



KIDS MATTER INC.

Between The Law And The Serenity Prayer: Making Legal Choices With Hope And Healing

Families Like Mine Conference 2023

Presented by: Susan Conwell, J.D., Executive Director

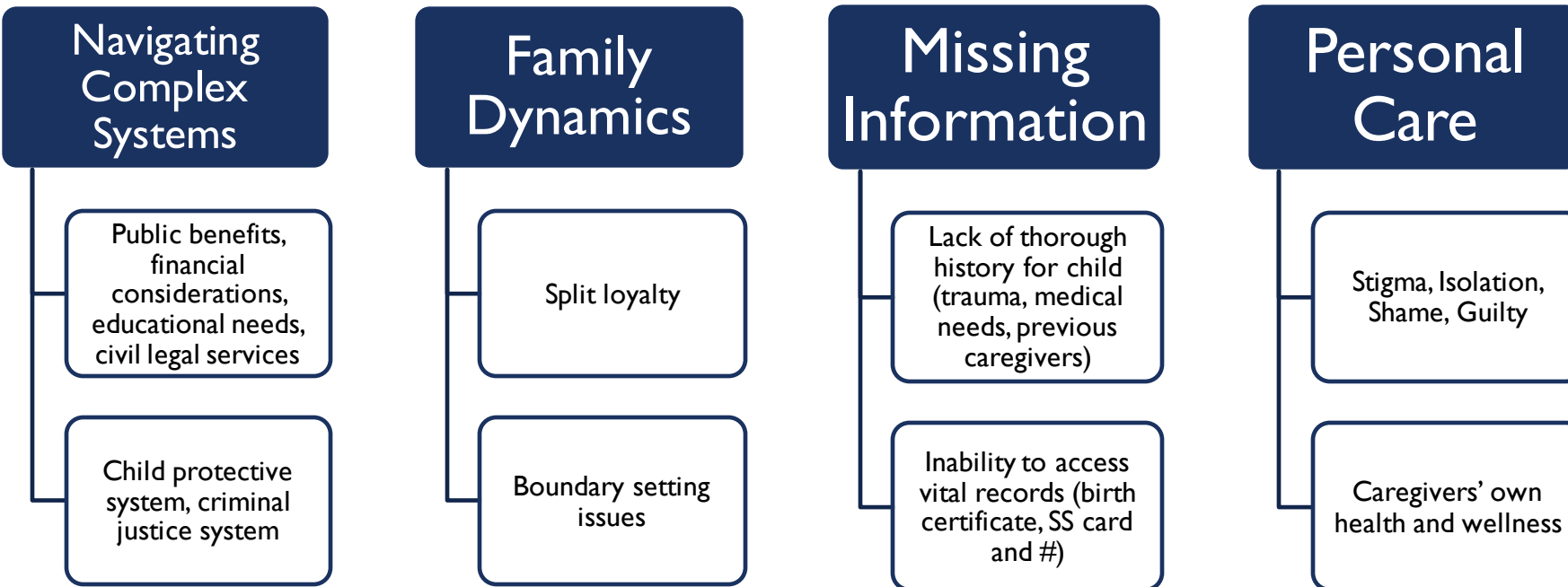
THE SERENITY PRAYER

“Grant me the serenity to accept the things I cannot change,
the courage to change the things I can,
and the wisdom to know the difference.”

WHY WE'RE HERE: CIRCUMSTANCES THAT LED TO PLACEMENT OF RELATIVE CHILD(REN)

| Response | Percentage |
|------------------------------|------------|
| Parent substance abuse | 79% |
| Parent mental health | 42% |
| Parent Incarceration | 30% |
| Child Welfare Involvement | 30% |
| Death of Parent | 9% |
| Parent cognitive limitations | 5% |
| Parent physical limitations | 4% |
| Family managed plan | 2% |
| Don't Know/None | 2% |
| Other (please specify) | 15% |

Challenges Faced by Relative Caregivers





WISCONSIN LEGISLATIVE COUNCIL

MEETING MINUTES

STUDY COMMITTEE ON MINOR GUARDIANSHIPS

Room 411 South, State Capitol
Madison, WI

July 24, 2018
10:30 a.m. - 2:00 p.m.

Remarks by Jessica Jablonske, Constituent, Fifth Assembly District

Ms. Jablonske shared her experience as guardian appointed under ch. 54, Stats. Specifically, she outlined the events giving rise to the guardianship and her experience with the legal system. She identified certain issues with current law, including inconsistency in the application of constitutional standards imposed by case law, confusion as to the definition of “best interest of the child,” and her concern for guardians’ lack of rights in the process.

APPEARANCES:

Jablonske, Jessica
Theresa Roetter, Attorneys; and Gretchen Viney, Professor,
University of Wisconsin (UW) Law School.

Introductory Remarks by Representative Jim Steineke, Chair

Chair Steineke welcomed committee members. He explained that his interest in the committee was prompted by a constituent’s concerns regarding current law. His goal for the committee’s work is to make the laws governing minor guardianships more clear and workable for guardians, practitioners, courts, and others involved in the legal system.

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Opening Remarks by the Joint Legislative Council

Terry Anderson, Director of the Legislative Council Staff, welcomed committee members and thanked them for their service.

Introduction and Background of Committee Members

At the invitation of the chair, committee members introduced themselves and provided brief explanations of their backgrounds and interest in the committee’s topic.

Presentation by the Legislative Council Committee Staff

Amber Otis, Staff Attorney, summarized background information relating to minor guardianships under Wisconsin law. She noted that ch. 54, Stats., which applies to guardianships of minors and certain adults, generally constitutes Wisconsin’s guardianship law, but that minor guardianships are also authorized in certain, specialized circumstances under ch. 48, Stats. She noted that the committee is instructed to focus on minor guardianships under ch. 54, Stats., and related case law.

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Presentation by Attorneys Henry Plum and Theresa Roetter

As members of the State Bar’s working group, Attorneys Plum and Roetter presented to the committee regarding ch. 54, Stats., including its history and current problems, and described how LRB-0921/P5 seeks to address those problems. Specifically, Attorney Roetter outlined the following problems: the statutes contain multiple definitions of legal custody and guardianship; case law has developed standards that are not codified in statute; and procedures under ch. 54, Stats., are not compatible with minors.





Informal Caregiving

Informal Placement (verbal or note)

Power of Attorney *Wis. Stat. § 48.979*

- Written agreement between parent/s and caregiver for up to one year though a parent may revoke at anytime
- Does not deprive parents of their custodial powers
- No court involvement
- Allows the caregiver to consent for routine medical, educational, and other day to day decisions
- Parent must have legal custody of the child to execute – if joint custody, both parents must sign
- Can delegate full or partial powers
- Helpful for short durations or when no safety issues such as a deployment or brief incarceration – must be re-executed annually



Guardianship Options

Four Types –

Emergency Guardianship

Temporary Guardianship

Limited Guardianship

Full Guardianship

EMERGENCY GUARDIANSHIP



May not exceed 60 days

The guardian's authority shall be limited to the required acts that are "reasonably related" to the reasons for the appointment

Petitioner must show facts and circumstances establishing that the welfare of the child requires the immediate appointment

Example: medical or surgical emergency and the parent is unavailable or unable to consent

TEMPORARY GUARDIANSHIP



May not exceed an initial term of 180 days, which may be extended for an additional 180 days for good cause

Petitioner must show that a child's particular situation, requires the appointment of a temporary guardian

Example: a parent is deployed, incarcerated, or undergoing medical treatment

LIMITED GUARDIANSHIP



Court sets an expiration date, which may be extended for good cause

Petitioner must show that a **parent needs assistance** in providing for the care, custody, and control of the child

The parent may retain certain decision-making powers including shared physical custody between the parent and guardian

Example: Routine medical and educational decisions transferred to the guardian, but the parent retains other decision-making powers

FULL GUARDIANSHIP



In place until the child turns 18

Petitioner must show that a **child's parents are unfit, unwilling, or unable to provide care for the child or other compelling reasons exist**

Full decision-making powers under Wis. Stat. §48.023

Example: the parents are deceased or have abandoned the child or other temporary arrangements have been tried and failed

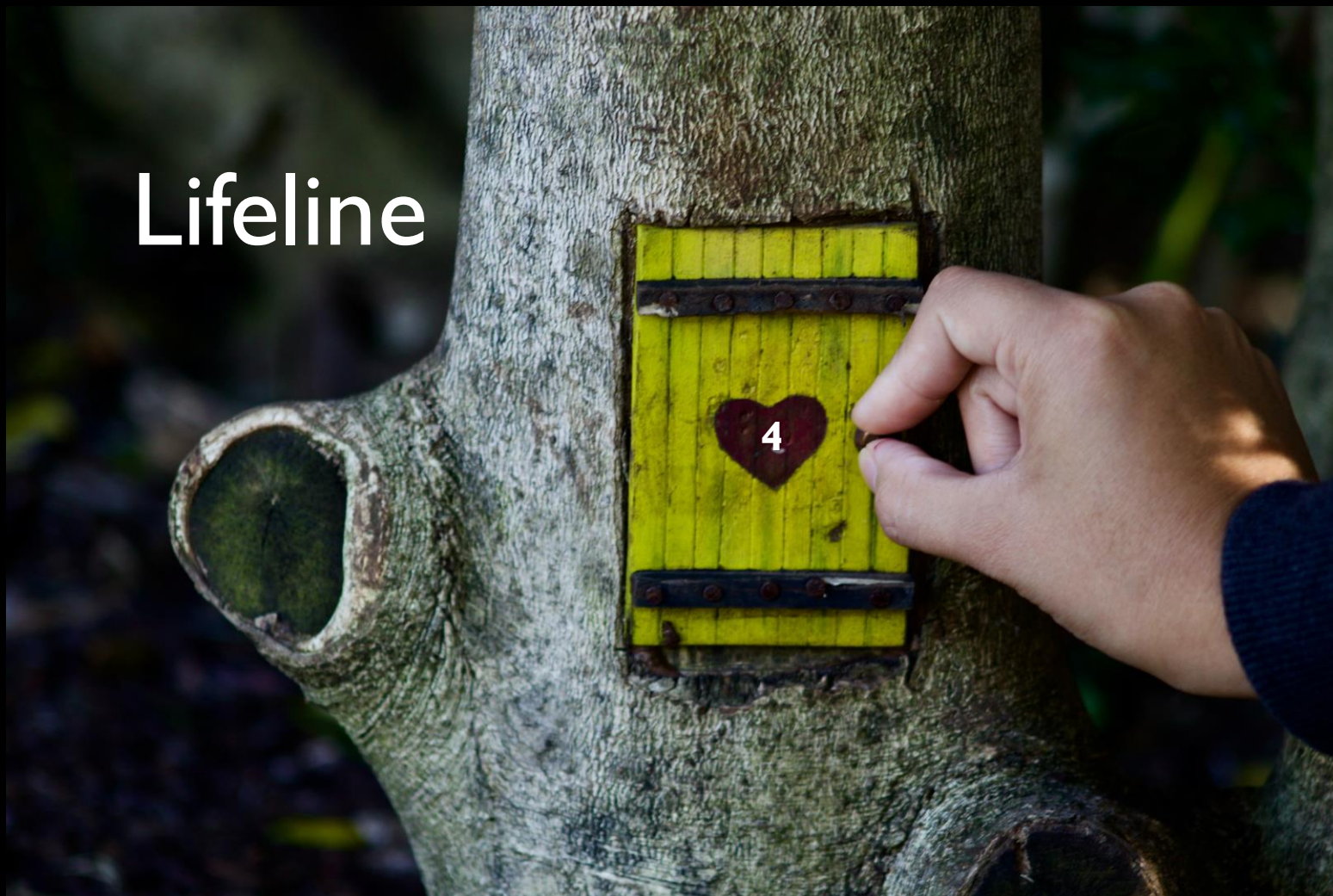


Child Protective Services Guardianship/ Public Adoption

Legal options for relative caregivers inside the formal child protection system –

- Reunification with parent
- Guardianship
- Public Adoption

Lifeline





MEET ANN
AND GARY



WHAT IS GOING ON WITH MARY?

GRANDCHILDREN
STAYING MORE
OFTEN



5 SIMPLE TESTS

Informal Caregiving

PARENT

YOU

Safety



Needs of the child



Services for the parent



Permanence / Stability



Financial / Other



Kinship

Health



Special Education



Visits



Ability to Contest



Age 16

Mobility of Benefits

Legal Guardianship

PARENT

YOU



Child Protective Services

PARENT

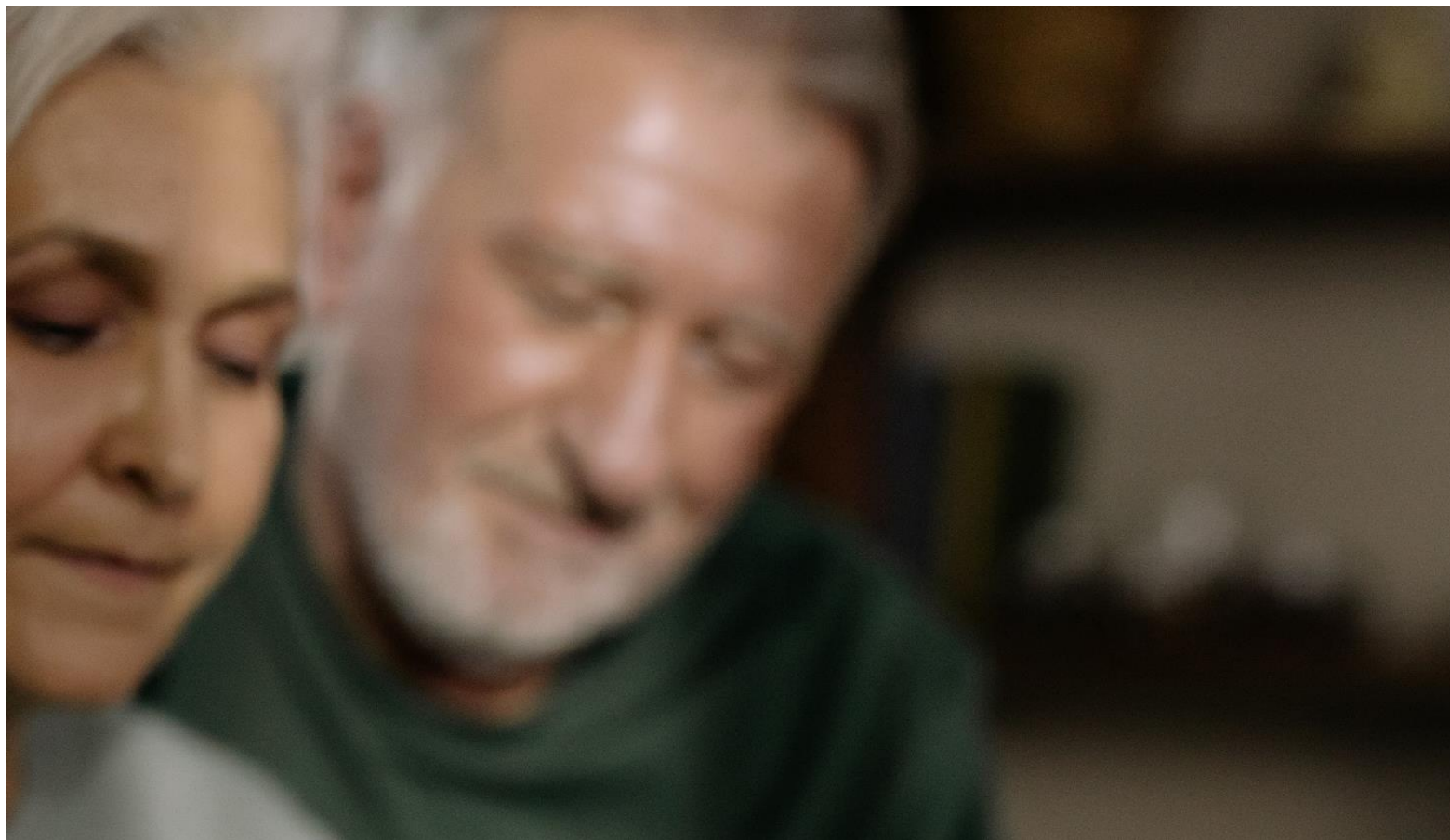
YOU

CPS

COURTS



ANN & GARY



ANN & GARY

- Innocent enabling
- Desperate enabling

Kinship?



ANN'S STRUGGLE

If only, if only

GARY'S STRUGGLES

- Bank of Mary
- Other grandchildren
- Retirement?



MARY

- Completes 30-day residential treatment program
- Children returned
- Gets a 3rd DUI – children in the car

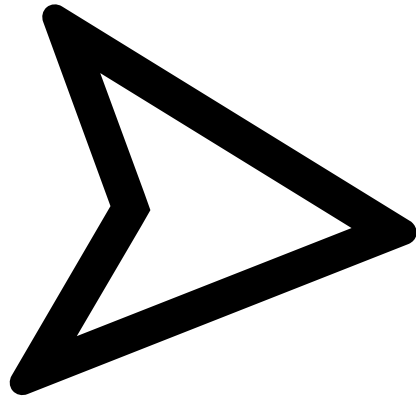
FAMILY PROGRAM QUIZ

What is a family program?

One family member's struggle with addiction affects the entire family.



FAMILY PROGRAM

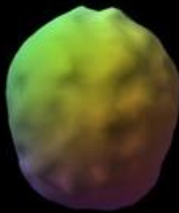


Children are the first to be affected by a parent's addiction and the last to get help.

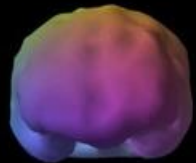
THE BRAIN ACTIVITY OF ADDICTION

NORMAL BRAIN

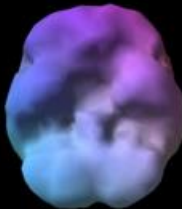
Top-
down
surface
view



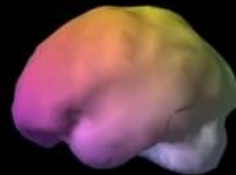
Front-on
surface
view



Underside
surface
view



Side
surface
view



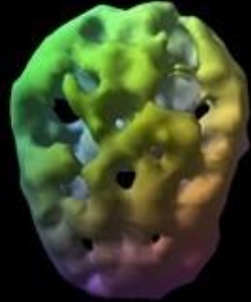
SPECT IMAGING

Dr. Daniel Amen

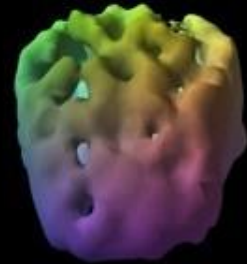
ALCOHOLIC BRAIN

SEVENTEEN YEARS OF DRINKING

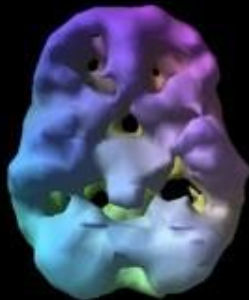
Top-
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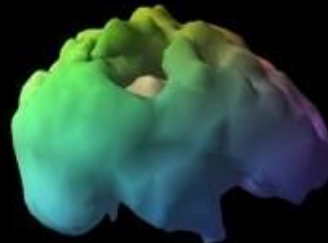
Front-
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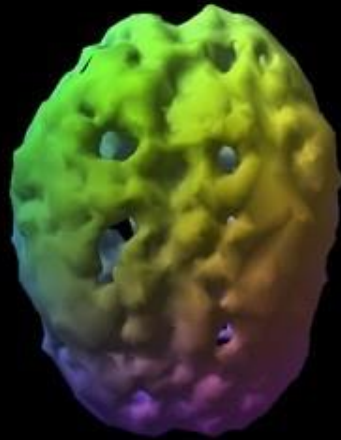
Underside
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Side
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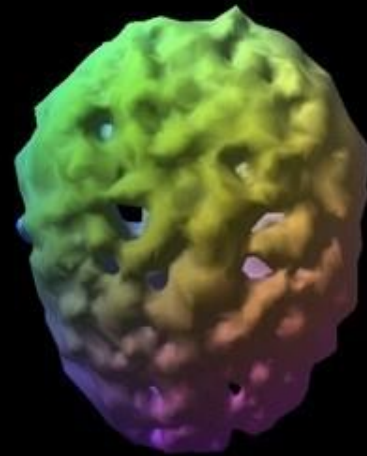


COCAINE



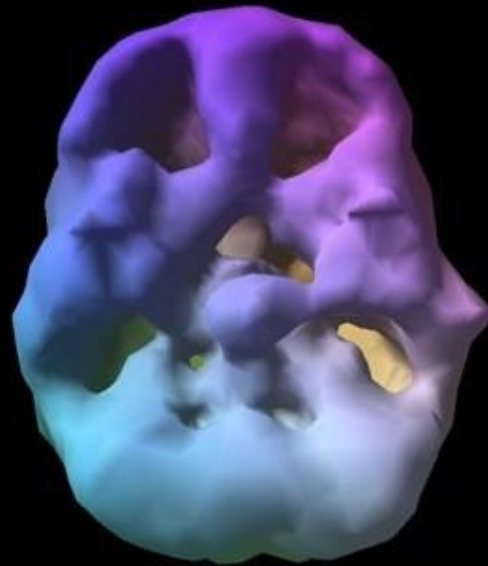
Twenty-four year old.
Using two years frequently.

METHAMPHETAMINE



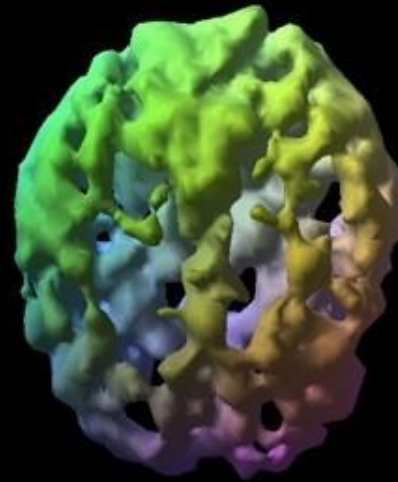
Twenty-eight year old.
Eight year heavy use.

MARIJUANA



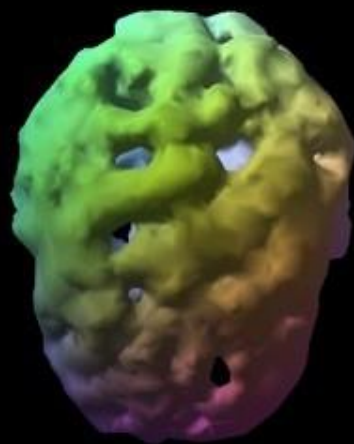
Eighteen year old.
Using 3 years.
Four times week.

OPIATES

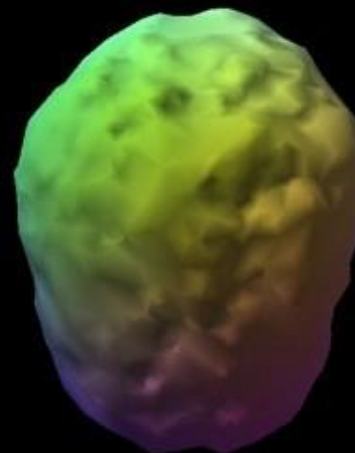


Forty year old.
Methadone 7 years.
Previously, heroin 10 years.

BEFORE & AFTER RECOVERY



Top down surface view
during addiction.



Same view after one year
alcohol and drug free.



SQUIRREL BRAIN



LOVE \neq trust

Nothing in this world can turn a parent who is struggling with the powerful disease of addiction into a trustworthy person. It isn't that the person is choosing to be untrustworthy; it is that they are losing the competency to be trustworthy.



GARY'S STRUGGLE

How do you know you are going to make it in remission
THIS TIME Bob?

You have been in remission before and here we are again.
Just look what you are doing to your children!!



You are in a legal process with a person you love who has a disease affecting brain function. You and a parent struggling with addiction are not experiencing the same things.



“Give the struggling parent the dignity of facing the
consequences of their own actions.”

ANN
CONFRONTS
HER
GREATEST
FEAR

High rates of overdose deaths

YOU ARE NOT HAVING THE SAME EXPERIENCE AS THE STRUGGLING PARENT

“As the addict, I certainly suffered my traumas, but in a different way. There is something a lot of people don’t understand that’s specific to opiate and heroin addiction, for instance. I’ve overdosed more times than I can remember, and I’ve been dead more times than I can count. I think most people would imagine that it would be so traumatic to overdose that you would stop using drugs. But I didn’t even think about it. Overdosing was just like slipping into a warm bath. You wake up somewhere else, in the hospital or an ambulance, and that’s weird, but it’s not what people think it would be for the addict.”

- *“It Takes a Family”* p. 124



ANN AND
GARY

5 SIMPLE TESTS

Safety

Needs of the child

Services for the parent

Permanence / Stability

Financial / Other

Health

Special Education

Visits

Ability to Appeal

Age 16

Mobility of Benefits

Legal Guardianship

PARENT

YOU



Child Protective Services

PARENT

YOU

CPS

COURTS



NEW PEOPLE AT THE TABLE

- You
- Child/ren
- Struggling parent (*mom*)
- Struggling parent (*dad*)
- Your extended family/other siblings of struggling parent
- Other side of family
- Judge
- Guardian ad Litem
- Child protection staff
- Parent's treatment team
- Child's treatment team
- DA or corporation counsel
- Parent's attorney



Image by [Stefan Tamm](#) from [Pixabay](#)

ANN AND GARY'S BEST SOURCE FOR LEGAL ADVICE

- Children's Guardian ad Litem
- Case manager or social worker
- Their plumber
- Corporation counsel or DA's office

MOVING
FORWARD...





MOVING FORWARD...

- Visitation plan— how many visits?
- Supervised by— what??



MOVING FORWARD...

50% of the visits



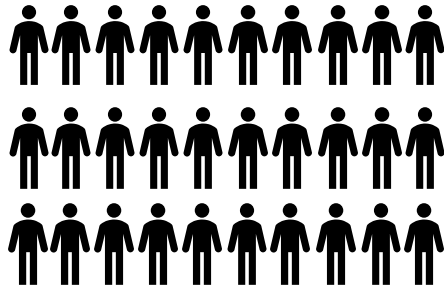
You are navigating a legal process with a struggling parent you love who has a serious disease of addiction that affects their brain function.

Recovery is hard. There are more built-in supports for the parent in the legal process because the stakes for the parent are so high.



RELATIVE CAREGIVER REQUESTS FOR RESOURCES

Informal




Legal



CPS



 1 = 1,000 caregivers

EVEN WITHIN CPS, FEW RELATIVE CAREGIVERS USE THE RESOURCES

Figure 5

Children in Relative and Non-Relative Placement Settings
December 31, 2019

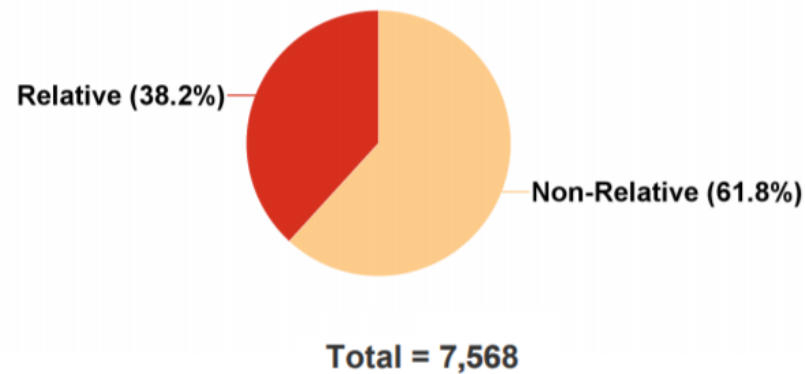
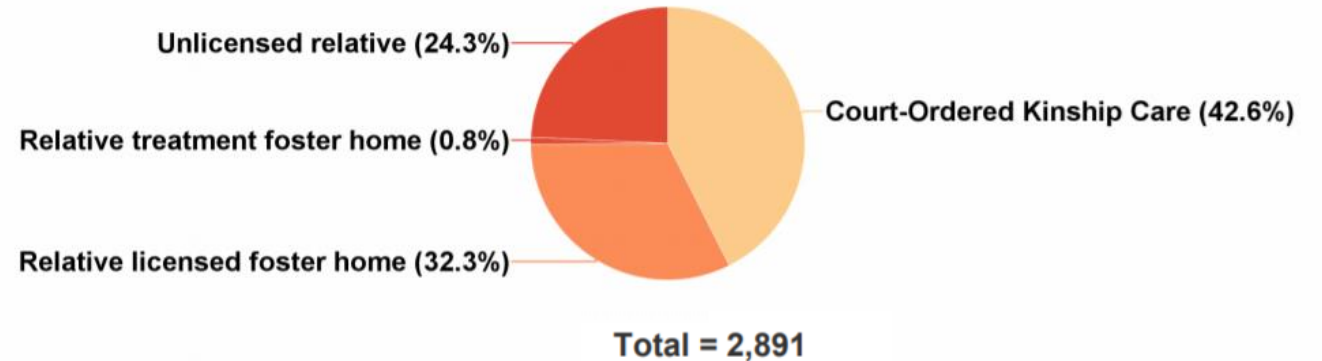


Figure 6

Children in Relative Placement Setting by Type
December 31, 2019





SERVICES RECEIVED BY GRANDFAMILIES

35% receive Medicaid covering medical, dental, and prescription drugs

21% receive payments from social service agencies

17% receive Kinship

16% use Foodshare



CONCERNS OF GRANDFAMILIES

72% are tired and have less time to socialize with friends

72% are worried about who will care for the kids if you are not able to

72% of you are worried about the future for your grandchildren – specifically interrupting the cycle of addiction or mental health

SECOND TIME AROUND

Lessons from Family Program
about Kinship and financial
supports

5 SIMPLE TESTS

Safety

Needs of the child

Services for the parent

Permanence / Stability

Financial / Other

Health

Special Education

Visits

Ability to Appeal

Age 16

Mobility of Benefits

Legal Guardianship

PARENT

YOU



Child Protective Services

PARENT

YOU

CPS

COURTS



DIFFERENCES IN BENEFIT AMOUNTS

Kinship: \$300/mo

Foster Care: age range & CANS gen \$450-800+/mo

Treatment Foster Care: \$1200-\$2000/mo

Survivor benefits or Social Security Disability

About 15% of eligible kinship youth have kinship in WI

ANN AND GARY STILL DON'T LIKE TO TALK ABOUT \$....

Mary's 24-year-old younger sister is our back-up plan if anything happens to us. We are doing all we can to make sure the kids are provided for no matter what, and part of that plan is making sure that any resources for the children can transfer to our younger daughter if she needs to step in as successor guardian.

SUBSIDIZED GUARDIANSHIP

You can take it with you!

Adoption assistance too!

But not general kinship

Leslie says we can share her story of stress of not taking the help -- the economy turns

MARY'S NEXT STEPS: HOUSING

- Recovery setting?
- Ann and Gary?!
- Mary has a team

ANN AND GARY'S BOTTOM LINE

Paying Mary's rent:

Mary, we love you and we are supporting your recovery plan. You and your recovery team came up with a supported sober living placement as the next step in your recovery. We are supporting you by sticking with your plan.

ANN AND GARY'S BOTTOM LINE

CPS asks if Mary can live with them:

Mary, we love you and we are supporting your recovery plan. You and your recovery team came up with a supported sober living placement as the next step in your recovery. We are supporting you by sticking with your plan.

FAMILY BOTTOM LINES

Family bottom line with child protective services:

We are a family. We are not service providers – we cannot oversee Mary's treatment. We can't supervise Mary's visits, though we are willing to help find appropriate supervisors. We are supporting Mary's recovery. We are leading the effort to make sure the kids get the help they need and so the kids know that they didn't cause this situation, and so they get to be kids.

FAMILY BOTTOM LINES

1. “Mary, I love you and I cannot pay for your rent or cell phone any longer. I learned in family program that it hasn’t helped at all when it comes to the disease of addiction. I can’t hurt you by making addiction easier.” *Ann*
2. “Mary, I pretended not to notice your struggles in the past,. From now on I won’t pretend. I can’t be dishonest with you. If you come over high, I cannot welcome addiction into the house or into the kids’ visits. How else can I take care of the kids we both love so much?” *Mary’s younger sister who is volunteering to supervise visits*

FAMILY BOTTOM LINES

“Mom, I’ve lost a lot of things growing up with addiction. I’ve lost time playing and having fun with you. I’ve lost friends who can’t come over to play. I’m the oldest and I have spent a lot of time taking care of my younger brother when you couldn’t. I love you and I am learning about the brain disease of addiction. I am learning that getting rid of addiction is not easy, it takes treatment and recovery. It is hard but I am learning that it isn’t my fault and it isn’t my job to fix. I love you and I hate the disease of addiction.”

Mia, Mary’s oldest

THREE SIMPLE TAKEAWAYS

1. Name the addiction
 - *Separate the person from the disease*
2. Have a family plan that focuses on behaviors, not promises
 - *Know your bottom lines*
3. Accept help that is available – at least some of it

WALKING IN YOUR SHOES

- Resources
 - created by grandparents
 - created by youth raised by grandparents
- Camps and programs once for foster youth now opening to kinship youth
- Still not enough resources!



YOUR COMMUNITY WANTS TO HEAR FROM YOU!

- Elected officials
- Nonprofits and program developers/Funders
- Some treatment providers
- The people who brought you this conference!



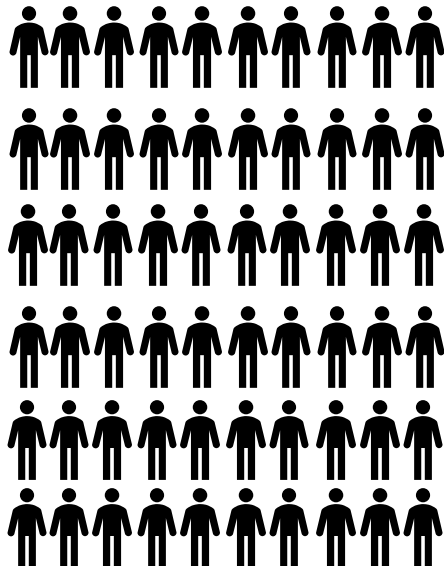
LOCAL,
STATE,
NATIONAL
OPPORTUNITIES

WHAT WOULD HELP THE MOST?

- Family programs?
- Special summer camps for the kids?
- Extra resources – clothing allowance, higher kinship rates?
- Respite programs?
- Free legal help?

YOUR VOICE MATTERS

Informal



Legal



CPS



1 = 1,000 caregivers





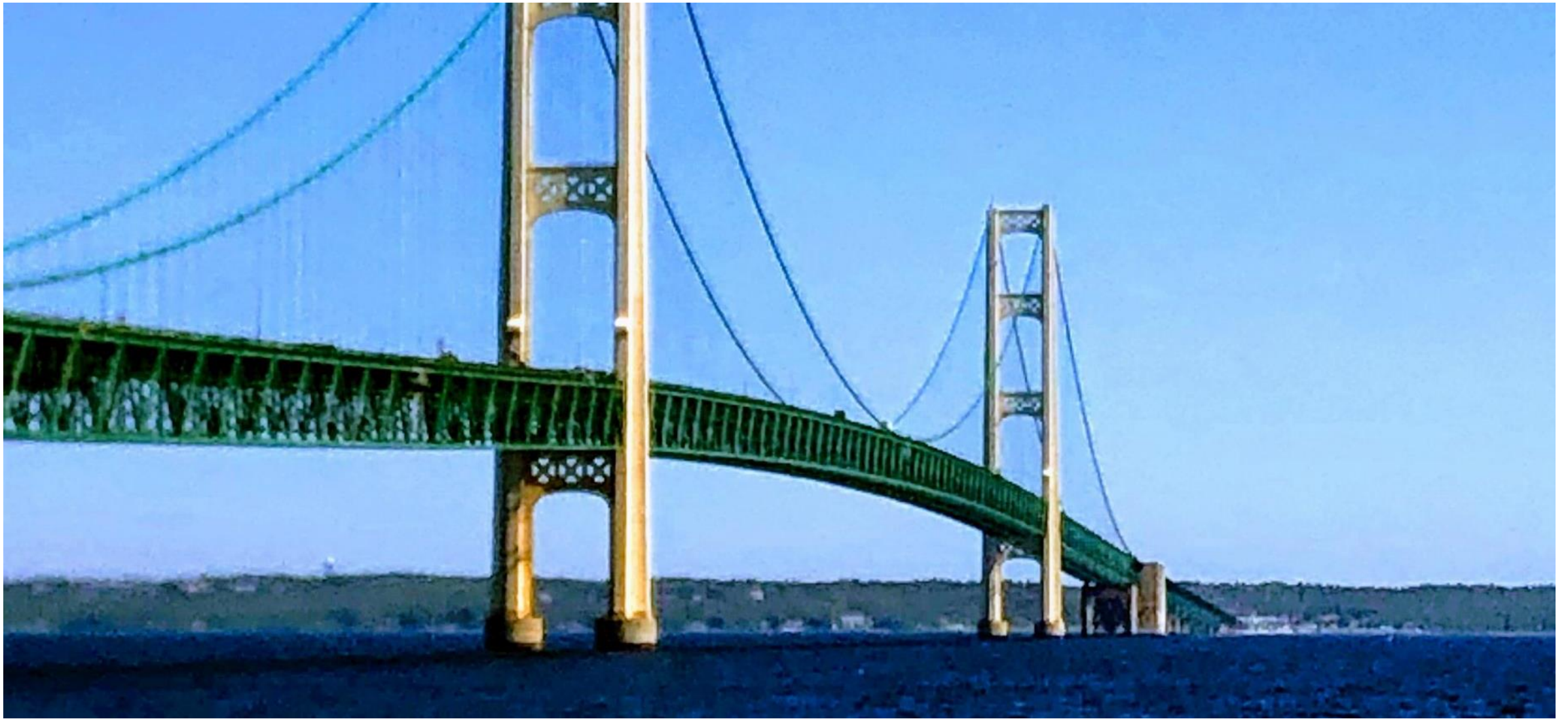


Photo by [Jason Brower](#) on [Unsplash](#)

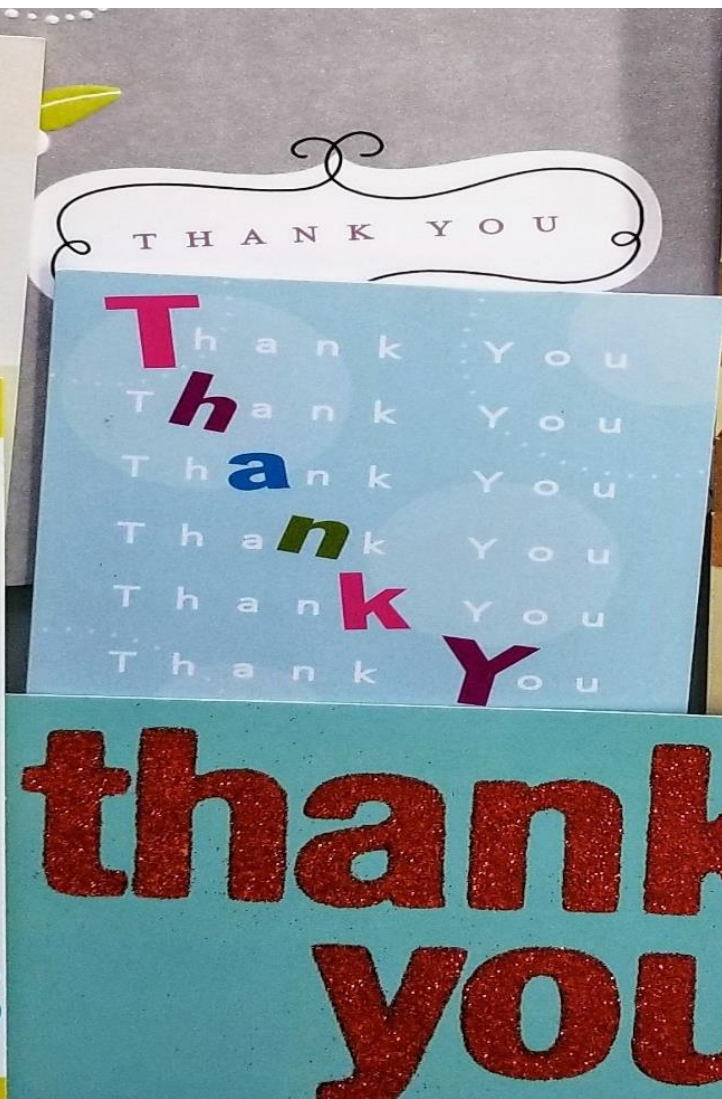


KIDS MATTER INC.

Questions?

adam@kidsmatterinc.org

www.kidsmatterinc.org



I HAVE A DREAM! GETTING STARTED

1. What are the evidence-based resources for families impacted by addiction in my community?
2. What is the role of the family in these programs?
3. Where are the free family programs in your community?