Model Legislation

Summary

Families are the best welfare program for children. Parents are the first source of support for children. Where parental resources are inadequate but voluntary support for the kinship network of family members is available to meet the child’s needs, there is no justification for displacing the family and creating dependency upon government welfare programs.

Model Legislation

Section 1. Title: This Act may be cited as the “Kinship Care Act.”

Section 2. Purpose.

The main purpose of the Kinship Care Act is to change the current welfare eligibility criteria so that an applicant’s eligibility is not based exclusively on the ability of that person to support one or more dependents, but is also determined by the ability and willingness of relatives to provide safe support for the dependents, as determined by an appropriate certification process.

Section 3. Legislative Declarations.

The legislature of {the State} hereby finds and declares that:

(A) Welfare programs are intended to provide temporary economic sustenance for individuals while they seek to enter the work force and eventually extricate themselves, and their dependents, from poverty.

(B) Welfare programs have fallen short of this goal and the failure to escape poverty often persists through generations as children of welfare families go onto welfare rolls as adults, resulting in a needless waste of human potential as well as economic and other costs to society.

(C) A primary cause of intergenerational welfare dependency is the adverse impact of the welfare environment upon children.

(D) Reducing intergenerational welfare dependency requires, where possible, the avoidance of a welfare environment and the rearing of children in family settings that will be conducive to rejection of the welfare career.

(E) Prior welfare programs lacked measures that would assist in the elimination of intergenerational welfare dependency and, indeed, actually encouraged such dependency by ignoring the availability of non-welfare alternatives for dependent children.

(F) It is therefore in the public interest to amend the welfare laws to eliminate the encouragement of intergenerational welfare dependency and to promote the rearing of children in non-welfare environments more conducive to an economically and socially productive adulthood.

(G) One of the best opportunities for reducing welfare dependency lies in the revision of eligibility criteria to better identify which children are actually in need of welfare assistance. In the past, eligibility criteria for most welfare programs have considered only the cash income of the single custodial parent without regard to the availability of voluntary kinship care.

(H) Kinship Care, the practice of looking to capable and willing family members as an alternative to welfare dependency, recognizes both that a functioning extended family provides the child’s best welfare safety net and that government programs can not and should not displace a willing, functioning family.

(I) Accordingly, the legislature of {the State} finds and declares that it is contrary to the best interests of the child to create welfare dependency where voluntary kinship care resources are available to meet the child’s need without resort to government welfare programs.

Section 4. Legislation Modification.

Section {#} of the Code of {the State}, is hereby [amended or added] as follows:

No person shall be eligible to receive benefits under this program by reason of the need of that person to support one or more dependents unless the administrator [or agency or other appropriate official] has certified, after undertaking diligent efforts, that there are no relatives of such child who are fit and willing to provide for the needs of the child without resorting to welfare dependency. Such certification shall be required prior to...
initial entry into the program and, therafter, upon periodic annual reviews of eligibility. An applicant's preference for welfare payments rather than family assistance shall not be a basis for granting welfare eligibility unless the administrator [or agency or other appropriate official] has certified, after making diligent investigation, that family assistance will be detrimental to the safety of the child.

Section 5. Severability Clause.
Section 6. Repealer Clause.
Section 7. Effective Date.