



# **South Carolina Bar**

Continuing Legal Education Division

## **2026 SC BAR CONVENTION**

### **Children's Law Committee**

**“Do You Want to Know What's New(s)?”**

**Saturday, January 24**

*SC Supreme Court Commission on CLE Course No. 260231*

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## SCDSS Initiatives & New Programs

*Taron Davis*



## New Initiatives and Programs

January 24, 2025

Presenter: Taron Brown Davis

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## Presentation Goal

### Introductory Understanding of New Programs:

- Extended Foster
- Subsidized Legal Guardianship
- Prevention Services



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## Part I: Extended Foster Care

- *Foster Connections to Success and Increasing Adoptions Act of 2008* (Public Law 110-351) amendment to Title IV-E of the Social Security Act



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## Extended Foster Care

- 36 States, the District of Columbia, and Puerto Rico have federally approved extended foster care
- DSS began implementing this program on April 25, 2022 with the signing of H. 3509



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## Extended Foster Care

- Why extend foster care to young Adults age 18-21 years?
  - Improves outcomes for the age group



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## General Eligibility Requirements

- Emancipated from foster care
- Education
- Employment
- Intellectual, Physical, or Other Impairment



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## Procedural Requirements

- Voluntary Agreement
- Court-Ordered Extension



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## Benefits

- Case Management
- Transition Planning
- Placement/Foster Care Board
- Support in Achieving Post-Secondary Education and Employment
- Medicaid Eligible Until Age 26



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## Part 2: Subsidized Legal Guardianship

- Public Law 110-351, the *Fostering Connections to Success and Increasing Adoptions Act of 2008*, amended Title IV-E of the Social Security Act, allowing States the option to provide guardianship assistance payments to eligible kinship caregivers who assume **permanent legal guardianship** of child who is in foster care



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## Subsidized Legal Guardianship

- As of December 2023, **57 child welfare agencies- 42 States, the District of Columbia, and 2 Territories and 11 Tribes-** have approved Title IV-E State Plans for subsidized kinship legal guardianship
- Governor McMaster signed S. 380, South Carolina's enabling legislation, into law on May 16, 2023
- DSS received approval from the ACF/CB to amend its Title IV-E State Plan on December 4, 2023



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## Permanency Options for Children in Foster Care

- Reunification
- Adoption
- Legal Guardianship with a Fit and Willing Relative or **Legal Guardianship with a Fit and Willing Relative with Supplemental Benefits (subsidized kinship legal guardianship)**
- Legal Custody with a Fit and Willing Relative
- APPLA



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## Subsidized Kinship Legal Guardianship as a Permanency Plan

- The principal goals of the child welfare system are for each child who enters foster care to achieve **safety, permanency, stability, and well-being**
- As a child welfare system, we should aim to achieve these outcomes with a **sense of urgency**
- This is why children in foster care must have a **meaningful permanency planning** hearing within 12 months



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## Kin First Culture (Values and Behavior)

- For the past several years DSS has been actively shifting its focus to utilize kinship caregivers as foster care home providers for children in foster care
- When children need foster care placement, DSS makes active efforts to make the first placement, a kin placement
- DSS also makes ongoing efforts to identify kin for placement throughout the foster care episode and consistent with the child's permanency plan



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## Improved Outcomes

- Minimizes trauma associated with out-of-home placement
- Improves overall child well-being
- Improves behavioral and mental health outcomes
- Improves placement stability while in foster care
- Helps maintain sibling connections

• Reference [Kinship Care is Better for Children and Families \(americanbar.org\)](https://americanbar.org) by Heidi Redlich Epstein



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## When is Subsidized Kinship Legal Guardianship Appropriate?

- DSS must assess the viability of adoption
- If DSS determines termination of parental rights is not in the child's best interests, and certain eligibility requirements are met, the Family Court may grant subsidized legal guardianship to a kinship caregiver



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## Eligibility Requirements

- Child must be in **DSS custody** pursuant to a removal action
- The child must have resided in the home of the kinship caregiver for a consecutive **6 month period during which the kinship caregiver was fully licensed as a foster parent**
- Reunification or adoption are not in **the child's best interests**



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## Eligibility Requirements cont'd.

- Child and relative share a **strong attachment**, and the **relative is committed** to providing permanent placement
- A child 14 or older has been consulted



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## Subsidized Kinship Legal Guardianship Agreement

- DSS must enter a written agreement for guardianship assistance payments for an eligible child
- The written agreement must be entered **before** the Family Court issues an Order establishing subsidized kinship legal guardianship
- The prospective legal guardian must receive a copy of the signed written agreement



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## Procedural Requirements

- DSS or any party may request that the Family Court establish subsidized kinship legal guardianship by filing and serving a motion



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## Hearing to Establish Subsidized Kinship Legal Guardianship

- The Family Court shall grant the motion upon finding by a preponderance of the evidence that the DSS has entered a written subsidized kinship legal guardianship agreement and the placement is in the child's best interests



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## **Court Order to Establish Subsidized Kinship Legal Guardianship cont'd.**

- This is a final order. No further hearings may be required
- The legal guardian is prohibited from returning the child to the care, custody, or control of the parents without a court Order based upon clear and convincing evidence of a material change in circumstances



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## **Reimbursement of Non-Recurring Legal Costs**

- DSS is required to reimburse the attorney who represents a kinship caregiver up to \$2000 for legal costs associated with establishing subsidized kinship legal guardianship



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## Adverse Decision Fair Hearings

- A kinship caregiver who is aggrieved by a decision related to participation in the subsidized kinship legal guardianship program has the right to appeal the adverse decision to the DSS Office of Administrative Hearings, unless there is a case pending in Family Court that can dispose of the issue



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## Part 3: Prevention Services

- Family First Prevention Services Act:  
Enacted into law on February 9, 2018,
- Largest reform to child welfare financing  
in decades shifting investments towards  
prevention



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## Family First Prevention Services Act (FFPSA)

- Authorizes states, territories, and tribes with an approved Title IV-E Prevention plan to provide time-limited prevention and treatment services for mental health, substance use prevention and treatment, and for in-home parent skill-based programs
- Services are provided to children who are identified as “candidates” for foster care and their parents or kin caregivers



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## Eligibility under FFPSA

- Individuals must meet candidacy criteria as outlined in the state’s approved prevention plan and be determined to be at “imminent risk of foster care entry”
- South Carolina has two broad eligibility pathways



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## Formal DSS Involvement

- All children under 18 named in an open Child Protective Services Investigation (not in Foster Care)
- All children under 18 who are receiving family preservation services
- All pregnant or parenting youth in foster care



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## No Formal DSS Involvement

- Children aged 0-5 who are not part of an open child protective services investigation, family preservation, or foster care case and are enrolled in the SCFS PAT Program.

Note: Must meet model risk characteristics and only eligible for PAT under this pathway.



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## How Families Connect to Services

- Case Managers work with families to identify needs through formal and informal assessments
- Once a need is identified the Case Manager works with the child and family team to determine the most appropriate service to meet the need
- Case Manager refers family to service provider



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## How Families Connect to Services

- Services remain in place until either the family completes their goals, needs are met, or the case closes with DSS.
- Note: Under FFPSA eligibility is lost once their case with DSS is closed.



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# Questions



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## Department of Children's Advocacy Update: System Improvements

*Margaret Bodman*  
&  
*Tena Hardee*

No Materials Available



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## Legislative Update

*Senator Jason Elliott*

No Materials Available



# **South Carolina Bar**

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## **Court Improvement Program Quality Legal Representation Project-Direct Representation for Children**

*Cody Lidge*



No Materials Available