

REPORT TO THE LEGISLATURE

Statewide Kinship Care Legal Aid Coordinator

RCW 2.53.055
Chapter 465, Laws of 2019

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Executive Summary

The second biennial Statewide Kinship Care Legal Aid Coordinator report for December 2, 2020 through December 1, 2022 is required by Chapter 465, Laws of 2019 and RCW 2.53.055. 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 December 2, 2020 include:

- Advocating for and receiving state funding for the Legal Advice and Referral for Kinship Care (LAARK) Program in collaboration with the Kinship Care Oversight Committee.
- Developing the LAARK Program in collaboration with the LAARK staff attorneys and overseeing the successful soft launch of LAARK in October 2022, with the goal of the public launch by the end of 2022.
- Contributing to the Updated Legal Options Guide for Grandparents by Legal Voice, published in September 2022.
- Engaging in legislative advocacy for amendments to the Uniform Guardianship Act that made Emergency Minor Guardianship better for kinship care stakeholders.
- Presenting at the 2021 Access to Justice Conference jointly with Office of Public Defense about Structural Racism and its Effects on Kinship Families.

- 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.
- Providing training for statewide Courthouse Facilitators on Minor Guardianship.
- 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

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>

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 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 was repealed on January 1, 2021 and replaced with a new minor guardianship law, the Uniform Guardianship Act Article 2. The transition to the new law has been difficult for the courts, private attorneys and pro bono attorneys, as well as pro se litigants. The change in the law presented a major challenge to kinship caregivers in 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

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

regarding development and expansion of legal aid services to kinship caregivers in Washington State.

This second report is due on December 1, 2022 to DSHS, DCYF, and relevant standing committees of the legislature.

This report provides an introduction to the position, and an overview of the activities undertaken in the last two years, including relationship development with the entities required, legal aid initiatives that were identified and developed, and trainings and materials developed. 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 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-AL TSA).
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-AL TSA

The Washington State Kinship Care Program is administered by AL TSA. 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.

In 2021 and 2022, the Coordinator continued 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 legal options for kinship caregivers, for Navigators and caregivers at support group meetings (virtually) and attending monthly Kinship Collaboration meetings for a King County group (virtually).

Through much of this biennium, the Coordinator met with Kinship Navigators and did presentations virtually, since the Covid-19 pandemic continued and the after-effects have been long-lasting, including a shift toward remote work and virtual meetings.

The relationship with the central Kinship Program in Olympia is ongoing and has resulted in multiple online webinars available to Kinship Navigators and kinship caregivers in the last two years (see resources section for details). The new director of ALTSA Kinship Programs is Rosalyn Alber, and the previous director, Geene Felix, moved into the Kinship Care and Guardianship Program Manager position at DCYF, which has proved to create a strong relationship between the Coordinator and that DCYF program, providing for trainings to DCYF staff and a better understanding of state-involved kinship caregivers' experience with the Department, as well as insight into the R-GAP program and chapter 13.36 guardianships.

The Coordinator also received ongoing input from Kinship Navigators about the legal needs of kinship caregivers, the difficulty accessing legal resources, and the scarcity of legal resources, especially with the change in the law in 2021. This input strongly influenced the Coordinator's advocacy for a central legal advice program for kinship care in Washington State. Many Kinship Navigators were involved in the Kinship Care Oversight Committee (KCOC) Legislative Subcommittee and the advocacy for this program. The KCOC is another entity that the Coordinator works closely with and it intersects often with DSHS-ALTSA and the Kinship Navigators.

The central legal advice program, Legal Advice and Referral for Kinship Care (LAARK) was funded and started in 2022. LAARK has two full time staff attorneys who work with the Coordinator at KCBA, starting in September 2022. The Coordinator and LAARK attorneys have continued outreach to the Kinship Navigators and Tribal Kinship Navigators through the fall of 2022 to build relationships, establish referral systems, and gather information about how LAARK can best help kinship caregivers in different regions of Washington. Kinship Navigators were provided the first access to refer clients to LAARK, beginning in late October 2022. The referrals have gone smoothly and have been appropriate with legal issues that LAARK can address. The Coordinator and LAARK staff will continue to facilitate referrals and relationships between the Kinship Navigators and the regional VLPs that have kinship care legal resources.

Kinship Navigators also explained how valuable it would be for court facilitators to be more informed about Minor Guardianship. In 2021, General Rule 27 for court facilitators was amended so that they could assist unrepresented parties in RCW 11.130 Minor Guardianship cases. However, not every county has guardianship court facilitators, or family law court facilitators who are willing to help with Minor Guardianship. Over the last two years, the Coordinator built a relationship with the Administrative Office of the Courts Office of Court Innovation. This program has a Courthouse Facilitators Initiative with a goal of providing central support for court facilitators across the state. Through that relationship, the Coordinator was included in the statewide training for court facilitators and invited back to provide more specific training on hypothetical scenarios in Fall 2022 (see resources section for details).

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, 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 continued to strengthen her relationship with the PBC Manager, Michael Terasaki through virtual and in-person meetings. Throughout 2021 and 2022, she was able to check in with the PBC Manager to receive valuable updates about the different VLPs, their capacity, staff or director turnover, and the types of existing programs at each VLP. The Coordinator also attended a few PBC monthly meetings to keep the communication open between the VLP leads and herself.

In the last two years, many VLPs were focused 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 Coordinator stayed in contact with VLP leads and the PBC Manager to check in about kinship care resources that could be helpful to the VLPs, including CLEs and written materials (see resources section for details).

In the fall of 2022, the Coordinator and LAARK staff attorneys presented to the PBC about the new program and did outreach to set up referral systems with the VLPs around the state. The Coordinator and LAARK have a common goal of facilitating referrals to and from regional VLPs, and providing support to any VLP that can increase its legal resources for kinship caregivers. Many VLP leads expressed excitement at the possibility of referring a kinship caregiver to LAARK since pro bono attorneys willing to advise on Minor Guardianship are still few and far between. Some VLP leads have expressed interest and willingness to work with the Coordinator on future programs such as a Kinship Care Resource Day, or training for recruitment of pro bono attorneys, and continued relationship building with Kinship Navigators in their region.

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

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 remains an active member of the KCOC and has attended almost every KCOC meeting in 2021 and 2022. In early 2021, she participated in a charter establishment meeting to help KCOC focus after its transition year in 2020. The committee met quarterly in 2021, and in mid-2022 started meeting monthly. The committee provides updates on kinship care issues around the state and has several working subcommittees. The committee also works on ways to include kinship caregivers in the membership of the committee. The Coordinator provides reports to the KCOC on her activities and works together with the KCOC to advocate for legal resources for kinship caregivers. As a member of the KCOC, the Coordinator makes connections with many non-law agencies and programs that focus on kinship care.

The Coordinator remained an active member of the Legislative Subcommittee of the KCOC, which met nineteen times this biennium. This subcommittee discusses and prepares legislative priorities for the KCOC. In 2021 the Coordinator contributed to a proposal for funding of the central kinship care legal advice program, now known as LAARK. This request was funded during the Winter 2022 short session. The 2022 legislative priorities for the subcommittee are increased funding for Kinship Navigators – so that every AAA region in the state can have a Kinship Navigator. At the time of this report, there are three regions that have no Kinship Navigator: Olympic Region, Snohomish County Region, and Kitsap Region. The Coordinator continues to attend Legislative Subcommittee meetings and remains up to date on the various issues being discussed and proposed as priorities.

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

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

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 continued to meet with the Managing Attorney of the MMP, Clay Wilson, to discuss ways to provide legal resources to kinship caregivers through the MMP. She also met together with Clay Wilson and the MMP attorney at UW Law School, Kristina Larry, in Fall 2022 to brainstorm strategies to increase the number of MMP panel attorneys willing to accept Minor Guardianship referrals. 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 was 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 been taking referrals for minor guardianships but there are not many attorneys on the panel who are willing to accept those cases.

The Coordinator has presented about Minor Guardianships to MMP law students every semester at Seattle University School of Law in 2021 and 2022, for a total of six times. The presentation provides an overview of the law, and two different hypothetical clients for the students to analyze. The Coordinator offered to present at UW and Gonzaga MMP classes as well and hopes to do that in the coming biennium. Having a core group of recent graduates who are familiar with the new law is valuable. The Coordinator received feedback from many established family law and guardianship attorneys who stated they were not interested in, or were apprehensive about learning a new law.

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 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 went into effect on January 1, 2021. The Coordinator met with Amelia Watson and Brett Ballew of the Office of

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

Public Defense to investigate how OPD was planning 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. At this meeting the Coordinator also provided information about kinship caregivers, what legal issues they have, and offered to be of assistance if and when OPD developed programs that may be relevant to kinship caregivers. The OPD representatives requested a CLE for parents' representation attorneys, focused on the overlap of when a Minor Guardianship case would resolve a Dependency case. Other topics addressed in the CLE included how the new Minor Guardianship law intersected with Dependency laws generally in Washington, such as being an option for a permanent plan. The Coordinator presented the CLE in October 2021 and 39 attorneys attended (see resources section for details).

The Coordinator collaborated with OPD staff Amelia Watson and Barbara Harris on a presentation to the Access to Justice Conference in 2021. The title was Structural Racism and Kinship Care – How the Civil Legal System and Child Welfare System are Still Failing Kinship Families. The partnership with OPD is helpful for identifying gaps in legal resources for state-involved kinship caregivers, a subset of kinship caregivers who have children placed with them via the child welfare system.

The Coordinator will meet early in 2023 with the OPD Director, Larry Jefferson, to further this connection and discuss ways to collaborate regarding kinship care issues where they connect with public defense.

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 were no legal resources that were singularly focused on kinship caregivers, until the LAARK program which was funded and established in 2022. The other programs that are helpful to kinship caregivers including the following:

- Washington Law Help offers self-help packets for Minor Guardianship and for Nonparents Caring for Children on the website. The Coordinator worked with Washington Law Help attorneys to update resources for Minor Guardianship and Emergency Minor Guardianship, Caregiver Affidavit for Health Care, and Power Of Attorney for Parents.
- The Moderate Means Program which provides referrals to reduced fee attorneys for Minor Guardianship cases.

- Northwest Justice Project which can provide legal advice or representation in court (representation in court is extremely rare) to kinship caregivers in Minor Guardianship cases through their general family law division. The acceptance of a Minor Guardianship case depends on the region and many kinship caregivers cannot find help through Northwest Justice Project.
- 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 Minor Guardianship 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. During the pandemic this clinic lost volunteers (their main volunteer was appointed to the bench) and morphed somewhat into a program where clients are referred to one volunteer attorney who helps with legal paperwork. If this attorney has a conflict it is difficult to find help for that client, but LAARK is now available to provide advice and consultation in those situations.
- 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 programs were developed in the 2019-2020 biennium in collaboration with other entities. The main legal aid initiative developed in 2021-2022 was the Legal Advice and Referral for Kinship Care (LAARK) Program. 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 the last biennium. The Coordinator has reignited these conversations in the context of cross-referrals with LAARK and potential future regional programs.

- Legal Advice and Referral for Kinship Care (LAARK). Together with the Kinship Care Oversight Committee, the Coordinator advocated for funding in the Washington state budget for a central legal advice program for kinship caregivers. The funding was passed as a budget proviso during the 2022 legislative session. The Office of Civil Legal Aid contracted with KCBA to house the advice program and to receive the funding, beginning July 1, 2022. Preparation for the program included creating the name Legal Advice and Referral for Kinship Care (LAARK) and hiring two full time staff attorneys to manage the line. The attorneys started working at LAARK on September 6, 2022, and the soft launch of LAARK was October 27, 2022. LAARK is currently interviewing for a .5 FTE legal assistant. The full launch will be in December 2022 or January 2023. The LAARK program is a statewide kinship care legal advice program. Kinship caregivers can seek advice regarding kinship care, guardianship statutes, the child welfare system, and issues relating to child custody. The LAARK program is a valuable addition to the legal aid resources available for kinship caregivers, and LAARK staff will be valuable resources for pro bono and low bono attorneys statewide along with the Coordinator. In one month, LAARK has helped 23 clients from a geographic range across the state, from multiple counties including King, Yakima, Stevens, Benton, Chelan, Franklin, Kittitas, Pierce, and Thurston.

- 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 20 kinship caregivers. This program ended in 2020.
- 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 provided quarterly Legal Options Trainings to kinship caregivers. KCKC paid private low bono attorneys a reduced rate to provide legal consultation to caregivers who attend the training.
 - In 2022, the Coordinator provided quarterly Legal Options Trainings and trained one attorney to take over providing the trainings. The attorney was be paid a stipend by KCKC. The Legal Options Training was recorded and the presentation materials were translated into Spanish, and interpreters were provided if a kinship caregiver needed on at a quarterly training. KCKC continued to pay attorneys to provide consultations.
 - In 2023, the program will continue through the LAARK Program. The funding ends in 2023 but the partners plan to advocate for the levy again and to apply for further legal resources funding in the future.
- Benton-Franklin Kinship Clinic. This clinic was spearheaded by the regional Kinship Navigator Laura Dow. After consulting with the Coordinator and learning of the funding opportunity, Laura Dow applied 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. The Benton-Franklin Legal Aid VLP withdrew from collaborating with the Kinship Navigator due to lack of capacity. In 2021 Laura Dow was awarded another grant, which she used to pay an attorney a stipend to help with minor guardianship paperwork for clients. Currently, the grant funding has ended and Laura is one of the most active Kinship Navigators with referrals to the LAARK Program and providing feedback about her region's local court procedures.

Trainings and Resource 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.

For attorneys:

- February 11, 2021. Minor Guardianship Including Intersection With Dependency Court and TPR Cases. Virtual CLE in collaboration with the Juvenile Division of the Assistant Attorney General's Office.
- April 1, 2021. Overview of Minor Guardianship and Local Procedure. Virtual CLE in collaboration with Yakima Volunteer Attorney Services and Yakima Court Commissioner Shane Silverthorn. The CLE had 22 attendees, was recorded and offered 2.5 CLE credits.¹⁰
- April 27, 2021. The Role of a Court Visitor vs. a GAL in 11.130 Minor Guardianships. Virtual presentation in collaboration with KCBA for the Statewide UGA Minor Guardianship Court Visitor and GAL Training. This training had 172 attendees and the recording is available for purchase on the KCBA website.
- August 12, 2021. Access to Justice Conference Presentation – Structural Racism and How it Intersects With Child Welfare Background Checks and Kinship Care Systems. Virtual presentation in collaboration with the Office of Public Defense and two kinship caregivers with lived experience. This presentation was not recorded because not every presenter consented to being recorded.
- September 15, 2021. KCBA Updates on Minor Guardianship - Neighborhood Legal Clinics CLE. Virtual CLE in collaboration with Judy Lin of KCBA Kinship Care Solutions Project. The CLE was 90 minutes and offered 1.5 credits. Attendees were volunteer attorneys in King County who may advise kinship caregivers at a clinic.
- September 17, 2021. Overview of Minor Guardianship, Wenatchee, WA. In-person 75 minute lunchtime CLE for the Chelan-Douglas Bar Association with 20 attendees.

¹⁰ This recording is not available online, but the recording file is available upon request from the Coordinator.

- October 28, 2021. Minor Guardianship Overview and How it Intersects With Dependency. Virtual CLE for OPD Parent's Attorneys. This CLE offered 2.5 credits and had 39 attendees.
- Minor Guardianship Chapter for Statewide Title 11 GAL Training Manual. Overview of the new law, the role of the court visitor, practice tips, links to resources and forms. Submitted to the KCBA GAL Training Committee in early 2022.
- March 22, 2022. Minor Guardianship: The Ins and Outs of Implementation. One hour virtual CLE for Thurston County Guardianships and Family Law Group. The CLE offered one credit and had 60 attendees.
- May 25, 2022. Minor Guardianship and Legislative Updates. Virtual CLE in collaboration with the WSBA Low Bono Section. The CLE offered 1.5 credits and had 70 attendees.
- September 27, 2022. Updates on Minor Guardianship and Kinship Care. Virtual presentation to Thurston County Guardianships and Family Law Group. This was in collaboration with Family Education Support Services and was not a CLE.

For Kinship Navigators:

- May 20, 2021. The New State Minor Guardianship Law: A Brief Overview for Tribal Kinship Navigators Including ICWA Considerations. DSHS-ALTSA Tribal Summit Presentation with Kay Presentation materials available at the ALTSA Tribal Affairs Meetings and Events [web page](#).
- June 24, 2021. Legal Check in on UGA and Other Legal Topics with Q&A, organized by Shelly Willis at FESS. One hour, virtual session during a three-hour general training for Kinship Navigators. This was recorded and should be available at the DSHS Kinship Care website soon.
- October 27, 2022. Legal Advice and Referral for Kinship Care (LAARK). Presentation and Introduction to LAARK for Kinship Navigators statewide.

For Kinship Caregivers:

- March 3, 2021. Overview of Minor Guardianship and Intersection with Dependencies. Two hour virtual presentation with Q&A to Clark County Support Group. Twelve kinship caregivers attended.

- April 14, 2021. Minor Guardianship Overview and Q&A with Pierce Co Support Group. Two hour virtual presentation to kinship caregivers and some kinship social service providers. Thirteen people attended.
- September 2022. Updated Legal Options Guide For Grandparents with Legal Voice published. The Coordinator and attorney Kerry Clayman worked with Legal Voice through spring and summer 2022 to update the minor guardianship section of this guide and to review the final draft before publication.
- January 12, 2022. Overview of Minor Guardianship for Kinship Caregivers, to Kinship Caregivers and Kinship Care Advocates. Two-hour virtual presentation with Q&A for SW Washington region. Twenty-eight people attended.
- June 16, 2022. Legal Options for Kinship Caregivers Including De Facto Parentage with Q&A. Two-hour virtual presentation to SW Washington Kinship Caregivers and Navigators, 10 people attended.
- July 26, 2022. Chapter 13 Guardianship vs Chapter 11 Minor Guardianship comparison chart, distributed to DCYF Kinship Programs.

For Courthouse Facilitators:

- October 6, 2022. Minor Guardianship Overview With Legislative Updates and FAQ. Ninety minute in-person presentation to statewide court facilitator group through AOC Office of Court Innovation, in Lacey, Washington. About forty people attended via Zoom and in person.
- November 16, 2022. Minor Guardianship Scenarios for Court Facilitators. Sixty minute presentation via Zoom. Recorded and available on YouTube.

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. This continued throughout 2021 and in 2022 virtual trainings and meeting became normalized. Another effect of the pandemic was the – deservedly - heavy focus on eviction prevention and funding for legal aid to establish new housing justice programs across the state.

Uniform Guardianship Act

The passage of the Uniform Guardianship Act that replaced and repealed the nonparent custody statute was an event that significantly affected the job duties of the Coordinator. Many kinship caregivers have nonparent custody or were seeking it when the law changed. The new law replaced that avenue for legal custody with a guardianship action. The new law went into effect on January 1, 2021 and attorneys, courts, and advocates statewide worked hard to prepare for the changes, and continue to work to ease the transition. Implementation of the new law across the state has varied by county and caused confusion and even less access to legal resources or the court system for kinship caregivers. Almost two years later, a kinship caregiver's experience will be dictated by which county they file for minor guardianship in.

Turnover and Vacancies at Volunteer Lawyer Programs and Kinship Navigator Positions

Throughout the pandemic and into 2022, 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. The funding of LAARK is a welcome step in increasing kinship care legal aid that clients statewide can access.

Overarching Goals for the Next Biennium

- Support LAARK in its public launch and ensure that kinship caregivers statewide are connecting with LAARK for legal advice if needed. Work with LAARK to form cross-referral systems between LAARK and regional legal aid resources, court facilitators, and Kinship Navigators so that clients do not fall through the gaps. Track LAARK's progress in order to report on its successes and identify necessary changes to the program.

- 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. Increase the number of online self-help materials for kinship caregivers, as well as trainings for attorneys in order for them to be comfortable taking pro bono cases under the new law. Whatcom County Kinship Clinic is an excellent model of a collaborative clinic between the VLP, Kinship Navigator, and Courthouse Facilitator, and the partners have expressed willingness to help other regions create similar programs.
- Continue with the equity targeting goals set out in the Coordinator's work plan, including targeted outreach to Tribal Kinship Navigators, community organizations that are by and for BIPOC communities, and including information in all CLEs and trainings regarding systemic racism and how kinship caregivers are disproportionately BIPOC.
- Continuing to place a high priority on geographic equity and connecting with potential partners in rural counties. While LAARK is an improvement and is available to kinship caregivers in all counties, there are still gaps in rural counties where legal resources are difficult to find. If LAARK can form connections with the Court Facilitators, or other community programs if there is not a Court Facilitator program, it will help catch kinship caregivers that are falling through the cracks. The Coordinator created an interactive map of Washington that includes Kinship Navigator Programs, VLPs, Tribal Kinship Navigator Programs, and County Courthouses.¹¹ 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.¹² 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.

¹¹ Map available at: <https://www.google.com/maps/d/edit?mid=1KD7zI11NqTAhWqScZ-1b9AgB3w2AAi2c&usp=sharing>

¹² 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/rejitoolkit/>

- Individual level. The Coordinator is focused on continued learning through books, trainings, and journaling. She advocated 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.
- 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 hired a new executive director in the last biennium who was focused on race equity as a priority at KCBA. The Coordinator joined the newly formed staff Race Equity Committee and has been a member since early 2021. This committee has made recommendations to KCBA as an organization including increasing race equity trainings, supporting local tribal communities, and hiring a full time equity liaison. Though the new executive director recently left KCBA, the Coordinator is motivated to continue the organizational work with her colleagues and on the staff committee. The Coordinator also joined the staff Hiring Committee and has worked with colleagues to include interview questions about race equity and how candidates have prioritized in their work and personal lives.
- Systemic level. The Coordinator will continue to review the REJI Toolkit and other resources in order to be able to critically think about decisions she is making, and data she is 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!