Permanent Legal Custody

Permanent Legal Custodianship (PLC) may be a permanency goal when a caregiver makes a commitment to accept legal responsibility to raising the child, but is unwilling or unable to adopt the child.

Once the court has awarded custody to a permanent legal custodian, the child is no longer considered to be in substitute care. Frequently, the court will close the dependency case once custody is transferred. The county agency may find it necessary or appropriate to support the success of the PLC arrangement through a referral to community-based services or to prevention services that are funded by a county agency. (see PLC Considerations on page 2.)

Children Youth and Families Bulletin #3130-10-02, 3130-10-03, Permanent Legal Custodianship Policy (PLC Bulletin) discusses procedures for the court's granting of custody of a child to a legal custodian and awarding certain rights to that custodian, including the right to physical custody of the child, to determine the nature of the child's care and treatment. The custodian is generally prescribed the right and duty to provide for the care, protection, training and education, and the physical, mental and moral welfare of the child.

The PLC Bulletin discusses establishment of PLC as a permanency goal for a dependent child who has resided with the caregiver for six months. It establishes requirements for subsidies to be paid to permanent legal custodians, and identifies factors agencies should consider when making a recommendation for Permanent Legal Custodianship as a permanency goal for a child.
PLC has both advantages and disadvantages that should be weighed carefully when establishing a permanency plan for a child.

The advantages of PLC include:

- Provides a long-term stable environment for the child;
- Allows a child to strengthen an established relationship;
- Provides legal recognition to a "de facto" parental figure;
- Promotes attachment and bonding to an adult; and
- Reduces county agency involvement as typically, the court will order that there is no need for continued agency involvement.

The disadvantages of PLC include:

- PLC does not provide the same level of legal permanence to the relationship, as does adoption; the biological parent can ask the court to reverse the custodianship at any time.
- The child and custodian may view the relationship as less of a commitment;
- Custodianships, especially kinship custodianships, may discourage parents from rehabilitation; and
- The court may retain jurisdiction of the case with continued agency involvement. *Children Youth and Families Bulletin #3130-10-02, 3130-10-03, Permanent Legal Custodianship Policy* – states that although custodianship is intended to be permanent, it expires when the child reaches the age of majority. At that time, there is no legal relationship between the youth and the caregivers.

Permanent Legal Custody (continued)

Custodian's rights and responsibilities: When the court awards PLC to the child's caregiver, the court may designate the conditions and any limitations on the transfer of custody. The custodian is expected to provide a safe and permanent home for the child. The custodian's rights and duties to the child generally include the following:

- Physical custody of the child.
- Determine the nature of the care and treatment of the child, including ordinary medical care.
- Provide for the care, protection, training and education, and the physical, mental, and moral welfare of the child.
- Make other decisions on behalf of the child including the child's travel, driver's license, marriage, and enlistment in the armed forces.
- Petition for child support from the parents.
- Pay legal expenses related to a parent's request to change custody or visitation. The county agency will not provide legal counsel to any PLC who becomes a party to such legal matters.
- For those custodians receiving a subsidy, a decision to petition the court for child support should first be discussed with the county agency. The county agency does maintain the right to continue as the plaintiff in child support cases where a subsidy is paid to the custodian. The county agency is permitted to receive such child support payments for children in the subsidy program to help offset the costs of the subsidy that is paid to the custodian.

Parent's rights and responsibilities: If parental rights have not been terminated when a PLC arrangement occurs, specific rights and duties remain with the parents, including those outlined below, unless otherwise specified by the court.

- The right to visitation when it does not affect the health and safety of the child.
- The right to petition the court for custody of the child.
- The right to pass on property to the child.
- The duty to pay child support.

General Eligibility Requirements:
For the CCYA to recommend PLC as a permanency goal.

- The child cannot return home and the goal of adoption has been ruled out.
- The child must be in the custody of the county agency at least six months
- The child must have had at least one prior permanency hearing
- The PLC candidate must have completed a home study and is qualified to receive and care for the child.

For the CCYA to recommend to the court a particular individual as a PLC candidate for a child, the child must have lived with the individual for at least six months.

Permanent Legal Custody (continued)

PLC Considerations:

Visitation: Placement with a permanent legal custodian allows interaction between a child and his/her family as determined by the court. If parental rights have not been terminated, parents usually have the right to visit the child. Sibling visitation should also be included in the plan. Visitation conditions must be addressed in the child's permanency plan and recommended to the court for approval. The court should address and approve the visitation plan prior to transferring custody from the county agency to the custodian. The court should notify the county agency if the child's parents petition for a change in visitation or custody of the child.

Child Support: Unless parental rights have been terminated, parents generally have the duty to financially support their children. The county agency should assist the custodian in the initial process of filing for child support.

Medical care: When a child is placed in substitute care, the county agency makes application to the County Assistance Office (CAO) for Medicaid for the child. Parents should maintain their insurance coverage, if any, for the child, which should continue after the court transfers custody to the custodian when parental rights have not been terminated.

At this time, Medical Assistance benefits are not provided as part of a PLC arrangement, unless the arrangement is subsidized (see below). If the child has no other medical coverage, the Permanent Legal Custodian may apply for medical assistance benefits for the child. Although a PLC arrangement does not require a custodian to put the child on his/her own medical benefits, the custodian may do so if he/she wishes. The county agency should work with the custodian to address these details prior to the court transferring custody of the child to the custodian.

Behavioral Health and Substance Abuse Services: A child may be receiving substance abuse treatment services or behavioral health care services that will need to continue after the court orders a PLC arrangement. The county agency must help the custodian to ensure that these services will continue uninterrupted.

Subsidized Permanent Legal Custodianship: Permanent Legal Custodians may be eligible to receive a subsidy, including Medicaid, from the county child welfare agency for the child in their custody. This is known as Subsidized Permanent Legal Custodianship (SPLC). The amount of the subsidy may not exceed the foster care maintenance payment, which would have been paid to the foster parent, if the child for whom the subsidy payment is made were living in a foster family home. These benefits typically end when the child reaches the age of eighteen. Per Act 80, to be eligible for a subsidy past age 18, the child's guardianship agreement must be finalized when the child is age 13 or older and must be engaged in at least one of the following activities:

- Completing secondary education or an equivalent credential;
- Enrolled in an institution that provides post-secondary or vocational education;
- Participating in a program actively designed to promote or remove barriers to employment;
- Employed for at least 80 hours per month.