FOSTER ADOPTIVE AND KINSHIP PARENTS

TOUCHING LIVES

TODAY, TOMORROW AND FOREVER

www.afapa.com
1-888-545-2372

REVISED JANUARY 2020
Great Directions...

Statistics for Alabama

- Approximately 6,500 children are in foster care
- 737 children were adopted from Foster care in 2019
- The Children 59,000 (5%) children live with a relative with no parent present.
- 139,721 (12.6%) children under 18 live in homes where householders are grandparents or other relatives.
- 113,107 (10.2%) of these children live with grandparents.
- 26,614 (2.4%) of these children live with other relatives.

Definitions

- Kinship Care is a relative caring for the child of another relative.
- Temporary Legal Custody is the legal relationship established by the Juvenile Court of the county of jurisdiction between a person (related or not) or the department of human resources and a child who is not their legal child.
- Kinship Guardianship is the legal relationship established by the Juvenile Court of the county of jurisdiction between a relative and the child for whom they provide care.

Timeline

- Congress Passed Fostering Connections to Success and Adoptions Act 2008
  - Created a new option for states to provide kinship guardianship assistance payments to relatives who assume legal guardianship of children.
  - Alabama and Tennessee were the only two Southern Region States that opted for Kinship Guardianship in 2008 when Congress passed the Fostering Connections to Success and Increasing Adoptions Act

- To implement Federal Legislation, Alabama passed the Alabama Kinship Guardianship Subsidy Act, Effective October 1, 2010.
- Kinship Guardianship was added to Alabama DHR policy as a permanency plan that can be identified by the ISP team as the most appropriate plan for children in foster care.
• On September 29, 2014, Congress enacted Public Law 113-183, Preventing Sex Trafficking and Strengthening Families Act
  — According to the National Center for Missing and Exploited children, in 2017, there were 27,000 reported of runaways
  — According to the FBI, 60% or more of child sex trafficking victims have history in the child welfare system; most of whom were in group home settings in foster care
  — Kinship Guardianship gives families the opportunity to raise their kin with support from the state to strengthen family ties, reduce the number of children in congregate care thereby reducing the number of runaways.

— This Act amended some of the federal requirements for Kinship Guardianship
  • No longer must be IV-E eligible
  • Parents no longer have to consent to KG
  • This Act also created Prudent Parenting to help normalize foster care

• Alabama passed Act 2016-129, Strengthening Families and Childhood Activities, effective July 1, 2016
  — Along with the changes made at the federal level, this created a state paid Kinship Guardianship program

• The child must be removed from his/her home as a result of a judicial determination that continuation in the home would be contrary to the welfare of the child; and
• The child must be eligible for IV-E or non IV-E foster care payments while residing for at least six (6) consecutive months in the home of the prospective kinship guardian who is also a fully approved related foster home.
  — Must be the 6 months immediately preceding the date the written request is filed

• An individual who is legally related to the child by blood, marriage or adoption within the fourth degree of kinship
  — Brother, sister, uncle, aunt, first cousin, grandparent, great grandparent, great aunt, great uncle, great-great grandparent, niece, nephew, grand niece, grand nephew or a stepparent.
Additional requirements to be determined through the ISP process

- A determination that being returned home or adopted are not appropriate permanency options and not in the best interest of the child; and
- A determination that the child demonstrates a strong attachment to the prospective kinship guardian and the kinship guardian has a strong commitment to permanently caring for the child; and
- With respect to a child who is fourteen (14) or older, the child must be consulted regarding the kinship guardianship plan; and if eighteen (18) years or older, the child must consent to the prospective kinship guardianship.

- Must be 21 years of age or older
- Must be a relative as defined by Alabama law
- Must become a fully approved foster parent
  - All household members age 14 and over must pass a CA/N clearance check from every state in which they have lived for the last 5 years
  - All household members age 19 and over must meet ABI/FBI suitability standards
  - Home must meet minimum standards
  - Must complete training requirement
- Must be willing to assume care of the child with the intent to parent the child to adulthood

Documentation to the court

- The worker must document that the child demonstrates a strong attachment to the prospective kinship guardian
- Must have steps DHR has taken to determine that return home and adoption are not in the best interest of the child
- Must describe why the placement with a fit relative through KG is in the best interests
- Must reflect efforts to discuss adoption with the kinship guardian and any other relatives and why it was not pursued
- Must reflect efforts to discuss KG with the parents

Provisional approval

- Every county has the ability to provisionally approve a foster home within a short time frame
- Must meet certain criteria including a relationship with the child
- Provisional approval is only for the specific child/children and is allowed for 180 days
- In order to keep the children, the family must become fully approved even if just for specific children

Requirements of the relative

- Must have a strong commitment to caring permanently for the child; and
- Must have cared for the child at least six (6) consecutive months while the child has been residing in the home; and
- Must have entered into a kinship guardianship subsidy agreement with the department prior to assuming legal guardianship through the juvenile court; and
- Must assume, through juvenile court appointment, legal guardianship of the child.
- Must provide a successor to the kinship guardianship agreement

Rights and Limitation of a Kinship Guardian

- Same rights, responsibilities and authority relating to the child as a parent;
  - Consenting to medical procedures, both elective and medically necessary;
  - Consenting to dental care;
  - Consenting to mental health care;
  - Arranging and consenting to educational plans;
    - This agreement terminates the education rights of the parents
  - Consenting to athletic or other activities;
  - Applying for financial assistance;
The right to decide whether visitation between the parent and child is appropriate (unless court ordered);
- Parents retain the right to consent to adoption or a name change;
- Parents retain the obligation to pay child support;
- Does not terminate a child's right to inheritance from a parent;
- Does not preclude a child from insurance derived from or between the child and parent.

Requirements of the Juvenile Court
- The child must be found dependent;
- The child must be placed in the custody of the department;
- The court must affirm the permanency plan of Kinship guardianship;
- The department will file a written request with the court for the appointment of a kinship guardian;
  - Only the department can file.

The court must find
- The prospective kinship guardian qualifies to be appointed; and
- The best interests of the child are served by the appointment.

Kinship Guardianship Agreements
- Must be negotiated between the department and the kinship guardian;
- Must be signed by both prior to juvenile court appointment;
- A signed copy must be provided to the kinship guardian;
- Will become effective upon the juvenile court entering an order awarding kinship guardianship.

• A kinship guardian may be appointed by the juvenile court only in the following situations:
  - A parent of the child is living but all parental rights have been terminated or restricted by former court order;
    - The blood relationship with the child will remain intact and recognized in defining a relative caregiver;
  - The child has resided without the parent with the individual caregiver seeking to become a kinship guardian for a period of six (6) months or more immediately preceding the date the written request is filed and the parent is unwilling or unable to provide adequate care for the child; and

The Agreement will
- Specify the amount of subsidy to be paid to the kinship guardian;
  - The amount will not exceed the amount paid if the child had remained in foster care;
  - The amount can be adjusted given the needs of the child and the KG;
  - This is in effect no matter the state of residence of the KG;
- Include any additional services the child and kinship guardian will be eligible to receive;
- The procedure by which the KG may apply for additional services;
- The amount to be paid by the department for non-recurring expenses associated with obtaining KG;
  - Cannot exceed $2000.00;
- Name a successor legal guardian in the event of death or incapacity of the kinship guardian;
  - The successor does not have to be related to the child;
  - The successor must have a preliminary home study by DHR.
### The Successor Guardian

- Before a subsidy can be paid
  - All household members over 19 must meet ABI/FBI suitability standards
  - All household members over 14 must pass an CA/N clearance
  - A guardianship assistance agreement must be completed

### Payment of Kinship Guardianship Subsidies

- Payment ends at the 18th birthday of the child
- Can be extended to 21 in certain circumstances
  - The kinship guardianship agreement was entered into after the child’s 16th birthday; and
  - The KG continues to provide care; and
  - One of the following circumstances exists:
    - The child is completing secondary education or program leading to an equivalent credential; or
    - The child is enrolled in post secondary or vocational education institution; or
    - The child is participating in a program or activity designed to promote or remove barriers to employment and independence; or
    - The child is employed at least 80 hours per month; or
    - The child is incapable of doing any of the activities described above due to a medical condition, either mental or physical
- Must be re-evaluated each year

### Siblings of Children Eligible for Kinship Guardianship Subsidies

- The department may enter into KG subsidy agreements and make payments on behalf of siblings
  - Must be placed with the same relative
  - Do not have to be placed for six (6) months prior to finalizing
  - Must be agreed to by ISP team and the KG
  - Do not have to be placed at the same time
  - Separate payment for non-recurring expenses may be made
  - Must have individual juvenile court orders

### Termination of Kinship Guardianship Payments

- The subsidy will end when one of the following conditions occur:
  - The child has not turned 18 but the KG is no longer legally responsible for the support of the child
  - The KG is no longer providing support
    - Maybe marriage or joins the military
  - The child reaches the age of 18
  - The KG requests
  - A child returns to foster care
  - The KG receives other sources of income on behalf of the child which may reduce or terminate the payment
    - SSI
  - The agreement is terminated or revoked by the juvenile court

### Medicaid

- Children under kinship guardianship agreements are eligible for Medicaid in the state in which they reside

### Revocation of Kinship Guardianship

- A petition to modify or revoke a KG must be filed
- The petition must contain proof that there is a material change in circumstances since the order was issued; and
- The petition must show that modification or revocation would materially promote the child’s best interests and welfare and that the positive good brought about by the requested change would more than offset any disruptive impact caused by uprooting the child.
- The child will be placed in the legal custody of the department
- If the KG is modified, the child shall remain with the KG but the department will provide court-ordered protective supervision.
What is Kinship Navigator?

Kinship Navigator is a website designed as a one-stop shop for information and referral services for grandparents, relatives and other caregivers who are currently raising a child.

https://navigator.alabama.gov

Other Support

Dedicated Toll Free Number
(844) 4ALAL-KIN or (844) 425-2546
kinship@dhr.alabama.gov

History of Safety Plans

- Safety plans really became in vogue in Alabama in the wake of the federal lawsuit and settlement known as the R.C. consent decree. R.C. placed an incredible amount of pressure (legal and financial) on Alabama DHR to decrease its foster care roles. So, in order to decrease the number of children “in care,” instead of running to court to obtain an emergency pick-up order ex parte from a judge, DHR started employing out-of-home safety plans.

Safety Plan Policy

- Originally, there was no time frame for how long these out-of-home safety plans could last. Currently, the maximum timeframe that an Out-of-Home Non-Foster Care safety plan can be in place without court involvement is ninety (90) days. AL Admin Code. Accordingly, if a child remains out-of-home for 90 days or longer, DHR must file a dependency petition in Juvenile Court to sustain that out-of-home placement.

Safety Plan. According to the Alabama Administrative Code,

- Safety plans are developed to protect children from safety threats when the parents’/primary caregivers’ protective capacities are insufficient. Out of Home (Non-Foster Care) Safety plans are designed to provide protection for children whose parents, legal custodians, or primary caregivers agree for them to live temporarily with others (e.g., relatives, neighbors, friends). The agreement is made between the parents, legal custodians or primary caregivers, the child welfare staff and the person responsible for providing protection. The home of the person providing protection does not have to be approved as a foster family home. As part of the safety plan approval process, child welfare staff shall make a visit to the home prior to the child being placed, except in emergency situations, in which case a home visit is made no later than the next calendar day or with supervisory approval the next working day.

Working Hand in Hand for Your Relative in Kinship Foster Care

- You get an unexpected call informing you a relative has been placed into foster care. After the initial feeling of shock leaves, you realize immediate action must be taken. You want to bring the child into your home and give him the support he needs after such a traumatic experience, but you may be unsure of the steps involved.
### Safety Plan

- A safety plan is a written agreement that the child protective services (CPS) caseworker develops with the family that clearly describes the safety services that will be used to manage threats to a child’s safety. Safety services assist families to engage in actions or activities that may logically eliminate or mitigate threats to the child’s safety. These activities must be planned realistically so that they are feasible and sustainable for the family over time. The safety plan will clearly outline what these actions and activities are, who is responsible for undertaking them, and under what conditions they will take place. It is designed to control threats to the child’s safety using the least intrusive means possible.
- In all cases, the safety services outlined in the safety plan must have an immediate effect and be immediately available and accessible.

### Related Foster Care

- Relatives may be approved to provide out-of-home care for children who are in the custody of the department. However, the related foster care home must meet the Minimum Standards for Foster Family Homes including completion of training course. The Department’s child welfare program considers relative as an individual who is legally related to the child by blood, marriage, or adoption within the fourth degree of kinship; including only a brother, sister, uncle, aunt, first cousin, grandparent, great grand parent, great aunt, great uncle, great-great grand parent, niece, nephew, grand niece, grand nephew or a step-parent.

### Safety Plan

- They may be formal or informal: the services can be provided by professionals, such as child care providers, parent/homemaker aides, or public health nurses, or by non-professionals such as neighbors or relatives. The important thing is that everyone who is part of the safety plan understands his or her role and is able and willing to carry out their responsibilities.
- A safety plan differs from a case plan in that a safety plan is designed to control safety threats and have an immediate effect, while a case plan seeks to create change over time to reduce risk and increase the family’s capacity to protect the child. The safety plan must stay in effect as long as the threats to child safety exist and the family remains unable to provide for the child’s safety.

### What if my grandchild is in "foster care"?

- When a child is in foster care (or under the protection of a child welfare system), usually the state has legal custody of the child and caseworkers make all major decisions about him or her. Children in foster care may be placed with families, or in group homes or institutions. In an arrangement known as "kinship care," a child is placed with a relative.

### What does it mean to take Custody

- This means you are responsible for supporting and providing care for the child. In certain states, a child's parents may still retain some of their rights — even if you have physical custody. A parent can voluntarily relinquish custody of a child to you through a written legal agreement, or it can be formally ordered by the court.

### Kinship Fostering

- If your grandchildren have already been in the legal custody of the state, or if they are being abused or neglected and the state is taking custody of them, you can look into becoming their foster parent and have them placed in your home.
Foster Care Board Payments

• Foster Parents including relatives who become foster parents to care for their relatives children receive a monthly board payment.
• Regular Board payments range from $527 for an infant to $571 for a Teenager.

Permanent Relative Placement with Transfer of Custody to the Relative

• This goal is intended to be permanent and self-sustaining. It does not preclude consideration of legalizing the placement through adoption. The custody transfer provides the relative with the authority and responsibility to protect, educate, provide care and control, and make decisions for the child, but it does not require TPR. The relative must be willing to accept custody with the understanding that a home will be provided for the child until adulthood. The timeframe for achieving this permanency goal is set by the ISP team. Permanency is achieved when legal custody is placed with the relative.

Kinship Guardianship

• Federal and state legislation provides the legal means of obtaining the permanency goal of kinship guardianship for children in foster care. The timeframe for achieving this goal is set by the ISP team.

This permanency goal is limited to children who are have resided in a fully approved related foster family home for at least six consecutive months. Only after the following case by case determinations have been made on a child, can the permanency goal of kinship guardianship be established:

Adoption

• When you adopt a child, you have all the rights and responsibilities of a biological parent. The birth parents no longer have any rights.

Kinship Guardianship Subsidy

• Guardianship subsidies are cash payments to help relatives raise children after they get legal guardianship. In Alabama, the child has to have been in the custody of the state (foster care) and is in relatives home as foster care placement for at least 6 month.
• Guardianship subsidies are same as board payments in most cases.

Adoption Subsidy

• Adoption Subsidy is same a foster care board payments in most cases.
• Adoption Subsidy is paid after adoption for those children who are considered special needs. Criteria is listed in the foster parent handbook.
What if my relative lives in another state

• Moving to another state in and of itself can be a daunting task. For a relative in kinship foster care it can be even more so. A new environment can prove to be overwhelming, especially if the child does not have all the resources needed for a successful transition. It can be overwhelming for you as well since this may be the first time you have been faced with this situation. Thankfully, in the United States, there is a system that has been put into place that protects the child and assists you in obtaining the right to care for him in your state of residence. It’s called the Interstate Compact for the Placement of Children (ICPC), and it is here to assist you with the steps you need to take in the best interest of your relative.

Steps and Process of the Interstate Compact for the Placement of Children

• There is more than one way to initiate the ICPC process. If you have the name and contact information of your relative’s caseworker, you can reach out to him or her to be considered for kinship care. Also, if you are named as a possible caregiver by the child’s biological parents, their state (the sending state) can notify the state in which you reside (the receiving state) specifically naming you as a resource and requesting your state to license you as a resource parent. The ICPC request becomes active when you are named as a potential caregiver. A Child Welfare representative in your state of residence will then begin the required licensing process, which includes your home study. Once the home study is complete, it will be sent to the state where the child is in custody, and if the process is approved, the child will eventually be transferred to your home.

The History and Purpose of the Interstate Compact for the Placement of Children

• The Interstate Compact is a contract among all 50 US States, the District of Columbia and the Virgin Islands and has been in effect since 1960.

• What is an Interstate Compact exactly? Simply put, it is an agreement between two states. More specifically, the Interstate Compact Placement of Children offers provision for children in care who are moved from one state to the next. According to a manual produced by the National Council of Juvenile and Family Court Judges and the American Public Human Services Association, the overall purpose of the ICPC is to protect everyone involved in the placement process (the child and the states that are affiliated). The ultimate goal is that your relative is placed in a secure environment and that all of the proper arrangements have been made so he can have full legal, medical and financial protection.

Challenges of the Interstate Compact for the Placement of Children

• The Interstate Compact is a contract among all 50 US States, the District of Columbia and the Virgin Islands and has been in effect since 1960.

• What is an Interstate Compact exactly? Simply put, it is an agreement between two states. More specifically, the Interstate Compact Placement of Children offers provision for children in care who are moved from one state to the next. According to a manual produced by the National Council of Juvenile and Family Court Judges and the American Public Human Services Association, the overall purpose of the ICPC is to protect everyone involved in the placement process (the child and the states that are affiliated). The ultimate goal is that your relative is placed in a secure environment and that all of the proper arrangements have been made so he can have full legal, medical and financial protection.
While the ICPC is a great benefit there are some challenges that arise. It is important to note that there is no guarantee your relative in care will be placed into your home. It is possible you will not be the only relative named that can provide care to the child. If there is another relative that offers a more viable option that is in the better interest of the child (closer to his biological parent, closer to other siblings, etc.), he will be placed in their home or stay in the care of the current foster home. Since your relative is in state custody, it is ultimately up to the Judge and the casework staff to make the final determination. Remember, their goal is to make a decision that is in the best interest of the child. Another challenge is the actual length of the process. Because you are a relative, some of the licensing process may go faster, but because you are out-of-state, the ICPC process increases this length of time. The child cannot be placed into your home until you are fully licensed.

Thank you for what you do for children
**Working Hand in Hand for Your Relative in Kinship Foster Care**

You get an unexpected call informing you a relative has been placed into foster care. After the initial feeling of shock leaves, you realize immediate action must be taken. You want to bring the child into your home and give him the support he needs after such a traumatic experience, but you may be unsure of the steps involved.

**Safety Plan.** According to the Alabama Administrative Code,

“Safety plans are developed to protect children from safety threats when the parents'/primary caregivers' protective capacities are insufficient…Out of Home (Non-Foster Care) Safety plans [are] designed to provide protection for children whose parents, legal custodians, or primary caregivers agree for them to live temporarily with others (e.g., relatives, neighbors, friends). The agreement is made between the parents, legal custodians or primary caregivers, the child welfare staff and the person responsible for providing protection. The home of the person providing protection does not have to be approved as a foster family home. As part of the safety plan approval process, child welfare staff shall make a visit to the home prior to the child being placed, except in emergency situations, in which case a home visit is made no later than the next calendar day or with supervisory approval the next working day.

**Typical Scenario:** Some secretive allegation of abuse or neglect (a Child Abuse/Neglect report or CA/N in DHR lingo) is made against an Alabama parent. Typically, the parent is scared and uninformed about their rights when DHR social workers show up. Either expressly or impliedly, DHR social workers threaten to “take” the children “into DHR custody” unless the parent “voluntarily” consents to a safety plan. Parent reluctantly agrees to allow the child stay with a grandparent or aunt or other family member. The parent is separated from their child or children and has practically lost custody.

Safety plan “agreements” can, like anything, be abused. Most parents don’t feel the process is “voluntary.” The threat of their children being placed in state foster care is beyond imaginable for most families. So, many parents will “agree” to anything to avoid that possibility. Additionally, as one study showed, parents describe the social worker’s perceived power over them as negative, “absolute,” “tyrannical,” indomitable, and “frightening.”

Safety plans really became in vogue in Alabama in the wake of the federal lawsuit and settlement known as the R.C. consent decree. R.C. placed an incredible amount of pressure (legal and financial) on Alabama DHR to decrease its foster care roles. So, in order to decrease the number of children “in care,” instead of running to court to obtain an emergency pick-up order ex parte from a judge, DHR started employing out-of-home safety plans.

Originally, there was no time frame for how long these out-of-home safety plans could last. Currently, the maximum timeframe that an Out-of-Home Non-Foster Care safety plan can be in place without court involvement is ninety (90) days. AL Admin Code. Accordingly, if a child remains out-of-home for 90 days or longer, DHR must file a dependency petition in Juvenile Court to sustain that out-of-home placement.

**Custody.** This means you are responsible for supporting and providing care for the child. In certain states, a child’s parents may still retain some of their rights — even if you have physical custody. A parent can voluntarily relinquish custody of a child to you through a written legal agreement, or it can be formally ordered by the court.
What if my grandchild is in “foster care”?

When a child is in foster care (or under the protection of a child welfare system), usually the state has legal custody of the child and caseworkers make all major decisions about him or her. Children in foster care may be placed with families, or in group homes or institutions. In an arrangement known as “kinship care,” a child is placed with a relative or a close family friend. When a grandparent becomes a foster parent though kinship care, the grandparent is responsible for the day-to-day decisions and care for the child — though the state retains legal custody and pays for the child’s care. Almost all states prefer to place children with a relative or “kin” when they can. If your grandchildren have already been in the legal custody of the state, or if they are being abused or neglected and the state is taking custody of them, you can look into becoming their foster parent and have them placed in your home.

KINSHIP GUARDIANSHIP

Federal and state legislation provides the legal means of obtaining the permanency goal of kinship guardianship for children in foster care. The time frame for achieving this goal is set by the ISP team.

This permanency goal is limited to children who are eligible to receive either IV-E foster care or non IV-E state foster care maintenance payments and have resided in a fully approved related foster family home for at least six consecutive months. Only after the following case by case determinations have been made on a child, can the permanency goal of kinship guardianship be established:

1. Being returned home or adopted are not appropriate permanency options and not in the best interests of the child;

2. The child demonstrates a strong attachment to the prospective kinship guardian and the kinship guardian has a strong commitment to caring permanently for the child; and,

3. If a child has attained the age of 14, the child must be consulted regarding the kinship guardianship arrangement.

All of the above criteria must be met and must be documented in the child’s record.

Kinship guardianship is a judicially created relationship and would therefore, be achieved at the point that kinship guardianship is awarded by the juvenile court to the relative.

The custody status of kinship guardianship substantiates that a child is leaving out-of-home care and entering a kinship guardianship arrangement.

Kinship Guardianship as a Permanency Option

+Definitions

Citation: Ann. Code § 38-12-32

The following terms shall have the following meanings:

- A ‘caregiver’ is an individual age 21 or older, other than a child’s parent, legal guardian, or legal custodian, who is an approved foster parent and a relative of the child who has been providing care and support for the child while the child has been residing in the caregiver’s home for at least the last 6 consecutive months while in the legal custody of the Department of Human Resources.
• A ‘kinship guardian’ is a caregiver who is willing to assume care of a child because of the parental incapacity of a parent, legal guardian, legal custodian, or other dependency reason, with the intent to raise the child to adulthood, and who is appointed the kinship guardian of the child by a juvenile court. A kinship guardian shall be responsible for the care and protection of the child and also for providing for the health, education, and maintenance of the child.

• A ‘relative’ is an individual who is legally related to the child by blood, marriage, or adoption within the fourth degree of kinship, including only a brother, sister, uncle, aunt, first cousin, grandparent, great-grandparent, great-aunt, great-uncle, great-great-grandparent, niece, nephew, grandniece, grandnephew, or a stepparent.

Purpose of Guardianship
Citation: Ann. Code § 38-12-31

The legislature finds and declares that:

• An increasing number of relatives, including grandparents, are willing to provide care to related children on a long-term basis to prevent the children from remaining in foster care with unrelated caregivers, yet are either unable or unwilling to seek termination of the legal relationships between the parent and the child, particularly when it is the relative’s own child or sibling who is the parent.

• It is in the public interest to create a new type of legal guardianship that addresses the needs of children in the legal custody of the Department of Human Resources and to establish long-term legal relationships with relatives and to place children out of the foster care system.

The purposes of kinship guardianships include the following:

• Establish procedures to effect a legal relationship between a child in the legal custody of the department and a kinship guardian and to terminate legal custody with the department

• Provide a child in the legal custody of the department with a stable and consistent long-term relationship with a kinship guardian when the parents, legal guardians, or legal custodians of the child are not willing or able to do so

• Establish a permanent placement alternative to a child remaining in the legal custody of the department under court supervision when the child cannot be reunited with the parent, and other persons are not interested in pursuing adoption

• Establish a new legal relationship that is permanent during the minority of the child and not subject to modification or revocation merely for a material change in circumstances that has occurred since the order granting the kinship guardianship was entered

A Guardian’s Rights and Responsibilities
Citation: Ann. Code § 38-12-4

The department and the kinship foster parent shall develop an individualized service plan for the foster care of the child. The plan shall be periodically reviewed and updated. If the plan includes the use of an approved child care center or family child care home, the department shall pay for child care arrangements, according to established rates.

The kinship foster parent shall cooperate with any activities specified in the individualized service plan for the foster child, such as counseling, therapy, court sessions, or visits with the foster child’s parents or other family members.
Qualifying the Guardian

Citation: Ann. Code §§ 38-12-2; 38-12-3; 38-12-4

The department shall establish standards for becoming a kinship foster parent as follows:

- A relative shall be an individual who is legally related to the child by blood, marriage, or adoption within the fourth degree of kinship, including only a brother, sister, uncle, aunt, first cousin, grandparent, great-grandparent, great-aunt, great-uncle, great-great-grandparent, niece, nephew, grandniece, grandnephew, or a stepparent.

- The kinship foster parent shall be age 21 or older, unless the department provides otherwise by rule to carry out the provisions of this chapter.

- The department may waive standards for kinship foster care as provided by department rule and as permitted by other State and Federal law.

A person may become a kinship foster parent only upon the completion of an investigation to determine whether there is a State or Federal record of criminal history for the prospective kinship foster parent or any other adult residing in the prospective foster parent’s home.

The Alabama Bureau of Investigation shall conduct the investigation and shall make the results of the investigation available to the department in accordance with this section.

The department shall determine whether the person is able to care effectively for the foster child by the following methods:

- Reviewing personal and professional references

- Observing during a home visit of the kinship foster parent with household members

- Interviewing the kinship foster parent

Procedures for Establishing Guardianship

Citation: Ann. Code §§ 38-12-2; 38-12-4; 12-15-315

When a child has been removed from his or her home and is in the care, custody, or guardianship of the department, the department shall attempt to place the child with a relative for kinship foster care. If the relative is approved by the department to provide foster care services, in accordance with rules and regulations adopted by the department, and a placement with the relative is made, the relative may receive payment for the full foster care rate only as provided by Federal law for the care of the child. The relative also may receive any other benefits that might be available to foster parents, whether in money or in services. Foster care payments shall cease upon the effective date of the kinship subsidy payments or as provided by the department.

The appointment of the kinship guardian is made by the juvenile court.

At the permanency hearing the court shall determine the permanency plan for the child. The plan may include permanent placement with a kinship guardian pursuant to a written request filed by the department for the appointment of an individual as a kinship guardian.
Contents of a Guardianship Order
Citation: Ann. Code § 12-15-315

The request for appointment of a kinship guardian shall contain the following:

- That granting kinship guardianship to the relative caregiver is in the best interests of the child
- That granting a kinship guardianship of the child to the relative caregiver will provide the child with a safe and permanent home
- That the child demonstrates a strong attachment to the relative caregiver and the relative caregiver demonstrates a strong commitment to caring permanently for the child
- That the relative caregiver has been approved as a foster parent by the department and has completed criminal history and child abuse and neglect central registry clearances
- That the child has been in the care of the relative caregiver for no less than 6 consecutive months
- That if the child is age 14 or older, he or she has indicated his or her position regarding the prospective kinship guardianship and, if the child is age 18 or older, he or she has consented to the kinship guardianship

If the permanency plan for a child is placement with a kinship guardian, the service plan must contain the following:

- The steps that the department has taken to determine that it is not appropriate for the child to be returned home or adopted
- The reasons for any separation of siblings during placement
- The reasons why a permanent placement with a fit and willing relative caregiver through a kinship guardianship arrangement is in the best interests of the child
- The ways in which the child meets the eligibility requirements for the kinship guardianship program
- The efforts the department has made to discuss adoption by the relative foster parent as a more permanent alternative to a kinship guardianship, and why the relative foster parent has chosen not to pursue adoption
- The efforts made by the department to discuss kinship guardianship with the parent, legal guardian, or legal custodian of the child, or why the efforts were not made

Modification/Revocation of Guardianship

This issue is not addressed in the statutes and regulations reviewed.

Kinship Guardianship Assistance
Citation: Ann. Code § 38-12-34

The department may provide subsidies for an eligible child placed in kinship guardianship by a court or by a federally recognized Native American Indian Tribe, if the child would not be placed in a kinship guardianship without the assistance of the program.

A child is eligible for a kinship guardianship subsidy if the department determines the following:

- The child has been removed from the custody of his or her parent or parents, legal guardian, or legal custodian as a result of a judicial determination to the effect that continuation in the custody of the parent or parents, legal guardian, or legal custodian would be contrary to the welfare of the child.
• The department is responsible for the placement and care of the child.
• Being returned home or being adopted are not appropriate permanent placement options for the child.
• Permanent placement with a kinship guardian is in the child’s best interests.
• The child demonstrates a strong attachment to the prospective kinship guardian and the kinship guardian has a strong commitment to caring permanently for the child.
• The child has received foster care maintenance payments while residing for at least 6 consecutive months in the home of the prospective kinship guardian.
• With respect to a child who is at least age 14, the child has been consulted regarding the kinship guardianship.
• If required for Federal funding participation, the kinship guardian is qualified pursuant to a means-based test and any other requirements.
• If required for Federal funding participation, the necessary degree of relationship exists between the prospective kinship guardian and the child.

What if my relative lives in another state

Moving to another state in and of itself can be a daunting task. For a relative in kinship foster care it can be even more so. A new environment can prove to be overwhelming, especially if the child does not have all the resources needed for a successful transition. It can be overwhelming for you as well since this may be the first time you have been faced with this situation. Thankfully, in the United States, there is a system that has been put into place that protects the child and assists you in obtaining the right to care for him in your state of residence. It’s called the Interstate Compact for the Placement of Children (ICPC), and it is here to assist you with the steps you need to take in the best interest of your relative.

The History and Purpose of the Interstate Compact for the Placement of Children

The Interstate Compact is a contract among all 50 US States, the District of Columbia and the Virgin Islands and has been in effect since 1960.

What is an Interstate Compact exactly? Simply put, it is an agreement between two states. More specifically, the Interstate Compact Placement of Children offers provision for children in care who are moved from one state to the next. According to a manual produced by the National Council of Juvenile and Family Court Judges and the American Public Human Services Association, the overall purpose of the ICPC is to protect everyone involved in the placement process (the child and the states that are affiliated). The ultimate goal is that your relative is placed in a secure environment and that all of the proper arrangements have been made so he can have full legal, medical and financial protection.
Steps and Process of the Interstate Compact for the Placement of Children

There is more than one way to initiate the ICPC process. If you have the name and contact information of your relative’s caseworker, you can reach out to him or her to be considered for kinship care. Also, if you are named as a possible caregiver by the child’s biological parents, their state (the sending state) can notify the state in which you reside (the receiving state) specifically naming you as a resource and requesting your state to license you as a resource parent. The ICPC request becomes active when you are named as a potential caregiver. A Child Welfare representative in your state of residence will then begin the required licensing process, which includes your home study. Once the home study is complete, it will be sent to the state where the child is in custody, and if the process is approved, the child will eventually be transferred to your home.

Challenges of the Interstate Compact for the Placement of Children

While the ICPC is a great benefit there are some challenges that arise. It is important to note that there is no guarantee your relative in care will be placed into your home. It is possible you will not be the only relative named that can provide care to the child. If there is another relative that offers a more viable option that is in the better interest of the child (closer to his biological parent, closer to other siblings, etc.), he will be placed in their home or stay in the care of the current foster home. Since your relative is in state custody, it is ultimately up to the Judge and the casework staff to make the final determination. Remember, their goal is to make a decision that is in the best interest of the child. Another challenge is the actual length of the process. Because you are a relative, some of the licensing process may go faster, but because you are out-of-state, the ICPC process increases this length of time. The child cannot be placed into your home until you are fully licensed.

What does it mean when a parent’s rights are “terminated”? A judge can decide that a parent has no right to care for or even visit with their child. Their parental rights are “terminated” or ended and they cannot get them back. Other family members may also be affected. For example, another family member may be denied the opportunity to visit with the child. Parent’s rights are terminated permanently when a child is adopted.

What are guardianship subsidies and adoption subsidies?

- **Guardianship subsidies** are cash payments to help relatives raise children after they get legal guardianship. The child has to have been in the custody of the state (foster care).

- **Adoption subsidies** are cash payments that may be available when a child with special needs who has been under the care of child welfare system is adopted. See foster care handbook for more details or visit nacac.org under state subsidies for Alabama.

What can I do if I think my grandchildren are in danger or being abused? If you are concerned about abuse and neglect, call your state’s Child Abuse Reporting Number, which can be found at www.childwelfare.gov and ask them to look at your grand children’s care. There is also the Child help National Child Abuse Hot line, 1-800-4-A-CHILD you can call for help. If you feel your grandchild is in immediate danger of being harmed, you should call the police.
How can I get help with legal fees?
If you have trouble paying for legal advice, you may be able to find reduced or free legal help through local agencies or private law firms. See the legal section in Grand Families Resources for ideas for organizations that can help you find pro bono legal help, such as the American Bar Association.

How can I plan for a time when I can’t care for my grandchildren?
Be sure to include your grandchildren in your will. If you are your grandchild’s primary caregiver, some states will allow you to direct someone to take care of him if you become ill or die. Talk with a lawyer to get more information about laws in your state.

My grandchildren had been living with me, but now they’re back with their parents, who won’t let me see them. What can I do?
Sadly, there can be situations when a parent decides not to let a grandparent see a child anymore. If this happens to you, contact a professional mediator who is trained to help people work out such disagreements. Mediation often costs less that going to court, and can be easier on everyone. If that doesn’t work, you’ll need to get a Family Law lawyer who can tell you about the visitation laws in your state.

The system seems to make it harder for me to raise grandchildren — not easier. How can I help change things?
When you are raising grandchildren, you have to be an advocate for them as they grow up. Many grandparents also become advocates to change “the system” or the laws, policies and rules that effect “grand families.” You can educate your local officials and members of Congress about your challenges by writing letters, calling and visiting your representatives. To find out how you can join forces with other grandparent caregivers, contact local or state grandparent groups or coalitions, your local Area Agency on Aging, Generations United, Grand families of America, the National Committee of Grandparents for Children’s Rights, the Children’s Defense Fund or other national organizations that advocate for your rights.

Legal support and advice for grandparents and other relatives raising children. Answers to questions about adoption, custody, guardianship, as well as legal aid and assistance.
www.grandfamilies.org
www.nacac.org
www.aarp.org
www.dhr.alabama.gov
www.childwelfare.gov
www.adoptuskids.org
Raising Grandchildren: Finances

Many grandparents caring for grandchildren struggle to meet the basic needs of their families. Fortunately there are a number of state and federal public benefits programs that can help out. You may be able to get special assistance if you or your grandchildren’s parent has been in the military or if a parent is deceased. There are also tax credits that may help.

See also: GrandFamilies Resources.

To find out if you or your grandchildren qualify for public benefits, you can:

- Use AARP’s Benefits QuickLINK tool to find out if you or your grandchild may qualify for 15 public benefits — 10 for adults and families and five for children. Simply answer a list of questions about your family income, assets and any help with finances you get now. The tool gives you a report listing the benefits you may qualify for and links to the application forms.

- Visit GrandFacts sheets for information about your state that includes contact information for your state agencies. The state agencies can help you find out whom to talk to in your county.

- Talk to a worker in your county who deals with public benefits. Different offices may handle the various public benefits. You can start with the social worker or counselor at your grandchild’s school, or look for any of the following:
  - Department of Social Services or Human Services
  - Department of Children and Family Services or Youth Services
  - Health Department
  - Child Welfare Office
  - Social Security Office
  - Department of Aging
  - Women, Infant and Children Program (WIC)

Can my grandchildren qualify for benefits based on their income only?

Yes, there are public benefits that are based only on your grandchild’s income. A child’s income may include such things as a trust fund or child support payments. Cash help from Temporary Assistance for Needy Families (TANF), a federal public benefit program, is available for families based on their household incomes, or for a child based only on his/her income (sometimes called a “child-only grant”). Other benefits your grandchild may qualify for include: Supplemental Security Income (SSI) for children with disabilities; Medicaid health insurance, or your state’s Children’s Health Insurance Program (CHIP) if your grandchildren don’t qualify for Medicaid. The Benefits QuickLINK tool has every state’s rules for such programs as TANF, CHIP, Medicaid, SSI and the Earned Income Tax Credit (EITC) built-in, so you don’t have to take the time to find out about all of those rules on your own.
Do I have to have legal custody or guardianship of my grandchildren to apply for public benefits or get tax credits?

You do not need to have a formal legal relationship with your grandchild to apply for *some* public benefits or tax credits, including EITC, the Child Tax Credit, Medicaid, a TANF Child-Only grant, and others. But some public benefits do require that you get custody or guardianship. Many states have Subsidized Guardianship Programs that have cash payments to help with the costs of raising a child who has been in the foster care system. In some states you may have to have been the child’s foster parent yourself before getting legal guardianship to get the Guardianship Subsidy. Check with your county child welfare agency to find out how it works in your state.

If I adopt my grandchild, is there financial help to raise him/her?

All states have “Adoption Assistance” for children who are adopted when they have been in the child welfare system (foster care) and have “special needs”. Every state defines special needs differently, and may or may not include children who are part of a group of brothers and sisters, is older, belongs to a minority group, or has physical or mental/emotional disabilities. Contact your child welfare agency to ask about the rules in your state.

Can I get child support payments from my grandchild’s parent?

You may be able to get child support payments to help raise your grandchild. Talk with a family law lawyer about getting child support if you go to court for custody or guardianship. Learn about the pros and cons of child support in terms of finances and also the effect on your grandchild’s parent. The Office of Child Support Enforcement may also be helpful.

I need to work. Can I get help to pay for child care?

Every state has a child care subsidy program that helps pay for child care for families with lower incomes who meet the guidelines for eligibility. You will need to contact your state or local child care government office and fill out a form. The income, work, age of the child and other requirements vary from state to state, so you’ll need to find out what the rules are in your state.
The federal Family First Prevention Services Act (Family First Act), enacted in February 2018, includes many child welfare system reforms that support children, parents, and kinship caregivers. This tool highlights provisions that help kinship families, along with steps caregivers, advocates, and other leaders can take to help implement the Family First Act.

### New Opportunities for Kinship Families: Action Steps to Implement the Family First Prevention Services Act in Your Community

<table>
<thead>
<tr>
<th>How the Family First Act Benefits Kinship Families</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Provides prevention services to children, kinship caregivers, and parents to help keep children safely out of foster care.</td>
</tr>
<tr>
<td>• Reduces licensing barriers to increase the use of kinship foster homes.</td>
</tr>
<tr>
<td>• Encourages kinship navigator programs to assist kinship families.</td>
</tr>
<tr>
<td>• Promotes family engagement for children who live in group settings.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>How to Help Your Jurisdiction Receive the Full Benefits of the Family First Act</th>
</tr>
</thead>
<tbody>
<tr>
<td>Help your state, territory or one of the 14 tribes that operate a Title IV-E child welfare agency receive the full benefits of the Family First Act by taking the following action steps:</td>
</tr>
</tbody>
</table>

#### Ensure your jurisdiction is taking advantage of the Family First Act.

- Learn your jurisdiction’s policies and approaches to placing children with relatives. Do relative caregivers receive supports and services? Can they become licensed foster parents or are they caring for children outside the formal child welfare system?
- Read all materials your jurisdiction has produced about this law and share national materials with community leaders (see [www.grandfamilies.org/Resources/Federal-Laws](http://www.grandfamilies.org/Resources/Federal-Laws) for national materials).
- Find out if your jurisdiction has a Family First Act implementation working group, get involved, and advocate to include individuals representing the kinship point of view.
- Use this tool to share the benefits of this law.

#### Offer services to prevent foster care entry.

The Family First Act provides funds to jurisdictions that choose to offer proven (“evidence-based”) prevention services to eligible children at “imminent risk” of entering foster care, their birth parents, and relative caregivers, so children can stay safely with family and not enter foster care. Services may include mental health and substance use treatment and prevention, and in-home parent skill-based services.
• Elevate effective prevention services currently used to serve children, relative caregivers and/or birth parents in your jurisdiction. If existing prevention services do not serve kinship families, could they be changed to serve them?
• Identify evidence-based prevention services that complement existing services in your jurisdiction. Check www.grandfamilies.org/Resources/Federal-Laws for more information on evidence-based services.
• Prioritize prevention services for kinship families diverted from foster care. Encourage relative caregivers who have received prevention services to become licensed foster parents for children in their care if these prevention services do not adequately assist and support the family.
• Make sure the child welfare agency requires caseworkers to discuss with parents and relative caregivers the benefits and challenges of relative caregivers becoming licensed kinship foster parents for children versus caring for children outside the child welfare system. Caseworkers should provide parents and caregivers written materials explaining the benefits and challenges.

**Improve foster care licensing standards and procedures.**

The Family First Act requires jurisdictions to improve their standards and procedures for licensing foster parents with related children in their care.

• Join your jurisdiction’s efforts to improve foster care licensing standards by comparing your standards with the National Model Family Foster Home Licensing Standards. Encourage your jurisdiction to establish a work group for this process.
• Promote diverse voices in the licensing work group, including kinship caregivers, non-related foster parents, foster youth, birth parents, people who work with caregivers and families, and those who license foster homes at the state, tribal, and agency levels.
• Share with the work group stories and examples of barriers to licensing relatives.
• Make sure the jurisdiction’s efforts are relative-friendly by encouraging it to align its standards with both the National Association for Regulatory Administration (NARA) Model Family Foster Home Licensing Standards and the National Model Family Foster Home Licensing Standards. See www.grandfamilies.org/Resources/Foster-Care-Licensing
• Ensure the licensing work group compares tribal standards to National Indian Child Welfare Association (NICWA) materials.

**Establish and maintain kinship navigator programs.**

The Family First Act allows jurisdictions to receive federal support to establish or maintain kinship navigator programs, which provide information, referral, and follow-up services to grandparents and other relatives raising children to link them to critical benefits and services. Programs must meet evidence-based requirements to qualify for funding.
Services for former foster youth include increased exits from foster care to adoption or kinship guardianship placement in faster for foster care, adoption or guardianship placement placement in federally funded residential group settings. The Family First Act allows jurisdictions to receive federal support for related children in care if these children in foster care and ask how they involve their families in the children's treatment plans. For children with serious emotional or behavioral needs requiring foster care placement in federally funded residential group settings, the Family First Act requires group care providers to engage family members in planning where to place children and helping children stay connected to their families. Family members should also be part of the children's treatment plans and receive family-based services after the children successfully leave group care. Participation by family members includes siblings, extended family members, and adults who are important to the child.

• Explore procedures and methods that your jurisdiction's child welfare agency can use to incorporate and consider family preferences when deciding where children will be placed (e.g., Family Group Decision Making).
• Determine which group settings in your area are frequently used for children in foster care and ask how they involve their families in the children's treatment.
• Demand child welfare agencies provide training, support, and licensing to relatives so they can care for related children with serious emotional or behavioral needs. Allowing relatives to become therapeutic foster parents for related children avoids placing those children in group settings. It also prepares relatives to care for children who are ready to leave group care.

Ensure that the licensing work group compares tribal standards to National Model Family Foster Home Licensing Standards. See Indian Child Welfare Association (ICWA) materials. www.grandfamilies.org/Resources/Foster-Care-Licensing

• Make sure the jurisdiction's efforts are relative-friendly by encouraging it to meet ongoing federal funding requirements under the Family First Act.
• Support kinship navigator programs' efforts to document proven benefits to jurisdictions. Learn and share the benefits of established navigator programs. For information about existing programs visit: www.grandfamilies.org/Resources/Kinship-Navigator-Programs
• Find out if your jurisdiction applied for and received 2018 funding to develop, enhance, or evaluate kinship navigator programs and learn what they plan to do with this funding. Urge your jurisdiction to track this new funding to help them prepare to access ongoing funding under the Family First Act.
• Encourage your jurisdiction to apply for additional 2019 funding to develop, enhance or evaluate kinship navigator programs. Check www.grandfamilies.org/Resources/Kinship-Navigator-Programs for updates about applying for this new funding.
• In developing and operating a kinship navigator program, encourage your jurisdiction's public child welfare agency to engage relative caregivers and community-based organizations with experience serving kinship families both inside and outside the child welfare system.

✓ Involve families in residential group settings for children.

For children with serious emotional or behavioral needs requiring foster care placement in federally funded residential group settings, the Family First Act requires group care providers to engage family members in planning where to place children and helping children stay connected to their families. Family members should also be part of the children's treatment plans and receive family-based services after the children successfully leave group care. Participation by family members includes siblings, extended family members, and adults who are important to the child.

• Explore procedures and methods that your jurisdiction's child welfare agency can use to incorporate and consider family preferences when deciding where children will be placed (e.g., Family Group Decision Making).
• Determine which group settings in your area are frequently used for children in foster care and ask how they involve their families in the children's treatment.
• Demand child welfare agencies provide training, support, and licensing to relatives so they can care for related children with serious emotional or behavioral needs. Allowing relatives to become therapeutic foster parents for related children avoids placing those children in group settings. It also prepares relatives to care for children who are ready to leave group care.

www.grandfamilies.org

Grandfamilies.org serves as a national legal resource in support of grandfamilies within and outside the child welfare system.

Visit the site for updates and practical resources on how the Family First Act benefits kinship families.

More features:

• easy-to-use searchable database of laws and legislation impacting kinship families
• analysis and comparison of laws on many kinship topics
• resources and publications for professionals who work with grandfamilies
• timely resources tied to new developments in the field
• technical assistance and training opportunities
## Comparison of Kin Services and Supports
Before and After the Family First Prevention Services Act

<table>
<thead>
<tr>
<th>BEFORE Family First</th>
<th>AFTER Family First</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Child Welfare Funding</strong></td>
<td><strong>Prevention Services to: Child</strong></td>
</tr>
<tr>
<td>Most federal money supports children in foster care—not preventing their entry into foster care</td>
<td>New federal child welfare funds for prevention services.</td>
</tr>
<tr>
<td>Home of removal income test to qualify for federal foster care funds</td>
<td>No income test required</td>
</tr>
<tr>
<td>Limited prevention services funded by different sources, often not child welfare funding</td>
<td>Services provided based on what children and families need to prevent entry into foster care including mental health and substance use treatment and prevention, and in home parent skill based services</td>
</tr>
<tr>
<td>No federal funds for prevention services to kin</td>
<td>Federal child welfare funds for up to a full 12 months of prevention services to keep children out of foster care</td>
</tr>
<tr>
<td>No federal funds for prevention services to help the entire kinship triad simultaneously (child, parent, and kin)</td>
<td>Pregnant and parenting youth in foster care have access to these services</td>
</tr>
<tr>
<td>Many state specific barriers to licensure for kin</td>
<td>Federal child welfare funds for up to a full 12 months of prevention services to keep children out of foster care</td>
</tr>
<tr>
<td>6-month time limit after a child’s removal from parents home to qualify for federally funded foster care payments</td>
<td>Federal child welfare funds for up to a full 12 months of prevention services to keep children out of foster care</td>
</tr>
<tr>
<td>No ongoing federal funds for Kinship Navigator Programs</td>
<td>Federal funds for prevention services available to help the entire kinship triad simultaneously (child, parent, and kin)</td>
</tr>
<tr>
<td>Family engagement not required for critical decision-making</td>
<td>Helps states identify barriers and best models for licensing kin</td>
</tr>
<tr>
<td>Aftercare services not required</td>
<td>6-month time limit no longer applies if receiving prevention services—kin may pursue licensure after provision of prevention services</td>
</tr>
</tbody>
</table>

| **Prevention Services to: Parent** |
| Limited prevention services funded by different sources, often not child welfare funding |

| **Prevention Services to: Kin** |
| No federal funds for prevention services to kin |

| **Foster Care Licensing** |
| No federal funds for prevention services to help the entire kinship triad simultaneously (child, parent, and kin) |

| **Kinship Navigator Programs** |
| Many state specific barriers to licensure for kin |

| **Group Settings** |
| Family engagement not required for critical decision-making |

| **Group Settings** |
| Aftercare services not required |

---

This resource was developed in partnership by the ABA Center on Children and the Law, Children’s Defense Fund, and Generations United. Visit [www.grandfamilies.org](http://www.grandfamilies.org) for more resources.
Comparison of Kin Services and Supports

BEFORE
Family First

AFTER
Family First

Child Welfare Funding

Prevention Services to:
Child

Prevention Services to:
Child, Parent and Kin

Foster Care Licensing

Kinship Navigator
Programs

Most federal money supports children in foster care—not preventing their entry into foster care

Home of removal income test to qualify for federal foster care funds

Limited prevention services funded by different sources, often not child welfare funding

Limited prevention services funded by different sources, often not child welfare funding

No federal funds for prevention services to kin

No federal funds for prevention services to help the entire kinship triad simultaneously (child, parent, and kin)

Many state specific barriers to licensure for kin

6-month time limit after a child’s removal from parents home to qualify for federally funded foster care payments

No ongoing federal funds for Kinship Navigator Programs

Family engagement not required for critical decision-making

Aftercare services not required

Prevention Services to:
Parent

Prevention Services to:
Kin

Group Settings

www.grandfamilies.org

ADOPTION

GUARDIANSHIP

Rights and Responsibilities

What are my legal rights and responsibilities for the child?

You will become the parent in the eyes of the law forever. You have all rights and responsibilities for the child.

You will have most of the rights and responsibilities that come with caring for a child until the child reaches adulthood or the guardianship is ended.

What are the birth parents’ rights and responsibilities for the child?

The birth parents’ rights are terminated.

Birth parents keep the rights to visit the child and to consent to adoption and/or name change.

Do I have authority to access services for the child?

As an adoptive parent, access to services for the child is the same as for any birth parent.

Guardians access to services for the child is typically the same as for any birth parent.

generations united
Because we’re stronger together

Dave Thomas Foundation for Adoption
Parents & Resources for Children in Foster Care
### Rights and Responsibilities

<table>
<thead>
<tr>
<th>Question</th>
<th>Adoption</th>
<th>Guardianship</th>
</tr>
</thead>
<tbody>
<tr>
<td>Can the child visit their birth parents?</td>
<td>You will have the right to determine whether the child visits their birth parents. You may have an agreement in place as part of the adoption, and you should follow that. If you don’t follow it, your adoption will not be invalidated but the birth parents may request a hearing in court.</td>
<td>The birth parents typically keep their right to visit the child. The court awarding guardianship often sets up terms for that visitation, which you must follow. You may have to supervise those visits.</td>
</tr>
<tr>
<td>Can I change the child’s last name?</td>
<td>You can change the child’s last name as part of the adoption process.</td>
<td>The child’s last name does not change as part of the process.</td>
</tr>
<tr>
<td>Is the child welfare agency still in our lives?</td>
<td>Once you adopt, the child welfare agency will no longer be in your lives.</td>
<td>Once you obtain guardianship, the child welfare agency will no longer be in your lives.</td>
</tr>
<tr>
<td></td>
<td>If the child receives adoption assistance, you will typically need to complete a short annual form regarding the subsidy.</td>
<td>If the child receives guardianship assistance, you will typically need to complete a short annual form regarding the subsidy.</td>
</tr>
<tr>
<td>Will we continue to be involved with the court?</td>
<td>The case will be finalized. You are now the parent.</td>
<td>There will not be any scheduled court hearings. However, the birth parents can go to court and ask</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Parents can seek to have the child returned to them. They must show the judge that something has changed with them, the child or you as the caregiver.</td>
</tr>
<tr>
<td>Can the birth parents come back to claim the child?</td>
<td>Birth parents cannot come back and claim the child. Their rights and responsibilities are terminated.</td>
<td>Parents can seek to have the child returned to them. They must show the judge that something has changed with them, the child or you as the caregiver.</td>
</tr>
<tr>
<td></td>
<td>(Note: some states have reinstatement of parental rights laws, but it is very difficult for birth parents to have their rights reinstated.)</td>
<td></td>
</tr>
<tr>
<td>Can the child end up back in foster care?</td>
<td>Just like any child in the United States, the child welfare agency can remove the child from you in the event of abuse or neglect. Depending on where you live, you may be able to voluntarily surrender the child back to the agency. If you are considering such a serious step, you should consult with professionals in your area.</td>
<td>Just like any child in the United States, the child welfare agency can remove the child from you in the event of abuse or neglect. Depending on where you live, you may be able to voluntarily surrender the child back to the agency. If you are considering such a serious step, you should consult with professionals in your area.</td>
</tr>
<tr>
<td>When does the legal relationship end?</td>
<td>Adoption does not end – the child is permanently part of the family.</td>
<td>Guardianship ends when the child reaches adulthood, as defined by state law.</td>
</tr>
</tbody>
</table>
## Financial and Legal Assistance

<table>
<thead>
<tr>
<th><strong>Is there financial assistance to help meet the needs of the child?</strong></th>
<th>All states have adoption assistance for relatives adopting children with “special needs” from foster care. “Special needs” is defined broadly and 90 percent of all children adopted from foster care are eligible for adoption assistance. <a href="http://www.nacac.org/help/adoption-assistance/adoption-assistance-us/state-programs">www.nacac.org/help/adoption-assistance/adoption-assistance-us/state-programs</a> has comprehensive information for each state on this assistance.</th>
<th>Guardianship assistance programs exist in over 35 states and 10 tribes. They are modeled on adoption assistance and work in a similar way. For the list of states and tribes, see <a href="http://www.grandfamilies.org">www.grandfamilies.org</a> or the brief that accompanies this chart.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>How much is this assistance?</strong></td>
<td>The monthly adoption assistance amount cannot be more than the child received while in foster care if the child is receiving federally-funded assistance. It is often less. States typically follow the same rate restriction for their programs. Other supports through the foster care agency are typically no longer available, although there may be post-adoption supports. You should ask.</td>
<td>The monthly guardianship assistance amount cannot be more than the child received while in foster care if the child is receiving federally-funded assistance. It is often less. States typically follow the same rate restriction for their programs. Other supports through the foster care agency are typically no longer available, although there may be post-guardianship supports. You should ask.</td>
</tr>
<tr>
<td><strong>How long does this assistance last?</strong></td>
<td>Adoption assistance payments last at least until the child reaches 18 and can last up until the child reaches age 21. It depends on the state.</td>
<td>Guardianship assistance payments last at least until the child reaches 18 and can last up until the child reaches age 21. It depends on the state.</td>
</tr>
<tr>
<td><strong>Will I be reimbursed for my expenses to obtain the permanency option?</strong></td>
<td>If you are adopting an eligible child with “special needs” from foster care under the federally funded program, the federal government requires the state to reimburse you up to $2000 in nonrecurring expenses that you spent in getting the adoption. These expenses include legal fees, court filing fees, and travel costs.</td>
<td>If you are exiting foster care with a related child as part of a federally-funded guardianship assistance program, the federal government requires the state to reimburse you up to $2000 in nonrecurring expenses that you spent in getting the guardianship. These expenses include legal fees, court filing fees, and travel costs.</td>
</tr>
</tbody>
</table>
## Public Benefits

<table>
<thead>
<tr>
<th>Question</th>
<th>Answer</th>
<th>Answer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Is the child eligible for free school meals?</td>
<td>Children adopted from foster care during the school year will remain eligible for free school meals for the remainder of the school year. After that, your income is used to determine if the child is eligible.</td>
<td>The child is eligible for free school meals as if the child was still in foster care.</td>
</tr>
<tr>
<td>Is the child eligible for SNAP, which used to be known as food stamps?</td>
<td>Your income is used to determine the household’s eligibility for SNAP. The adoptive child is now part of your household. Any adoption assistance counts as income for purposes of SNAP eligibility.</td>
<td>You decide whether to include the child in the household for purposes of determining SNAP eligibility. If the child is included, guardianship assistance payments count as income for purposes of determining SNAP eligibility. If you choose not to include the child in the household for SNAP eligibility, the guardianship assistance payments will not count as income, but you will not receive SNAP for the child.</td>
</tr>
<tr>
<td>Can the child receive welfare benefits under Temporary Assistance for Needy Families (TANF)?</td>
<td>The child’s adoption assistance will be counted as income and that alone will likely disqualify the child from a TANF child-only grant. Furthermore, TANF child-only grants are only available to children living with parents in a few limited situations - they are mostly for children living with non-parents. Whether to include the child (and the child’s income) in a TANF family-grant will depend on whether that will help the family financially or not.</td>
<td>The child’s guardianship assistance will be counted as income and will likely disqualify the child from a TANF child-only grant. Children in guardianships who do not receive guardianship assistance payments will likely qualify for a TANF child-only grant. Whether to include the child (and the child’s income) in a TANF family-grant will depend on whether that will help the family financially or not.</td>
</tr>
<tr>
<td>Will the child be able to get disability or survivor Social Security benefits based on my work record?</td>
<td>The child may be able to get Social Security benefits based on your work record if: (1) the child is not receiving Social Security benefits from the birth parents, (2) you have already adopted the child at the time you die or become disabled, and (3) when that death or disability occurs, the child’s birth parents were not living in the same household and contributing regularly to the support of the child.</td>
<td>It is only possible to qualify for Social Security benefits based on your work record if the child is your grandchild. There are a number of other eligibility requirements, including that the birth parents must generally be deceased or disabled. See <a href="http://www.ssa.gov/people/kids/">www.ssa.gov/people/kids/</a>. The child remains eligible to receive any Social Security benefits based on the parents’ work records.</td>
</tr>
</tbody>
</table>
# Adoption

## Health Insurance

<table>
<thead>
<tr>
<th>Can I put the child on my private health insurance?</th>
<th>Your adoptive child can be put on your private health insurance just like a birth child.</th>
<th>Some private policies allow for the child to be included, but not all. You would need to check with your insurance carrier.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Can the child receive Medicaid?</td>
<td>The child you adopted from foster care is automatically eligible for Medicaid if the child is receiving federally-funded adoption assistance. You will need to check with your state if it will provide Medicaid if the child is receiving state-funded assistance. If you have private insurance, Medicaid may become the child’s secondary insurance. It is possible that you might have to remove the child from your private insurance to receive Medicaid reimbursable expenses for certain mental health or behavioral services.</td>
<td>If you obtained guardianship with a federally-funded guardianship assistance agreement, the child is automatically eligible for Medicaid. You will need to check with your state if it will provide Medicaid if the child is receiving state-funded assistance. If you have private insurance, Medicaid may become the child’s secondary insurance. It is possible that you might have to remove the child from your private insurance to receive Medicaid reimbursable expenses for certain mental health or behavioral services.</td>
</tr>
</tbody>
</table>

## Federal and State Tax Credits

<table>
<thead>
<tr>
<th>Is there a special tax credit that can help me?</th>
<th>There is a federal adoption tax credit, which you can claim for up to $13,810 per child adopted in 2018 (the rate typically increases each year). You may be eligible for the maximum amount of credit regardless of whether you had any qualifying expenses. For more information on this tax credit, visit <a href="http://www.irs.gov/taxtopics/tp607.html">www.irs.gov/taxtopics/tp607.html</a> and <a href="http://www.nacac.org/category/adoption-tax-credit/">www.nacac.org/category/adoption-tax-credit/</a>.</th>
<th>There is no federal guardianship tax credit. There are no known state guardianship tax credits to claim against your state income tax.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Are there any other tax credits that I can claim?</td>
<td>There are other tax credits that you may be able to claim, including the Earned Income Tax Credit, child tax credit, additional child tax credit and the child and dependent care tax credit. For information, see the IRS website at <a href="http://www.irs.gov">www.irs.gov</a> or the brief that accompanies this chart. There may be similar state tax credits to claim against your state income tax.</td>
<td>There are other tax credits that you may be able to claim, including the Earned Income Tax Credit, child tax credit, additional child tax credit and the child and dependent care tax credit. For information, see the IRS website at <a href="http://www.irs.gov">www.irs.gov</a> or the brief that accompanies this chart. There may be similar state tax credits to claim against your state income tax.</td>
</tr>
<tr>
<td>Are these tax credits considered “income” for purposes of determining eligibility for public benefits?</td>
<td>Tax credits do not count as income. This is true even if you owe no taxes and receive a refund check from the IRS.</td>
<td>Tax credits do not count as income. This is true even if you owe no taxes and receive a refund check from the IRS.</td>
</tr>
</tbody>
</table>
## Adoption

### Caregiver Successor Planning and Death Benefits for Children

| **Can I plan for the child's care if I should die?** | Like any parent, you can name a guardian in your will to take over your rights and responsibilities should you die. 
If the child receives adoption assistance payments, after your death, those payments should continue to be paid to the guardian until those payments are scheduled to end. It may also be possible that those payments be made directly to a child age 18 or older. | You will name a successor guardian as part of your guardianship agreement if you are in a jurisdiction with a federally-funded guardianship assistance program. That person will be able to step in your shoes and continue to receive the monthly financial guardianship assistance. 
If you are not in such a jurisdiction, you may still be able to name a successor. |
| **Can the child inherit from me?** | As an adopted child, the child would automatically inherit from you even without a will. 
The child will not automatically inherit from the birth parents. However, they can share their estate through a legal document known as a will. | The child cannot automatically inherit from you, but you can create a will and share your estate that way. 
The child continues to be able to automatically inherit from birth parents. |
| **Will the child be able to get my pension or military benefits when I die?** | The child would be able to receive your pension and military benefits the same as a birth child. 
The child will no longer be able to automatically receive pension or military benefits from birth parents. | The child would typically not be automatically able to get your pension or military benefits as they usually only pass down to a birth or adoptive child. |

## Guardianship

### Caregiver Successor Planning and Death Benefits for Children

| **Can I plan for the child’s care if I should die?** | Like any parent, you can name a guardian in your will to take over your rights and responsibilities should you die. 
If the child receives adoption assistance payments, after your death, those payments should continue to be paid to the guardian until those payments are scheduled to end. It may also be possible that those payments be made directly to a child age 18 or older. | You will name a successor guardian as part of your guardianship agreement if you are in a jurisdiction with a federally-funded guardianship assistance program. That person will be able to step in your shoes and continue to receive the monthly financial guardianship assistance. 
If you are not in such a jurisdiction, you may still be able to name a successor. |
| **Can the child inherit from me?** | As an adopted child, the child would automatically inherit from you even without a will. 
The child will not automatically inherit from the birth parents. However, they can share their estate through a legal document known as a will. | The child cannot automatically inherit from you, but you can create a will and share your estate that way. 
The child continues to be able to automatically inherit from birth parents. |
| **Will the child be able to get my pension or military benefits when I die?** | The child would be able to receive your pension and military benefits the same as a birth child. 
The child will no longer be able to automatically receive pension or military benefits from birth parents. | The child would typically not be automatically able to get your pension or military benefits as they usually only pass down to a birth or adoptive child. |

### College and Independent Living

| **What type of independent living or education vouchers are available for an older child?** | The child is not eligible for independent living services or education and training vouchers (ETV) if adopted before age 16. 
If the child was adopted after age 16, the child will remain eligible and can apply. | The child is not eligible for independent living services or ETV if the child exited foster care to a kinship guardianship before age 16. 
If the child entered a kinship guardianship after age 16, the child will remain eligible and can apply. |
| **How is my income used to determine the child’s eligibility for financial aid for college?** | Your income is considered when determining financial aid as part of the Free Application for Federal Student Aid (FAFSA). However, the child’s past foster care status may be considered when determining aid. 
However, if the child was adopted at age 13 or older, the child is considered “independent” and your income does not count. | The guardian’s income is not considered in determining financial aid. A child in a guardianship is typically considered “independent” and the child’s past foster care status may be considered when determining aid. |
HOW TO KEEP A JOURNAL

By Peter A. Kenny, Attorney, Executive Director of ACT

The strongest material you can have in advocating for your foster child is a well-documented daily journal. Keeping a daily journal assists you when reporting to the Child Welfare Department, or advocating for your foster child at case conferences or at court hearings. When opinions are divided, your journal provides you with reasons and documentation for your views.

Judges can only make decisions about a child’s case plan based on the information presented in court. This information, as presented by the Child Welfare Department or the birth parents, is often incomplete, biased or just plain wrong. Your foster child depends on you as the most informed person in the courtroom to give the judge accurate information about his or her needs. Your journal can provide critical written evidence which can correct misinformation and bolster your position for what is in the child’s best interests. Federal law states that you have the right to present both written and oral evidence to the court.

Include everything in your journal, the more information the better. You never know what problems may develop. Here are some situations where a daily journal is extremely helpful: 1) You may need to defend yourself against a false allegation of abuse or neglect. 2) You may feel that a proposed visitation with a particular person would be harmful to the child. 3) You may be pursuing an adoption which one or both birth parents are contesting.

Write on a regular basis, daily or at least every few days. Set a regular time to write and stick to it. If you decide to write “when you get around to it” the days will fly by and nothing will be recorded. Be sure to write when your foster child has had some special event in his or her life.

Do not use your journal to attack the birth parents, the Child Welfare Department or any other interested parties. Instead pretend you are a camera, and record what happened each day. Did the child cry, laugh, get angry, act out, appear sad? Describe any actions of the child which lead to your conclusion: failing to eat, unexplained sickness or vomiting; fighting with another child in the household; destructive behavior of any kind. Describe the good things as well: school successes, kindnesses, good interactions with peers. Remember....facts, not feelings.

Start today to keep a journal. Your foster child needs your input.

Be sure to write in the day, month and year at the start of each week in the space provided. This can be important should a dispute arise at a later time.
HOW TO KEEP A JOURNAL
By Peter A. Kenny, Attorney, Executive Director of ACT

The strongest material you can have in advocating for your foster child is a well-documented daily journal. Keeping a daily journal assists you when reporting to the Child Welfare Department, or advocating for your foster child at case conferences or at court hearings. When opinions are divided, your journal provides you with reasons and documentation for your views.

Judges can only make decisions about a child's case plan based on the information presented in court. This information, as presented by the Child Welfare Department or the birth parents, is often incomplete, biased or just plain wrong. Your foster child depends on you as the most informed person in the courtroom to give the judge accurate information about his or her needs. Your journal can provide critical written evidence which can correct misinformation and bolster your position for what is in the child's best interests. Federal law states that you have the right to present both written and oral evidence to the court.

Include everything in your journal, the more information the better. You never know what problems may develop. Here are some situations where a daily journal is extremely helpful:
1) You may need to defend yourself against a false allegation of abuse or neglect.
2) You may feel that a proposed visitation with a particular person would be harmful to the child.
3) You may be pursuing an adoption which one or both birth parents are contesting.

Write on a regular basis, daily or at least every few days. Set a regular time to write and stick to it. If you decide to write “when you get around to it” the days will fly by and nothing will be recorded. Be sure to write when your foster child has had some special event in his or her life.

Do not use your journal to attack the birth parents, the Child Welfare Department or any other interested parties. Instead pretend you are a camera, and record what happened each day. Did the child cry, laugh, get angry, act out, appear sad? Describe any actions of the child which lead to your conclusion: failing to eat, unexplained sickness or vomiting; fighting with another child in the household; destructive behavior of any kind. Describe the good things as well: school successes, kindnesses, good interactions with peers. Remember....facts, not feelings.

Start today to keep a journal. Your foster child needs your input.

Be sure to write in the day, month and year at the start of each week in the space provided. This can be important should a dispute arise at a later time.