Families with children are the fastest growing segment of the homeless population in the United States. While the number of homeless individuals stagnated in 2009, the number of homeless families increased in most cities. In 2009, more than 535,000 families sought shelter over the year—a 13% increase from 2007. Over 238,000 families were counted as homeless on a single night in 2009. Beyond these statistics, countless other families are currently at risk of homelessness or living in substandard housing.

Many different causes have contributed to the rise in family homelessness, from increased rates of unemployment in the recent economic recession to the continuing shortage of affordable housing. Regardless of its cause, however, homelessness and other housing problems place families at increased risk of separation. A parent’s lack of suitable housing can both trigger child removal and prevent reunification. Children from families with housing problems are 19% more likely to end up in foster care and to stay in care longer than children without housing problems.

For attorneys who represent parents and children in child welfare proceedings, the link between housing problems and family separation should be a cause for concern. Even when housing problems are the sole reason for a child welfare agency’s finding of neglect, few states provide statutory protections for families who are poor and lack housing. (See sidebar.)

Housing assistance, therefore, can play a key role in preventing family separation. State and local public and assisted housing programs can provide stable and affordable housing to families in need. In fact, some programs specifically aim to prevent family separation by providing housing assistance and services to families at risk.

Parents’ and children’s attorneys can play a key role in preventing family separation by identifying families who are homeless or experiencing housing problems and working with local housing providers to secure homes for these vulnerable families. Below is an overview of the programs available and their eligibility requirements, including practice tips for lawyers and advocates.

Public Housing

History and Purpose

Public housing was first created during the 1930s. Despite changes over the years, the mission of public housing remains the same: to provide safe, decent, and affordable housing. The U.S. Department of

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Housing Resources for Families at Risk of Separation

by Betsy Gwin

LaKeasha was struggling to afford her rat-infested apartment in a bad part of town. At age 24, she was incarcerated, and her two young children went to live with family. Upon her release from jail, LaKeasha could not be reunited with her children because she did not have a stable, safe place to live. Her caseworker at the state child welfare agency referred her to a social service agency that administers the Family Unification Program. LaKeasha received housing assistance and other services and, as a result, was able to quickly reunite with her children.

(Continued on page 6)
Poverty Exemptions in State Child Neglect Statutes

A handful of states have made legislative efforts to prevent family separation when poverty or lack of stable housing is the primary basis for a finding of neglect. Twelve states and the District of Columbia created an explicit “poverty exemption.” This exemption includes a provision in the child abuse and neglect statute that declares a parent’s financial inability to provide basic necessities, like stable housing, for children does not, in of itself, constitute child neglect. Children’s and parents’ attorneys can use these legislative tools to combat attempts to remove a child from her home based on a family’s homelessness.

States with a poverty exemption: Arkansas, Florida, Kansas, Louisiana, Massachusetts, New Hampshire, North Dakota, Pennsylvania, Texas, Washington, West Virginia, Wisconsin, and the District of Columbia. A few other states have narrower exemptions. For example, California prevents removal “solely due to the lack of an emergency shelter.” Others require some consideration of whether the parent was “financially able” or was “offered financial or other reasonable means” to provide the child with proper care.

In most states, however, poverty can be the sole cause for state intervention, findings of child neglect, and family separation. Colorado even cites homelessness as a reason for finding neglect. Housing assistance is of increased importance for families in these states.

Sources:
3 Iowa, Montana, New Jersey, New York, Rhode Island, and South Carolina include this statutory language.
4 Colo. Rev. Stat. § 19-1-102(2) (2010) (“The child is homeless, without proper care, or not domiciled with his or her parent, guardian, or legal custodian through no fault of such parent, guardian, or legal custodian”).

Practice Tips
Check with your local public housing authority to learn about current waiting list times and any established preferences. Advocate for preferences that favor families facing homelessness. To find the housing authority that serves your jurisdiction, go to www.hud.gov/offices/pih/pha/contacts/.

HUD’s regulations state that “the temporary absence of a child from the home due to placement in foster care shall not be considered in determining family composition and family size.” This means that a housing authority must continue providing housing assistance to the parent while her children are in foster care, at least until the parent’s rights are terminated. For example, a mother should not be forced to downsize to a one-bedroom unit due to the removal of her children; this could prevent visitation and reunification with her children based on lack of adequate housing. This federal protection applies in both public housing and Section 8 programs.

Section 8
The Housing Choice Voucher Program is more commonly referred to as the Section 8 program. Created in 1974, it is distinguished from traditional public housing because it provides a portable rental subsidy to the low-income tenant, rather than creating a permanently subsidized “bricks and mortar” unit. The Section 8 program is the largest rental assistance program funded by HUD. It is administered by community-based organizations and state and local housing agencies, in addition to public housing authorities.

Eligibility Requirements
To be eligible, applicants must have incomes below 50% of the area median income. A majority of Section 8 vouchers, however, are targeted to tenants with extremely low incomes—below 30% of the

Application Process
Eligible applicants can apply for public housing at their local housing authority. Unfortunately, public housing applicants typically face extremely long waiting lists. In large cities, the time applicants spend on a waiting list can exceed 10 years. Housing authorities can create preferences that enable some applicants to jump to the front of the waiting list. Examples of preferences include: applicants who are currently homeless or at risk of homelessness, domestic violence victims, veterans, and full-time workers.
area median income. In addition to income requirements, at least one member of the household must be a U.S. citizen or legal resident, and none of the household members can have committed a crime (although exceptions can be made for non-felony offenses). Like public housing, the Section 8 program typically has very long waiting lists. Preferences created by the local Section 8 provider may prioritize applicants with certain characteristics.

**Leasing Process**
Once approved, tenants use their voucher to rent a private apartment in their community. Tenants must conduct their own housing search and find a unit priced within Fair Market Rent limits. Upon finding a unit, the tenant must complete a Request for Tenancy Approval. The unit must be inspected and must meet HUD’s housing quality standards before the tenant can move in. Tenants pay 30% of their income in rent to the landlord. The Section 8 provider pays the remainder of the rental cost (the difference between 30% of the tenant’s income and the total rent) to the landlord—this payment by the provider is known as the Housing Assistance Payment (HAP).

**Moving With a Section 8 Voucher**
Section 8 vouchers are portable. Tenants can continue receiving assistance even if they move to a unit outside the jurisdiction of the housing authority that originally provided the voucher, as long as there is a Section 8 provider for the jurisdiction where the new unit is located. Sometimes, Section 8 providers form a consortium—this makes it easier for tenants to apply to Section 8 programs in multiple jurisdictions at once.

**Practice Tips**
Encourage clients in need of housing to apply for Section 8 housing in multiple jurisdictions and within consortiums when they exist. Be sure to ask about local preferences that may affect waitlist times.

Finding an apartment can be a challenge for Section 8 tenants, especially when landlords refuse to participate in the Section 8 program. Some jurisdictions have source-of-income antidiscrimination laws which prevent landlords from refusing to rent to tenants solely based on their receipt of Section 8 assistance. To find out whether your jurisdiction has a law, review the Poverty & Race Research Action Council’s (PRRAC) list of all local, state, and federal laws barring source-of-income discrimination: [http://prrac.org/pdf/AppendixB-Feb2010.pdf](http://prrac.org/pdf/AppendixB-Feb2010.pdf).

**Family Unification Program (FUP)**
While any housing assistance can help stabilize a needy family, some programs are designed specifically...
to help prevent family separation. The Family Unification Program (FUP) is a specialized Section 8 program for families at risk of separation due to lack of housing. It can provide both Section 8 housing assistance and supportive services. Signed into law in 1990, FUP was later expanded to also provide limited assistance to youth aging out of foster care. The National Center for Housing and Child Welfare estimates that the more than 39,000 FUP Vouchers awarded by HUD since 1992 have allowed “over 200,000 children to reunite with their families from foster care or avoid foster care placement altogether.” Additionally, the program has assisted at least 500 youth aging out of foster care obtain housing and avoid homelessness.

History
Despite existing for 20 years, FUP is less well-known than other programs for two reasons: 1) FUP funding was not provided by HUD for most of the 2000s, and 2) FUP is only administered in a limited number of jurisdictions. However, since 2008, Congress has appropriated annual FUP funding to HUD. FUP is still only available in jurisdictions that have applied for and received funding, but it can be an important tool in those areas to keep families together and support youth transitioning out of the foster care system.

Proponents of the program argue that FUP is also an important tool for conserving government resources because the cost of providing rental assistance and supportive services is significantly less than the cost of keeping children in foster care. For example, the Child Welfare League of America estimates that providing supportive services and rental assistance to one family costs about one-third of the amount that it costs to keep the children of that same family in foster care.

Program Design
FUP is administered on the local level through a collaboration between a public housing authority and a child welfare agency. These two agencies must complete a memorandum of understanding (MOU) and apply together for funding from HUD. The MOU sets out the responsibilities of each partner agency and details the type and duration of services to be provided to FUP participants.

Once approved, the child welfare agency can refer eligible families and youth to the housing authority to obtain a Section 8 voucher. Alternatively, Section 8 providers can create a local preference for families involved with the child welfare system and/or youth aging out of foster care. The vouchers work exactly like a normal

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**FUP Case Study: The Connection, Inc.**

One success story comes from Connecticut, where the Connection, Inc.’s supportive housing program has used FUP funding to meet two goals: 1) to help reunite families with children who have been placed in foster care, and 2) to prevent placing children in foster care. A recent empirical study of the program found that over 70% of participating families had successful outcomes and moved into permanent housing upon leaving the program.

The Connection, Inc., began as a halfway house in 1972. Over the years, the agency expanded by creating community-based treatment programs across the state. Today, the supportive housing program is just one of many human services and community development programs run by the Connection. The unifying aspect of all of the Connection’s programs is that they “cost the taxpayer less than if the government provided the service, or [would] cost society more if the service were not provided at all.” The use of FUP funding in the supportive housing program results in cost-savings to the state because the cost of administering the Section 8 voucher is less than the cost of placing children in foster care.

The Connection, Inc., works collaboratively with the Connecticut Department of Children and Families (DCF) and Department of Social Services (DSS), as well as nonprofit partners across the state that provide local services. Social workers at DCF identify and refer eligible families to the Connection. DSS provides FUP vouchers to the Connection. Local nonprofit partners and Connection programs provide a range of services, including: housing search assistance, transportation, counseling services, referrals, and training.

Staff at the Connection focus on providing intensive home-based case management. Parent engagement in case planning is a key element to the program’s success. As one client reported, “[W]hen they put me through to [Connections], that was the best thing that they did. I feel involved, with them having me in meetings all together.”

The collaboration between Connection, Inc., and its partners shows how partnerships between state agencies and nonprofits can successfully use FUP funding to help families achieve stability and prevent separation.

Sources:

Section 8 voucher, except that assistance to youth aging out of foster care is capped at 18 months.31

Eligibility Requirements
There are three types of FUP eligibility: 1) families with children facing danger of removal due to inadequate housing; 2) families with children who cannot be returned home from foster care due to inadequate housing; and 3) youth between the ages of 18 to 21 who were in foster care at age 16 and lack adequate housing. All applicants must meet the general requirements for the Section 8 program, discussed above. FUP is a voluntary program; the child welfare agency and housing authority cannot require eligible families or youth to participate.

Referral Process
Caseworkers at the child welfare agency are responsible for reviewing their caseload each month to identify clients eligible for FUP. The caseworker then completes a referral form, which is sent to the FUP liaison at the child welfare agency to certify the client’s eligibility.

Next, the housing authority schedules an appointment with the client to determine Section 8 eligibility, provide information about the program, and finally issue the Section 8 voucher. The client then must find a housing unit with a willing landlord and complete a Request for Tenancy Approval; a time limit, usually 90 days, is imposed on clients to conduct their housing search. The housing authority must inspect and approve the unit according to Section 8 rules.

Supportive Services
Once housed, FUP participants may receive additional services from the child welfare agency such as cash assistance to cover a security deposit, buy new furniture or appliances, or to pay down utility arrears.

The Client’s Perspective

An Unstable Start
LaKeasha spent several years in the foster care system as a child in Connecticut. She grew up in a housing project in a bad neighborhood and felt she never had a strong female role model. “I can’t remember my mother ever being sober,” she says. She went to jail for the first time at age 14 for minor drug possession. By age 24, she was incarcerated for a third time. Thinking back on this time, she says, “I felt lost—mentally, emotionally, and everything.”

While she was in jail, she was thankful that her two children were able to stay with family. Upon her release, she was determined to get her children back as soon as possible. She did not want them to have the same bad experiences that she had had in the foster care system. However, LaKeasha did not have a stable place to live with her children. Her old apartment was in an unsafe neighborhood in Bridgeport; it was so badly maintained that she calls it “a rat hole.” LaKeasha was also concerned about falling back into her old lifestyle because she had returned to the same environment that she was in before her incarceration. LaKeasha knew that she needed help to find housing and to reunite with her children.

Help with Housing
LaKeasha’s caseworker at the Department of Children and Families (DCF) referred her to The Connection, Inc. LaKeasha was initially hesitant about the services and help offered to her by her Connections caseworker. No one had ever helped her before and she found it difficult to trust others. Over time, LaKeasha developed a close relationship with her caseworker: “I talked to her and she listened, and she always gave me positive feedback no matter what.”

The caseworker also helped LaKeasha find resources and develop important skills. LaKeasha was very motivated and hard working – she worked two jobs, as a nurse’s assistant and a waitress – but she had trouble budgeting her money. Her caseworker helped her improve her financial skills, move into better housing, and obtain furniture for her new place. LaKeasha reunited with her two children in March 2007 – less than two months after her referral to the Connection.

After obtaining a Family Unification Program (FUP) voucher through the Connection, LaKeasha was able to pay just 30% of her income toward rent. She has retained the voucher even as she moved to new apartments. Her current neighborhood, in which she has lived for about two years, is “a lot better” than her old one – much quieter and safer. LaKeasha says she is happy that she has a yard outside so her kids can go outside without her having to worry.

Helping Others
LaKeasha is planning to use what she’s learned in her life to help others. Right now, she is taking online courses to earn a college degree. She wants to serve as a role model and an advocate for kids like herself, who have been involved in the child welfare system, and help them avoid making the mistakes that she made. LaKeasha encourages others to be open-minded about participating in programs like Connections and FUP because she knows they are there to help families in need.
Supportive housing programs play a key role for families in the child welfare system. These programs provide a stable home and intensive casework services to at-risk families. The Keeping Families Together (KFT) program in New York City is one such program. The Corporation for Supportive Housing runs KFT with financial support from the Robert Wood Johnson Foundation. It combines supportive housing with onsite case management and family preservation services.

The families KFT serves experience or are at risk of chronic homelessness, substance abuse and mental health problems, disabling medical conditions, and child welfare system involvement. By providing an affordable, stable home, the program creates an environment where families can better receive supports and interventions to help them turn their lives around.

KFT began as a pilot program from October 2007 to July 2009. During that time, it provided permanent housing to 29 homeless families identified as being at high risk of having a child removed.

- Each family had at least one open child welfare case when the pilot started.
- The parents had high rates of mental health and substance abuse problems, lacked strong support networks, and most were unemployed.

Each family received customized case management services. Onsite case managers met with them to identify their service needs, develop case plans, and provide ongoing consultation. Families received access to treatment, crisis management services, and subsidies to buy home furnishings and school supplies.

Data from a recent evaluation of KFT shows it is having a positive impact by stabilizing families and reducing child welfare system involvement.

**Key findings:**

- More than half (61.1 percent) of child welfare cases that were open at time of move-in were favorably resolved during the families’ involvement in KFT.
- KFT families had fewer incidences of repeat maltreatment while living in supportive housing.
- No children were removed from the home during the pilot.
- Many parents reported that KFT made them become better parents for their children.
- 26 of the 29 KFT families remained housed and intact at the pilot’s end. The remaining three families, all headed by single women, voluntarily moved out of their supportive housing apartments. Two returned to shelter during the pilot period.
- Nearly all KFT families that entered with a substance abuse problem were clean and sober at the end of the evaluation period.
- School-age children in the pilot showed steady average increases in school attendance.
- KFT parents reported that being in supportive housing helped them maintain relationships with others and rebuild their support systems. Some said they had joined religious services and reconnected with family.
- About one-third of families participated in job readiness or employment skill training during the pilot. Six adults were employed during the pilot.

**For more information** about this project, visit [www.rwjf.org/pr/product.jsp?id=71752](http://www.rwjf.org/pr/product.jsp?id=71752)

The child welfare agency may contract with a community-based organization to assist clients with the housing search process. The child welfare agency also conducts regular home visits and maintains contact with the landlord. These services and relationships help ensure stability for the family and create incentives for landlords to participate.

**Practice Tips**

To learn whether your local housing authority participates in FUP, review the National Center for Housing and Child Welfare’s cumulative list of grantees: [http://nchcw.org/fup/sites.aspx](http://nchcw.org/fup/sites.aspx).

If your community lacks access to FUP, try to work with the local child welfare agency to document the housing needs in the community. Once a need is shown, advocates can work collaboratively with child welfare workers and local housing programs to either set a local Section 8 preference for families and youth, or apply to HUD for FUP funding.

If you have experience with FUP, be sure to publicize success stories in the media and through the Parents’ Attorney and other child welfare networks (e.g., listservs, bar groups, child law committees) to increase the visibility of this valuable but little-known program. Note: If you are not already a member of the Parents’ Attorneys listserv, you can join by sending a message to listserv@mail.abanet.org with “Subscribe child-parentsattorneys YOUR NAME” in the body of the message.

**Family Self-Sufficiency (FSS) Program**

The Family Self-Sufficiency (FSS) Program is an employment and savings incentive program, available in both Section 8 and public housing programs. Unlike FUP, the FSS program is not specifically designed...
to prevent family separation. However, the program can benefit participants in ways that help achieve economic stability and independence, which are important to preserving and reuniting families. Furthermore, HUD’s new guidelines for FUP applications encourage participating in the FSS program.  
  
**Program Design**

The FSS program is a five-year contract signed by eligible families and the housing authority. The contract requires “that the family comply with the lease, that all family members become independent of welfare, and that the head of the family seek and maintain suitable employment.”

The housing authority provides a range of services to help participants achieve self-sufficiency through employment. Types of services provided include: child care, transportation, education, job training and employment counseling, substance/alcohol abuse treatment or counseling, household skill training, and homeownership counseling.

The housing authority also creates an interest-bearing escrow account for each participating family. Increases in earned income of the family are credited to this account by the housing authority, allowing the family to increase their income without a corresponding increase in rent. Families may withdraw from this account to complete an interim goal, such as education.

When the five-year contract ends, the head of the family will receive the amount in the escrow account as long as no family member is receiving cash assistance (such as welfare). The family forfeits the funds if it fails to complete the contract.

**Eligibility**

All families in either the Section 8 program or public housing are eligible to participate in FSS. However, not all housing authorities administer the FSS program. For those that do, selecting participants occurs in two ways: 1) housing authorities can create a preference for up to half of its FSS slots to select families with a member enrolled in an FSS-related service or job placement program, and 2) housing authorities must fill the remaining slots based on an objective system, like a lottery. Housing authorities can also screen applicants based on their interest in the FSS program, but cannot discriminate based on a family’s credit history, employment history, education, number of children, or marital status.

**Practice Tips**

If your jurisdiction has the FSS program, help determine if your clients are eligible. If so, encourage your clients to enroll and assist them with the process.

**Conclusion**

Housing assistance can be an important tool to help prevent family separation. Although public housing and Section 8 programs are limited, families involved in the child welfare system may be more likely to qualify for waitlist preferences, such as homelessness or domestic violence. For families who obtain housing assistance, programs like FUP and FSS can help improve outcomes in child welfare proceedings. Learning about the programs available will help parent and child attorneys better serve and support clients whose housing problems put them at risk of separation.

*Betsy Gwin* a third-year law student at Georgetown Law, interned at the ABA Center on Children and the Law during the 2010-11 school year.

**Endnotes**

1 See sidebar, “The Client’s Perspective,” to learn more about LaKeasha’s story.
Be aware that although moving may impact a child’s ability to attend school, the federal McKinney-Vento Homeless Assistance Act protects the right of homeless children to access public schools and address barriers that arise. For information about this law, visit the National Center for Homeless Education at SERVE (NCHE) Web site: <http://center.serve.org/nche/m-v.php>. NCHE is the U.S. Department of Education’s technical assistance and information center in the area of homeless education.

21 See generally Family Unification Program, HUD.gov. <www.hud.gov/offices/pih/centers/gmc/categorical/fup.cfm>