A National Review of State Legislative, Policy, and Implementation Approaches to Fostering Connections Options – Guardian Assistance Program and Extended Foster Care to age 21.
Executive Summary

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The Fostering Connections to Success and Increasing Adoptions Act of 2008 (H.R. 6893/P.L. 110-351) (The Act) authorizes the federal Guardian Assistance Program (GAP) which allows states to provide kinship guardianship assistance payments to kin who assume legal guardianship of children for whom they have cared while foster parents. The Act also allows states the option to amend their Title IV-E state plans to claim federal funds for young adults in foster care beyond their 18th birthday, or for those who exited foster care after age 16 to guardianship or adoption, to age 19, 20, or 21.

Currently, eight states have already implemented these options available under The Act (see attached State Summaries, Section I), and minimally 18 states are at various stages of the implementation process (see State Summaries, Section II).

All states have implemented rule and statute changes to accommodate new provisions in their State Plans and to conform with components of The Act. Sample State Legislation needed to implement the GAP component is found in Appendix B which outlines key issues relating to: child eligibility, guardian eligibility, guardianship assistance agreements requirements, and case plan requirements. All states currently implementing or in progress require each relative placement to obtain foster parent licensing consistent with the states’ existing licensing requirements (i.e. no variation or “tiered” approach), with the exception of Oregon which is currently codifying modifications only to the required training element of their licensing plan. Some states, such as Tennessee have broadened the definition of relative to include kin who already have an attachment to the child (pre-existing relationship), including godparents and close family friends.

States acknowledge understanding that some non-safety related licensing requirements can be waived on a case-by-case basis and some report allow use of that option; some specifically prohibit it. None, however, report having modified or new rules/operating procedures that provide guidance or statewide consistency regarding definitions of “non-safety related” or other criteria for review or approval of waivers. Tennessee includes case-by-case home approval considerations.

Several states have expressed dissatisfaction with the provision that requires children reside in a licensed foster care placement for 6 months prior to being eligible for GAP. Relative placements of any duration do not qualify until and unless the relative is fully licensed and although a child may have been in that relative placement for years, the 6...
month requirement does not begin until the 6th month following the relatives foster care license date. Some states have petitioned for this federal requirement to be modified. Tennessee received clarification from ACF that a break of more than 14 days would disrupt the “6 consecutive months” definition of the length of time a child has been in a home.

States have modified statutes to ensure consistency with the Act requirement that GAP payments may not exceed a state’s foster care board rate. Some states, like Texas, have included statutory language that defines limits in such a way that may allow for higher payments for certain children, such as a rate that the state would pay to a foster care provider for a particular child that may have extraordinary needs.

None of the states surveyed indicated any particular challenges in gaining approval for their revised state plans, although Michigan reports much discussion was needed to reconcile the difference between the existing state program and new program called “Kin-GAP”. While most experienced requests for clarification from their regional offices, the review and approval process appears to be relatively smooth for most states.

States establishing foster care for youth to age 21 have required modifications to most of their related statutes and rules however established provisions of their existing independent living services and foster care/adoption programs are consistent with requirements of the Act and therefore have carried over to new legislation and rules. The primary challenge and consideration has been available state revenue dollars to support implementation. Many have used Chafee funds solely to support services to youth over 18 and there is little new general revenue to support what has the potential to be a large increase in youth served. This, for the most part, is the primary challenge and barrier faced by most states.

Detailed summaries, organized by State, are found in the documents that follow.

Copies of relevant state statutes, rules, plans, applications, with important related details are included in the attachments and exhibits.

Also included are other useful resources, tips, and tools found on the web that have been made available by federal, state, and advocacy organizations. These documents can serve as a helpful roadmap to assist in future implementation.

Where possible, all referenced items in the state summaries are active hyperlinks where they are referenced and all are also reproduced as attachments for offline review, distribution, etc.
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1. State Summaries – Narrative Summary of Implementation
   Activities and Status for each referenced State

2. Summary of Key Features, Elements, State, Contacts, etc. listed
   by State – Matrix

3. Attachment A – Index of Exhibits

4. Attachment B – Guideline Information and Resources

5. Attachment C - Guardianship Assistance Programs Background
   and Materials

6. Exhibits 1-22 – Copies of relevant statues, rules, policies,
   procedures applications, plans, etc. available for each state.