

# Kinship Guardianship: A Permanency Option to Address the Unique Needs of Children and Families

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# Overview of Presentation



- **Background on the federal Guardianship Assistance Program (GAP)**
- **Rationale for GAP provisions**
- **GAP Implementation News**
- **When is guardianship the right option for children, youth and their families**



# Federal Guardianship Assistance: Background



- **Since 1996 – Waiver demonstrations for guardianship in 11 states**
- **Growing evidence of benefits of guardianship**
- **Summer 2004: Senator Clinton introduces Kinship Caregiver Support Act**
- **Testimony by youth and caregivers on benefits of subsidized guardianship**

# Evaluation Results of Kinship Programs



Evidence from waiver evaluations has shown:

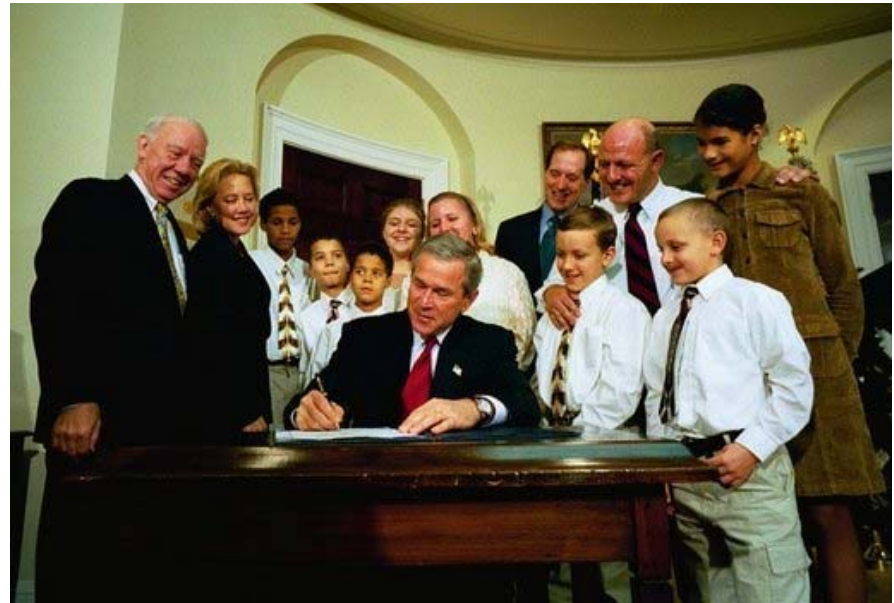
- Increased permanency rates (between 6.6 and 18.8% increase in guardianship and adoption)
- No compromise in safety or well-being
- Disruption rates that are no greater than adoption
- Some evidence it can boost adoption rates; some evidence that it does not

*Testa, 2010*

# Fostering Connections Act



- Fostering Connections to Success and Increasing Adoptions Act (P.L. 110-351) signed into law October 7, 2008
  - Passed with unanimous support in Congress
- Many provisions designed to encourage the use of kinship guardianship, along with several requirements to ensure that it is exercised judiciously



## Provisions that Encourage GAP



- Ability to use Title IV-E federal funds to support guardianship arrangements for eligible children
- Provisions that enable ineligible siblings to become eligible if a brother or sister is otherwise eligible
- Availability of non-recurring legal costs up to \$2,000
- Provision in Notice Requirement to discuss availability of guardianship subsidy

# Provisions to Exercise Judicious Use



- 6 month provision – must be in caregiver home for some time to assess child-caregiver relationship
- Relative guardianship as a strong commitment to care for the child and the child demonstrates a strong attachment to the prospective relative guardian
- Must be a licensed caregiver for a child in custody
- Reunification and adoption must be ruled out
- Youth age 14 or older must be consulted

## An option for some, but not all, families



- Guardianship assistance is to be considered in cases of children for whom reunification and adoption are deemed inappropriate by the state
- The Act requires clear documentation of “*steps the agency has taken to determine that it is not appropriate for the child to be returned home or adopted*” and “*efforts the agency has made to discuss adoption by the child’s relative foster parent as a more permanent alternative to legal guardianship*”

# Myth vs. Reality

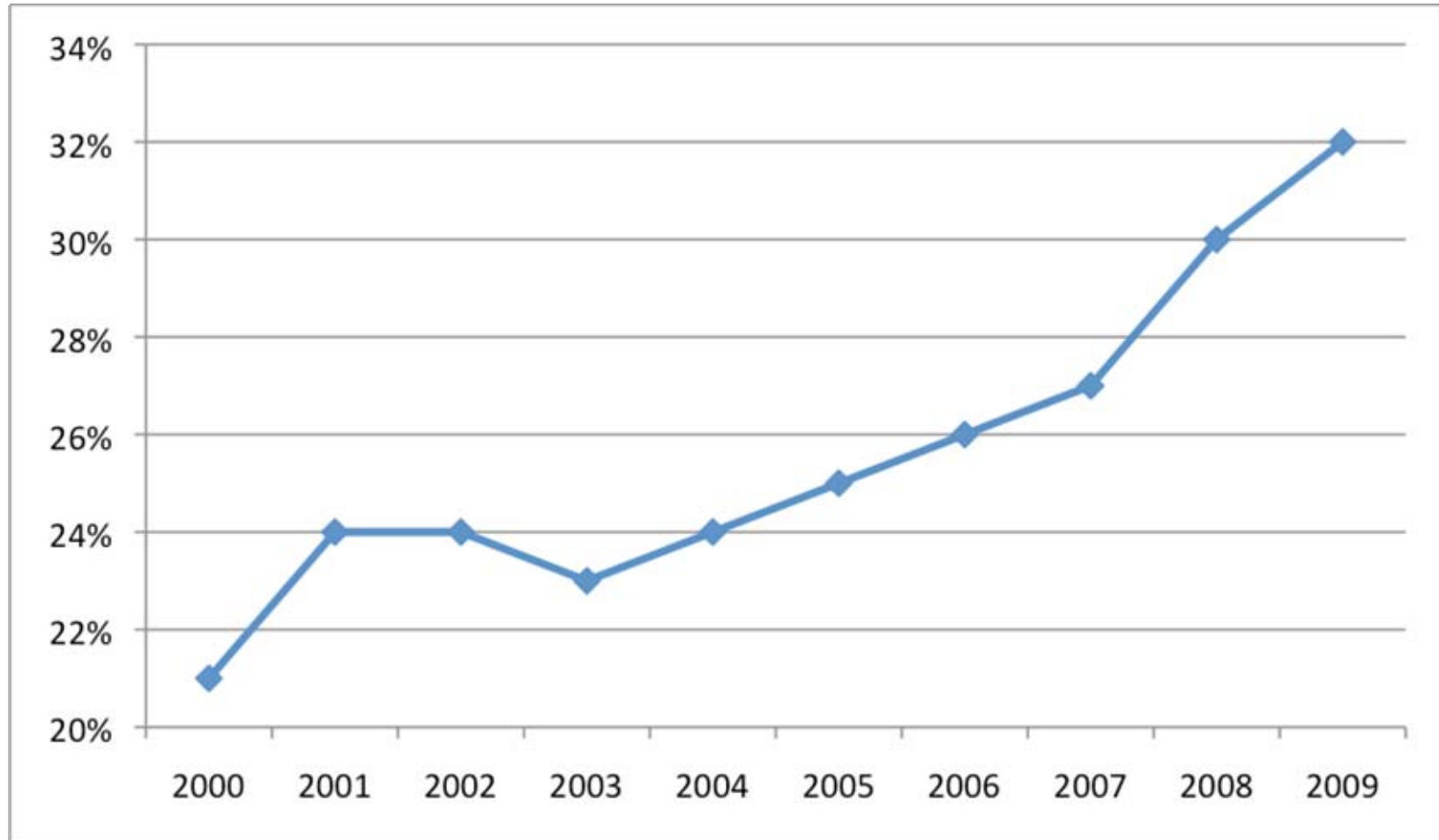


- **Myth in the field that relatives do not want to adopt**



- **Recent data supports that many relatives will in fact adopt if they believe that adoption is in the best interests of the child**

## Percentage of Children Adopted from Foster Care Who Are Adopted by Relatives, 2000-2009 (AFCARS)



# Implementation News



- **Sixteen states have taken the kinship guardianship option from Fostering Connections so far**
- **New York is one of only a handful of states to enact a program without one in place already**
- **Most recent federal data (2009) – guardianship still accounts for only 7% of all exits from foster care**



## 16 States Given Approval for GAP



- Rhode Island
- Pennsylvania
- Tennessee
- Michigan
- Montana
- Illinois
- New Jersey
- Oregon
- District of Columbia
- Colorado
- Maine
- Maryland
- New York
- Texas
- Alabama
- Missouri

# 11 States Submitted, but Not Yet Approved



- Connecticut
- Massachusetts
- Washington
- South Dakota
- Nebraska
- Louisiana
- Vermont
- Oklahoma
- Indiana
- Alaska
- California

# Implementation Lessons



- **First several months will be the easiest: many children in system for whom this will be an appropriate option upon implementation**
- **Immediate need: training for staff, attorneys and judges on when guardianship is appropriate**
- **Importance of engaging entire triad: Parents, youth, and relative caregivers in decision to extent possible**



## When subsidized guardianship is appropriate



- Young person has strong bond with parent and does not want to permanently sever parental rights
- Parent has a physical or emotional disability and cannot safely care for young person, but familial ties remain
- Relative caregiver believes permanently altering family legal ties is not in the best interests of the child
- Cultural norms make terminating parental rights inappropriate
- Family believes that siblings of different ages should have same legal status

# Considerations about Appropriateness

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## • Considerations for the Child

- Age, siblings, attachment to birth parents, views on adoption and TPR, safety

## • Considerations for the Relative Caregiver

- Understands this is a permanent commitment, comfort level with changed roles within family, ability to navigate complex family dynamics, views about TPR and adoption, relationship with birth parents

## • Considerations for the Parent

- Involvement in child's life, reason for inability to parent, ability to provide informed consent, grounds for TPR

## When Subsidized Guardianship is not appropriate



- As an end run around TPR and court process
- As a way to quickly close the case
- When promoted to the family without balanced education about adoption as a permanency option
- If pushed with birth parents as a sure way to regain custody of their children

# Family Engagement



**The availability of guardianship assistance does nothing to change the importance of continuous family and youth engagement in permanency planning**



# Got Questions?



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