

Ohio Adoption and Legal Custody/Guardianship Supports Comparison Chart



**Department of
Children & Youth**

This chart is designed to help caregivers compare adoption and legal custody/guardianship options that you and the child(ren) in your care can pursue to exit foster care and create permanent families. You should review these differences when deciding which option to pursue.

While this chart is directed at resource caregivers, it is also intended as a tool to help children services and other agencies assist caregivers. Agency staff can review this document with kinship caregivers prior to or at the time of placement as a part of concurrent planning. Birth parents and older children may also find it helpful to review as part of their decision-making.

The content in this chart should not be considered legal advice, but rather general information to help guide your decision. Anyone considering adoption or legal custody/guardianship should consult with a local legal professional.

All kinship and adoptive families can call the **Ohio Kinship and Adoption Navigator Program** (OhioKAN) at 1-844-OhioKAN (644-6526) or visit ohiokan.ohio.gov to talk to a navigator who can help locate additional resources.

Requirements

| | Adoption | Legal Custody/Guardianship – Unlicensed Caregivers | Federal Kinship Guardianship Assistance Program (Federal KGAP) | State Kinship Guardianship Assistance Program (State KGAP) |
|---|--|---|--|--|
| What are the basic requirements in order to pursue this option? | <p>The child needs to be available for adoption. This can happen either by the parents surrendering their rights voluntarily or when a court terminates the parents' rights.</p> <p>The agency with custody of the child will need to determine that you are the best match for parenting the child.</p> | <p>A court needs to determine the child should not be returned to the care of a parent and awarding you legal custody/ guardianship is in the best interest of the child.</p> | <p>A court needs to determine the child should not be returned to the care of a parent and awarding you legal custody/ guardianship is in the best interest of the child.</p> <p>The child must meet certain eligibility requirements including being Title IV-E eligible for foster care payments.</p> | <p>A court needs to determine the child should not be returned to the care of a parent and awarding you legal custody/ guardianship is in the best interest of the child.</p> <p>The child must meet certain eligibility requirements including not being Title IV-E eligible for foster care payments.</p> |
| Do I need to be licensed as a foster parent? | <p>No, but you will need to be approved as an adoptive parent.</p> <p>If you are the child's current foster caregiver, and are not already approved to adopt, and the child has been in your home for at least six months, you may be eligible for a shorter adoption approval process.</p> | <p>No, in most situations an agency will need to approve a kinship home assessment prior to placing the child into your care.</p> | <p>Yes, but many of the non-safety requirements including training can be waived. Check with the agency completing your homestudy for more information.</p> | |
| How long will the child need to be in my home prior a court action regarding the permanency option? | <p>The child will need to be in your home for at least six months before the court will finalize your adoption.</p> | <p>There is no set timeframe.</p> | <p>The child will need to be in your home at least six months as a foster child before the court grants you legal custody/ guardianship.</p> | |

Rights and Responsibilities

| | Adoption | Legal Custody/Guardianship – Unlicensed Caregivers | Federal Kinship Guardianship Assistance Program (Federal KGAP) | State Kinship Guardianship Assistance Program (State KGAP) |
|---|---|---|--|--|
| 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 legal custody/guardianship is ended. | | |
| What are the birth parents' rights and responsibilities for the child? | The birth parents' rights are terminated. | <p>Birth parents keep the rights to visit the child and to consent to adoption and/or a name change.</p> <p>Birth parents keep the obligation to financially support the child and pay child support.</p> | | |
| 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. | Guardian's access to services for the child is typically the same as for any birth parent. | | |
| Can the child visit their birth parent? | You will have the right to determine whether the child visits their birth parent(s). | Birth parents typically keep the rights to visit the child. The court awarding legal custody/ guardianship may set up the terms of that visitation. | | |
| Can I change the child's last name? | You can change the child's last name as a part of the adoption process. This would be a decision between you and the youth. | The child's last name does not change as a part of this process. | | |

Rights and Responsibilities Cont.

| | Adoption | Legal Custody/Guardianship – Unlicensed Caregivers | Federal Kinship Guardianship Assistance Program (Federal KGAP) | State Kinship Guardianship Assistance Program (State KGAP) |
|--|--|--|--|---|
| Is the children services agency still involved in our lives? | <p>Once you adopt the child, the children services agency will no longer be in your lives.</p> <p>If the child receives adoption assistance, you will typically need to complete a short annual form regarding the subsidy.</p> <p>You may request your local Public Children Services Agency (PCSA) open a voluntary post adoption services case if your family needs services.</p> | <p>Once you take legal custody/guardianship, typically the children services agency will no longer be involved in your lives, unless you request continued services.</p> | <p>Once you take legal custody/guardianship, typically the children services agency will no longer be involved in your lives, with the exception of an annual contact for you to complete a form regarding your Federal KGAP subsidy sent to you from DCY.</p> | <p>Once you take legal custody/guardianship, typically the children services agency will no longer be involved in your lives.</p> |
| Will we continue to be involved with the court? | <p>No. The case will be finalized. You are now the parent.</p> | <p>There will not be any scheduled court hearings. However, the birth parents can go to court and ask to have the child’s custody returned to them.</p> | | |
| Can the birth parents come back to claim the child? | <p>Birth parents cannot come back and claim the child. Their rights and responsibilities are terminated.</p> | <p>Parents can seek to have the child’s custody returned to them. They must show the judge that something has changed with them, the child or you as the caregiver.</p> | | |
| Can the child end up back in foster care? | <p>A PCSA may investigate reported child abuse/neglect or dependency situations.</p> | | | |
| When does the legal relationship end? | <p>Adoption does not end. The child is permanently part of your family.</p> | <p>Legal custody/guardianship ends when the child reaches adulthood, which is 18 in Ohio; however, young adults continue to need their family.</p> | | |

Financial and Legal Assistance

| | Adoption | Legal Custody/Guardianship – Unlicensed Caregivers | Federal Kinship Guardianship Assistance Program (Federal KGAP) | State Kinship Guardianship Assistance Program (State KGAP) |
|--|---|--|--|--|
| Is there financial assistance to help me meet the needs of the child? | <p>Most children adopted from foster care qualify for Title IV-E Adoption Assistance (IV-E AA). The child does need to have an identified special need.</p> <p>Children adopted from foster care who are not eligible for IV-E AA may qualify for State Adoption Maintenance Subsidy (SAMS). The family's income is taken into consideration for eligibility.</p> | <p>You may be eligible for the Kinship Permanency Incentive Program (KPIP). This program provides eligible caregivers a limited number of incentive payments.</p> | <p>Both Kinship Guardianship Assistance Programs (KGAP) provide a monthly payment to the kinship caregiver to assist with meeting the needs of the child.</p> | |
| How much is this assistance? | <p>The monthly IV-E AA amount cannot be more than the foster care maintenance payment received for the child while in foster care. It is a negotiated amount between the adoptive family and the custodial agency based on the child's needs and the family's resources.</p> <p>The SAMS payment is typically \$250 per month.</p> | <p>No statewide financial assistance programs exist for kinship caregivers who obtain legal custody/guardianship in general. See below for public benefits your family and/or the child may qualify for via Ohio Works First (OWF) TANF benefits.</p> <p>Some PCSAs have local financial assistance programs when children exit care to an unlicensed kinship caregiver.</p> | <p>The amount is negotiated based upon the amount of foster care maintenance received for the child while in foster care. In most cases, the amount will be 80% of the current foster care per diem unless this would make the payment lower than \$350 per month.</p> | |

Financial and Legal Assistance Cont.

| | Adoption | Legal Custody/Guardianship – Unlicensed Caregivers | Federal Kinship Guardianship Assistance Program (Federal KGAP) | State Kinship Guardianship Assistance Program (State KGAP) |
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| How long does this assistance last? | The monthly payments may last until the child reaches the age of 18. However, there are circumstances when the payments may continue until the child reaches the age of 21 if the child has a physical/ mental disability or medical condition. | KPIP provides an initial payment and up to an additional 7 payments at six- month intervals. Please contact the PCSA regarding any local programs. | The monthly payments may last until the child reaches the age of 18. However, there are circumstances when the payments may continue until the child reaches the age of 21 if the child has a physical/mental disability or medical condition. | |
| Does Ohio have an extended assistance program for children from age 18 to 21? | The Adoption Assistance Connections (AAC) program provides financial assistance and Medicaid to eligible families who adopt children at ages 16 and 17. The young adult must meet certain eligibility requirements. | No. | The KGAP Connections to 21 (KGAP C21) program provides financial assistance and Medicaid to eligible families who take legal custody/ guardianship of a youth at ages 16 and 17. The young adult must meet certain eligibility requirements. | No. |
| Will I be reimbursed for my expenses to obtain the permanency option? | If you are adopting an eligible child with special needs from foster care, you may be eligible for up to \$2,000 in nonrecurring expenses per child related to the adoption. These expenses include covering the fees for the home study, supervision, legal, court filing, and travel costs. | No statewide program exists. If you are obtaining legal custody/ guardianship of a child from foster care, check with the PCSA that holds custody of the child. They may be able to cover the cost or reimburse you for expenses. | The kinship caregiver is eligible for reimbursement of up to \$2,000 per child to cover fees such as court costs, attorney fees, or other expenses directly related to the court issuing an order granting legal custody/guardianship. These are referred to as nonrecurring KGAP expenses. | |
| Is there a special loan I can apply for to help me cover the financial costs? | Through the Family Forward program, individuals and families may be eligible for reduced interest loans that can be used for qualified adoption expenses up to \$50,000 for five years. | No, but the PCSA with custody of the child may assist you in covering these costs. | No, but typically the costs will be reimbursed as a nonrecurring KGAP expense as indicated above. | |

Financial and Legal Assistance Cont.

| | Adoption | Legal Custody/Guardianship – Unlicensed Caregivers | Federal Kinship Guardianship Assistance Program (Federal KGAP) | State Kinship Guardianship Assistance Program (State KGAP) |
|---|--|--|--|--|
| Are there any financial assistance programs available after the child is in my permanent care? | The Post Adoption Special Services Subsidy (PASSS) program is for all adoptive families (except stepparent adoptions) in Ohio whose child may be experiencing adoption-related difficulties or issues that were preexisting but were not apparent at the time of adoption. | No, but you and the child may be eligible for a variety of public benefits as indicated below. | | |

Public Benefits

| | Adoption | Legal Custody/Guardianship – Unlicensed Caregivers | Federal Kinship Guardianship Assistance Program (Federal KGAP) | State Kinship Guardianship Assistance Program (State KGAP) |
|--|---|---|--|--|
| Is the child eligible for Ohio Works First (OWF)? | Children in receipt of adoption assistance payments are not eligible to receive OWF. | The child's legal guardian and legal custodian are able to receive OWF for that child. | Children in receipt of Federal KGAP payments are not eligible to receive OWF. | As a kinship caregiver who receives State KGAP you must apply for OWF benefits within 30 days after you receive legal custody/guardianship. |
| Is the child eligible for free school meals? | <p>Children who exit foster care to adoption or legal custody/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 the child's eligibility.</p> | | | |
| Is the child eligible for the Supplemental Nutrition Assistance Program (SNAP)? | The adoptive child is part of your household. Therefore, any adoption assistance received, along with any other countable household income, counts as income for purposes of determining SNAP eligibility. | The child is part of your household. Therefore, payments received count as income for purposes of determining SNAP eligibility. | The child is part of your household. Therefore, any Federal KGAP payments received count as income for purposes of determining SNAP eligibility. | <p>If the child is in receipt of OWF payments, the child is a part of your household. Therefore, any State KGAP payments received count as income for purposes of determining SNAP eligibility.</p> <p>If the child is not in receipt of OWF payments, you may decide whether to include the child in the household for purposes of determining SNAP eligibility. However, if you choose to include the child in your household, any income received for that child will count as income for purposes of determining SNAP eligibility.</p> |

Public Benefits Cont.

| | Adoption | Legal Custody/Guardianship – Unlicensed Caregivers | Federal Kinship Guardianship Assistance Program (Federal KGAP) | State Kinship Guardianship Assistance Program (State KGAP) |
|--|--|---|--|--|
| Is the child eligible for Publicly Funded Child Care (PFCC)? | Adopted children who reside with their parent may be eligible for PFCC. Any federal, state, and local adoption assistance payments the family receives will not be counted as income. | Children who reside with their legal custodian or guardian may be eligible for PFCC. Any federal, state, and local KGAP payments the family receives will not be counted as income. | | |
| Are there other programs/ services the child is eligible for? | Check with OhioKAN and/or your local county agencies for available programs and services. | | | |
| Will the child be able to get disability or survivor Social Security benefits based on my work record? | 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. | 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. The child remains eligible to receive any Social Security benefits based on the parents’ work records. | | |

Health Insurance

| | Adoption | Legal Custody/Guardianship – Unlicensed Caregivers | Federal Kinship Guardianship Assistance Program (Federal KGAP) | State Kinship Guardianship Assistance Program (State KGAP) |
|---|---|--|--|--|
| Can I put the child on my private health insurance? | The 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 will need to check with your insurance carrier. | | |
| Can the child receive Medicaid? | Under IV-E AA, the child is eligible for Medicaid. In order to receive Medicaid under SAMS the child does have to have an identified need. | Most children in the legal custody/guardianship of a kinship caregiver qualify for Medicaid. | Children eligible for Federal KGAP will also receive Medicaid. | Children eligible for State KGAP may apply for Medicaid through their local county Job and Family Services agency. |
| Is there a program to support my child's behavioral needs? | If the child receives Medicaid, the child may qualify for OhioRISE (Resilience through Integrated Systems and Excellence), a specialized managed care program for youth with complex behavioral health and multisystem needs. | | | |

Health Insurance Cont.

| | Adoption | Legal Custody/Guardianship – Unlicensed Caregivers | Federal Kinship Guardianship Assistance Program (Federal KGAP) | State Kinship Guardianship Assistance Program (State KGAP) |
|---|---|--|---|--|
| What happens to the child's Medicaid if I move out of state? | <p>Children who are eligible for IV-E AA remain eligible for Medicaid in the state in which they live. The Interstate Compact on Adoption and Medical Assistance (ICAMA) is an agreement between member states to facilitate the provision of Medicaid between the state responsible for AA and the child's state of residence.</p> <p>Children receiving SAMS are not categorically eligible for Medicaid. For children receiving SAMS, ICAMA member states provide reciprocity for Medicaid benefits in all states except Illinois, Hawaii, New Mexico, and Nevada.</p> | <p>You will need to apply for Medicaid for the child in the new state to determine if the child is eligible.</p> | <p>Children who are eligible for Federal KGAP remain eligible for Medicaid in the state in which they reside.</p> <p>The Interstate Compact on Adoption and Medical Assistance (ICAMA) is an agreement between member states to facilitate the provision of Medicaid between the state responsible for KGAP and the child's state of residence.</p> | <p>Children that are eligible for State KGAP must apply for Medicaid benefits in their new state of residence.</p> |

Federal Tax Credits/State Grants/Taxable Income

| | Adoption | Legal Custody/Guardianship – Unlicensed Caregivers | Federal Kinship Guardianship Assistance Program (Federal KGAP) | State Kinship Guardianship Assistance Program (State KGAP) |
|--|--|---|--|--|
| Is there a special federal tax credit that can help me? | There is a federal adoption tax credit, which you can claim if your income is under the income limitation. You may be eligible for the maximum amount of credit regardless of whether you had any qualifying expenses. | There is no federal guardianship tax credit. | | |
| Is there an adoption grant that can help me? | Yes, The Ohio Adoption Grant Program is available to eligible adoptive parents who adopted on or after January 1, 2023. | There is no state guardianship grant. | | |
| Are there any other tax credits I can claim? | There are other tax credits 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. | | | |
| Are these tax credits considered “income” for purposes of determining eligibility for public benefits? | Tax credits do not count as income. This is true even if you owe no taxes and receive a refund check from the IRS. | | | |

Federal Tax Credits/State Grants/Taxable Income Cont.

| | Adoption | Legal Custody/Guardianship – Unlicensed Caregivers | Federal Kinship Guardianship Assistance Program (Federal KGAP) | State Kinship Guardianship Assistance Program (State KGAP) |
|---|---|---|--|--|
| Is the monthly financial assistance I receive for the child considered taxable income? | No, you do not need to include income from government benefit payments from a public welfare fund where the payments are based upon need. | | | |

Caregiver Successor Planning and Death Benefits for Children

| | Adoption | Legal Custody/Guardianship – Unlicensed Caregivers | Federal Kinship Guardianship Assistance Program (Federal KGAP) | State Kinship Guardianship Assistance Program (State KGAP) |
|--|---|--|---|--|
| 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. | You should consult an estate planner or attorney. | | |
| Am I able to name someone to receive the monthly financial assistance I receive for the child? | No, both the IV-E AA and SAMS assistance are terminated upon the parent’s death. | A court must award the new kinship caregiver legal custody/ guardianship of the child. The new kinship caregiver may be eligible for Kinship Permanency Incentive Payments and would need to apply through their local PCSA. | You will name a successor guardian as part of your KGAP agreement. That person will be able to step in your shoes and receive the monthly financial KGAP assistance after meeting certain eligibility requirements. | |
| Can the child inherit from me? | As an adopted child, the child would automatically inherit from you even without 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 miliary benefits when I die? | The child would be able to receive your pension and military benefits the same as a birth child. | 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

| | Adoption | Legal Custody/Guardianship – Unlicensed Caregivers | Federal Kinship Guardianship Assistance Program (Federal KGAP) | State Kinship Guardianship Assistance Program (State KGAP) |
|---|---|---|--|--|
| What type of independent living or education vouchers are available for an older child? | The child may be eligible for the Ohio Education and Training Voucher (ETV) Program if adopted at/after age 16. | The child may be eligible for the Ohio Education and Training Voucher (ETV) Program if the child exited foster care to legal custody/guardianship at/after age 16. | | |
| Is the child eligible for the Ohio College Adoption Grant? | The child may be eligible for the one-time Ohio College Adoption Grant if the adoption finalized after January 1, 2023. | No. | | |
| Is the child eligible for an Ohio Reach Scholarship? | If the child was in foster care for at least one day after the age of 13, the child may be eligible. | | | |
| How is my income used to determine the child’s eligibility for financial aid for college? | <p>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.</p> <p>However, if the child was adopted at age 13 or older, the child is considered “independent”, and your income does not count.</p> | 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. | | |

Additional Information/Resources/Links

General Information:

- OhioKAN website: ohiokan.ohio.gov/
- Ohio Adoption Guide: A Handbook for Prospective Adoptive Families (DCY 01675): odjfs.state.oh.us/forms/num/DCY01675/pdf/
- Ohio Resource Guide for Relatives Caring for Children (DCY 08146): odjfs.state.oh.us/forms/num/DCY08146/pdf/
- It Takes Heart Ohio website: fosterandadopt.ohio.gov/
- Youth and Family Ombudsmen Office: yfo.ohio.gov/

Financial and Legal Assistance

- Adoption Subsidies Guide (DCY 01985): odjfs.state.oh.us/forms/num/DCY01985/pdf/
- Caregiver Permanency Options (DCY 08073): odjfs.state.oh.us/forms/num/DCY08073/pdf/
- DCY Programs Supporting Kinship Caregivers (DCY 8072): odjfs.state.oh.us/forms/num/DCY08072/pdf/
- Post Adoption Special Services Subsidy (PASSS): ohiokan.ohio.gov/passs/
- Family Forward low cost adoption loan program: tos.ohio.gov/familyforward/

Public Benefits

- Ohio Benefits: benefits.ohio.gov/
- Check eligibility and apply for Cash, Food, or Medical Assistance or for Early Childhood Services: benefits.ohio.gov/apssp/indexOHLanding.jsp
- Social Security information for Guardians: ssa.gov/people/parents/

Health Insurance

- Check eligibility for Medicaid: benefits.ohio.gov/
- OhioRISE (Resilience through Integrated Systems and Excellence): managedcare.medicaid.ohio.gov/managed-care/ohiorise

Federal Tax Credits/State Grants/Taxable Income

- Federal Adoption Tax Credit: irs.gov/taxtopics/tc607
- Ohio Adoption Grant Program: adoptiongrant.ohio.gov
- Other Tax Credits: irs.gov/credits-and-deductions

Caregiver Successor Planning and Death Benefits for Children

- Ohio Supreme Court information about Lawyer Referral Services: supremecourt.ohio.gov/attorneys/referral-services
- The Ohio State Bar Association, Looking for Legal Help: ohiobar.org/legalhelp

College and Independent Living

- Ohio Education and Training Voucher Program (ETV): fosteredservices.org/ohio-etv/
- Ohio College Adoption Grant: highered.ohio.gov/students/pay-for-college/ohio-grants-scholarships/adoption-grant
- Ohio Reach Scholarship: ohioreach.org/scholarship
- FAFSA (Free Application for Federal Student Aid) official government website: studentaid.gov/h/apply-for-aid/afsa



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