

REPORT TO THE LEGISLATURE

Statewide Kinship Care Legal Aid Coordinator

RCW 2.53.055
Chapter 465, Laws of 2019

December 1, 2020

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Executive Summary

The first biennial Statewide Kinship Care Legal Aid Coordinator report for September 3, 2019 (date of hire) through November 2020 is required by Chapter 465, Laws of 2019 and RCW 26.53.055. The position was created by the Washington State Legislature in 2019 based on policy recommendations from the Kinship Care Oversight Committee. Kinship care includes relatives raising children who are not formally involved with the public child welfare system, as well as those connected to the formal child welfare system.

The Coordinator's duties under the statute include three main objectives:

1. Consult with the statutorily required entities and work with them to identify and facilitate the development of local and regional kinship care legal aid initiatives, and further efforts to implement relevant recommendations from the kinship care oversight committee.
2. Develop, expand, and deliver training materials designed to help pro bono and low bono attorneys provide legal advice and assistance to kinship caregivers on matters that relate to their ability to meet physical, mental, social, educational, and other needs of children and youth in their care.
3. Produce a biennial report outlining activities undertaken by the coordinator; legal aid resources developed at the statewide, regional, and local levels; and other information regarding development and expansion of legal aid services to kinship caregivers in Washington State.

Achievements since the date of hire include:

- Developing the 2021-2023 Legal Options Training Program with Attorney Consultations in collaboration with the King County Kinship Collaboration.
- Developing the Kinship Caregiver Estate Planning Program with Catholic Community Services of Western Washington.
- Developing the Benton-Franklin Kinship Custody Clinic in collaboration with the Central Washington Kinship Navigator.
- Developing CLE trainings and written resource materials for attorneys, and informational trainings and materials about the new Uniform Guardianship Act for Kinship Navigators and kinship caregivers.
- Building relationships with Kinship Navigators and Volunteer Lawyer Programs across the state.

Challenges, overarching goals for the next biennium, and strategies for including a race equity lens in the Coordinator's work are outlined in the report.

Introduction

This position was created by the Washington State Legislature in 2019 based on policy recommendations from the Kinship Care Oversight Committee (KCOC). The KCOC was formed in 2003 to provide guidance to the Legislature in identifying, supporting, and strengthening kinship care families. The KCOC has recommended more legal resources for kinship caregivers in some capacity ever since it was formed. Kinship care includes relatives raising children who are not formally involved with the public child welfare system, as well as those connected to the formal child welfare system.

Kinship Care in Washington State

Children who live with their grandparents and other relatives are there for different reasons: primarily for parental opioid and substance abuse issues, incarceration, mental illness, child abuse and neglect, parental death, or military deployment. In Washington State an estimated 51,000 children are being raised by grandparents and other relatives, *not including those in relative foster care*.¹ These families represent all income levels, races, and ethnicities. However, a majority of kinship caregivers served by Washington Kinship Navigators have incomes below 150% of the federal poverty level, and they are disproportionately (by almost double) Black, Indigenous, or people of color (BIPOC).² They are 41% White/Non-Hispanic, 30% African American/Black, 13% Hispanic, 13% American Indian/Native American, and 3% Asian/Native Hawaiian/Pacific Islander.³ While BIPOC kinship caregivers make up 59% of kinship caregivers, the Washington overall BIPOC population total is 32.5%.⁴

The most disproportionate groups represented by kinship caregivers are Black people and Indigenous people. The following numbers for total population are from the Census Bureau, while the numbers for percentage of kinship caregivers are from the Kinship Care Fact Sheet. According to the Census Bureau, Black/African Americans make up 4.4% of Washington State's population. *Yet 30% of kinship caregivers in Washington are Black/African American.* American Indian and Alaska Native people make up 1.9% of the state's population, *but 13% of the state's kinship caregivers.* Our Hispanic/Latino population is 13%, and they make up 13% of kinship caregivers. Finally, our Asian/Native Hawaiian/Pacific Islander population is 10.4% but they only make up 3% of kinship caregivers.

These demographics are important to recognize and highlight throughout the planning and work of the Kinship Care Legal Aid Coordinator (the Coordinator). The demographics are clear evidence that structural racism exists in our state and showcase the need to ensure that the services provided to kinship caregivers do not exacerbate or increase barriers for BIPOC families. The strategies the Coordinator is implementing to keep racial equity at the forefront of

¹ See Appendix A, Kinship Care Fact Sheet 2020 created by King County Kinship Collaboration.

² Id.

³ Id.

⁴ United States Census Bureau Quick Facts, available at <https://www.census.gov/quickfacts/WA>

all her work are based on guidance from the Race Equity & Justice Initiative Toolkit 2nd Edition⁵, and are described throughout this report.

Kinship caregivers can be state-involved as a placement for the relative child in foster care, or as a guardian or adoptive parent through the child welfare system. However, the majority of kinship caregivers in Washington are not state-involved and have become the caregiver for their relative child through avenues outside of the child welfare system. These non state-involved kinship caregivers seek legal custody through an array of options, including adoption, nonparent custody, and temporary parental consent agreements. They have access to some benefits such as Child-Only TANF but the amounts they receive are much lower than foster care payments. The legal option of nonparent custody is being repealed on January 1, 2021 and being replaced with a new minor guardianship law, the Uniform Guardianship Act Article 2. Since attorneys and pro se parties will be unfamiliar with the law, and the court system must implement the change during a pandemic, this situation presents a major challenge to kinship caregivers being able to access the legal system and gain custody.

Statutory Requirements for the Kinship Care Legal Aid Coordinator

The position was codified under RCW 2.53.055. The requirements under the statute include three main objectives:

4. Consult with the statutorily required entities and work with them to identify and facilitate the development of local and regional kinship care legal aid initiatives, and further efforts to implement relevant recommendations from the kinship care oversight committee.
5. Develop, expand, and deliver training materials designed to help pro bono and low bono attorneys provide legal advice and assistance to kinship caregivers on matters that relate to their ability to meet physical, mental, social, educational, and other needs of children and youth in their care.
6. Produce a biennial report outlining activities undertaken by the coordinator; legal aid resources developed at the statewide, regional, and local levels; and other information regarding development and expansion of legal aid services to kinship caregivers in Washington State.

This first report is due on December 1, 2020 to DSHS, DCYF, and relevant standing committees of the legislature. This report is not truly a biennial report, as the employment start date for the Coordinator was September 3, 2019. This report covers the first 15 months of the Coordinator's work.

This report provides an introduction to the position, and an overview of the activities undertaken in those 15 months, including relationship development with the entities required, legal aid initiatives that were identified and developed, and trainings and materials developed.

⁵ REJI Organizational Race Equity Toolkit, 2nd Edition, Washington Race Equity & Justice (REJI) Initiative and JustLead Washington, 2020. Available at <https://justleadwa.org/learn/rejitoolkit/>

It also includes challenges, expected and unexpected, and goals for the next biennium. Finally, it includes a section about keeping a race equity and racial justice lens applied throughout the Coordinator's work.

Activities Undertaken

Consultation and Relationship Building

The Coordinator started immediately with the goal of building relationships with each community she was tasked with consulting. She wanted to engage in grassroots information gathering by visiting those offices and meeting people in person. With guidance from the Race Equity and Justice Initiative Toolkit, the Coordinator was especially concerned with being a listener first in the community. Volunteer Lawyer Programs and Kinship Navigator Programs are located across the state, in rural areas and cities. There are seven Tribal Kinship Navigator Programs statewide. The Coordinator recognized that it would take time for her to become accepted as a resource in different communities. This was especially true as a white woman whose office is located in the largest city in the state, and whose job description does not include providing direct legal representation (something many communities are desperate for).

It was important to the Coordinator to be transparent about the capacity of her role, and the strengths and weaknesses inherent in the position. The expectation in the Kinship Navigator community that she could take cases throughout the state needed to be gently managed. The expectation in the Volunteer Lawyer Program community that the Coordinator could provide funding to help start Kinship Care specific legal clinics also had to be managed.

Another main goal was to gather information about existing legal resources across the state before attempting to implement new initiatives. She wanted feedback from the communities involved about what the needs were in their individual communities. The Coordinator does not have access to additional funding to provide to programs that host new legal aid initiatives. Because of that, one of her stated goals was to leverage existing programs and create connections between legal aid and social service programs that serve similar communities but may be too busy or siloed to have lateral connections with each other.

When the Covid-19 pandemic started in Washington State, the opportunities to meet in person to build relationships were abruptly halted. In mid March 2020, the Coordinator began working from home and conducting all meetings virtually via phone or video call. This caused a significant delay in building relationships with the communities the Coordinator had not yet visited in person in the seven months since she started in the position. Unsurprisingly, the initiatives that have already been created were in collaboration with programs that the Coordinator was able to visit at least once and build a personal relationship with. The initiatives and training materials developed will be expanded upon later in this report.

The five entities the Coordinator is required to develop legal aid initiatives in consultation with are the following:

1. The Department of Social and Health Services – Aging and Long-Term Support Administration (DSHS-ALTSA).
2. The Washington Supreme Court Access to Justice Board’s Pro Bono Council.
3. The Kinship Care Oversight Committee (KCOC).
4. The Washington State Bar Association’s Moderate Means Program.
5. The Office of Public Defense.

1. DSHS-ALTSA

The Washington State Kinship Care Program is administered by ALTSA. This includes Kinship Navigator regional programs and Tribal Kinship Navigator Programs. These include the Kinship Care Support Programs which have funding specifically for kinship caregivers to use for needs such as clothing or bedding for children recently moved into the home, school supplies, medical care, and legal expenses.

The Coordinator met in person in Olympia with DSHS-ALTSA central staff members in charge of the Kinship Program (Geene Felix and Rosalyn Alber), the Tribal Affairs (Marietta Bobba), and the Caregiver Support Program (Dana Allard-Webb). She developed relationships with each and learned about the administration of the Kinship Navigator Program. A goal for the future is to have many more accessible legal workshops for Kinship Navigators and kinship caregivers themselves.

The relationship with the central Kinship Program is ongoing and has resulted in multiple online webinars available to Kinship Navigators and kinship caregivers in the last year.

The Coordinator also met in person with Kinship Navigators around the state, including those responsible for the Southeast Washington Region, the Southwest Washington Region, Snohomish County, Lewis, Thurston and Mason County, Pierce County, King County, The Yakama Nation, and the Lummi Nation. She had email contact with every Navigator, and in-depth phone or email conversations with the Navigators responsible for the Confederated Tribes of the Colville Reservation, Whatcom County, and Whitman County.

In these meetings and conversations, the Coordinator sought information regarding whether the Navigators’ clients needed legal services, whether they received legal services, whether the Navigators had established relationships with a local Volunteer Lawyer Program or other legal aid program, and what types of legal issues their clients had. The overwhelming response was the issue of seeking legal custody. Other issues included: not understanding dependency proceedings and not being able to advocate for themselves in those proceedings as a relative foster placement; estate planning and planning ahead for who would care for the child in case of the kinship caregiver’s death or incapacity; advocacy around education and special education; consent for the child’s medical care; and housing issues especially with

subsidized housing eligibility being endangered due to the sudden addition of a child or children to the household.

Many Kinship Navigators explained that if they referred kinship caregivers to legal aid, they either did not receive any help or they received limited help in the form of self-help packets, or a one-time advice session. The Kinship Navigators expressed that some kinship caregivers are above the income level for legal aid eligibility, but cannot afford full fee attorney rates. They expressed interest in having a list of attorneys who offer a sliding scale and who are knowledgeable about the legal issues that kinship caregivers face. A common theme was that even if a kinship caregiver could potentially afford an attorney, they did not know how to find one.

Tribal Kinship Navigators expressed that often, if kinship caregivers were involved in a case under their local tribal law, they did not need an attorney and that their tribal laws are different and provide for different guardianship/custody relationships. Other legal issues were housing, planning for death or incapacity of the kinship caregiver, educational consent, and tribal enrollment.

When asked about Court Facilitators, it varied by region. Some counties have Family Law Facilitators who were seen as helpful to kinship caregivers; others were not helpful or the Navigators did not know about them.

Before the pandemic shutdown, the Coordinator was also able to facilitate meetings between Kinship Navigators and their local Volunteer Lawyer Programs. These happened in Pierce County, Clark County, and Cowlitz County. These were an excellent start to building a strong referral relationship and understanding between the VLPs and the Navigators.

The Coordinator continues to build the relationships with the Kinship Navigator Programs by fielding questions from Navigators about specific cases, creating a list of low bono attorneys and providing it to Navigators, presenting on the topics of the new guardianship law and planning for death or incapacity for Navigators and caregivers at support group meetings (virtually) and attending monthly Kinship Collaboration meetings for a King County group (virtually).

2. The Washington Supreme Court Access to Justice Board's Pro Bono Council

The Pro Bono Council (PBC) is made up of representatives from each of the sixteen Volunteer Lawyer Programs (VLPs) in Washington State. Its mission is to further access to justice by supporting and advocating on behalf of the VLPs in Washington State.⁶ There is a Pro Bono Council Manager who works under the direction of the PBC and its Executive Committee,

⁶ Pro Bono Council Web Page, available at: <http://allianceforequaljustice.org/for-the-alliance/statewide-pro-bono-council/>

and has duties including, but not limited to, managing a statewide directory of pro bono programs, facilitating relationships between VLPs and outside organizations, and assisting VLPs in developing programming.

The Coordinator met with and developed a relationship with the PBC Manager at the time, Catherine Brown, in the fall of 2019 and received valuable information about the different VLPs, their capacity and the types of existing programs at each VLP. The PBC Manager worked in collaboration with the Coordinator to help introduce the Coordinator to PBC members, including through a PBC monthly conference call and with email introductions.

The Coordinator's goals for consulting with the PBC are similar to the goals created for consulting with ALTSA Kinship Navigators. The goals include: travel to every VLP location and meet in person with directors and staff; gather information about the legal services available for kinship caregivers at each VLP; introduce VLP directors to Kinship Navigators in their region, in order to create a strong referral relationship; and work collaboratively with VLPs to create legal aid initiatives that will specifically benefit kinship caregivers. Each VLP has different capacities for starting new programs, and each region will have different needs. Before the pandemic began, the Coordinator was able to visit seven VLPs in person and hold in-depth phone interviews with three more. The six other VLPs have had email contact with the Coordinator.

The PBC Manager position turned over in March 2020, and the new Manager was hired in May. The Coordinator has met with the new Manager, Michael Terasaki, once over the phone and is in continuing email contact with him. During their meeting, the PBC Manager explained that many VLPs were focusing on meeting the incredibly high demand for pro bono legal services brought on by the Covid-19 pandemic. They were also preparing new initiatives in the eviction defense area due to funding and preparation for the end of the eviction moratorium ordered by the Governor. The PBC Manager maintained that working together with VLPs on trainings for volunteer attorneys regarding the new Minor Guardianship laws would be the most useful in the late fall or early winter.

During meetings and conversations with VLP directors throughout the year, the Coordinator identified the specific Kinship Custody Clinics (and visited them) that already exist and discussed the possibility of creating more with other VLPs. Some were more receptive to the idea than others. VLPs that were receptive to the idea wanted to be informed of any possible funding sources for creating a new clinic or program. Funding sources for existing VLP Kinship Custody Clinics vary. Ideas beyond creating a Kinship Clinic included: a one-day Kinship Outreach Clinic that includes legal advice meetings as well as Navigators and other service providers all in one place; providing CLEs for volunteers and in order to recruit new volunteer attorneys; expanding relationships with Court Facilitators; and self-help materials specific to kinship care legal issues.

In terms of the connections between VLPs and nearby tribes, it varies. Not all of the VLPs have provided input on this question, but in general the Coordinator found that while many VLPs have state court clients who are tribal members, they did not practice in tribal court. Multiple VLP directors stated they hope to build stronger relationships with the tribes in their service area, and one VLP (Pierce County) has a Native American Legal Aid Program funded by a grant from the Puyallup Tribe. The Pierce County VLP can represent any Indigenous person in civil law cases, including nonparent custody. Exploring ways to expand legal aid services to kinship caregivers who are Indigenous or live on tribal land is a goal of the Coordinator's.

3. Kinship Care Oversight Committee

The Kinship Care Oversight Committee (KCOC) is a statutory committee created in 2003, to "monitor, guide, and report on kinship care recommendations and implementation activities."⁷ It is a DSHS committee that is run within existing resources. Each year, the committee is required to update the legislature and governor on committee activities. In the 2018 report and recommendations for 2019, the KCOC recommended funding of the Coordinator's position.⁸ The Coordinator reviewed the 2002 WSIPP Report that led to the creation of the KCOC and many of the past annual reports to the legislature. The Coordinator then met with the manager of the KCOC in the fall of 2019 and helped prepare the agenda for the fall quarterly meeting, at which she introduced herself and explained the new position. Throughout 2020, the KCOC has been in transition. The KCOC met in February and in June of 2020 and the conversation at each meeting was about the future of the KCOC. In late November 2020, the Coordinator was invited to join a small group that will develop a charter for the re-launch of the KCOC. Going into 2021, the Coordinator will continue attending quarterly meetings and will work with the manager/s of the KCOC to implement relevant recommendations.

The Coordinator also joined the Legislative Subcommittee of the KCOC, which has remained active throughout 2020. This subcommittee discusses and prepares legislative priorities for the KCOC. The Coordinator contributed to a proposal for extra funding for trainings on the Uniform Guardianship Act for kinship caregivers, as well as funding for an updated Legal Options Guide by Legal Voice. These requests were funded during the Winter 2020 session. The Coordinator continues to attend Legislative Subcommittee meetings and remains up to date on the various issues being discussed and proposed as priorities.

⁷ RCW 74.13.621(1).

⁸ Kinship Care Oversight Committee Report, December 1, 2018. Available at: https://app.leg.wa.gov/ReportsToTheLegislature/Home/GetPDF?fileName=2018%20Kinship%20Care%20Oversight%20Committee%20Leg%20Report_d9138b11-02bb-4a6b-9b0e-c083a050cd65.pdf

4. The Washington State Bar Association's Moderate Means Program

The Moderate Means Program (MMP) is a statewide program that offers referrals to attorneys who agree to reduce their fees. Potential clients of the program are Washington residents whose income falls between 200% and 400% of the federal poverty level. Law students at each of the state's three law schools do legal intakes over the phone, and then contact attorneys who are on the referral panel. If the attorney agrees to speak to the potential client, the potential client contacts that attorney directly. The areas of law that the MMP covers are family, housing, consumer, and unemployment.⁹

The Coordinator met with the Managing Attorney of the MMP, Clay Wilson, to discuss ways to provide legal resources to kinship caregivers through the MMP. The passage of the new Uniform Guardianship Act (UGA) repeals the Nonparent Custody Statute in Washington and provides an opportunity to train attorneys on the change in the law. Nonparent Custody is a family law statute and MMP attorneys already offered that option. While the new UGA is not family law, but guardianship law, the Moderate Means Program has already stated that they will take referrals for minor guardianships when the law changes, and they will work with the Coordinator to provide trainings to the law students and to the panel attorneys.

The MMP provides video trainings free to attorneys who sign up for the panel. In the fall of 2019, the Coordinator met with Diana Singleton, Equity and Justice Manager, and Paige Hardy, Equity and Justice Lead at the Washington State Bar, to discuss the opportunity of creating free trainings for MMP attorneys specifically on the new UGA minor guardianship provisions. They agreed that when the law was finalized that a training would be approved and included on the website. Now that the UGA will be implemented on January 1, 2021, the Coordinator will work with the MMP to create and provide the online training as well as provide trainings for law students in the 2021 spring semester.

5. The Office of Public Defense.

The Office of Public Defense (OPD) administers state-funded programs for indigent criminal defense, indigent appellants who have the right to counsel, parents in dependency and termination cases, and civil commitment actions.

Kinship care legal aid is generally a civil legal issue. But it can intersect with the criminal legal arena in a few ways. Kinship caregivers may be caring for children whose parents are incarcerated or facing criminal charges. Kinship caregivers may have criminal history that hinders their ability to be a relative foster placement and access valuable state resources. If a kinship caregiver is caring for relative foster children during a dependency case, they do not

⁹ See Moderate Means Program webpage, available at <https://www.wsba.org/connect-serve/volunteer-opportunities/mmp>

have the right to legal representation. In Nonparent Custody cases, no parties (petitioners or respondents (parents)) had the right to legal representation.

The new Uniform Guardianship Act provides the right to counsel for indigent parents who object to the appointment of a guardian for their child. This law goes into effect on January 1, 2021. The Coordinator will meet with a representative of the Office of Public Defense to investigate how OPD is preparing for the change in the law and the implementation, and to provide updates about the Coordinator's position and efforts in the civil legal aid arena for kinship caregivers. A goal of the Coordinator's when meeting with OPD will be to provide information about kinship caregivers, what legal issues they have, and offer to be of assistance if and when OPD is developing programs that may be relevant to kinship caregivers.

Legal Aid initiatives Identified and Developed

Initiatives Identified

The Coordinator identified legal aid resources at different levels throughout the state. Knowing what already exists is valuable for the development of future resources and initiatives.

Statewide, there are no legal resources that are singularly focused on kinship caregivers. There are programs that are helpful to kinship caregivers including the following:

- Washington Law Help offers self-help packets for Nonparent Custody and for Nonparents Caring for Children on the website.
- The Moderate Means Program which provides referrals to reduced fee attorneys for Nonparent Custody cases.
- Northwest Justice Project which can provide legal advice or representation in court (representation in court is extremely rare) to kinship caregivers in Nonparent Custody cases through their general family law division.
- The Low Bono Section, a group of Washington attorneys who are committed to providing affordable access to the justice system. They are mostly solo practitioners or in small firms, and their rates vary.

Regionally, there are four Kinship Care Custody specific legal clinics at volunteer lawyer programs. These include:

- King County Bar Association Kinship Care Solutions Project. This program provides legal representation to kinship caregivers in nonparent custody cases. There is an attorney on staff who recruits, trains, and manages volunteer attorneys. The program has existed since 2004 and is the longest running Kinship Care legal aid program in the state. It was started with a one-year fellowship and then moved to the King County Bar Association.

- LAW Advocates Kinship Custody Clinic in Whatcom County. This program started in 2010 as a partnership between LAW Advocates and Opportunity Council, which has a Kinship Navigator. Once a month, two attorneys and two paralegals meet with kinship caregivers to help fill out legal paperwork for nonparent custody and advise them on the next steps in representing themselves. The attorneys and the paralegals are paid a small stipend each month. They do not represent clients in court.
- Yakima County Volunteer Attorney Services Kinship Custody Clinic. In existence since 2012, this clinic is a partnership between the local VLP, Catholic Charities (where the regional Kinship Navigators are housed), and Casey Family Programs. It is a monthly clinic where clients can receive legal advice and help filling out forms to petition for nonparent custody. The three programs work well together which relieves pressure on the VLP.
- Thurston County Volunteer Legal Services has a partnership with the regional Kinship Navigator Program at FESS (Family Education Support Services). This was created with a grant from ALTSA in 2016. The Kinship Navigators provide the screening and referral of kinship caregivers to the VLP Family Law Clinic. The VLP reserves slots at each month's family law clinic for kinship caregiver clients. At the clinic, clients receive legal advice and help filling out forms for nonparent custody. They do not receive legal representation in court.

The sixteen volunteer law programs in Washington all have some type of family law legal help, including clinics or brief representation. These programs can help a kinship caregiver if the volunteer attorney is familiar with nonparent custody law or other legal issues facing kinship caregivers.

Legal Aid Initiatives Developed

Three new programs have been developed so far in collaboration with other entities. Three VLPs (in Pierce County, Clark County, and Clallam-Jefferson) expressed interest in creating a Kinship Legal Clinic but the pandemic caused priorities to shift to other pressing legal needs such as eviction defense and unemployment advocacy throughout most of 2020. The Coordinator looks forward to reigniting these conversations in 2021. The spectre of the Covid-19 pandemic remains and has truly changed the delivery of legal resources to kinship caregivers. The Coordinator continues to strategize how to reach as many communities as possible while the pandemic limits in-person visits and connections.

- Estate Planning for Kinship Caregivers, at King County Catholic Community Services (CCS). The Coordinator worked with the Catholic Community Services Kinship Program to develop a pilot program for estate planning. CCS had \$10,000 in Best Starts for Kids funding that needed to be used by the end of 2020. Estate planning had emerged as a major legal need for kinship caregivers, especially with the pandemic creating uncertainty for many. Many kinship caregivers in King County and the state are grandparents. CCS hired a private estate planning attorney to provide estate planning at a reduced rate (which CCS pays) for kinship caregivers. The program goal is for 20 kinship caregivers to finalize their estate plan. The private estate planning attorney, Xan Gerson, has expressed interest in working with CCS further to recruit more attorneys who are interested in volunteering or providing reduced rate legal services.
- Kinship Care Legal Options Trainings and Low Bono Attorney Services. This program is a collaboration between the Coordinator and the King County Kinship Collaboration (KCKC), also at CCS. The Coordinator is interested in replicating this program in other areas around the state if possible. The Coordinator and KCKC developed the grant proposal together, and KCKC was awarded funding for this three-year program.
 - In 2021, the Coordinator will provide quarterly Legal Options Trainings to kinship caregivers. KCKC will pay private low bono attorneys a reduced rate to provide legal consultation to caregivers who attend the training.
 - In 2022, the Coordinator will provide quarterly Legal Options Trainings and train two attorneys to take over providing the trainings. The two attorneys will be paid a stipend by KCKC. One will be bilingual in English and Spanish. KCKC will continue to pay attorneys to provide consultations.
 - In 2023, the trained attorneys will provide the quarterly Legal Options Trainings and will be paid a stipend. KCKC will continue to pay attorneys to provide consultations.
- Benton-Franklin Legal Aid Kinship Clinic. This clinic is a collaboration between the regional Kinship Navigator Laura Dow, and the Benton-Franklin Legal Aid Society. After consulting with the Coordinator and learning of the funding opportunity, Laura Dow spearheaded the initiative by applying for a WSBA Powerful Communities grant. In early March 2020, she was awarded \$1083 to help start the clinic. Her grant proposal was to use the funds for refreshments at the monthly clinics, but when the pandemic hit Washington State she was required to seek approval of a new plan. She was approved to use the funding to pay an attorney a stipend to meet with clients virtually and help them prepare forms to petition for nonparent custody. In the future she plans to set up a monthly in-person clinic with volunteer attorneys. The Coordinator will provide resources including trainings and materials for volunteer attorneys.

Trainings and Resources Materials Developed

The Coordinator's duties include developing and delivering training materials designed to help pro bono and low bono attorneys provide legal advice and assistance to kinship caregivers. The Coordinator included training and resource materials for non-attorneys, specifically Kinship Navigators and kinship caregivers themselves, after hearing the many calls for self-help resources from the non-attorneys. The Covid-19 Pandemic spotlighted the legal issue of how to plan for the care of the child in case of a kinship caregiver's death or incapacity. Most kinship caregivers have not adopted the child/ren they are caring for, and so they do not have the option to name a guardian for the child in their will. The Coordinator also developed a Washington State Covid Q&A for Kinship Caregivers document and distributed it to all the Kinship Navigators.¹⁰ Many of the trainings provided were about the new Uniform Guardianship Act that replaces Nonparent Custody on January 1, 2021.¹¹

For attorneys:

- "Kinship Caregivers Need Low Bono Services" Access to Justice Champions, the WSBA Low Bono Section's Newsletter, Volume 1, Number 1, September 2020.¹² The Coordinator published a short article to introduce the idea of working with kinship caregivers to low bono attorneys. The Low Bono Section is a statewide group with over 75 members and growing.
- October 6, 2020. Guardianship of a Minor: The New Law Replacing Nonparent Custody on January 1, 2021. Virtual, two-hour CLE in collaboration with the Low Bono Section and the Administrative Office of the Courts. The CLE had 300 attendees from across the state. It was recorded and the link to watch the CLE will be available until October 6, 2021.¹³
- October 28, 2020. The Uniform Guardianship Act – Guardianship of Minors. Virtual, two-hour CLE in collaboration with Judy Lin of KCBA Kinship Care Solutions Project. This CLE was free and offered to the Family Law Task Force of civil legal aid in Washington State. There were 91 participants from across the state.¹⁴
- November 13, 2020. New Title 11 Minor Guardianship Law RCW 11.130 replacing RCW 26.10 Nonparent Custody on January 1, 2021. Virtual, two-hour CLE offered free to staff and volunteers at Volunteer Lawyer Programs statewide. This CLE was also in collaboration with Kay King from the Administrative Office of the Courts. There were 247 attendees from across the state.

¹⁰ Materials listed are available upon request from the Coordinator.

¹¹ PowerPoint materials for any webinar listed are available upon request from the Coordinator.

¹² Article available at https://wsba.org/docs/default-source/legal-community/sections/lb/2020-09-atj-champions-newsletter.pdf?sfvrsn=573608f1_0

¹³ Viewable at <https://event.on24.com/wcc/r/2633737/7DF04BBA02CE1E0F964B374A465CFF8C>

¹⁴ This recording is not available online, but the recording file is available upon request from the Coordinator.

- December 1, 2020. UGA: Minor Guardianships, Where Do We Go From Here. The Coordinator is presenting about Court Visitors under the statute at this three-hour CLE offered by KCBA.
- Low Bono Referral List for Kinship Caregivers. The Coordinator is working with the Low Bono Section to create a referral list specifically for kinship caregivers. It lists the attorney and the county or counties where the attorney practices. It continues to expand and the Coordinator's goal is to eventually cover every county.

For Kinship Navigators:

- February 2020, Uniform Guardianship and Legacy Planning Presentation. The Coordinator presented a one-hour webinar with Q&A to Kinship Navigators and the ALTSA Kinship Program Director. The presentation included updates on the UGA trailer bill and strategies for how to plan for the care of a child after the kinship caregiver's death.
- May 2020, Washington State Covid Q&A for Kinship Caregivers. This document was distributed to Kinship Navigators statewide to be used as a resource for their clients.
- May 26, 2020. Legacy Planning Presentation. The coordinator presented on planning for the care of a child after a kinship caregiver's death to the King County Kinship Collaboration. The KCKC includes representatives from nonprofits and social service programs throughout King County that work with kinship caregivers.
- August 5, 2020, Overview of the Uniform Guardianship Act Article 2: Minor Guardianships. The Coordinator and Kay King from the Administrative Office of the Courts presented jointly to Kinship Navigators statewide. The three-hour virtual presentation included an overview of the new law and a Q&A session. There were 28 attendees.

For Kinship Caregivers:

- April 2020, Comparison Chart for Nonparent Custody vs. Minor Guardianship. The Coordinator created this document for non-attorneys, in order to answer many of the questions in the kinship caregiver community about what the change to the new law would entail. The document was shared with Kinship Navigators statewide and with kinship caregivers.
- August 20, 2020, Overview of the Uniform Guardianship Act Article 2: Minor Guardianships. The Coordinator and Kay King from the Administrative Office of the Courts presented jointly to kinship caregivers statewide. The two-hour virtual

presentation included an overview of the new law and a Q&A session. There were 34 attendees.

- November 9, 2020, Estate Planning and Legal Options Webinar. This two-hour webinar was a collaboration with Generations United, a national kinship care organization. The Coordinator presented with Xan Gerson, an estate planning attorney. There were 33 attendees. The webinar was recorded and will be available soon on the Generations United website.
- Forthcoming, Adoption and Guardianship for Children in Kinship Foster Care: Comparison Chart for Washington State. The Coordinator collaborated with Generations United to create the Washington State version of their chart. It includes information about the law, public benefits, caregiver rights and responsibilities, and more. It will be available on the Generations United Website.
- February 2020 – September 2020 and ongoing, Kinship Caregiver Support Group Q&A Sessions. The Coordinator has attended four kinship care support groups and done informal presentations on the new guardianship law as well as open-ended Q&A sessions. She plans to continue these as time allows and keep hearing directly from kinship caregivers.

Challenges

Covid-19 Pandemic

The Covid-19 pandemic facing the world, including Washington State, significantly affected the Coordinator's work and goals. The kinship care client community is disproportionately made up of aging adults who are on fixed incomes and may have pre-existing health problems, even before this pandemic started. The priorities of the client community shifted to include a stronger focus on estate planning, and the coordinator and partner entities were able to include this topic in their initiatives and trainings. Many staff at partner entities and the Coordinator were required to work from home since March 2020. This created opportunity for drafting materials and creating online trainings but it hampered the Coordinator's ability to travel and continue creating relationships in person with the partner entities.

Uniform Guardianship Act

The passage of the Uniform Guardianship Act that replaces the nonparent custody statute is an event that significantly affects the job duties of the Coordinator. Many kinship caregivers have nonparent custody or are currently seeking it. The new law replaces that

avenue for legal custody with a guardianship action. The new law goes into effect on January 1, 2021 and attorneys, courts, and advocates statewide are working to prepare for the changes. In terms of the training materials described in this report, the Coordinator was limited on what she was able to provide since court forms and court procedures are not finalized for the new law. This change in law also presented an opportunity to be actively involved in the preparation for the law coming into effect.

Turnover and Vacancies at Volunteer Lawyer Programs and Kinship Navigator Positions

Since September 2019 when the Coordinator position was filled, there have been some vacancies and some turnover in the Kinship Navigator positions and in leadership roles at Volunteer Lawyer Programs (VLPs). This presented a reality check to some of the Coordinator's goals in terms of building relationships and identifying potential initiatives in those regions. But it also presents the opportunity to build relationships with new partners at the very beginning of their employment.

Budget Realities

The Coordinator does not have funding available to provide to community partners such as VLPs or Kinship Navigator programs. The opportunity presented is to focus on partnerships and creative collaborations, as well as concern for common client populations. Another strategy the Coordinator has is to research and share any outside funding opportunities to programs who are considering creating a new kinship care legal aid initiative.

Overarching Goals for the Next Biennium

- Start travel and in person meetings as soon as it is deemed safe. This timing is unknown.
- Continue with previously stated goals, including developing training materials, and building relationships over the phone and video meetings; continue identifying potential initiatives and helping develop them. For example, Pierce County and Clark County VLPs expressed interest in creating Kinship Clinics. With the new minor guardianship law in place, the Coordinator may look at how a clinic using this new law could be structured, including partnerships with other organizations such as Kinship Navigator programs.
- Place a high priority on connecting with Tribal Kinship Navigators, developing those relationships and gaining a stronger understanding of how to be a resource for their community.
- Place a high priority on geographic equity and connecting with potential partners in rural counties. There are eight counties with no VLP and no coverage from a nearby county.¹⁵ There are nine counties that do have VLP coverage but people seeking legal

¹⁵ No VLP coverage: Asotin, Garfield, Kittitas, Klickitat, Lewis, Okanogan, San Juan, Skamania.

advice must travel to a separate county,¹⁶ sometimes over 100 miles one way to meet with a volunteer attorney. One interesting possibility would be to partner with county court facilitators to provide self-help materials, though most facilitators are specifically for family law, and the new guardianship law does not fall under that umbrella. This is an avenue the Coordinator plans to explore further. The Coordinator created an interactive map of Washington that includes Kinship Navigator Programs, VLPs, Tribal Kinship Navigator Programs, and County Courthouses.¹⁷ This visual is helpful for focusing on gaps in services.

Race Equity Lens

The Coordinator recognizes that kinship caregivers are disproportionately Black, Indigenous, and People of Color (BIPOC) in Washington State. The Coordinator also recognizes that structural racism exists in the United States and in Washington State. She is making proactive efforts to ensure that her work does not leave out or harm BIPOC communities. The Race Equity & Justice Initiative (REJI) Organizational Toolkit is the main resource that the Coordinator is using as guidance for her work.

The REJI Toolkit explains five levels of equity work: individual, interpersonal, organizational, community, and systemic.¹⁸ The Coordinator reviewed the entire toolkit and is focused on addressing race equity at the individual, interpersonal, and community levels, where she has autonomy in her position. She advocates for the other levels to be considered in her organization whenever possible.

- Individual level. The Coordinator is focused on continued learning through books, trainings, and journaling. Specifically, she read Stamped From the Beginning: A Definitive History of Racist Ideas in America by Ibram X. Kendi, Just Mercy by Bryan Stevenson, and Me and White Supremacy by Layla Saad and reflected in writing on the included journal prompts. She has asked for KCBA to increase Race Equity Training opportunities.
- Interpersonal level. The Coordinator has committed to not shy away from conversations about race, and to listen to BIPOC advocates when they bring up their concerns. The Coordinator has also committed to bring up issues of race equity if a conversation is ignoring, denying, or skirting those issues.

¹⁶ VLP coverage but requires travel to a different county: Adams, Columbia, Ferry, Grant, Island, Lincoln, Pend O'Reille, Stevens, Whitman.

¹⁷ Map available at: <https://www.google.com/maps/d/edit?mid=1KD7zI11NqTAhWqScZ-1b9AgB3w2AAi2c&usp=sharing>

¹⁸ REJI Organizational Race Equity Toolkit, p.13, 2nd Edition, Washington Race Equity & Justice (REJI) Initiative and JustLead Washington, 2020. Available at <https://justleadwa.org/learn/rejitoolkkit/>

- Community level. The Coordinator has set goals for interacting with communities based on race equity considerations discussed in the Toolkit, including: going to that community and not expecting community members to walk through her door; understanding that building trusting relationships takes time; being transparent about her role and capacity; and allowing community members to lead the conversation about what their community needs.
- Organizational level. What the Coordinator can do personally is limited. KCBA is seeking a new executive director and the position requirements include experience and understanding of race equity issues. The Coordinator will stay as informed as possible on what the organization's future race equity goals are.
- Systemic level. The Coordinator will continue to review the REJI Toolkit and other resources in order to be able to critically think about decisions they are making, and data they are using.

Kinship Navigator Program and Kinship Care Support Program Save State Money



Kinship care offers an alternative to placement in foster care. It strengthens family bonds and culture, and enhances the self esteem and sense of identity of children.

"The program is a blessing. The best social program I've seen."

— **Grandma**

Facts

- **The Kinship Navigator Program** helps children and their caregivers.
- Approximately **51,000 children*** are living with a kinship caregiver in Washington State. (*Kids Count*)
- The State **legislature** currently invests approximately **\$4.8 million/biennium** in the combined Kinship programs; Kinship Navigator Program, Tribal Navigators and Kinship Care Support Program. These programs reach **all** counties and seven **tribal communities**. (*DSHS*)
- The Washington State Kinship Navigator and Tribal Kinship Navigator sites provided approximately **9,000** assistance contacts with kinship caregivers in 2018. (*GetCare*)
- **Who we are!**
 - We are grandparents, aunts and uncles, adult siblings etc. providing the fulltime care and nurturing for relative children who cannot live with their parents for a variety of reasons.
 - The majority of the caregivers served have incomes below 150% of the federal poverty level: For example, a family of two is living on less than \$26K per year
 - 41% are White/Non-Hispanic, 30% African American/Black, 13% Hispanic, 13% American Indian/Alaskan Native and 3% Asian/Native Hawaiian/Pacific Islander. (*GetCare*)
- Kinship families who are outside the foster care system have no access to formal services in the Foster Care system. Services such as respite, support from a caseworker, Treehouse, family preservation services, etc.
- Approximately 12 percent of these 51,000 children receive a TANF child only grant of approximately **\$363/month/for the first child** and even less for each additional child (*DSHS*)
- If you are a licensed caregiver with a foster child in your home, you receive a monthly reimbursement of at least **\$672/month/per child**. (Higher payment if child is assessed at a higher level) (*DCYF*).
- If only 25% of the 51,000 kinship children entered the formal foster care system and their caregivers received a monthly level 1 foster care reimbursement (the lowest of the four levels) it would cost the State approximately **\$205 million/biennium**. (This figure does not include the cost of social workers and client services.)

*the total number of children is difficult to identify. We recognize this number may be at the low end.

Stories!

Scenario for Consideration

A kinship caregiver has a five-year-old relative child in their home. If the caregiver becomes licensed, they will receive a foster care reimbursement of at least **\$672/month***. If they are unlicensed or do not have an open case with the formal child welfare system, they are eligible for a TANF child only grant of **\$363/month****.

Two years later, the child's five-year-old sibling has joined the household, so the licensed caregiver is now parenting a seven- and five-year-old. The seven-year-old requires a higher level of care and a foster care rate assessment indicates that the caregiver should be reimbursed for a level two foster care at \$974/month. This brings the total for both children to **\$1646/month**. If the caregiver is unlicensed or not part of formal system, the second child can receive an extra \$96 from a TANF child only grant bringing the total to **\$459/month**.

Six months later, a foster care rate assessment is completed and the five-year-old scores as a level two and the seven-year-old as a level three. The total monthly payment increases to **\$2,170/month**. If the caregiver is unlicensed or not part of formal system there is no increase (and no rate assessment), so the total stays at **\$459/month**.

This scenario highlights the disparities for informal kinship caregivers, unlicensed formal kinship caregivers, and formal kinship caregivers who are licensed foster parents. The TANF grant is stagnant and does not adjust to reflect the child's age or needs. Also, the TANF payment increase for additional household members is nominal.

It's important to note that there are variables and considerations that could impact the scenario above. For example, the TANF amounts indicate that the caregiver has applied for TANF for the child(ren) only.

Parity does not exist for kinship families and children.

**Monthly foster care reimbursement rates are rounded up to the nearest dollar and can be viewed at <https://www.dcyf.wa.gov/services/foster-parenting/become-a-foster-parent>.*

***TANF rates are based on TANF child only grants including shelter costs.*

Rita*, a 54 year old grandmother, is raising her 7 year old granddaughter and has been since the girl was an infant. She had been unemployed for a year, had gone through all of her savings, and had no current income when she found the Kinship Navigator phone number. The Kinship Support Program was able to help her with gas and electric bills. The Navigator connected her to a TANF grant and medical coverage for her granddaughter as well as a food allowance. She also connected her to a support group for relatives. (*not real name)

Kinship Caregivers close the front door of the child welfare system. In the next year, thousands of children will be diverted from the foster care system because relatives step up to care for them. The Kinship Navigator Program and Kinship Support Funds support these caregivers so they can in turn care for these children.

It makes financial sense to support kinship families and ensure the success of these highly resourceful families!