

## New Supports for Relative Placements of Abused, Neglected, and Dependent Juveniles

Recent changes to both state and federal law aim to increase support for relatives who provide placement and care of juveniles who are the subject of abuse, neglect, and dependency (AND) proceedings. Financial assistance to offset the costs of care and the possibility of new and relaxed licensing standards for relative placements could have a significant effect on a number of juveniles across North Carolina. This post addresses the new laws and considers what it may mean for children, families, and attorneys who represent parents in juvenile AND proceedings.

### **An overview of recent state and federal legal updates**

**North Carolina.** For the first time in North Carolina, recurring financial assistance will be available for relative placement providers who are not licensed as foster parents. This financial assistance is similar to (but not quite the same as) the assistance that has long been provided to non-relative licensed foster homes. As of November 16, 2023, the Division of Social Services at the Department of Health and Human Services (DHHS) is required to create and implement a policy for reimbursement of relative placements. [S.L. 2023-14, Section 6.6.\(a\)](#). Reimbursement rates will depend on the age of the juvenile and will be calculated as follows:

<b>Age of Juvenile</b>	<b>Monthly Rate Per Juvenile</b>
Birth through 5 years-old	\$351.00
6 through 12 years-old	\$371.00
13 but less than 18 years-old	\$405.00

S.L. 2023-14, Section 6.6.(b).

To be eligible, the individual must be related to the juvenile by blood, marriage, or adoption. See G.S. 7B-101(18a). The relative must also provide foster care as defined in [G.S. 131D-10.2\(9\)](#), meaning “the continuing provision of the essentials of daily living” for children including those that are adjudicated abused, neglected, dependent, or delinquent. S.L. 2023-14, Section 6.6.(a).

**Federal rules.** I previously published a [post](#) on a series of regulatory changes proposed by the federal Administration for Children and Families (ACF) that sought to support relative and nonrelative kinship foster placements for juveniles. Those changes have since been adopted and published in [88 Federal Register 66700](#) (September 28, 2023).

Effective November 27, 2023, states have the option of establishing licensing requirements and approval standards for relative foster family homes that are different from those applied to non-relative foster family homes. States are “encouraged...to consider adopting licensing or approval standards for all relative or kinship foster family homes that place as few burdens on such families as possible.” *Id.* at p. 66701. The ACF has stressed the importance of ensuring that all licensed foster homes, regardless of relative status, prioritize the safety of juveniles placed in the home. *Id.* at p. 66704.

IV-E agencies of any state (in North Carolina, DHSS) that chooses to participate must ensure that a licensed relative foster home receives the same payment as a licensed non-relative foster home. *Id.*; see also amended 45 C.F.R. 1356.21(m)(1). Thus, if North Carolina chooses to participate, relatives licensed under the new, presumably relaxed licensing requirements, would be entitled to equal reimbursement as traditional foster homes – a rate twice the new rates established by S.L. 2023-14 for unlicensed relative placements.

As of the date of this post, North Carolina DHHS has not publicly announced whether it is intending to participate. However, current Rules adopted by the Social Services Commission allow for a waiver of certain licensing requirements. See 10A N.C.A.C. 70L. 0102. The NC Child Welfare Manual references the waiver of licensure requirements when discussing a suitable relative placement. See “[Permanency Planning](#),” p. 44.

### **Priority for relative foster placements**

North Carolina’s legislative move towards financial support of relative foster home placements is consistent with the importance of families in AND proceedings, reflected both in practice and in existing law.

**A heavy reliance on families.** When a Department of Social Services (DSS) files a juvenile AND petition and obtains custody of a juvenile, the juvenile’s family members often play an important role in their care moving forward. For example, in the last two full fiscal years (July 2020 through June 2022), one-third of all juveniles in DSS custody statewide were initially placed with a relative. For many of those families, this commitment lasts longer than a few days or weeks. Over the last twenty-five years (July 1997 through June 2022), an average of 60% of all children in DSS custody, regardless of placement, remained in custody after 360 days. In recent years, that number has consistently trended higher and is now close to 70%. More than 40% of all children in DSS custody

had only one placement in their first year, meaning a large portion of children who are placed with relatives often stay there. Duncan, D. F., et al (2022). [Management Assistance for Child Welfare, Work First, and Food & Nutrition Services in North Carolina](#) (v4.00). Retrieved November 10, 2023, from University of North Carolina at Chapel Hill School of Social Work.

**Statutory preferences and mandates.** Family significance is woven throughout North Carolina's Juvenile Code, found in N.C. Gen. Stat. Ch. 7B. The Juvenile Code repeatedly prioritizes relative placement in AND proceedings and ensures efforts to involve families – a reflection of North Carolina's positive view of familial units and bonds. The relative priority is also recognized in federal law. See 42 U.S.C. 671(a)(19), (29).

- *Nonsecure custody.* When a temporary custody order is sought for the period before an adjudication, the court may enter nonsecure and continued nonsecure custody orders. The court must consider whether placement with a relative is possible. G.S. 7B-503(a). The court must also place the juvenile with a relative who is willing and able to provide proper care and supervision in a safe home unless the court finds it is contrary to the juvenile's best interests. G.S. 7B-505(b). DSS must also address relative placement by making diligent efforts to notify relatives or other individuals with custody of the juvenile's sibling that the juvenile is in nonsecure custody and has pending hearings and must notify the court of its attempts to do so. *Id.*
- *Adjudication.* If a juvenile's parent, guardian, or custodian (i) is unable to provide for the juvenile's care or supervision and (ii) lacks an appropriate alternative child care arrangement, the juvenile is dependent. G.S. 7B-101(9). A juvenile is not dependent if the parent has an appropriate alternative child care arrangement, which often involves a relative.
- *Disposition and later hearings.* If as a dispositional alternative a court places a juvenile outside of the home, the court must first consider whether the juvenile has a relative who is willing and able to provide proper care and supervision in a safe home. If so, then the court must place the juvenile with the relative absent findings that the placement is contrary to the best interests of the juvenile. G.S. 7B-903(a1).

For a discussion of case law relevant to parent and relative placement priority, see [Section 7.4.C.1](#) of The Abuse, Neglect, Dependency, and Termination of Parental Rights Manual, beginning on page 7-30.

### **What this means for parents and their attorneys**

Parent attorneys should consider what financial assistance for unlicensed relative foster home placements, and the possibility of relaxed licensure requirements and approval standards for relatives, may mean for parents and for parent representation.

**Expanded pool.** A primary consequence of the changes (and likely one of the key motivators behind the changes) is that for many juveniles, it will mean a larger pool of placement options. Financial assistance may be the difference for a relative who is appropriate, familiar, and willing to provide care to the juvenile but is financially unable to do so. This change could result in continuity and familiarity for a juvenile who is the subject of an AND proceeding versus removal from one's family and possibly community for placement with an unknown provider.

**Empowering clients.** Parent attorneys should inform their clients about the potential for financial reimbursement and should, with their clients' permission, inform relatives as well. Parent attorneys can also request that DSS inform relatives who are willing to provide placement of the new financial assistance. Families need to know about the possibility of assistance so that they can make informed decisions about placement.

**Advocating for relative placements.** These changes are a good reminder of the need to propose and address relative placements throughout a proceeding. The Juvenile Code offers ample opportunities for proposing placement with a relative. For example, a parent attorney may call Grandma to testify at nonsecure as to her willingness and ability to provide a safe home. Placement with Grandma may prevent or minimize the juvenile's time spent in traditional foster care. Or, after an adjudication, a parent attorney may offer evidence of a relative placement alternative. Parents and their attorneys should maintain awareness of possible relative placements throughout the life of a case and should request DSS complete home studies where appropriate, and if necessary, request that the court order a home study completed.

**Reasonable efforts.** New laws in support of relative placements have also raised the notion of reasonable efforts. Reasonable efforts are "[t]he diligent use of preventive or reunification services...when a juvenile's remaining at home or returning home is consistent with achieving a safe, permanent home for the juvenile within a reasonable period of time." G.S. 7B-101(18). At various stages of an AND proceeding, courts are required to make findings about whether a DSS with custody (or with placement authority) has made reasonable efforts to prevent the need for placement of the juvenile out-of-home. See, e.g., G.S. 7B-507(a)(2) (at nonsecure), 7B-903(a3) (at disposition), 7B-906.1(e)(5) (at permanency planning).

When determining whether DSS has made reasonable efforts, courts may consider whether DSS has worked with parents and relatives and informed them about the possibility of financial assistance, which could allow a juvenile to remain safely with their family. Parent attorneys should consider asking courts to order as specific reasonable efforts that relatives be contacted and informed of the potential for financial assistance, so that all players can make well-informed decisions and all options for family placement are identified.

**We are family...but are we friends?** A larger pool does invite more swimmers, but not all families are friendly. There is no guarantee that a relative and the juvenile's parent agree on much or get along. Parent attorneys should discuss with their clients the pros and cons of family placement and

should learn which placements a parent supports and which the parent objects to. For example, does the respondent father have an icy relationship with the juvenile's maternal grandparents? Is there a risk that the grandparents will disparage the respondent father or will otherwise interfere with he and the juvenile's relationship and visits? If so, the father's attorney should be ready with evidence as to why that placement is not in the child's best interests.

### **Closing thoughts**

If you have questions or other ideas about the changes to support relative foster home placements, please share with me anytime at [Heinle@sog.unc.edu](mailto:Heinle@sog.unc.edu). Hopefully with Thanksgiving approaching, many of you will be enjoying the holiday and time spent with your families. As a result of the legal changes discussed in this post, it may be that more of the juveniles in AND proceedings also get to spend time with their families at future holidays and beyond.