



# ***Permanent Guardianship Subsidies: Vermont's new Guardianship Assistance Program***

*Vermont Juvenile Court Improvement Program (CIP)*

*December 2010*

This *InfoBulletin* is intended to help the legal community implement new laws and policies.

## **Help on the Way**

Since July 1, 2010 Vermont has had an opportunity to offer financial assistance to relatives who become Permanent Guardians of children in juvenile proceedings. This is a federal program known as the Guardianship Assistance Program (GAP).

Vermont Act 97 ([H.507](#)) amended criteria for creating Permanent Guardianships in juvenile proceedings and created a subsidy for *eligible* relative permanent guardianships. Not all permanent guardianships are eligible for the GAP financial assistance. Certain criteria must be met for the assistance to apply.

Amendments to the Vermont *Permanent Guardianships for Minors* statute lists the findings now required when a judge issues a permanent guardianship order under 33 V.S.A. § 2661-2667. (See next page)

### **A summary of kinship guardianship assistance payments for children living in foster care with relatives:**

The federal Fostering Connections Act<sup>1</sup> gives states the option to use federal Title IV-E funds for kinship guardianship payments for children cared for by relative foster parents who are committed to caring for these children permanently when they leave foster care. The children must reside with the relative for at least six consecutive months in foster care to be eligible for the kinship guardianship assistance payment. The children who are eligible are those for whom returning home and adoption are ruled out and who likely would otherwise remain in foster care until they "aged out" of the system. Children who are 14 and older must be consulted about the kinship guardianship arrangement.<sup>2</sup>

### **In Vermont, Permanent Guardianships are eligible for funding under the Guardianship Assistance Program (GAP) only in situations where ALL of the following exist:**

- The youth is in DCF custody.
- The prospective guardian is a relative and licensed as a foster parent. A person who had a significant relationship with the child *before* the child was placed with him or her can be considered a relative for this purpose.
- The youth has been living with the proposed relative guardian as a foster care placement for a minimum of six months.
- Being returned home or adopted are not appropriate permanency options for the child. The child demonstrates a strong attachment to the prospective relative guardian and the relative guardian has a strong commitment to caring permanently for the child.
- If the youth is over the age of 14, the youth must be in agreement with the plan for permanent guardianship and prepared to give consent at court.
- **The DCF Commissioner (or designee) and the prospective guardian have signed the GAP agreement *before* the establishment of the permanent guardianship (prior to the court's Permanent Guardianship Order).**

**Questions?** Contact Diane Dexter, Adoption Chief, Permanency Unit, DCF Family Services Division at [diane.dexter@ahs.state.vt.us](mailto:diane.dexter@ahs.state.vt.us)

<sup>1</sup> See section 101 of the federal 2008 *Fostering Connections to Success and Increasing Adoptions Act*, H.R. 6893 / [P.L. 110-351](#).

<sup>2</sup> From the Center for Law and Social Policy, Children's Defense Fund, at <http://www.childrensdefense.org/child-research-data-publications/data/FCSIAA-detailed-summary.pdf>

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**14 V.S.A. § 2664. Creation of permanent guardianship (as amended in 2010):**

(a) The family court may establish a permanent guardianship at a permanency planning hearing or at any other hearing in which a permanent legal disposition of the child can be made, including a child protection proceeding pursuant to 33 V.S.A. § 5318, or a delinquency proceeding pursuant to 33 V.S.A. § 5232. The court shall also issue an order permitting or denying visitation, contact or information with the parent at the same time the order of permanent guardianship is issued. Before issuing an order for permanent guardianship, the court shall find by clear and convincing evidence all of the following:

- (1) Neither parent is capable or willing to provide adequate care to the child, requiring that parental rights and responsibilities be awarded to a permanent guardian.
  - (2) Neither returning the child to the parents nor adoption of the child is likely within a reasonable period of time.
  - (3) The child is at least 12 years old unless the proposed permanent guardian is:
    - (A) a relative; or
    - (B) the permanent guardian of one of the child's siblings.
  - (4) The child has resided with the permanent guardian for at least a year, or the permanent guardian is a relative with whom the child has a relationship and with whom the child has resided for at least six months.
  - (5) A permanent guardianship is in the best interests of the child.
  - (6) The proposed permanent guardian:
    - (A) (i) is emotionally, mentally, and physically suitable to become the permanent guardian; and
    - (ii) is financially suitable, with kinship guardianship assistance provided for in 33 V.S.A. § 4903 if applicable, to become the permanent guardian;
    - (B) has expressly committed to remain the permanent guardian for the duration of the child's minority; and
    - (C) has expressly demonstrated a clear understanding of the financial implications of becoming a permanent guardian including an understanding of any resulting loss of state or federal benefits or other assistance.
- (b) The parent may voluntarily consent to the permanent guardianship, and shall demonstrate an understanding of the implications and obligations of the consent.
- (c) After the family court issues a final order establishing permanent guardianship, the case shall be transferred to the appropriate probate court in the district in which the permanent guardian resides. Jurisdiction shall continue to lie in the probate court. Appeal of any decision by the probate court shall be de novo to the family court.

**Act 97 also amended:**

33 V.S.A. § 4903 regarding DCF providing aid to a child in the permanent guardianship of a relative if the child was in the care and custody of the department and was placed in the home of the relative for at least six months prior to the creation of the guardianship.

33 V.S.A. § 5307 (h): At the Temporary Care Hearing, DCF shall provide information to relatives and others with a significant relationship with the child about options to take custody or participate in the care and placement of the child, about the advantages and disadvantages of the options, and about the range of available services and supports.