



House Aging and Older Adult Services

House Aging & Older Adult Services and Children & Youth Committees

5/7/14, 9:30 a.m., Room G-50 Irvis Office Building

By Jeff Cox

Committee(s): House Aging & Older Adult Services and Children & Youth Committees

Meeting type: Informational meeting

Subject: Grandparents' Rights

Testimony: Patrick McGill, Pennsylvania AARP Advocacy Volunteer

Shirley McBride, grandparents' rights advocate

Andrew Taylor, family law attorney

John Calomino, Northeastern Pennsylvania Grandparents Raising Grandchildren Coalition

Beth O'Boyle, Northeastern Pennsylvania Grandparents Raising Grandchildren Coalition

Brenda Saba, Northeastern Pennsylvania Grandparents Raising Grandchildren Coalition

Debbie Willet, Family Support Partner, Child and Family Focus

Sec. Brian Duke, Department of Aging

Members Present: Aging & Older Adults Services Committee: Chairman Tim Hennessey (R-Chester), Minority Chairman Steve Samuelson (D-Northampton) and Representatives Ryan Bizzarro (D-Erie), Michele Brooks (R-Mercer), Rosemary Brown (R-Monroe), Lynda Culver (R-Northumberland), Hal English (R-Allegheny) Marty Flynn (D-Lackawanna), Keith Greiner (R-Lancaster), Greg Lucas (R-Erie), Steve McCarter (D-Montgomery, John McGinnis (R-Blair), Steven Mentzer (R-Lancaster), Daniel Miller (D-Allegheny), Eddie Pashinski (D-Luzerne), Adam Ravenstahl (D-Allegheny), Pam Snyder (D-Greene) and RoseMarie Swanger (R-Lebanon). Children & Youth Committee: Chairman Katharine Watson (R-Bucks) and Representatives Stephen Bloom (R-Cumberland), Michelle Brownlee (D-Philadelphia), Fred Keller (R-Snyder), Stephen Kinsey (D-Philadelphia), David Maloney (R-Berks), Dan Moul (R-Adams), Donna Oberlander (R-Clarion), Tommy Sankey (R-Clearfield), Kevin Schreiber (D-York), Todd Stephens (R-Montgomery), Will Tallman (R-York) and Tara Toohil (R-Luzerne)

The House Aging and Older Adult Services and the Aging and Youth Committees held a joint informational meeting on grandparents' rights.

Chairman Watson told the committee members, "We are here to talk about a serious subject." She explained that Chairman Hennessey and she have been talking about the issue informally and each has been approached by legislative colleagues who have been asking about it and what can be done. Chairman Watson said, "We decided that we need to learn more about what is happening in the Commonwealth and grandparents' rights and grandparents who are raising their grandchildren, perhaps, never planning to do so, doing a spectacular job but not with enough help."

With the House going into session at 11:00 a.m., Chairman Watson explained to the committee members that all of the testimony would be presented first and then, with the time remaining, there would be questions and answers. She suggested that if the time ran out and a member had any questions for the testifiers then the member could submit the questions to her or Chairman Hennessey and they would get a response.

[Patrick McGill](#), Pennsylvania AARP Advocacy Volunteer, testified, "Over the past decade there has been a greater recognition of the challenges and frequency of grandparents and other older relatives raising their grandchildren." He added, "It is a situation that families face more frequently throughout the Commonwealth, just as my wife and I are raising our granddaughter." According to McGill, AARP has interviewed kinship caregivers as part of the research into the needs of grandparents and other older relatives raising children. He outlined some of the main concerns and barriers including:

- Kin caregivers generally lack information about the availability of a spectrum of financial, health, educational, legal and child welfare services.
- Kin caregivers face limited legal authority to make informed decisions about important financial, health, educational, legal and child welfare matters.
- Administrative and policy restrictions limit the ability of kin caregivers to access non-governmental services such as health care.
- There often appears to be a systematic preference for non-kin foster care.

McGill outlined some suggested remedies to address the concerns including: delegating rights and responsibilities similar to those of parents to kin caregivers; allowing kin caregivers the right to access health, educational, financial and legal records and documents available for children in their care; expanding support and resources available to kin caregivers as they seek and apply for a range of core services; and enhancing and expanding training of professionals who work with kin caregivers to improve their understanding of the issues, concerns and resources." He told lawmakers, "AARP stands ready to help improve the situation for kin caregivers in Pennsylvania." McGill continued, "But perhaps the best place to begin is to help you as policymakers understand the situation and issues that a couple faces raising their grandchildren." He then related his wife's and his experiences in raising their seven year old granddaughter, Mackenzie, who they have had custody since she was three years old. McGill concluded his testimony by telling the committee members, "For those who have not had to do this, this does place an added burden and strain on a relationship, for as I have previously stated, priorities for the 'Golden Years' are certainly altered."

[Shirley McBride](#), a grandparents' rights advocate and grandmother, said, "I am 80 years old and I have been raising my 17 year old granddaughter, Mackenzie, since she was seven years old." Describing her granddaughter as "a great child", McBride asserted, "The struggle with raising Mackenzie is how the laws and the system are set up in Pennsylvania. As grandparents, we have very little rights when it comes to raising our grandchildren." She continued, "We need to change these laws to make it easier for grandparents to do what is in the best interest of their grandchildren." McBride told lawmakers, "An important issue I have been fighting for some time is revamping how the state views guardianship in Pennsylvania, specifically, in cases where grandparents have to raise grandchildren." She commented, "Without a guardianship over a child, it is impossible to make any decisions on behalf of that child." McBride discussed her experience as a grandmother without a form of guardianship. She argued, "Without guardianship, grandparents who raise their grandchildren cannot provide for their basic needs and it becomes almost impossible to raise them in a healthy and productive lifestyle." McBride also advocated for the need for county Offices of Children and Youth "to work with grandparents." She said, "They need to listen to us." McBride also suggested that Children and Youth as well as the Department of Public Welfare "have the authority to give grandparents' control of a child's money in cases where it is suspected that parents are not using money which is specifically set aside to be spent on a child." She concluded, "It is my hope Pennsylvania starts taking the steps now to ensure greater rights for grandparents when it comes to raising their grandchildren. We want what is best for our grandchildren and, in turn, we need to be able to provide what is best for them."

[Andrew Taylor](#), a family law attorney, testified, "Let me first say that I support the ability of grandparents to seek custody of their grandchildren in certain situations. However, today I would like to discuss some of the shortcomings of the provisions of the Pennsylvania Child Custody Act that awards grandparents legal standing to seek custody." He spoke about the provision conferring standing to grandparents seeking partial or supervised physical custody when the parent of a child have been separated for six months or have filed for divorce. According to Taylor, "This is one of the most commonly used provisions for granting

grandparents standing to seek custody since about half of all marriages end in divorce." He described it as "arguably the most liberal provision in the grandparent custody provisions of the Child Custody Act." Taylor told lawmakers, "It must be noted that partial physical custody means that a grandparent would receive up to 49 percent of overnights with the child."

Taylor cautioned, "As with any legislation, there is always potential for abuse." He commented, "I believe most family law practitioners would agree that sometimes grandparents use the liberal standing provisions granted to them for reasons that have little to do with their grandchildren and more to 'get back' at their ex-son-in-law or ex-daughter-in-law." He added, "In cases where grandparents inject themselves into the custody litigation between two parents, the already contentious custody and divorce case becomes exacerbated, which does little to promote the settlement of the case and does not advance the best interest of the child; overly contentious relationships between separated parents are not beneficial to children." Taylor went on to discuss other shortcomings in the Act. Concluding his testimony, Taylor observed, "Although granting a grandparent standing to seek custody only gives the grandparent the right to sue for custody, I have never seen in my practice a case where the grandparent was granted standing but denied any form of custodial time." He said, "There seems to be a misunderstanding that once legal standing is conferred to a grandparent, they must automatically receive some type of custodial rights." Taylor suggested, "With that in mind, close scrutiny must be given to the provisions of the Child Custody Act that grant grandparents standing to seek custody."

[John Calomino](#), a member of the Northeastern Pennsylvania Grandparents Raising Grandchildren Coalition, spoke about his four and a half year old granddaughter, Brooke, who was born severely addicted with a combination of Suboxone and Xanax in her system. He explained how she spent weeks in the NICU being weaned from the drugs on a morphine schedule before coming home and an additional 12 weeks using a Phenobarbital program to wean her completely off of all drugs. Calomino reported, "Brooke does suffer from asthma and acid reflux and we continue to work with her and watch for any possible lingering effects such as vision, hearing and dyslexia all related to children born with drugs in the system." He noted, "I am however happy to say that she is doing extremely well today and well ahead of where a child of her age is expected to be." Calomino said, "We are mommy and daddy to her. We provided the safety net of love and support and the unconditional love that a child needs." He pointed out, "Brooke has been with us since day one and has had no relationship with her biological parents other than a few supervised visits." Calomino noted that the parents "have struggled with drug issues for several years" adding "they were given every chance and opportunity and continued to fail."

Calomino explained to the committee members that his wife and he spent nearly four years in Kinship care through the County Children and Youth who finally closed their case with a Subsidized Permanent Legal Custodianship (SPLC) agreement "because the parents had minimal progress and felt it was in Brooke's best interest to be with us." He testified, "Almost six months from the day of the agreement the biological parents took us back to court for increased visitation and shared custody." Calomino said the court master ruled that the biological parents should get two unsupervised visits per week. According to Calomino, "The master ignored the fact that they had failed not one but two separate parenting classes as well as Family Group Decision Making, never did a home study, never engaged a guardian ad litem and most importantly that this child has no bond with them." He advocated, "It is time to completely rethink child advocacy, placement and support. We need a new vision, a new vocabulary and uniformity among our counties and states."

[Beth O'Boyle](#), a member of the Northeastern Pennsylvania Grandparents Raising Grandchildren Coalition, commented, "We are in a social crisis." She discussed some of the challenges facing grandparents in the areas of medical and dental costs, legal costs and other financial challenges. Regarding Pennsylvania's protective system for the biological mother, O'Boyle said, "Giving birth doesn't make you parent. Caring for your child makes you a parent." She pointed out that her husband and she have been in court twelve times since last July. O'Boyle told lawmakers, "It is emotionally and financially exhausting for grandparents to walk into a court where a judge is trying to decide what is best based on the evidence of two lawyers." She argued, "When a parent picks up drugs, the law should state that both parents have abandoned their rights." O'Boyle continued, "Biological parents are able to abuse their

children emotionally and physically and still get their child but grandparents must constantly prove their capabilities." She said, "Biological parents have dropped the ball and we as grandparents have become the real parents." O'Boyle urged that the laws in Pennsylvania be reviewed and changed.

[Brenda Saba](#), a member of the Northeastern Pennsylvania Grandparents Raising Grandchildren Coalition, was accompanied by her grandson Tanner. She explained that her husband and she have had legal custody since August 2009 and they are now moving to adopt him. Saba said that she has been involved with the Coalition for the past four years which she described as "a collaborative effort of multiple social services agencies and volunteers serving the 14 county region in the northeast corner of Pennsylvania. She explained that the Coalition holds a conference for grandparents raising grandchildren and other kinship caregivers. Saba noted that in the past two years there has been a definite shift in the attendance at the conference. She said the first conference she chaired in 2012 there were approximately 260 people in attendance with 70 percent being social service agency workers as well as people whose job is to work with grandparents. Saba pointed out that the following year the opposite was true with 70 percent of the attendees being grandparents raising grandchildren. She observed, "That role reversal is indicative of the growing trend of grandparents raising grandchildren in the Commonwealth and nationally." Saba also outlined some of the challenges facing the grandparents.

[Debbie Willet](#), Family Support Partner, Child and Family Focus, said, "I am a single mom of 12 children; one by birth, 10 by adoption and my six year old granddaughter who I have had since she was 22 months old." She commented, "Years ago, little did I know when we began adopting children with special needs that it would become a multi-generational experience." Willet spoke about her oldest daughter who suffers from Fetal Alcohol Effect due to her birth mother consuming alcohol while she was pregnant. She related how she came to receive full and legal custody of her granddaughter. Willet explained how the Grand Families Support Group was created in Chester County. She outlined some of the struggles and concerns many in the group have including: not qualifying for the services of the Department of Aging because the grandparents are not old enough; financial concerns; at anytime biological parents can petition the court to have the custody agreement modified; grandparents not receiving child support because of the instability of their grown children; food stamps; mental health issues; dramatic changes to social life; and the strain caused by the adult children still living in the home with their children. Willet told committee members, "It is my hope that this brief summary of these daily struggles and concerns will provide you with a better understanding of the important and often unmet needs of those who have chosen to raise the children of relatives."

Chairman Hennessey then read the testimony of [Sec. Brian Duke](#), Department of Aging, into the record.

Chairman Watson commented that "this won't be the only meeting." She said that the committees have "a lot of work to do and a lot of thinking to do" on the issue. Chairman Watson thanked the testifiers for their input and recommendations. She said that she would be working with Chairman Hennessey to see what the committees can do collectively to address the issues that were raised at today's hearing.

Rep. Miller discussed his experiences as an attorney with family law issues. He commented, "The biggest impediment I had in closing out cases with grandparents was their unwillingness to do an adoption." Rep. Miller asked Taylor if when he is looking at the rights of grandparents with the adoption of a secondary grandparent is he suggesting that the grandparent that has been down that path would be entitled to a termination of parental rights. Taylor responded that his point is when you have a set of grandparents involved in a child's life and adopt the child they assume that they have the child permanently and what they don't know is that years down the road the other set of grandparents can come in and sue for custody. Rep. Miller asked Taylor for his suggestion. Taylor said he would take out the exception in section 5326 of Title 23.

Rep. Tallman spoke about a case of a two-year old in Hanover where the parents were involved in alcohol and drug abuse. He described the process for the maternal grandparents to get custody as "horrendous." Taylor explained that his testimony was focused on the provisions for supervised visitation and partial custody. He said there is a separate section in Title 23 dealing with any other form of custody.

Rep. Pashinski observed, "The legal system seems to be one of the biggest impediments that these folks have to overcome." He asked about the cost of grandparents pursuing adoption or pursuing custody. Taylor explained that it depends on numerous factors. He added that family law attorneys by and large throughout the Commonwealth charge by the hour. O'Boyle, who testified that her husband and she have been in court twelve times since last July interjected that they are "at \$10,000 and counting." Rep. Pashinski commented that "a lot of grandparents cannot afford those kinds of dollars let alone the trauma they have to go through." He said, "It is incumbent upon us as legislators to find those solutions in the law because the law was devised, I believe, for the divorce of two loving parents that would have the capability of taking care of their children." Rep. Pashinski observed, "The cases we heard today, unfortunately, those parents are not capable of taking care of these children and, therefore, their grandparents who care about them have the burden and responsibility."

Sabo explained that being currently involved in the adoption process that in addition to paying an attorney, her husband and she also have to engage a social service agency to complete a home study and a family profile. She reviewed her various costs which total almost \$10,000.

McBride discussed the impact on lower income families. She emphasized the need to help grandparents. McBride also was critical of county Children and Youth agencies not listening to grandparents and commented, "They need to be listened to."

Chairman Hennessey thanked the testifiers. He said, "You have given us a lot of information and food for thought in terms of trying to craft some legislation that would change some of the language and problems the current language has created."

Chairman Watson commented that the Children and Youth Committee has spent the past year working on making changes and improving child abuse laws in Pennsylvania. She told the testifiers, "What you have done is given a voice to lots of grandparents across Pennsylvania and that is important for us to consider and certainly be talked about today and the weeks coming that this is a problem." Chairman Watson said, "We need to know the depth of the problem and the expanse of the problem and then we can work on crafting solutions."