial 94**

### **Taskforce on Grandparents Raising Grandchildren**

### **Recommendations for Increasing Resources and Assistance**

#### **I. Process:**

The Taskforce on Grandparents Raising Grandchildren (the Taskforce) has been in existence since 2015. In 2018 Senate Memorial 94 once again renewed the Taskforce. In addition to advocates and community-based organizations, we have had participation by Children, Youth & Families Department, the Aging & Long Term Services Department, Public Education Department, Health and Human Services Department, and the Attorney General's Office.

The SM 94 Taskforce was called upon 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;

This report reviews the issues faced by grandparents raising grandchildren and other kinship caregivers, identifies specific recommended policy changes, and reports on the status of those recommendations.

#### **II. Issues Facing Grandparents Raising Grandchildren in New Mexico**

The Taskforce has 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. 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 them.**

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: 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. 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.

**Recommendations:**

1. Appropriate funds (\$200,000) to encourage community-based organizations around the state to develop supportive services for grandparents and other kinship caregivers raising children.
2. Ensure that ISD case workers are trained on the eligibility of grandparents raising grandchildren and the grandchildren themselves for public benefits.
3. Each ISD office to have an identified expert on the eligibility of grandparents raising grandchildren, and the grandchildren themselves, for public benefits.

**Status:** No action has been taken to implement these recommendations. Income Support Division management has been unwilling or unable to participate on the Taskforce.

**B. Grandparents raising grandchildren face income and other barriers to accessing subsidized childcare**

The cost of quality childcare is a major challenge for grandparents and others raising children whose parents are unwilling or unable to care for them. The average cost of childcare for one child in New Mexico is \$8,865 a year, or \$738.75 per month. Current regulations make it easy for grandparents to access childcare if they first apply for child-only TANF cash assistance (maximum monthly benefit is \$227). Grandparents applying for TANF cash assistance will not have their income taken into account regardless of their status as legal guardians. However, if the grandparent does not need or want cash assistance, but does need the childcare subsidy in order to make ends meet, their income will be taken into account if they have legal guardianship. In order to be eligible, their income must be below 150% of the federal poverty guidelines. Consequently, grandparents who were just able to cover their expenses before taking in a child, will suddenly have a major hole in their budget with no way to cover it; some working grandparents must spend 30% of their income on childcare.

Grandparents who raise their grandchildren save the state tens of thousands of dollars each year by keeping them out of state foster care and they do so at a time of life when they need to be putting money aside for their own retirement. Without financial help with child care, some grandparents are even forced to quit their jobs so they can stay home and take care of their grandchildren. Grandparents raising grandchildren deserve support and should be eligible for a childcare subsidy regardless of income and should not have a disincentive to seek legal guardianship.

**Recommendation:**

1. Amend the NM Administrative Code to make grandparents and other kinship caregivers eligible for child care subsidy regardless of income or their status as legal guardians.

**Status:** This recommendation has not been adopted by the legislature or the administration.

**C. 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. 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.

**Recommendations:**

1. Make Medicaid case management services available to grandparents raising grandchildren.

**Status:** The J. Paul Taylor Early Childhood Taskforce<sup>1</sup> is addressing this issue insofar as it applies to young children. These services should be available to older children in kinship families, as well.

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

**Status:** The Taskforce is working on this recommendation with local Housing Authorities.

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<sup>1</sup> 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.

**Recommendations:**

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. 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.
3. Appropriate state funds to create a fully staffed 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.

**Status:** The Taskforce recommends that the Legislature act on this recommendation in the 2019 Session. Children and youth living with caregivers continue to be turned away from school in violation of the McKinney-Vento Act. Codifying the McKinney-Vento requirements and increasing resources for education and monitoring will reinforce the State’s commitment to ensuring that all children in homeless situations can attend 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 twelve 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 30-60 days to receive services.

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 \$100,000 is 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.

**Recommendation:**

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 \$100,000.

**Status:** Budgetary constraints have prevented adoption of this recommendation in previous sessions. The Taskforce encourages the Legislature to act to increase funding for legal services in the 2019 Session.

**F. 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.

**Recommendation:**

1. 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 New Mexico's behavioral health system, and lends support to other efforts currently underway to address this critical issue such as the John Paul Taylor Taskforce.

**G. Issues related to the Department of Children Youth & Families**

- 1. 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 at all 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 caseworker 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.

CYFD is in the process of implementing Safety Organized Practice and is developing a new safety assessment for the staff as part of ongoing case assessment.

- 2. 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 repeat abuse and neglect.

**3. 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 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 if they cannot go through the formal foster care licensure process. Family members are sometimes dismissed as too demanding and workers stop communicating with them. Social workers sometimes discourage family members from applying to be a placement for the child, telling them they would not qualify even if they went through the licensing process.

CYFD-Protective Services is aware that children in foster care often lose important connections with family, relatives and others who care about them. CYFD is working closely with the Capacity Building Center for States to develop a model for working with relatives that demonstrates authentic partnering so that relatives remain involved in the lives of the children while in care and relatives feel supported and valued by the agency.

In addition, CYFD was recently awarded a one-time grant to implement a Kinship Navigator Program that will focus on referral and information to relatives regardless of whether their relative children are in the custody of the state. The vision for this program is to link relatives to available services in the state.

**Recommendation:**

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.

**Status:** The Taskforce intends to address this recommendation with the incoming administration. N.B.: Enactment of the Uniform Guardianship Act may eliminate issue c, the gap between the child welfare system and the Kinship Guardianship Act.

### **III. 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 may not all be realized 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.

### **IV. Taskforce Participants**

**Liz McGrath, Taskforce Co-Chair**  
**Pegasus Legal Services for Children**

**Rosaisela Burciaga, Taskforce Co-Chair**  
**New Mexico Department of Children Youth & Families**

**Simone Ali,**  
**Outcomes, Inc.**

**Louise Archibeque**  
**Pegasus Legal Services for Children**

**Rex Davidson**  
**Las Cumbres Community Services**

**Jason DeHerrera**  
**New Mexico Department of Children Youth & Families**

**Tamara Gregg**  
**MCH Family Outreach**

**Brenda Garcia**  
**New Mexico KIDS**

**Sammie Hayes**  
**Las Cumbres Community Services**

**Brad Hill**  
**New Mexico Attorney General's Office**

**Bill Jordan**  
**NM Voices for Children**

**Larry Kronen**  
**Attorney at Law**

**Amanda Lopez**  
**Pegasus Legal Services for Children**

**Deborah Lucas,**  
**Social Worker/Advocate**

**Miriam Rea,**  
**Pegasus Legal Services for Children**

**Melissa Reid-Ciferri**  
**Parents Reaching Out**

**Delfinia Romero**  
**Las Cumbres Community Services**

**Wendy Wintermute**  
**SHARE New Mexico**