



Guardianship Can Be a Positive Life Changer for Children

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While living in group homes, Andy experienced failing grades, poor school attendance and little to no community involvement. When placed in guardianship with his "aunt" at age 16, he began earning high school credits for the first time, attends school daily and is experiencing success in the home, school and community. His "aunt" remains committed to Andy and his brother maintaining contact with their birth family, while ensuring their safety and well-being.

After nearly two decades of experience with permanent guardianship in Arizona, it is time to update laws and practices to safeguard children and improve their stability and security.

Abused and neglected children can connect to a permanent and loving family through "Permanent Guardianship." This is another option in addition to adoption or reunification that allows children to live with people they know and trust, avoid moving from one foster care placement to another, and maintain a safe connection with their birth family and culture.

Permanent guardianship is established when the court appoints an adult who is given legal responsibility and assumes the rights of care, custody, and supervision of a child under the age of 18 outside of the foster care system.

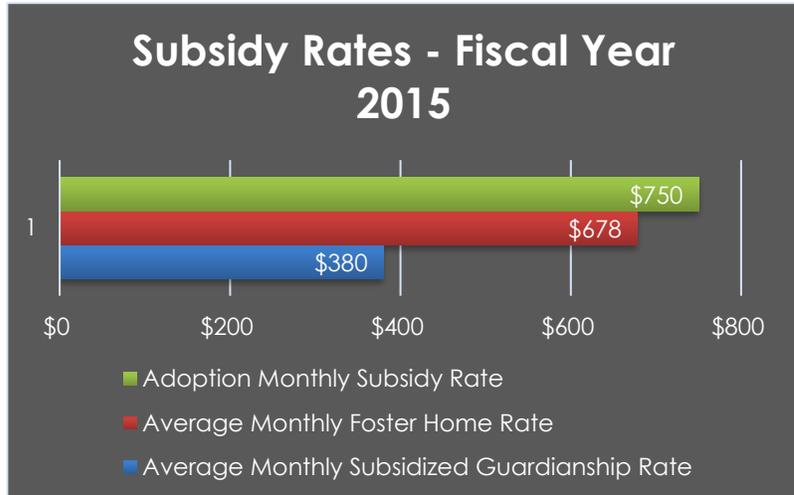
History of Permanent Guardianship in Arizona: In 1999, Arizona passed a law to allow for permanent guardianship (A.R.S. §8-871) under certain conditions for a child in foster care. It requires the juvenile court to order a report within one year to assess the safety and condition of the child and determine if there are any service needs. A permanent guardianship subsidy was also established in A.R.S. §8-814 that allows the Department of Child Safety (DCS) to

provide a subsidy to an applicant **after** the guardian applicant has applied for all other state and federal benefits.

Recent State Legislative Action in Permanent Guardianship: In 2017, the Arizona legislature passed SB 1360 to allow the juvenile court to establish a permanent guardianship for a child who is the subject of a **pending** dependency petition filed by DCS. Prior to this change in state law, family reunification and adoption had to be ruled out as permanency options in order for permanent guardianship to be considered a case plan option. Effective August 9, 2017, A.R.S. §8-871 allows the court to waive consideration of adoption before a guardianship can be considered.

The Supports for Permanent Guardianship Have Eroded: When the permanent guardianship law was passed in 1999, the monthly stipend amount for permanent guardianship was similar to the adoption subsidy maintenance payment. Today, children in a permanent guardianship have less access to benefits than when the program was established. This includes:

(1) Children in a permanent guardianship status are no longer eligible for the TANF child-only benefit if their guardian family does not qualify based on the total family income; (2) For AHCCCS health coverage, guardians must apply themselves and are often not accurately informed about eligibility; and (3) Permanent guardianship subsidies are no longer similar, but are far lower, than the adoption subsidy maintenance payment.



Optional Financial Supports Available

In 2008, Congress passed the Fostering Connections Act (P.L. 110-351) that offers federal financial assistance to states that opt in to the Guardianship Assistance Program (GAP) of Title IV-E of the Social Security Act. Arizona has not opted in to this entitlement program.

Practice Issues: Problems and Concerns: Permanent guardianship can offer a positive alternative when family reunification is not in the best interests of the child. Today, there are a range of circumstances that are weakening the guardianship option and diminishing children's security.

- There is a substantial need for clearer policies, consistent practices and easier processes for permanent guardianship at all levels, including at DCS, DES, AHCCCS, and the juvenile courts.
- There are fiscal disincentives for a family to choose guardianship if they are a licensed foster home and doing so may impact the ability of the caregiver to adequately provide for the child.
- DCS does not provide specific staff support to assist in stabilizing placements by answering questions or addressing concerns that may arise after a permanent guardianship is in place as DCS does for those receiving adoption subsidy.
- There is no comprehensive and consistent information available on guardianship that clearly explains the role, responsibilities and resources available to permanent guardians.
- Some guardians are confused about AHCCCS health insurance eligibility; in part because DCS staff and Department of Economic Security (DES) staff who determine eligibility for AHCCCS have provided inconsistent and sometimes erroneous information to guardians.

- Currently, subsidized guardianship and adoption subsidy work very differently from one another. Guardians have to apply for their guardianship subsidy and for AHCCCS **after** the guardianship is already approved by the court; whereas for adoption subsidy, the adoptive parent applies for subsidy **prior** to the court approval of the adoption,

2,737
 CHILDREN WERE LIVING WITH
 1,657 PERMANENT GUARDIAN
 FAMILIES IN MAY 2017

682
 AVERAGE NUMBER OF CHILDREN
 WHO HAVE LEFT FOSTER CARE FOR
 PERMANENT GUARDIANSHIP
 ANNUALLY FOR THE PAST 15 YEARS

10,236 CHILDREN HAVE LEFT FOSTER
 CARE FOR PERMANENT
 GUARDIANSHIP FROM FEDERAL
 FISCAL YEAR 2002 THROUGH
 2016

**BY THE
 NUMBERS**

and DCS staff do the work to assure AHCCCS enrollment for the adopted child. This creates a gap in support for permanent guardianship families that can hurt the children in their care.

- State law restricts the ability of guardians to seek the life-time commitment to a child through adoption and receive an adoption subsidy. Currently A.R.S. §8-143 limits eligibility for adoption subsidy to *“Foster parents who are interested in adopting a child in their home or any other persons interested in adopting a child under public or private agency care.”* Children in a permanent guardianship are no longer in foster care or under public or private agency care.
- A thorough permanent guardianship assessment is not consistently completed for children in foster care to determine the bond between the child and the prospective guardian and the benefits and risks for each permanency path.
- Youth who move from foster care to permanent guardianship just before they turn 18 lose the ability to have AHCCCS (Medicaid) coverage until age 26 and lose eligibility for the financial supports of the state’s Independent Living Subsidy Program up to age 21. These benefits are important to young adults without permanent family connections and should be weighed against the benefits of establishing a permanent guardianship – especially in cases when the youth is close to turning 18 and when the connection with the guardian is not strong and may not create a permanent family.
- Guardians do not have access to DCS case management services on an as needed basis that could help to stabilize permanent guardianship placements and prevent possible disruptions.

**DCS Staff and DES Eligibility Staff
 Need to Be Better Informed of
 AHCCCS Eligibility for Children
 Under a Guardianship**

No one was able to correctly guide Mrs. Rivera through AHCCCS eligibility for Antonia aged 15 and Daniel aged 17, who were denied AHCCCS health benefits twice. Mrs. Rivera shared that she recently applied for a loan in order to pay out of pocket for the children’s medical and dental expenses.



RECOMMENDED NEXT STEPS

- Amend A.R.S. §8-814 to permit prospective guardians to apply to DCS and get approval or disapproval for a guardianship subsidy **before** the court decision to approve a permanent guardianship.
- Automate AHCCCS eligibility and enrollment for children moving to permanent guardianship as is currently in place for those children placed by DCS for adoption.
- Amend A.R.S. §8-143 to allow guardians to adopt children in their care and receive an adoption subsidy.
- Pass a state FY 2019 budget that increases the permanent guardianship subsidy to strengthen family stability.
- Explore through DCS and the Governor's Office the programmatic as well as financial benefits of accepting the Title IV-E Guardian Assistance Program (GAP) option.

ADDITIONAL ACTION STEPS

- Create or designate DCS staff positions to support permanent guardians when questions or concerns arise to help stabilize families.
- Pass state legislation to extend financial supports to age 21 for adoption and guardianship in recognition of child development science and the challenges of successful transitions to adulthood.
- Include in DCS case decision-making processes a thorough assessment of the pros and cons of each permanency option regarding stability and quality of relationship, the programmatic and financial supports available, and the child's future plans and goals.
- Develop and distribute clear and comprehensive information about the different permanency options including adoption and guardianship as well as independent living for potential adoptive parents and guardians, youth in foster care, DCS staff, judicial officers, attorneys, CASAs, providers, and other stakeholders.



All Parties Need to Be Involved in Guardianship Decision-Making and Be Connected to the Available Resources

The Taylors signed guardianship documents for Jackie, their 13 year old niece, without the understanding of what guardianship was or how it worked; they did not understand that they could not be licensed as foster parents if they were guardians of the child. The DCS case manager stated to the family that she needed to get the family off of her caseload. The Taylors never applied and did not receive guardianship subsidy. They did not know they could apply for AHCCCS. They did not understand how to get any help for Jackie.