



Pennsylvania
Department of Human Services

SPECIAL TRANSMITTAL

SUBJECT: Act 48 of 2023 Giving Kinship Care Providers a Voice in Child Custody Proceedings

TO: County Children and Youth Social Service Agencies
Private Children and Youth Social Service Agencies
County Children and Youth Administrators Association
County Children and Youth Solicitors

FROM: Laval Miller-Wilson
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Office of Children, Youth, and Families

DATE: July 15, 2024

PURPOSE

The purpose of this special transmittal is to inform county children and youth agencies (CCYAs) of updates to Title 42 (Judiciary and Judicial Procedure), outlining new requirements for the provision of timely notification of hearings to “potential kinship care resources.” These changes have occurred due to the passage of Act 48 of 2023 (Act 48). This special transmittal provides information regarding Act 48’s impact on agency practice.

BACKGROUND

On December 14, 2023, Governor Josh Shapiro signed Act 48, entitled “Giving Kinship Care Providers a Voice in Child Custody Proceedings”, into law. The intent of Act 48 is to make potential kinship care resource voices heard and to identify and document additional kin supports and connections. Act 48 took effect on February 12, 2024.

Act 48 amends § 6302 (relating to definitions) of the Juvenile Act to add:

- “Potential kinship care resource.” An individual who meets the requirements to be an emergency caregiver and has expressed a willingness to be a kinship caregiver for a dependent child.

Act 48 amends § 6336.1(a) (relating to notice and hearing) of the Juvenile Act to direct the court to:

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- Direct the county agency to provide the child's potential kinship care resource with timely notice of the hearing.
- Provide a potential kinship care resource with the right to be heard during a scheduled hearing or at a separate dispositional hearing, but only as to the individual's qualifications to provide kinship care.
- Render a decision, once a potential kinship care resource has had an opportunity to address the court, whether the potential kinship care resource may receive notice or participate in future hearings under this chapter.

The potential kinship care resource for the child does not have legal standing in the matter being heard by the court unless a kinship care resource for a child has been awarded legal custody pursuant to section § 6357 (relating to rights and duties of legal custodian).

DISCUSSION

Prior to the passage of Act 48 of 2023, § 6336.1 (relating to notice and hearing) of the Juvenile Act required the court to direct the county agency to provide "the child's foster parent, pre-adoptive parent or relative providing care for the child the right to be heard at any hearing under this chapter". The passage of Act 48 added "potential kinship care resource" to the list of individuals who must be provided with timely notification of the hearing and the right to be heard during the scheduled hearing or at a separate dispositional hearing, but only as to the individual's qualifications to provide kinship care.

In 1987, the Office of Children, Youth and Families (OCYF), issued Bulletin 3130-87-07, entitled Child Placements with Emergency Caretakers. This bulletin outlined the Department's policy on the maximum length of emergency caretaker placement and the exemption of criminal records checks for emergency caregivers. In 2003, OCYF issued the Child Placements with Emergency Caregivers (Emergency Caregiver) Bulletin 3140-03-08/3490-03-04, replacing OCYF Bulletin 3130-87-07, which distributed policies regarding the minimum residential and safety requirements, and extended the maximum length of emergency caregiver placements. In 2003, OCYF also issued the Kinship Care Policy Bulletin 00-03-03, which outlined policy regarding formal and informal kinship care services as placement options for children. OCYF updated and issued the Child Placement with Emergency Caregivers Bulletin 3140-04-05/3490-04-01 on July 1, 2004. This bulletin reduced the minimum requirements set forth for approval of an emergency caregiver's home, included the county agencies' ability to utilize the services of a licensed private foster family care agency for the purpose of evaluating an emergency caregiver's home and included guidance related to Act 25 of 2003, The Kinship Care Act, which required county agencies to document their attempts to place a child with a relative, and the use of Temporary Assistance to Needy Families (TANF) funds for the first 30 days a child is placed with an emergency caregiver. The Emergency Caregiver Bulletin and the Kinship Care Bulletin are meant to be used in conjunction with one another. These bulletins promote the safe placement of children with individuals who have an established relationship with the child. Act 48 provides an opportunity for reminders of practice implications to strengthen kin

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connections. CCYAs should utilize the definition of “kin” as defined in Chapter 75 of the Human Services Code related to Family Finding and Kinship.

“An individual 21 years of age or older who is one of the following:

- (1) A godparent of the child as recognized by an organized church.
- (2) A member of the child’s tribe, nation, or tribal organization.
- (3) An individual with a significant, positive relationship with the child or family”.

The Fostering Connections to Success and Increasing Adoptions Act of 2008 established relative notification to the fifth degree within 30 days of a child’s removal from the home to identify relatives as a resource for children and youth entering out-of-home care. The Special Transmittal, entitled Relative Notification, issued September 13, 2018, updated who should receive the relative notification. The Special Transmittal, entitled Family Finding Act 118 of 2022 Guidance, issued March 6, 2023, extends who should receive the notification.

CCYAs should continue to conduct family-finding activities as outlined in the Special Transmittal, entitled Family Finding Act 118 of 2022 Guidance, issued March 6, 2023.

“CCYA teams must exercise due diligence in identifying and notifying:

- All grandparents.
- Other adult relatives to the fifth degree of consanguinity or affinity to the parent or stepparent of a dependent child.
- Each parent who has legal custody of a sibling of a dependent child”.

CCYAs are reminded that utilizing family finding and diligent search to locate next of kin, is not just for the purpose of locating a potential placement. Kin can support the child in other ways such as respite opportunities, after-school care, vacations, maintaining connections to extended family, and cultural connections.

Act 48 introduces a new requirement to provide timely notification to all potential kinship resources of hearings and the right to be heard. Prior to the hearing, CCYAs should now assess all kin that express a willingness to be a kinship caregiver for a dependent child to determine if they meet the minimum requirements for approval as an emergency caregiver. The minimum requirements for approval are outlined in the “Child Placement with Emergency Caregivers Bulletin 3140-04-05/3490-04-01 issued July 1, 2004. The due process procedures outlined in the bulletin must also be followed by completing the Emergency Caregiver Confirmation of Intent, Notification of Approval/Denial; Notification of Maintenance Rate; and Notification of Foster Parent Option and Appeal Rights. Individuals who meet the requirements to be an emergency caregiver and who have expressed a willingness to be a kinship caregiver for the dependent child should receive timely notification from the CCYA of the hearing and their right to be heard.

Any questions regarding this transmittal should be directed to the appropriate OCYF Regional Office.