Giving A Child A Permanent Home

Choices For Relatives

A permanent family and a stable home are vital to a child's development. Making a decision about giving a child a permanent home is very important and very personal. If you are either caring for a related child in the foster care system or thinking about caring for such a child, this decision carries even more importance.

This pamphlet will explain some of the major differences among adoption, guardianship, and foster care. We hope it will help you understand the choices a relative has when the relative child **cannot return to live safely with his or her parent.**

Planning for a Permanent Home

In a permanent home, a child receives love, protection, stability and something we all need in our lives: a sense of belonging. When a child cannot return to live with a parent, it is important that a decision be made about where the child should live permanently. For relatives, this is often an emotionally-difficult decision. The child's need for a permanent home may conflict with the loyalties that family members have for one another. When it's a family matter, making a plan for the child's permanent home can be a complicated process.

The relatives, parents, and social services must take into account many things when making this plan:

- The needs and wishes of the child.
- The wishes of the relatives.
- The wishes of the parent(s).
- The recommendation of social services.
- The requirements of the law.

Finally, the court has to agree that the plan best meets the child's needs. Adoption or guardianship provides more security for a child than staying in foster care. When a child needs a permanent home, adoption or guardianship—when either can safely happen—are the best choices.

The Choices for Relatives

The choices for a legally permanent home are limited to adoption or guardianship. However, for relatives, these options are different from the options that apply to unrelated individuals.

Under any of the options, relatives may continue to receive financial assistance. However, the amount may be different depending upon the individual family and child's circumstances.

Adoption or guardianship more often meets the child's needs for long-term stability and security than does foster care. However, some relatives or children need the ongoing support from social services that comes with foster care. For more discussion about staying in foster care, please see page 10.

Adoption for Relatives

When adopted by relatives, the child can continue important family relationships. Adoption also means that the legal rights and responsibilities of the parent are transferred to the adopting relative. Adoption gives the adopting relative all the authority and responsibility of a parent so that the relative can care for the child without the supervision of the court or social services.

The parent(s) can voluntarily agree to allow a child to be adopted, or a child can be adopted against the parent's wishes if it's best for the child.

The following will apply if you, a relative, decide to adopt:

- You will be assessed by the agency to ensure you can give the child a safe and healthy home.
- You may be eligible for Adoption Assistance Program (AAP) payments and Medi-Cal. An AAP payment is often the same amount as a foster care payment. Because family needs vary, you will need to check with your social worker to be sure. (See pages 8 & 9 for more information.)
- You will have all the authority and responsibility for the child. Social services and the court will no longer be involved.

- Once a relative has adopted, the child's foster care case is closed. Because the child has left the foster care system, social workers will no longer visit the home to provide supervision.
- You may want to be sure that the parents know that they can still have a relationship with the child, even if the child is adopted. The law allows adopting relatives, if they wish, to have a written agreement that states the kind of contact the parent or other relatives may have with the child after the adoption. This is called a Postadoption Contact Agreement ***(formerly Kinship Adoption Agreement)***, and it is legally binding after the adoption is completed.
- Social security benefits, insurance coverage, and inheritance rights are secured through the adoptive parent.
- A court almost never overturns an adoption once that adoption has been completed.

Guardianship for Relatives

A guardian is someone appointed by the court to care for a child until he or she is 18. If you become a guardian, the court grants you the right to make most decisions regarding the child.

A guardian is not a child's legal parent. Guardianship does not give all the legal rights and responsibilities of a parent to the guardian the way adoption does to an adoptive parent. The court can make a decision about guardianship whether or not the parent agrees.

As a relative guardian, the following would apply to you:

- You will be assessed by the agency to make sure you can give the child a safe and healthy home.
- You may be eligible to receive a Kinship Guardianship Assistance Payment (Kin-GAP) and Medi-Cal for the child until age 18 or 19 if the child has lived with you for 12 months or longer. The payment available is the same as the State foster care payment. (See pages 8 & 9 for more information.)

- If you become a child's legal guardian but the court does not close the case, the child will continue to receive his/her foster care payment, and you will still have social worker and court supervision.
- Once you become a child's guardian, the child's foster care case is closed unless the child continues to need foster care services from the county. If the child leaves the foster care system, social workers will no longer visit the home to provide supervision and support.
- The court continues to be involved with the child and the guardian, although much less than when the child is in foster care. The court may provide instructions about visits between parents and the child. (See page 13.)
- The guardianship may be challenged in court by the parents at any time. In addition, because guardianship does not transfer the legal rights and responsibilities for the child to the guardian, there are certain limitations placed on the guardian's authority.
- Social security benefits, retirement benefits, insurance coverage, and inheritance rights have different rules about how they would apply to a child under guardianship. You will need to get more information from the specific agency if you have concerns about this.

Comparing the Choices

	Adoption For Relatives	Guardianship For Relatives	Foster Care System
Parental legal rights and responsibilities for the child are transferred to the adopting relative	Yes	No	No
Relative makes decisions for the child	Yes	Most	Some
Relative has control over visitation with parents	All	Some	None
Child will stay in the foster care system	No	Maybe	Yes
A payment and Medi-Cal is available for the child	Yes	Yes	Yes

Comparison of Benefits

	AAP	Kin-GAP	Foster Care Payment
Amount	Varies	A fixed payment according to age	A fixed payment according to age
Special Needs Allowance	Available in most counties; varies according to county	Not included	Available in most counties
Medi-Cal	Included	Included	Included
Clothing Allowance	None	None	Varies according to county
Maximum Age	Until child turns 18; can be extended to age 21 if a child has a disability	Until child turns 18; until 19 if child is in school and can graduate	Until child turns 18; until 19 if child is in school and can graduate
Reassessment	At least every two years	Every year	Every six months
Foster Care Case Closed	Yes	Yes	No

Is staying in foster care an option?

Staying in foster care is an option only if adoption or guardianship is unavailable. When a child lives in foster care with a relative, the court and social services continue to be responsible for the child. This means that the social worker must visit you and the child regularly. The court continues to oversee decisions about the child and reviews the child's placement regularly. Some relatives like this support; others do not.

If a relative acting as a foster parent no longer can nor wants to take care of the child, social services will make a recommendation to the court about the child's future.

Sometimes children in foster care with relatives move from home to home. When this happens, a child loses stability and security, and he or she sometimes feels rejected. In some cases, a relative foster parent asks the social worker to move the child because of the child's behavior. This adds to the child's instability and insecurity. Therefore, a relative's ability and commitment to provide a permanent home is critical if a child is to feel safe and secure.

Questions, Questions & More Questions

Will I receive financial help?

Relatives who adopt, become guardians or provide foster care usually receive payments and Medi-Cal benefits for the child.

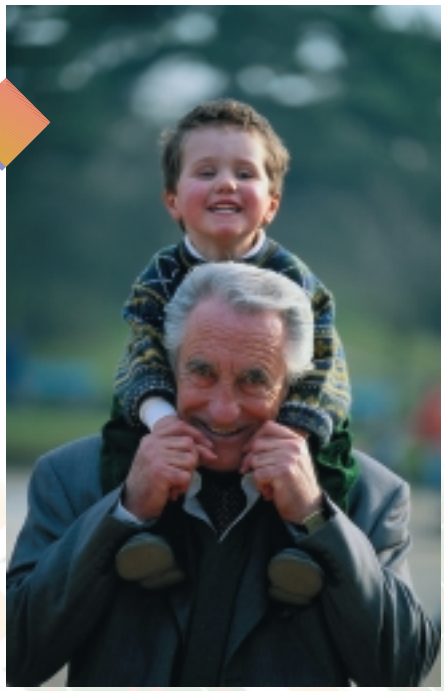
Adopting relatives may receive payments through the Adoption Assistance Program (AAP).

Guardians may receive payments through several programs, including the Kinship Guardianship Assistance Program (KinGAP).

Foster parents may receive benefits through several programs.

Is the payment amount the same for adoption, guardianship and foster care?

The answer to this is complicated and varies for each case. Each option has different limitations. For information about your case, contact the child's social worker.



What decisions will I be able to make for the child?

As an adoptive relative, you become the legal parent and will be able to make all decisions for the child.

As a guardian, you will be able to make most of the decisions for the child. The court, however, remains the final authority.

As a foster parent, you will be able to make everyday decisions. However, social services and the court make the major decisions regarding such things as where the child lives, what type of care the child needs, etc.

Do I need to change the last name of the child if I adopt?

Changing the child's name is an option, not a requirement. It is a decision for you and your child to make.

Do I need an attorney to adopt or become a guardian to the child in my care?

Relatives often complete the adoption themselves or the social worker may be able to help you find free or low-cost legal services.

Guardianship through the juvenile court does not require any legal action by the relative.

Is it expensive to adopt?

No. In many cases, relatives may not be required to pay certain fees. Assistance is available to help you pay fees that cannot be waived. Also, a Federal Income Tax credit of up to $10,000 is available (effective January 1, 2003).

How much control will I have over the relationship between the child and the parents?

As an adopting relative, you have all the legal rights and responsibilities for the child. These include deciding with whom the child has contact. You may decide to spell out what kind of future contact you would like to have with the child's parents or other special relatives. You can do this in a Postadoption Contact Agreement (see page 5 for more information). This can be a benefit to families. However, having such an agreement is your decision.

As a guardian, you will have most of the control over the visits and contact. However, the court can order that the child have contact with his or her parents.

As a relative foster parent, you must follow the guidance and orders given you by the social worker and the court regarding visits and contact between the child and his or her parents.

Is it possible to adopt later?

Yes. A guardian of a child who has left foster care may decide later to adopt that child. If so, he or she should contact social services and ask for help with the adoption.

If something happens to me, what happens to the child?

If you are an adopting relative, you and your family make the plan for the child's care.

If you are a relative foster parent or have guardianship, social services and the court decide the child's future placement.

Can I be forced to adopt the child in my care?

No. Adoption is an act of love that expresses deep commitment to a child. When you adopt, you become the legal parent. We encourage adoption because it is the most permanent option for a child. **No one can force you to adopt.** It is your choice.

However, the court and the social worker must also consider what the child needs most to have a permanent, stable and secure future. If you and social services cannot come to agreement, you can both present your perspectives to the court. The court will then make the decision about the child's future.

What if I decide that I can't care for the child permanently?

Some relatives, for various reasons, don't believe that they are able to take care of a relative child until the child reaches 18. After considering your abilities and situation, this can be a very appropriate decision. However, this decision needs to be made as soon as possible in order to offer the child a permanent and stable home.

Perhaps another relative can give the child a permanent home. If not, the agency may be able to find an adoptive home where you can continue to have a relationship with the child and the adoptive family. Talk to your social worker about how to work this out.

What services are available if my child needs help?

Each child and family is unique and each county has different services available to help. When your child needs assistance, you can contact the agency that was responsible when the child left foster care. That agency can help you identify local services to assist you and your child.

Where can I go for more information?

The information in this brochure is meant to help you and your family decide what is best for the child. We hope the information helps you to understand your choices when considering permanency for your relative child. We also hope that you will discuss this information with family members, and that you will ask your child's social worker additional questions so that you can make a decision that is best for you and your relative child.

State of California
Arnold Schwarzenegger, Governor

Health and Human Services Agency
S. Kimberly Belshé, Secretary

California Department of Social Services

PUB 344(1/04)