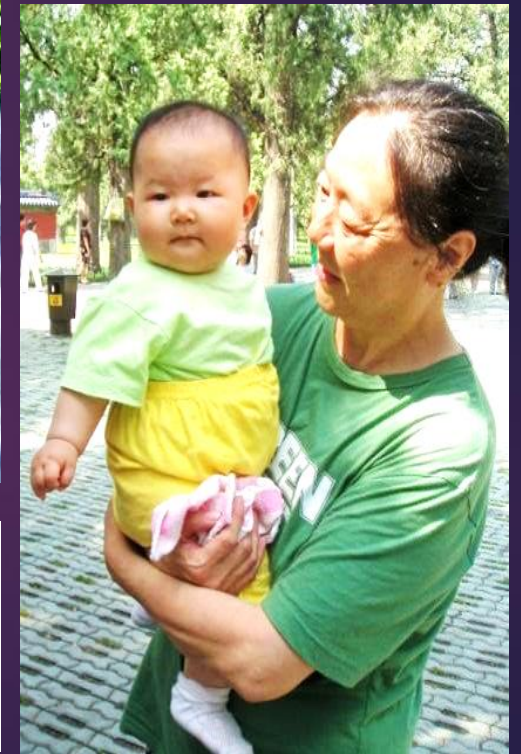


# Adoption or Guardianship for Children in Kinship Foster Care: *Making Informed Decisions*

FEBRUARY 27, 2020  
WEBINAR



**generations  
united**  
Because we're stronger together®

# Housekeeping

- ▶ To hear the presentation:
  - ▶ Listen through your computer speakers
  - ▶ Or call in on your phone: +1 (415) 655-0060
  - ▶ Access Code: 891-142-665
- ▶ Q&A/Discussion:
  - ▶ You can type your questions at any time in the “questions” box
  - ▶ We will respond to them at the end of the presentation
- ▶ PowerPoint slides and a recording of the webinar will be available on [www.grandfamilies.org](http://www.grandfamilies.org) next week
- ▶ Registrants will receive an email with a link to the recording

This webinar is made  
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**The Dave Thomas  
Foundation for Adoption**

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for their support



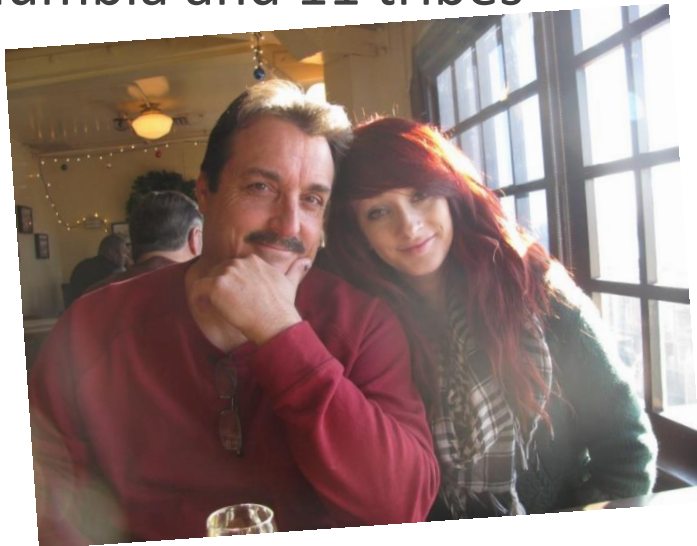
# Generations United

- ▶ Generations United's mission is to improve the lives of children, youth, and older adults through intergenerational collaboration, public policies and programs
- ▶ Since 1998, Generations United's National Center on Grandfamilies:
  - ▶ Guided by GRAND Voices – a network of caregiver advocates
  - ▶ Leads an advisory group of organizations, caregivers and youth that sets the national agenda
  - ▶ Provides technical assistance to states and other providers
  - ▶ Raises awareness through media outreach, weekly communications and events
  - ▶ Provides information and resources at [www.gu.org](http://www.gu.org) and [www.grandfamilies.org](http://www.grandfamilies.org)



# GRAND Voices

- ▶ GRAND Voices aims to have kinship caregiver voices front and center
- ▶ GRAND Voices now has 71 members around the country - in 44 states, the District of Columbia and 11 tribes



# What GRAND Voices Do

- ▶ Advocate on behalf of kinship caregivers both inside and outside the child welfare system:
  - ▶ White House
  - ▶ Congressional hearings and briefings
  - ▶ 5th National GrandRally
- ▶ Act in advisory role
- ▶ Provide input on draft publications and other materials
- ▶ Federal government in August 2019 ([IM ACYF-CB-IM-19-03](#)) emphasizes importance of “integrating family and youth voices into all aspects of child welfare system design and operation”



# Grandfamilies



# Parental Causal Factors Creating Grandfamilies

Substance Use

Death

Mental health  
challenges

Physical and  
cognitive  
disabilities

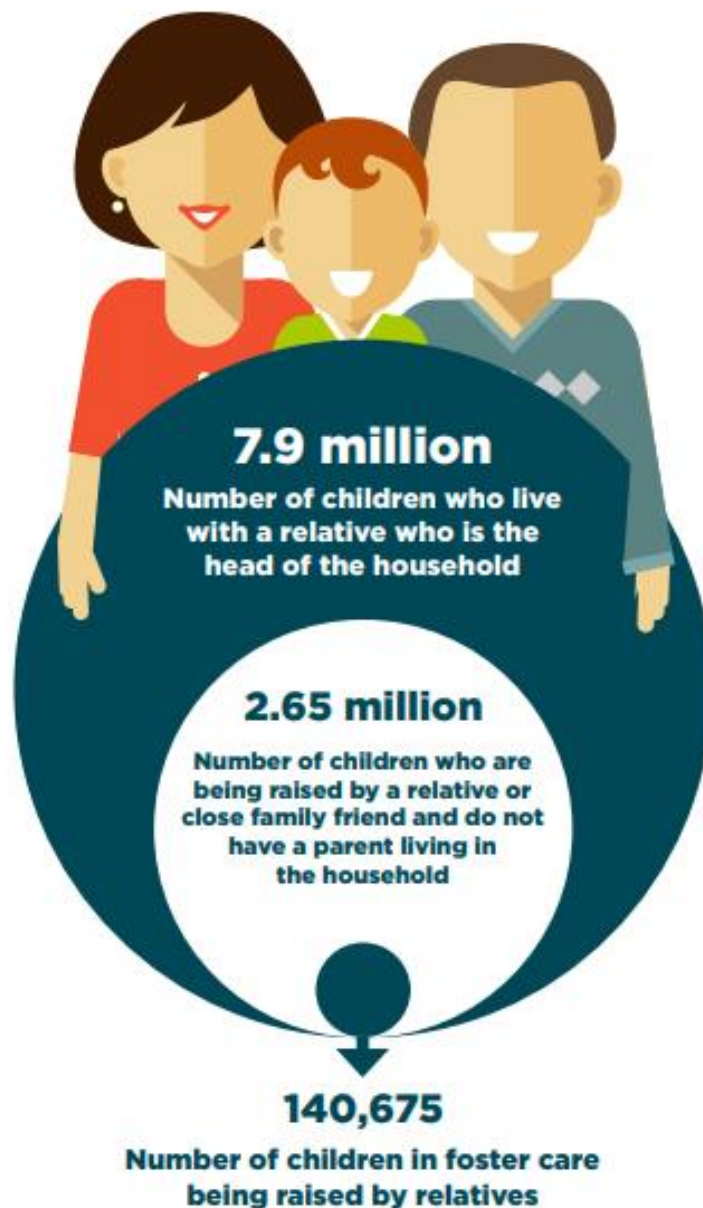
Incarceration

Military  
deployment

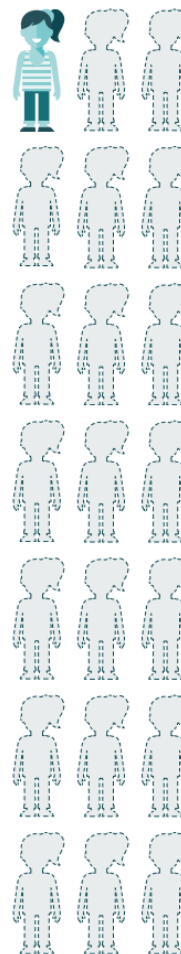
Deportation  
or detainment

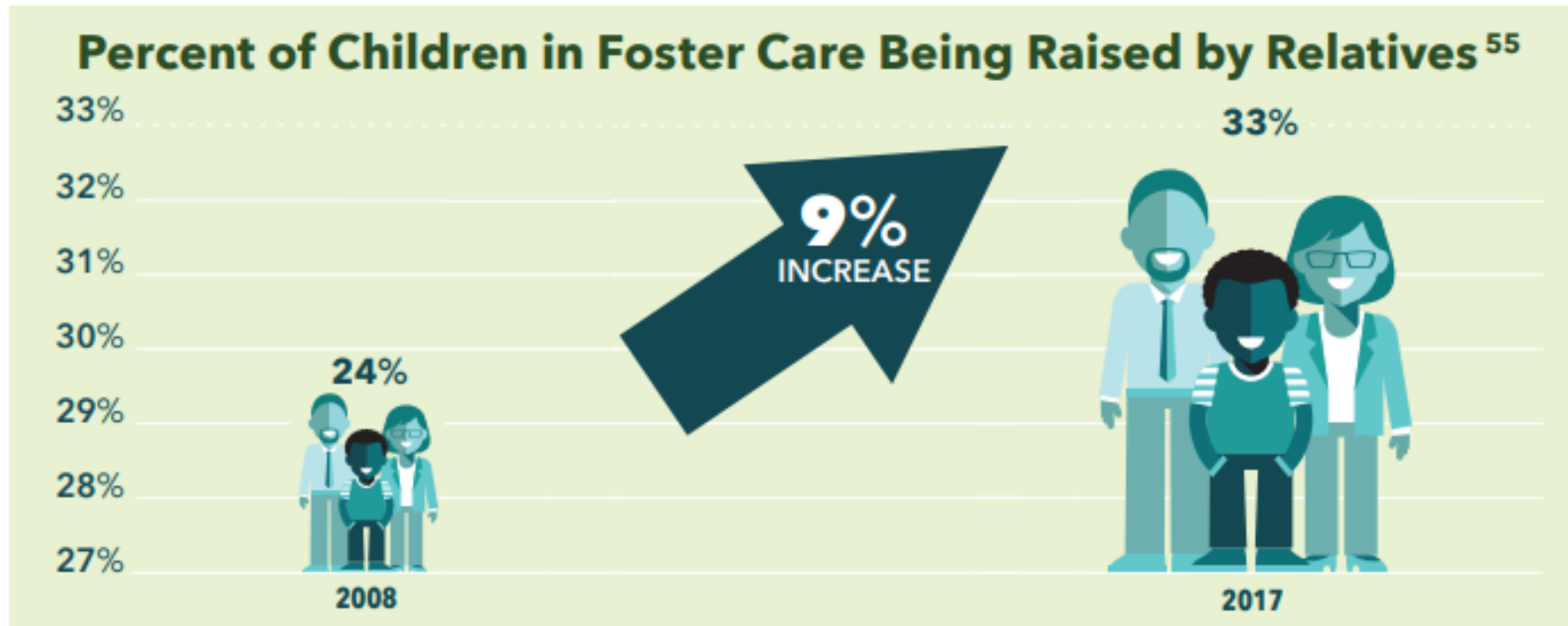


# Children in Grandfamilies



For every **1** child in foster care with relatives there are **19** children being raised by grandparents or other relatives outside of the foster care system.<sup>74</sup>





[www.gu.org](http://www.gu.org)

**generations  
united**  
Because we're stronger together®

*Data is not publicly available on the percentage of these children who are with licensed relatives. Most aren't with licensed relatives.*

*Children living in a home without a foster payment went up 32 percent between 2011 and 2017, from 81,838 to 108,426 children.*

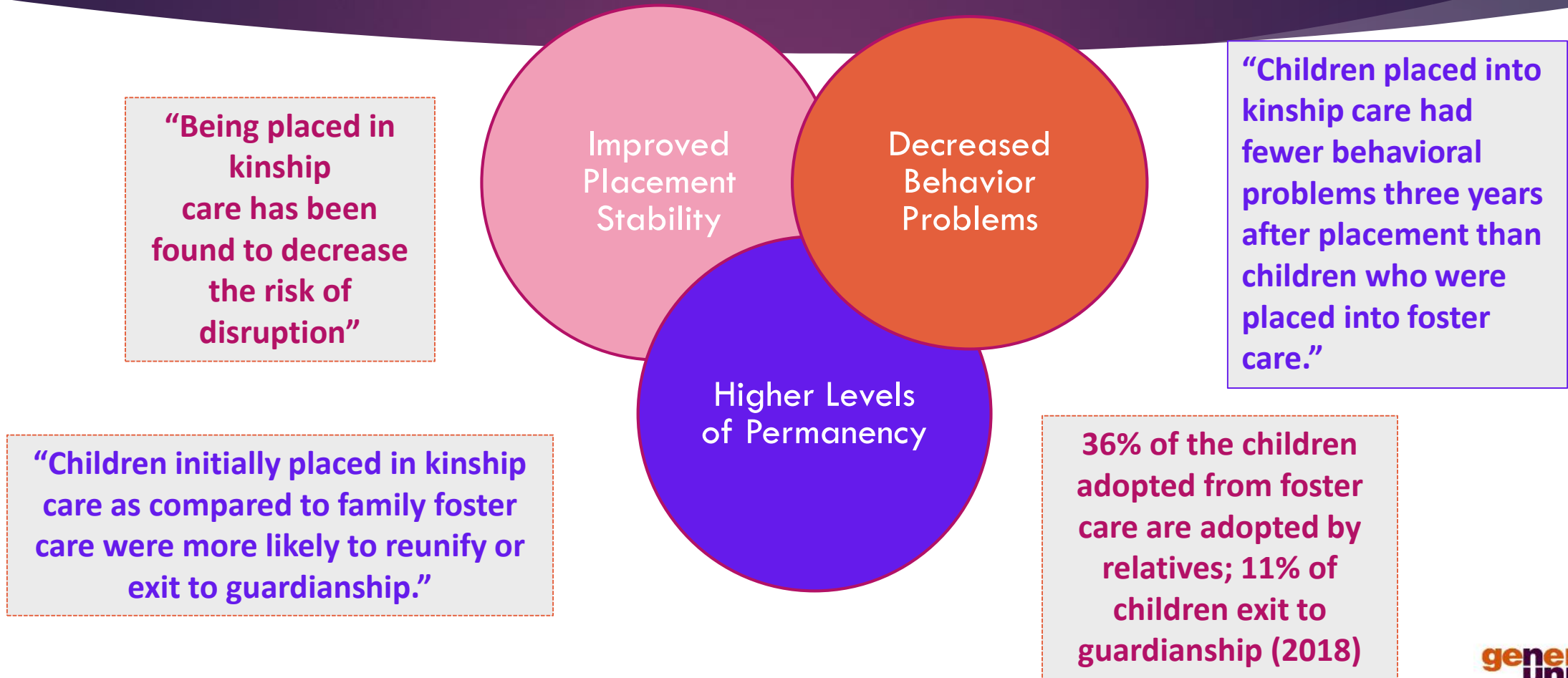
[www.fostercarecapacity.com/stories/who-cares-2019-executive-summary](http://www.fostercarecapacity.com/stories/who-cares-2019-executive-summary)

# Grandfamilies Strengths: Children Thrive



\* See Children Thrive in Grandfamilies fact sheet, available at [www.grandfamilies.org](http://www.grandfamilies.org) and [www.gu.org](http://www.gu.org)

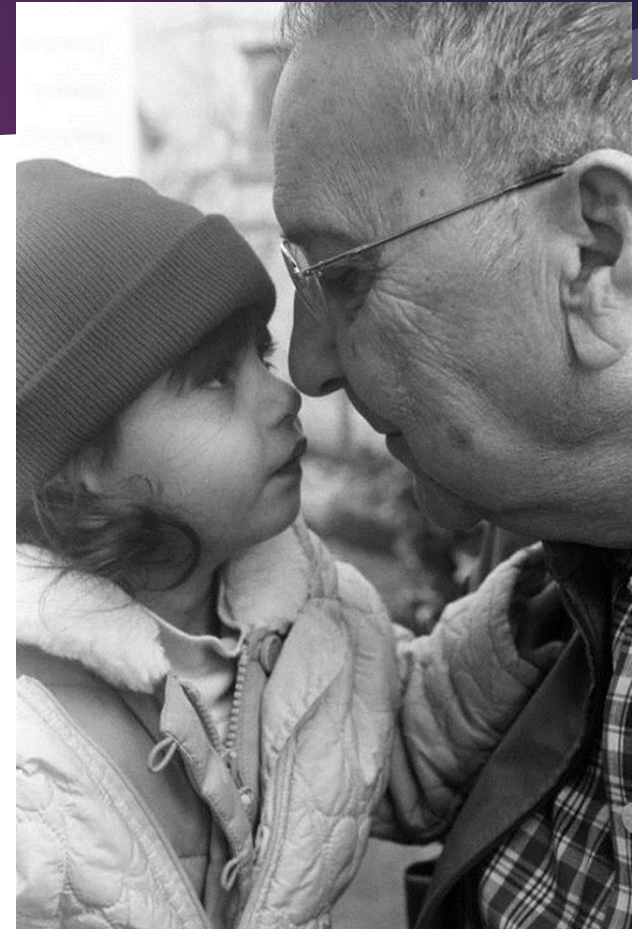
# Kinship Care Improves Outcomes For Children





# Chad Dingle

*“...most people go to grandma’s house and get spoiled but for me it was the only safe place I had...getting to live with grandma was like ‘going to grandma’s house’ all the time. **I had more love there than anywhere else in my life.**”*





Keith Lowhorne  
– Alabama  
GRAND Voice  
who adopted his  
grandchildren



# CHART Adoption and Guardianship for Children in Kinship Foster Care: National Comparison Chart

This chart is designed to help kinship foster parents compare adoption and guardianship as two options that you and the children in your care can pursue to exit foster care and create permanent families. It provides a broad, national overview of these legal pathways. Adoption and guardianship laws are developed and implemented at the state, tribal and local levels, so the details of these legal relationships differ in important ways. You should review those differences when deciding which option to pursue. You can get initial information about your specific state's laws at [www.grandfamilies.org/Search-Laws](http://www.grandfamilies.org/Search-Laws).

While this chart is directed at kinship foster parents, it is also intended as a tool to help child welfare and other case workers assist kinship foster parents. Birth parents and older children may also find it helpful to review as part of their decision-making.

Generations United welcomes jurisdictions to either share the chart as is or tailor it to your own specific laws and policies. A related brief on *Adoption and Guardianship for Children in Kinship Foster Care* is available at [www.grandfamilies.org](http://www.grandfamilies.org).



## ADOPTION

## GUARDIANSHIP

### Rights and Responsibilities

<b>What are my legal rights and responsibilities for the child?</b>	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.
<b>What are the birth parents' rights and responsibilities for the child?</b>	The birth parents' rights are terminated.	Birth parents keep the rights to visit the child and to consent to adoption and/or name change.  Birth parents keep the obligation to financially support the child and pay child support.
<b>Do I have authority to access services for the child?</b>	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.

# BRIEF Adoption and Guardianship for Children in Kinship Foster Care



Throughout the United States, the foster care system's reliance on grandparents and other extended family members to care for children is increasing each year. When children cannot live safely with their parents and must enter the custody of the state or tribe, child welfare law and policy prioritize placement with relatives. These placements are known as kinship foster care, whether or not the relatives are licensed as foster parents.

Research shows that kinship foster care is generally better for children than non-related foster care. Children in kinship foster care experience fewer placement changes, more stability, better behavioral and mental health outcomes, and are more likely to report that they "always feel loved."<sup>1</sup> Children raised by kinship foster parents keep their connections to brothers, sisters, extended family and community, and their cultural identities.<sup>2</sup> Due in part to this research, a higher percentage of children are cared for by relatives in foster care than ever before. In 2017, 32 percent of all children in foster care in the United States (140,675 children) were with relatives, which represents more than a 9-percentage point increase over the last decade.<sup>3</sup>

Children in kinship foster care are more likely to find a permanent home than children in non-related foster care.<sup>4</sup> In 2017, about 35 percent of all children adopted from foster care were adopted by relatives and 10 percent of children who exited foster care, exited into guardianships.<sup>5</sup>

This brief focuses on adoption and guardianship for children in kinship foster care, so that these children can exit foster care into permanent families. The laws dictating how adoption and guardianship are granted, by which court, and what those options entail are developed at the state and tribal levels, so the intricacies for obtaining these legal relationships differ. This brief provides general information about the two options, how they differ, and trends in state law as they impact these options. It is important that caseworkers, relative caregivers, older children and their birth parents understand the two options and determine, based on all the information, what is best for their particular child and family.

# Purposes of Chart

- ▶ Help empower kinship foster families to decide which permanency option is best for each child
  - ▶ Aimed at those children who are in the legal custody of the state with a kinship foster parent
  - ▶ The kinship foster parent may or may not be licensed or approved
  - ▶ Can also be of help to the many more kinship families outside the child welfare system, but not all entries are relevant
- ▶ Does not favor one option over another - each family must decide what is best for the child
- ▶ Not legal advice
- ▶ Consulting the chart should be part of a process between caseworkers, legal professionals, kinship caregivers, birth parents and the child to explore what is best for the child
- ▶ Provides a broad national overview, so families need to consider their state specific information also
- ▶ We are creating a state template where legal providers in each state can partner with us and include their state specific information – if you are such a provider, please reach out to us



# Variation in Terms

- ▶ Adoption is known as “adoption” in all states
- ▶ Guardianship may be called permanent legal custody, legal custody or other similar terms. It depends on each state



# Kinship Foster Care

***Child welfare agencies have an array of practices when it comes to relying on relatives to provide foster care:***

- ▶ “Divert” the children to relatives with or without supports
- ▶ Do not offer the option to become licensed foster parents or discourage it
- ▶ Keep the children in their legal custody, and may only “approve” relatives and not fully license them
- ▶ May fully license relatives
- ▶ May provide a pathway to supported permanency through guardianship assistance and adoption assistance
- ▶ Some agencies engage in several of these practices



# Basic Principles of Adoption

The laws dictating how adoption is granted and what it entails are developed at the state and tribal levels, so this is a general overview:

- ▶ A court must generally terminate both parents' rights and responsibilities unless --
  - ▶ one parent is dead
  - ▶ a stepparent is adopting
  - ▶ paternity was never established and need not be terminated (in some states only)
  - ▶ both parents voluntarily surrender all their rights
- ▶ In general, the court reviews the appropriateness of the adoption and, for older children, often seeks their input too
- ▶ If the court finds that the adoption is in the "best interest" of the child and grants it, the state no longer has legal custody
- ▶ Relative caregivers become the "parent" in the eyes of the law
- ▶ Birth parents cannot go to court to attempt to reclaim their rights and responsibilities
- ▶ The adoption never ends – the child is permanently part of the family

# Federal and State Adoption Assistance

After children are adopted by either relatives or non-relatives, ongoing monthly adoption assistance payments may be available:

- ▶ Two general types of adoption assistance programs:
  - ▶ Federal - for children with “special needs” who are adopted from child welfare. These children are supported through monthly subsidies using federal child welfare funds, Title IV-E of the Social Security Act
  - ▶ State - adoption assistance programs are not required to have the same restrictions under federal law and vary
- ▶ About 90 percent of children in foster care, under either federal or state programs, are eligible for adoption assistance
- ▶ When adopting a Title IV-E eligible child with “special needs” from foster care, states must reimburse prospective adoptive parents for non-recurring expenses up to \$2,000 - most states also reimburse these expenses under their state programs
- ▶ The North American Council on Adoptable Children (NACAC) website at [www.nacac.org/help/adoption-assistance/adoption-assistance-us/state-programs/](http://www.nacac.org/help/adoption-assistance/adoption-assistance-us/state-programs/) has comprehensive profiles for each state’s adoption assistance program, along with other useful information. [www.nacac.org/help/adoption-assistance/adoption-assistance-us/](http://www.nacac.org/help/adoption-assistance/adoption-assistance-us/)



# Basic Principles of Guardianship/Legal Custody

As with adoption, the laws dictating how guardianship is granted and what it entails are developed at the state and tribal levels, so this is a general overview:

- ▶ A court must grant guardianship - it reviews the placement and, in the case of older children, often seeks their input too
- ▶ If the court finds guardianship in the “best interest” of the child and grants it, the state no longer has legal custody
- ▶ The caregiver now stands in the shoes of the parent and can make all routine decisions
- ▶ Guardianship does not require termination of parental rights (TPR)
- ▶ The parents keep certain rights and responsibilities
- ▶ The parents can still visit with the child unless the judge has limited that right
- ▶ Birth parents can go to court to try to reclaim their rights and responsibilities and have the child returned to them if they show a change in circumstances
- ▶ Guardianship ends when the child reaches adulthood

# Guardianships Address Some Potential Concerns with Adopting Related Children

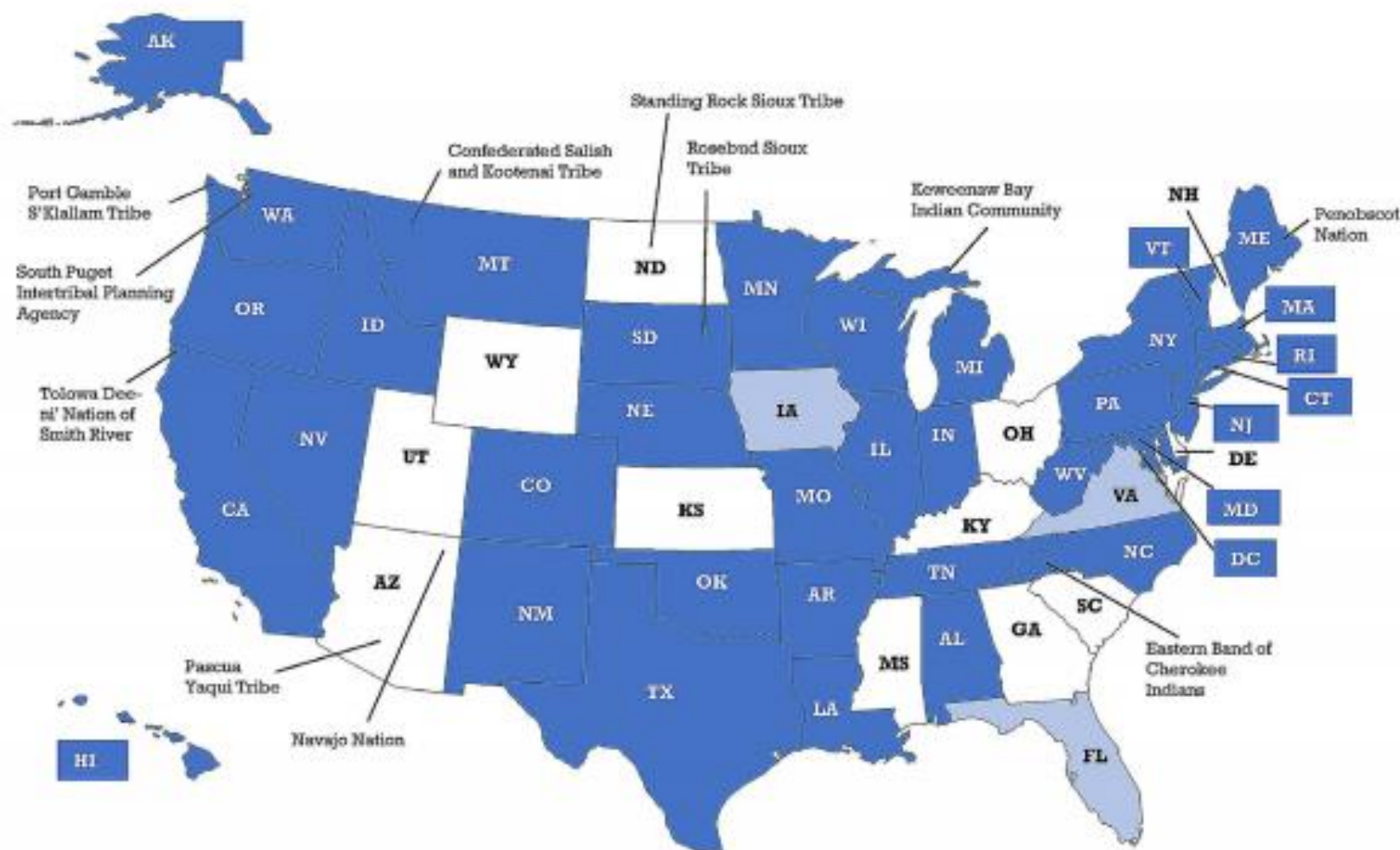
- ▶ Guardianships do not legally change family dynamics, and for example, turn grandma into mom
- ▶ They are responsive to long and proud Native American, Latino, and African-American traditions of stepping in to care for relatives when parents have been unable
- ▶ Guardianships provide an important option to older foster children who often want to maintain a relationship with their parents and do not want to sever all legal ties
- ▶ For mentally or physically disabled parents who are unable to care for children, guardianships allow them to remain involved in the lives of their children, share their estate and allow their children to collect benefits as their children

# Federal and State Guardianship Assistance

- ▶ The Fostering Connections to Success and Increasing Adoptions Act of 2008 gives states and tribes the option to use federal Title IV-E funds for guardianship assistance programs (GAP) so children in the licensed care of relatives can exit foster care into permanent homes with their relative caregivers
- ▶ Congress included this option due to the success of many similar state programs and federal waivers
- ▶ GAP is designed for children and youth:
  - ▶ who have been in foster care with licensed relative foster parents providing care for at least six months
  - ▶ for whom reunification with their parents and adoption are not appropriate options
- ▶ Unlike adoption assistance, not all states and tribes offer federal guardianship assistance
- ▶ Most of the states and tribes that took the federal option also use their own state or local funds to provide guardianship assistance to children who are not eligible for federal support
- ▶ Furthermore, as with federal adoption assistance, a relative's expenses incurred in obtaining the guardianship are reimbursable - many state programs also reimburse these expenses

## Approved Title IV-E Guardianship Assistance Programs

35 states, D.C. and 11 tribes as of 10/1/19



Blue = states with approved Title IV-E GAP

Light Blue = states with submitted Title IV-E GAP plans, pending final approval

White = states that have not yet opted for Title IV-E GAP

PR



# National Comparison Chart



## ADOPTION

## GUARDIANSHIP

## Rights and Responsibilities

<i>What are my legal rights and responsibilities for the child?</i>	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.
<i>What are the birth parents' rights and responsibilities for the child?</i>	The birth parents' rights are terminated.	Birth parents keep the rights to visit the child and to consent to adoption and/or name change.  Birth parents keep the obligation to financially support the child and pay child support.
<i>Do I have authority to access services for the child?</i>	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.

## Rights and Responsibilities

<b><i>Can the child visit their birth parents?</i></b>	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.	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.
<b><i>Can I change the child's last name?</i></b>	You can change the child's last name as part of the adoption process.	The child's last name does not change as part of the process.
<b><i>Is the child welfare agency still in our lives?</i></b>	Once you adopt, the child welfare agency will no longer be in your lives.  If the child receives adoption assistance, you will typically need to complete a short annual form regarding the subsidy.	Once you obtain guardianship, the child welfare agency will no longer be in your lives.  If the child receives guardianship assistance, you will typically need to complete a short annual form regarding the subsidy.
<b><i>Will we continue to be involved with the court?</i></b>	The case will be finalized. You are now the parent.	There will not be any scheduled court hearings. However, the birth parents can go to court and ask to have the child returned to them.
<b><i>Can the birth parents come back to claim the child?</i></b>	Birth parents cannot come back and claim the child. Their rights and responsibilities are terminated.  (Note: some states have reinstatement of parental rights laws, but it is very difficult for birth parents to have their rights reinstated.)	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.
<b><i>Can the child end up back in foster care?</i></b>	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.	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.
<b><i>When does the legal relationship end?</i></b>	Adoption does not end – the child is permanently part of the family.	Guardianship ends when the child reaches adulthood, as defined by state law.

## Financial and Legal Assistance

<i>Is there financial assistance to help meet the needs of the child?</i>	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.	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.
<i>How much is this assistance?</i>	<p>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.</p> <p>Other supports through the foster care agency are typically no longer available, although there may be post-adoption supports. You should ask.</p>	<p>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.</p> <p>Other supports through the foster care agency are typically no longer available, although there may be post-guardianship supports. You should ask.</p>
<i>How long does this assistance last?</i>	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.	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.
<i>Will I be reimbursed for my expenses to obtain the permanency option?</i>	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.	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.



## Public Benefits

<b><i>Is the child eligible for free school meals?</i></b>	<p>Children adopted from foster care during the school year will remain eligible for free school meals for the remainder of the school year.</p> <p>After that, your income is used to determine if the child is eligible.</p>	<p>Children who exit foster care to guardianship during the school year will remain eligible for free school meals for the remainder of the school year.</p> <p>After that, your income is used to determine if the child is eligible.</p>
<b><i>Is the child eligible for SNAP, which used to be known as food stamps?</i></b>	<p>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.</p>	<p>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.</p>
<b><i>Can the child receive welfare benefits under Temporary Assistance for Needy Families (TANF)?</i></b>	<p>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.</p> <p>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.</p>	<p>The child's guardianship assistance will be counted as income and will likely disqualify the child from a TANF child-only grant.</p> <p>Children in guardianships who do not receive guardianship assistance payments will likely qualify for a TANF child-only grant.</p> <p>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.</p>
<b><i>Will the child be able to get disability or survivor Social Security benefits based on my work record?</i></b>	<p>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.</p>	<p>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></p> <p>The child remains eligible to receive any Social Security benefits based on the parents' work records.</p>

Outside the Foster Care System or Unlicensed Kinship Foster Care	Licensed Kinship Foster Care	Kinship Guardianship and Adoption Assistance
<i>Temporary Assistance for Needy Families child-only grants</i>	<i>Foster Care Maintenance Payments</i>	<i>Guardianship or Adoption Assistance</i>
One child  National average <b>\$249/month</b> Typically must apply separately for Medicaid	One child  National average of minimum foster care maintenance payments is <b>\$511/month</b> Automatic Medicaid	One child  Up to the foster care rate. Based on the minimum payment, <b>\$511/month</b> Automatic Medicaid
Two children  National average <b>\$344/month</b> Typically must apply separately for Medicaid	Two children  National average of minimum foster care maintenance payments is <b>\$1022/month</b> Automatic Medicaid	Two children  Up to the foster care rate. Based on the minimum payment, <b>\$1022/month</b> Automatic Medicaid
Three children  National average <b>\$423/month</b> Typically must apply separately for Medicaid	Three children  National average of minimum foster care maintenance payments is <b>\$1533/month</b> Automatic Medicaid	Three children  Up to the foster care rate. Based on the minimum payment, <b>\$1533/month</b> Automatic Medicaid

**ADOPTION****GUARDIANSHIP****Health Insurance**

***Can I put the child on my private health insurance?***

Your adoptive child can be put on your private health insurance just like a birth child.

Some private policies allow for the child to be included, but not all. You would need to check with your insurance carrier.

***Can the child receive Medicaid?***

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.

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.

## Federal and State Tax Credits

<b><i>Is there a special tax credit that can help me?</i></b>	<p>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/tc607.html">www.irs.gov/taxtopics/tc607.html</a> and <a href="http://www.nacac.org/category/adoption-tax-credit/">www.nacac.org/category/adoption-tax-credit/</a></p> <p>There may also be a state adoption tax credit to claim against your state income tax. You can refer to your state profile on adoption assistance at <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></p>	<p>There is no federal guardianship tax credit.</p> <p>There are no known state guardianship tax credits to claim against your state income tax.</p>
<b><i>Are there any other tax credits that I can claim?</i></b>	<p>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.</p>	<p>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.</p>
<b><i>Are these tax credits considered "income" for purposes of determining eligibility for public benefits?</i></b>	<p>Tax credits do not count as income. This is true even if you owe no taxes and receive a refund check from the IRS.</p>	<p>Tax credits do not count as income. This is true even if you owe no taxes and receive a refund check from the IRS.</p>



## 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.

## ADOPTION

## GUARDIANSHIP

## 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.

# Choosing the Permanency Goal

- ▶ Engage other family members in the decision, and include the child if developmentally appropriate
- ▶ Consider all the legal and financial ramifications of the decision
- ▶ Weigh benefits for the child – inheritance, education assistance
- ▶ Ultimately what is best for the child?

# Tips for Relative Caregivers



## Relative Caregiver Tips: Understanding Adoption and Guardianship

- Advocate for yourself and the child in your care and ensure you know and understand adoption and guardianship.
- Talk with your caseworker about both the legal and financial ramifications of each option.
- Consult the side by side comparison chart, which is part of these materials, to better understand your options.
- Ensure you understand any variations in your state or tribe by visiting the state law database at [www.grandfamilies.org/Search-Laws](http://www.grandfamilies.org/Search-Laws), talking with your caseworker and, if possible, consulting with an attorney.
- Find out if your state or tribe has a guardianship assistance program (GAP) by referring to the map in this brief and visiting [www.grandfamilies.org/Topics/Subsidized-Guardianship](http://www.grandfamilies.org/Topics/Subsidized-Guardianship) for the most recent information. Know that you must become a licensed foster parent to qualify and explore what it takes to become licensed by asking your caseworker and, if possible, consulting with an attorney.
- Know that you may get a private lawyer and may have your legal and related expenses up to \$2000 reimbursed.
- If developmentally appropriate, discuss adoption and guardianship with the child in your care and ask their preference, if any.
- Make sure you go to all court hearings, including the final one granting the guardianship or adoption.
- Ask questions of your lawyer and judge if you don't understand anything in the guardianship or adoption order, including any terms concerning the child's visitation with their birth parents.



# Tips for Caseworkers



## Caseworker Tips: Explaining Adoption and Guardianship

- Discuss adoption and guardianship with kinship foster parents from the beginning of each case and often.
- Talk about both the legal and financial ramifications of each option.
- Use the side by side comparison chart, which is part of these materials, as a tool and give them a copy.
- Ensure they understand any variations in your state or tribe.
- If your state or tribe has a guardianship assistance program (GAP), ensure that they know about it and that they understand the need to become licensed foster parents to qualify.
- Let them know that they may get a private lawyer and may have legal and related expenses up to \$2000 reimbursed.
- If developmentally appropriate, discuss adoption and guardianship with the children and ask if they have preferences.
- Make sure kinship foster parents and children are aware of the importance of going to all court hearings, including the final one granting the guardianship or adoption.
- Tell kinship foster parents and children to ask questions of their lawyers and judge if they don't understand anything in the guardianship or adoption order, including any terms concerning the child's visitation with their birth parents.

# Additional National Resources





## NEED HELP?

See State Fact Sheets to obtain important state specific kinship resources, information and data.

[LEARN MORE](#)



### Search Laws

A searchable database of laws and legislation affecting grandfamilies both inside and outside the foster care system for all 50 states and the District of Columbia.

[Read More](#)



### Resources

Free and online legal resources in support of grandfamilies within and outside the child welfare system.

[Read More](#)



### Publications

View our publications that support grandfamilies including: Model Family Foster Home Licensing Standards, Using the Guardianship Assistance Program (GAP), and Relative Foster Care Licensing Waivers in States.

[Read More](#)

A collaboration of the  
ABA Center on Children and the Law,  
Generations United and Casey Family Programs

# GrandFacts State Fact Sheet

- ▶ All 50 States and District of Columbia
- ▶ Available at [www.grandfamilies.org](http://www.grandfamilies.org)

## GRANDFACTS

### STATE FACT SHEETS FOR GRANDFAMILIES



The GrandFacts state fact sheets for grandfamilies include state-specific data and programs as well as information about public benefits, educational assistance, legal relationship options and state laws. Visit [www.grandfamilies.org](http://www.grandfamilies.org) to find this and all GrandFacts state fact sheets.

## Washington

### The Children

- 39,000 (2%) children live with a relative with no parent present.
- 117,798 (7.4%) children under 18 live in homes where householders are grandparents or other relatives.
  - 87,553 (5.5%) of these children live with grandparents.
  - 30,245 (1.9%) of these children live with other relatives.

### The Grandparents

- 42,896 grandparents are householders responsible for their grandchildren who live with them. Of these:
  - 15,179 (35.4%) do not have parents present.
  - 26,784 (62.4%) are under age 60.
  - 26,553 (61.9%) are in the workforce.
  - 6,735 (15.7%) are in poverty.
  - 10,544 (24.6%) have a disability.
  - 12,054 (28.1%) are unmarried.
  - Race/Ethnicity:
    - 28,483 (66.4%) are white (not Hispanic or Latino)
    - 2,316 (5.4%) are black or African American
    - 6,563 (15.3%) are Hispanic or Latino origin
    - 2,145 (5.0%) are Asian
    - 1,759 (4.1%) are American Indian or Alaska Native
    - 686 (1.6%) are Native Hawaiian or other Pacific Islander
    - 1,416 (3.3%) are multiracial
    - 2,488 (5.8%) are some other race



Tips and resources to help grandfamilies inside and outside the child welfare system impacted by opioids or other substance use

Topics include:

- Practicing Self-Care*
- Addressing Childhood Trauma*
- Preventing Harmful Drug Use by Children*
- Engaging with Birth Parents*
- Talking with a Child about their Birth Parent*

Available at:

[www.grandfamilies.org/Portals/0/Documents/Grandfamilies-Report-GRANDResource-Opioids.pdf](http://www.grandfamilies.org/Portals/0/Documents/Grandfamilies-Report-GRANDResource-Opioids.pdf)



## Grand Resources

A Grandparent's and Other  
Relative's Guide to Raising  
Children with Disabilities



## FACT SHEET

### Grand Resources:

#### A Fact Sheet for Grandparent and Relative Caregivers to Help Access Support through the Temporary Assistance for Needy Families (TANF) Program

##### Introduction

Temporary Assistance for Needy Families (TANF) is often the only financial support available for grandfamilies like yours—families in which children are being raised by extended family members, like grandparents, and close family friends.

TANF may provide you and your grandfamily with support in several ways:

- Monthly cash to help meet the needs of your grandfamily or to meet the needs of just the children you're raising
- Short-term help to meet a need like buying a crib or paying a utility bill
- A pathway to access other important supports, like the Supplemental Nutrition Assistance Program (SNAP)/food stamps and Medicaid

TANF is a federal program, so it's available in all 50 states, the District of Columbia, Puerto Rico, the Virgin Islands and Guam. However, it varies dramatically from state to state. States have a lot of flexibility to decide who is eligible and how much support to provide. States can even call TANF by different names. For these reasons, this fact sheet answers questions from caregivers like you in general terms that apply no matter where you live. This fact sheet also has a chart that has contact information so you can get information about the specific TANF program in your state.

##### Questions and Answers That Apply No Matter Where You Live

**(1) I hear there are two types of TANF grants. What are they?**

The two types of TANF grants are known as "child-only" and "family" grants. They may be called different things where you live.

##### Child-only grants

Child-only grants were designed to consider only the needs and income of the child. A child's income might include child



Photo by Photo 12.

support payments or a public benefit like Supplemental Security Income (SSI). Because most children have limited income, most relative caregivers can receive a child-only grant on behalf of the children in their care.

Child-only grants are usually smaller than family grants. Although they may not be enough to meet all the needs of the children you're raising, they can be a big help. The average grant is about \$6 per day for one child. This is the national average, so some states pay more and some pay less. All states, however, pay only slightly more for any additional children in the grandfamily.<sup>1</sup> In other words, the children you raise would not each get \$6 (on average) per day to meet their needs; only the first child would get the full amount.

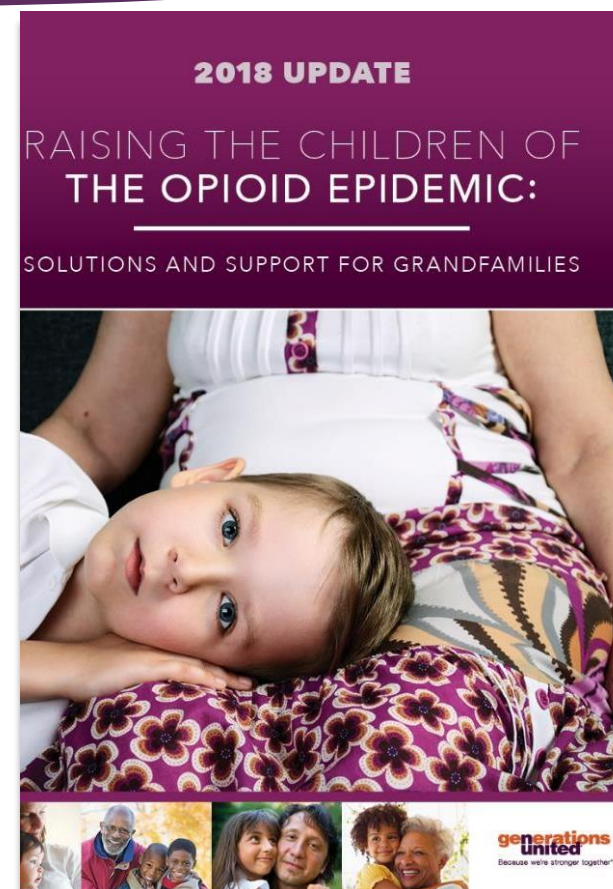
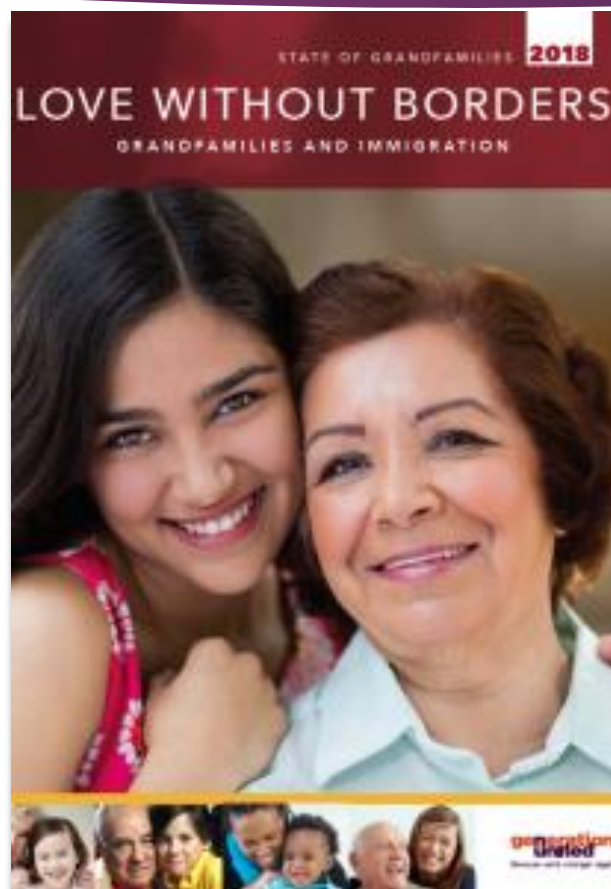
##### Family grants

The second type of TANF grant you may be eligible for is a "family grant." If you meet your state's income guidelines, you can receive a grant that addresses your needs, as well as those of the children you're raising. These grants are limited under federal law to no more than 60 months and you typically have to meet requirements to work or look for work.

States can make exceptions to these work requirements and time limits. Many states make these exceptions and/or allow time extensions for caregivers who are over age 60, are needed in the home to care for an incapacitated/disabled household



# Annual State of Grandfamilies Report





Brief created in partnership:

Casey Family Programs,  
Children's Defense Fund,  
ABA Center on Children  
and the Law, and  
Generations United

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## Leveraging the Family First Prevention Services Act to Improve Use of Title IV-E GAP

The Family First Prevention Services Act (Family First Act), enacted in February 2018, makes historic reforms to the child welfare system to better support children, families, and relative caregivers. Many of the reforms have significant implications for connecting children to relative caregivers and further promoting permanency through relative guardianships. States and tribes operating a federal Title IV-E Guardianship Assistance Program (GAP) can use these new reforms to further strengthen their programs. For states and tribes that have not yet taken the GAP option, new opportunities in the Family First Act may encourage them to apply. Currently 35 states, the District of Columbia, and 11 tribes operate Title IV-E GAP (see map, p. 2).



### Resources

For more information on:

*Family First Act and kinship care:*

- [New Opportunities for Kinship Families: Action Steps to Implement the Family First Prevention Services Act in Your Community](https://www.grandfamilies.org/Portals/0/Documents/FFPSA/new-opportunities-kinship-families.pdf) ([www.grandfamilies.org/Portals/0/Documents/FFPSA/new-opportunities-kinship-families.pdf](https://www.grandfamilies.org/Portals/0/Documents/FFPSA/new-opportunities-kinship-families.pdf))

This brief highlights provisions in the Family First Act related to kinship families and federal Title IV-E GAP (GAP). It suggests how states and eligible tribes can build on these provisions to promote use of assisted guardianship for children in kinship foster care.

### Family First helps remove barriers to licensure:

#### *Provision:*

The Family First Act encourages states and eligible tribes to improve their standards and procedures for licensing foster parents, with the goal of removing unnecessary barriers to licensure for relatives who want to become licensed foster parents. The Family First Act requires the U.S. Department of Health and Human Services (HHS) to develop model family foster home licensing standards, which HHS released in February 2019, and requires states and eligible tribes to compare these model standards against their own to identify potential barriers in licensing relatives. If state or tribal licensing standards are not consistent with the model standards, the Act requires states and tribes to report the reasons for a specific deviation from the model standards and why a standard is not appropriate for their jurisdiction.

#### *Impact on GAP:*

To qualify for a federal Title IV-E GAP subsidy from the state, the relative must be the licensed foster parent of the child for six consecutive months before receiving GAP. However, many relative caregivers have struggled to meet state licensing requirements for foster family homes. While states and eligible tribes can waive nonsafety licensing standards for relatives, this does not always happen, and relatives struggle to become licensed foster parents.

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# Questions? Contact information

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Because we're stronger together<sup>®</sup>