



Options for Grandparents and Other Nonparental Caregivers:

A Legal Guide for Washington State

- Temporary Agreements
- De Facto Parentage
- Guardianship
- Adoption
- Relative Placement

A Legal Voice Publication





Legal Voice is a progressive feminist organization using the power of the law to make change in the Northwest. We use that power structure to dismantle sexism and oppression, specifically advocating for our region's most marginalized communities: women of color, lesbians, transgender and gender-nonconforming people, immigrants, people with disabilities, low-income women, and others affected by gender oppression and injustice.

We work to ensure that all individuals have these fundamental rights:

- To equal treatment and to be free from discrimination;
- To decide when and how to form and maintain their families;
- To be safe wherever they are;
- To economic equality and independence; and
- To be healthy and active.

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Seattle, Washington

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Caution

This booklet is not intended to be and should not be used as a substitute for legal advice regarding specific factual situations. This booklet cannot analyze your individual needs and concerns. If legal advice is required, the services of a lawyer should be sought. The information in this booklet is current as of September, 2022. Laws can change and readers should consult a lawyer if they need to be sure that specific legal information is current.

4th Edition Preface

Throughout history and across cultures, extended family has helped with child rearing. This remains true today. In the U.S., millions of children are being raised by their grandparents, other relatives, or non-relatives. This can happen for a variety of reasons, but one thing is the same: caregivers from every community are facing the difficult challenges these situations can create. One of those challenges is establishing a legal relationship with the child.

Options for Grandparents and Other Nonparental Caregivers is a practical, plain-language guide to establishing a legal relationship with a child. We hope this guide is useful for both caregivers and parents, as well as the social service providers who work with them.

Thanks to the Washington State Department of Social and Health Services for providing funds to help update, translate, print and distribute this booklet; Kerry Clayman for drafting the 4th edition update; Shelly Willis, Rosalyn Alber, Sarah Revord, Catherine West and Celeste Miller for their community review; Chloë Phalan at Legal Voice for coordinating, reviewing, and editing; and Tarsha Rockowitz for the graphic design.

A very special “thank you” to all who worked on previous editions of this booklet, including Hilarie Hauptman, Amy Stephson, June Krumpotick, Nancy Sapiro, Lisa K. Barton, Lori-Kay Smith, Rebecca Morrow, Shelly Willis, Laurel Simonsen, Judy Lin, Anne Bradly Counts, Tom Berry, and more. We wish all caregivers raising children and the service providers supporting them success in their difficult but immeasurably important task.

Legal Voice

We are pleased to offer the 4th edition of this booklet both in print and online at legalvoice.org.

Introduction

Is this Booklet for Me?

This booklet is for anyone who needs to set up a short-term or long-term plan for the care of a child. This includes custodians and caregivers, legal parents, and the social service providers who work with them. Some laws apply only to grandparents or relatives, which we will note.

What Will I Learn from this Booklet?

You will learn basic information about the legal options available to caregivers of children in Washington State and which option may be best for you. This booklet answers many common caregiver questions, such as:

- What is legal guardianship and when is it appropriate?
- What is the difference between guardianship and adoption?
- Is nonparental custody still an option?
- Do I qualify as a foster parent?
- How does the dependency process work?
- Will I be able to receive public assistance?
- Do I need a lawyer?
- And more.

This booklet is not a substitute for legal advice from a lawyer. That said, we hope the information, glossary, and resources are helpful whether or not you are working with a lawyer.

Why Do Caregivers Need a Legal Relationship with the Child?

- To authorize what decisions can be made without having to consult the child's parents;
- To clearly know the caregiver's responsibilities to the child;
- To help the child get a driver's license;
- And other reasons.

It may also be helpful (though not necessary) to:

- Set up childcare;
- Enroll the child in school;
- Get medical or dental treatment for the child; and
- Set up health insurance benefits for the child.

How Do I Use this Booklet?

This booklet is divided into three chapters.

- **Chapter 1** is for people caring for children who are not involved in a state dependency action. It includes information on basic rights for caregivers when there is no written agreement with parents; power of attorney; de facto parentage; minor guardianship; and adoption.
- **Chapter 2** is for people caring for children who ARE involved in a dependency action (when the state has removed a child from his or her home because of parental abuse or neglect). It explains how the dependency process works, plus details on legal options once dependency has been established. The legal options are placement with a relative, guardianship, permanent custody, and adoption.
- **Chapter 3** gives information about visitation rights of people who are not legal parents, the Indian Child Welfare Act, the Child in Need and At-Risk Youth procedures, considerations for immigrant families, plus social service and legal resources available to provide assistance.

It is unlikely you will need all the information included in this booklet. *See the table of contents on page 3 to find the information relevant to your situation.*



Chapter 1

Legal Options When There Is No Dependency Case

- Unwritten Agreements
- Power of Attorney for Parents
- De Facto Parentage
- Minor Guardianship
- Adoption

Unwritten Agreements

Basic Information about Unwritten Agreements

What Is an Unwritten Agreement?

Many nonparental caregivers take care of children without a written agreement with the parents or any form of legal custody. Here is an example: a mother drops her child off to live with the grandparents while she is in rehab. The mother and grandparents talk about it and agree to the short-term plan, but there is no written agreement and the court is not involved. In this booklet, we call this kind of situation an “unwritten agreement.” Caregivers who have unwritten agreements with biological parents have very limited legal rights. Parents can change their minds at any time and take back custody of the child.

What Rights Do Caregivers Have When There Is an Unwritten Agreement?

Though there are few legal rights in this situation, here are two important ones:

- **Any caregiver has the right to immediately enroll the child in school** and make educational decisions. A federal law called the McKinney-Vento Act lets caregivers enroll children in school. Schools cannot delay or prevent enrollment just because a parent or legal guardian is not present. Caregivers can get enrollment help from the school district’s McKinney-Vento liaison.
- **Relative caregivers have the right to make health care decisions** for the child, including mental health care. Under Washington law, doctors can accept medical decisions from relatives in a specific order of priority, with adult siblings first. The relative must write and sign a declaration stating that he or she is an adult relative responsible for the health care of the child. *Find more information and a sample consent form in “Consent to Health Care: A Kinship Caregiver’s Guide,” from the Northwest Justice Project (English only). DSHS has a sample form in multiple languages, “Consent to Health Care for the Child in Your Care...” See Resources at the end of this booklet.*

When Is an Unwritten Agreement Not the Right Option?

A caregiver’s legal rights are very limited when there is no written agreement or court order in place. These caregivers do not have legal custody of the child and the parents can take back the child at any time. Caregivers who are not related to the child might have difficulty making health care decisions when there is no written agreement. Even relative caregivers may have difficulty getting doctors to recognize their legal right to make decisions. A Power of Attorney, discussed in the next section, is recommended for both relatives and non-relatives for medical decision-making. *See Power of Attorney for Parents, discussed later in this chapter.*

An unwritten agreement is NOT a good option if:

- You are a parent and want the caregiver to be able to make all decisions for your child’s care and upbringing.
- You are a caregiver and want some control over if and when the child returns to the parents.
- You are a caregiver who is not related to the child but you need to make health care decisions for the child. *See Power of Attorney for Parents, discussed later in this chapter.*

If you are a parent or caregiver and want to set up an official, legal custody arrangement for the child, you will need to go to court to get a custody order. *See the “De Facto Parentage” section and “Minor Guardianship” section.*

What If I Want to Make a Plan for My Kids, Just in Case?

If you are a legal parent and want to plan ahead in case you get sick or are unable to care for your child(ren) for any reason, do not rely on an unwritten agreement. Instead, consider setting up a standby guardianship. To set up a standby guardianship, you formally nominate someone to care for your child(ren) if you cannot. *See “What if I want to make a plan for my kids, just in case?” on page 15.*

For Caregivers with an Unwritten Agreement

Can the Child or I Receive Public Assistance or Similar Benefits?

Yes. If the child is living with you and you have an unwritten agreement, this may entitle the child and you to:

- Temporary Assistance for Needy Families (TANF);
- Food benefits;
- Medical assistance;
- Child care subsidy; and
- Child support.

If you are related to the child and you qualify, you may all be eligible for a TANF “Needy Family” Grant, as well as food benefits. If only the child qualifies, he or she may be eligible for a TANF “Non-Needy” Grant (sometimes called a “Child Only” grant).

TANF: To apply for TANF benefits, contact the Department of Social and Health Services (DSHS). Depending on the type of grant, DSHS will consider certain income of all adults and children in your household, as well as the income of the child who is the subject of your unwritten agreement. You may be required to sign over your right to receive child support to DSHS.

Things to know about the Non-Needy Grant:

- Only the child’s income is considered in determining eligibility for a Non-Needy Grant.
- Your assets (home, savings, etc.) are not considered in determining eligibility for a Non-Needy Grant.
- Non-relatives and some more distant relatives must undergo a Washington State Patrol background check in order to receive a Non-Needy Grant.
- A Non-Needy Grant has no time limit.

Food benefits: *See “Food Assistance” in Resources at the end of this booklet.*

Medical benefits: *See “Medical Assistance” in Resources at the end of this booklet.*

Child care subsidy: *See “Child Care and Early Learning” in Resources at the end of this booklet.*

Child support: You may be able to collect child support from the parents by contacting the Division of Child Support (DCS) who can start a child support case. If you are receiving TANF benefits for the child, then the state will start this process on its own to reimburse the state for the payments being made to the child. *See Resources at the end of this booklet for DCS contact information.*

Can We Get Foster Parent Payments from the State?

No. Having parental consent to care for a child does not qualify you to receive foster parent payments. To receive such payments, you need to go through a separate licensing process through DCYF.

Can I Get Income Tax Benefits?

Maybe. It is best to talk to a tax professional about your specific situation. Here are two tax benefits relevant to caregivers:

Dependency Exemption: If you provide over half of a child's support during the year, you may be able to take the exemption for dependents on your income taxes that year. The IRS may ask for proof that you are supporting the child, so keep receipts and a list of expenses.

Earned Income Credit: If you qualify, this credit reduces the amount of taxes you owe. If you don't owe taxes, the IRS will send you a refund check. You may be eligible if:

1. You qualify financially (if you have passive income such as interest earnings or dividend income you may not qualify for the earned income credit), **and**
2. You have at least one qualifying child living with you for more than half of a tax year. The child must be:
 - Under age 19,
 - A full-time student under age 24, or
 - Any age and permanently and totally disabled.

Check with the IRS to see if you qualify financially. *For more information about income taxes, go to WashingtonLawHelp.org.*

Can I Consent to Health Care for the Child?

A caregiver for a child may be able to consent to health care for the child even if he or she does not have a court order or if the parents are not available. *Find more information and a sample consent form in "Consent to Health Care: A Kinship Caregiver's Guide," from the Northwest Justice Project (English only). DSHS has a sample form in multiple languages, "Consent to Health Care for the Child in Your Care..." See Resources at the end of this booklet.*

Can I Get Health Insurance for the Child Through My Employer?

If coverage through the child's parent(s) or state medical benefits are not an option, you may be able to include the child on your employer's health insurance policy. Even if you can include the child on your employer's plan, you may have to pay the monthly premium. Check with your employer.

Note that the child may qualify for medical benefits from the state. *See Resources at the end of this booklet.*

Can I Take Family Leave to Care for the Child?

Maybe.

Under the Washington State Paid Family & Medical Leave Act, you might qualify for up to 12 weeks of **paid** leave. Most employees in Washington qualify, but there are specific requirements.

Visit PaidLeave.wa.gov to find out if you qualify and to apply.

Under the federal Family and Medical Leave Act, you may be entitled to take up to 12 weeks of **unpaid** leave. Visit dol.gov/agencies/whd/fmla to learn more and find out if you qualify.

For more information, see also the Legal Voice publication “Family Leave Laws” listed in Resources at the end of this booklet.

Will the Child Have Inheritance Rights to My Estate?

Having an unwritten agreement for a child does not affect that child’s right to inherit your property. If you want the child to receive any of your property when you die, the best way to guarantee this is to say so in a will. If you die without a valid will, state laws determine how your property will be distributed. Under those laws, the child may have lower priority than other family members such as your spouse or your children. *For more information about wills and estate planning, see the Legal Voice publication “Handbook for Washington Seniors: Legal Rights and Resources” listed in Resources at the end of this booklet.*

Can I Name a Guardian for the Child in My Will?

No. Only adoption and *de facto* parentage, discussed later in this chapter, give you the right to choose in your will who will take care of the child if you die. (Minor guardianship has a different way to arrange for a successor guardian.)

Power of Attorney for Parents

Basic Information about Power of Attorney for Parents

What Is a Power of Attorney for Parents?

This is a new type of power of attorney in Washington state as of June 2020. A power of attorney for parents is a document that gives a nonparental caregiver authority to care for and make decisions regarding the child. It is a written, voluntary agreement between the child's parent(s) and the caregiver(s). It is not issued or signed by a court. It can be revoked by the parent(s) at any time.

A power of attorney for parents document must:

- Be agreed to and signed by parent(s) and caregiver(s). If one parent is absent or unknown, the agreement should say so and be signed by the one present parent.
- Last no more than 24 months. After 24 months, a new one must be created. It's possible to create a new one before the old one expires, but the new one should explicitly revoke the old one.

This does NOT give caregivers any legal right to custody of the child. A parent can cancel or change the agreement at any time.

You should NOT use a power of attorney for parents if the state has removed the child from the parent's home because of parental abuse or neglect. *See Chapter 2 for information about what can be done in this situation.*

When and Why Should I Get a Power of Attorney for Parents?

A Power of Attorney for Parents is appropriate when:

- You are a parent and wish to give someone else temporary care and custody of your child *and that person agrees, or*
- You are a caregiver seeking temporary custody and care of a child *and the child's parent(s) agree.*

It is useful for nonparental caregivers to have this agreement because it demonstrates that the parent(s) have given the caregiver authority to make necessary decisions regarding the child. With this agreement, schools, doctors, and others should accept the caregiver's legal authority to act on the child's behalf.

For the parent(s), this agreement helps to show that they have not abandoned the child. It does not take away any parental rights. The parent(s) can cancel or change it at any time.

If you are a caregiver and do not want the child's parent(s) to be able to take the child back, do not rely on a power of attorney for parents. Instead, you will need a custody order from a court. *See "De Facto Parentage" on page 25 and "Minor Guardianship" on page 29.*

What If I Want to Make a Plan for My Kids, Just in Case?

If you are a legal parent and want to plan ahead in case you get sick or are unable to care for your child(ren) for any reason, a power of attorney for parents is not what you need. Instead, consider setting up a standby guardianship.

A standby guardianship is one way to plan for a child's care in case something happens to the parent(s) that will keep them from parenting for a significant amount of time, such as serious illness or deportation. Only a parent can nominate a standby guardian. If the standby guardianship is needed, the nominee must be approved by the court.

The parent should name the standby guardian in writing, include any limitations they want on the standby guardian's powers, and sign and date it. The parent can cancel or change the standby guardianship at any time in writing. Standby guardianship nominations are often included in estate planning documents.

Standby guardianships do not go into effect automatically. Either the parent or the nominee must ask the court to officially appoint the standby guardian. The court will consider the fitness of the nominee, and whether the parent's situation will last at least two years.

Once appointed, standby guardians can take custody of the child. Standby guardians have the same powers a parent would have regarding the minor's care, education, health, and safety.

For more information, visit ChildWelfare.gov and search for "Standby Guardianship."

What Is Included in a Power of Attorney for Parents?

Caregivers and the parent(s) will decide exactly what the agreement should say. Typically, a power of attorney for parents may include the following:

- **The parent(s) agree that the caregiver has temporary residential care of the child.**
Most agreements will specify that the children have the authority to live with the caregiver. Parents can also specify if they do not want the children to live with the caregiver. Remember, the parent(s) have a right to take the child back at any time, regardless of what the agreement says. Only a court order can allow the caregiver to keep the child.
- **The parent(s) authorize the caregiver to make medical decisions for the child.**
The agreement can be specific or general – whatever the nonparental caregiver and the parent(s) agree to. For example, it can authorize the caregiver to make most medical decisions except for decisions about surgery. Parents may agree to give the caregiver access to the child's medical records.
- **The parent can cancel the agreement at any time by notifying the caregiver.**
Parent(s) can legally cancel the agreement at any time by giving notice to the caregiver. Written notice is recommended. Parent(s) and caregivers can include in the agreement a stipulation that the parent(s) will give the caregiver advance notice in writing if they want to cancel the agreement and take the child back. Because this clearly sets expectations and is in a signed contract, parent(s) may be more likely to give the caregiver written notice.

See the sample Power of Attorney on page 21.

How Long Does the Agreement Last?

A power of attorney for parents can only last up to 24 months. After 24 months, the parents and caregiver must sign a new document for the agreement to continue. As noted earlier, a parent can take the child back at any time regardless of how long the child has lived with the caregiver. If both parents signed the agreement, either parent can end it. Caregivers who are concerned that a parent will expose the child to harm should consider other legal options described in this booklet. *See “De Facto Parentage on page 25, “Minor Guardianship” on page 29 and “Emergency Minor Guardianship” on page 36.*

Should Both of the Child’s Parents Sign the Power of Attorney for Parents?

Yes. If one parent is absent or unknown, the agreement should say so and be signed by the one present parent.

Do We Need a Lawyer to Write the Power of Attorney for Parents?

No. But if you can afford it, consider asking a family law lawyer to draft your agreement or review the document. A lawyer can help identify issues and draft an agreement that states how those issues will be handled. *See listings under “Legal Help” in the Resources section on page 87. Also consider contacting Kinship Navigators listed in the Resources section under “General Services and Supports.”*

How Do I Create a Power of Attorney for Parents?

There is a sample form on page 21. You can use it as is or you can change it to cover your specific needs.

Your agreement should be signed in front of a notary public or two witnesses over the age of 18 who are not related to the parents.

If a power of attorney cannot be signed by the parents, a handwritten letter signed by the child’s parent(s) is better than nothing. Keep the original power of attorney in a safe place and make copies for schools, doctors, etc. as needed.

Does Our Immigration Status Matter?

A power of attorney for parents can be used by anyone, regardless of their immigration status. Undocumented people will need to consider the risks when making a care plan for children. If the caregiver is deported, the child(ren) may become dependents of the State of Washington and live in foster care.

See the “Special Information for Immigrant Families” section in Chapter 3.

What about an Unwritten Agreement?

Unwritten agreements can be useful and are better than no agreement at all. But an unwritten agreement is not recognized by Washington law. A power of attorney for parents is. *See the previous section starting on page 10 for information about unwritten agreements.*

For Caregivers with Power of Attorney

Can the Child or I Receive Public Assistance or Similar Benefits?

Yes. If you have a power of attorney to care for a child, this may entitle the child and you to:

- Temporary Assistance for Needy Families (TANF);
- Food benefits;
- Medical assistance;
- Child care subsidy; and
- Child support.

If you are related to the child and you qualify, you may all be eligible for a TANF “Needy Family” Grant, as well as food benefits. If only the child qualifies, he or she may be eligible for a TANF “Non-Needy” Grant (sometimes called a “Child-Only” grant).

TANF: To apply for TANF benefits, contact the Department of Social and Health Services (DSHS). Depending on the type of grant, DSHS will consider certain income of all adults and children in your household, as well as the income of the child who is the subject of your power of attorney. You may be required to sign over your right to receive child support to DSHS.

Things to know about the Non-Needy Grant:

- Only the child’s income is considered in determining eligibility for a Non-Needy Grant.
- Your assets (home, savings, etc.) are not considered in determining eligibility for a Non-Needy Grant.
- Non-relatives and some more distant relatives must undergo a Washington State Patrol background check in order to receive a Non-Needy Grant.
- A Non-Needy Grant has no time limit.

Food benefits: See “Food Assistance” in Resources at the end of this booklet.

Medical benefits: See “Medical Assistance” in Resources at the end of this booklet.

Child care subsidy: See “Child Care and Early Learning” in Resources at the end of this booklet.

Child support: You may be able to collect child support from the parents by contacting the Division of Child Support (DCS) who can start a child support case. If you are receiving TANF benefits for the child, then the state will start this process on its own to reimburse the state for the payments being made to the child. See Resources at the end of this booklet for DCS contact information.

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No. Having a power of attorney for parents does not qualify you to receive foster parent payments. To receive such payments, you need to go through a separate licensing process through DCYF.

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Maybe. It is best to talk to a tax professional about your specific situation. Here are two tax benefits relevant to caregivers:

Dependency Exemption: If you provide over half of a child's support during the year, you may be able to take the exemption for dependents on your income taxes that year. The IRS may ask for proof that you are supporting the child, so keep receipts and a list of expenses.

Earned Income Credit: If you qualify, this credit reduces the amount of taxes you owe. If you don't owe taxes, the IRS will send you a refund check. You may be eligible if:

1. You qualify financially (if you have passive income such as interest earnings or dividend income you may not qualify for the earned income credit), **and**
2. You have at least one qualifying child living with you for more than half of a tax year. The child must be:
 - Under age 19,
 - A full-time student under age 24, or
 - Any age and permanently and totally disabled.

Check with the IRS to see if you qualify financially. *For more information about income taxes, go to WashingtonLawHelp.org.*

Can I Consent to Health Care for the Child?

A caregiver for a child may be able to consent to health care for the child even if he or she does not have a court order or if the parents are not available. *Find more information and a sample consent form in "Consent to Health Care: A Kinship Caregiver's Guide," from the Northwest Justice Project (English only). DSHS has a sample form in multiple languages, "Consent to Health Care for the Child in Your Care..." See Resources at the end of this booklet.*

Can I Get Health Insurance for the Child Through My Employer?

If coverage through the child's parent(s) or state medical benefits are not an option, you may be able to include the child on your employer's health insurance policy. Even if you can include the child on your employer's plan, you may have to pay the monthly premium. Check with your employer.

Note that the child may qualify for medical benefits from the state. *See Resources at the end of this booklet.*

Can I Take Family Leave to Care for the Child?

Maybe.

Under the Washington State Paid Family & Medical Leave Act, you might qualify for up to 12 weeks of **paid** leave. Most employees in Washington qualify, but there are specific requirements. Visit PaidLeave.wa.gov to find out if you qualify and to apply.

Under the federal Family and Medical Leave Act, you may be entitled to take up to 12 weeks of **unpaid** leave. Visit dol.gov/agencies/whd/fmla to learn more and find out if you qualify.

For more information, see also the Legal Voice publication “Family Leave Laws” listed in Resources at the end of this booklet.

Will the Child Have Inheritance Rights to My Estate?

Having a power of attorney for parents does not affect that child’s right to inherit your property. If you want a child in your care to receive any of your property when you die, the best way to guarantee this is to say so in a will. If you die without a valid will, state laws determine how your property will be distributed. Under those laws, such a child must be a blood or adopted relative to inherit from you and may have lower priority than other family members such as your spouse or your children. *For more information about wills and estate planning, see the Legal Voice publication “Handbook for Washington Seniors: Legal Rights and Resources” listed in Resources at the end of this booklet.*

Can I Name a Guardian for the Child in My Will?

No. But you can express in your will your preference for who you think should be guardian if you die or become incapacitated. Having this in your will could be helpful if the court must choose a guardian. Adoption, minor guardianship, and *de facto* parentage, also discussed in this booklet, give nonparental caregivers more legal options for planning who will care for the child if the caregiver cannot.

You may remove and use the sample Power of Attorney form on the following pages.

Power of Attorney for Parents

Sample Form

A. INFORMATION ABOUT THE CHILD(REN)

Child 1

Full name _____ Age _____

Date of birth: _____

Citizen of (list all countries): _____

The child lives with: Me (your full name) _____

Someone else (list name and address) _____

Parents on the birth certificate: _____

Other legal parent(s) (also fill out section C, below): _____

Child 2

Full name _____ Age _____

Date of birth: _____

Citizen of (list all countries): _____

The child lives with: Me (your full name) _____

Someone else (list name and address) _____

Parents on the birth certificate: _____

Other legal parent(s) (also fill out section C, below): _____

List this same information for all other children you wish to include in this power of attorney for parents (attach additional sheets if necessary):

B. INFORMATION ABOUT THE PARENT(S)

Unless they are absent or unknown, all legal parents must agree to this power of attorney for parents.

Parent 1

Full name: _____

Date of birth: _____

Residential address: _____

Mailing address (if different): _____

Primary phone number: _____

Primary email (if used regularly): _____

U.S. Citizen: Yes No

Lives in the U.S.: Yes No

Has legal custody of the following child(ren): _____

Parent 2

Full name: _____

Date of birth: _____

Residential address: _____

Mailing address (if different): _____

Primary phone number: _____

Primary email (if used regularly): _____

U.S. Citizen: Yes No

Lives in the U.S.: Yes No

Has legal custody of the following child(ren): _____

List this same information for all other legal parents of the child(ren) (attach additional sheets if necessary):

Are any parents married to each other: Yes No

If yes, which parents? _____

Do any parents live together: Yes No

If yes, which parents? _____

Parents share custody of: _____

Parents do NOT share custody of: _____

There is an official court ordered parenting plan for: _____

C. CAREGIVER(S) FOR MY CHILD(REN)

*I/We wish to designate the following person/people with a Power of Attorney to care for _____
_____ if I am/we are unable to do so:*

Full name(s) and age(s) of designated caregiver(s): _____

Relationship to the child(ren): _____

Residential address: _____

Mailing address (if different): _____

Primary phone number(s): _____

Primary email(s) (if used regularly): _____

Immigration status: _____

D. ALTERNATE CAREGIVER FOR MY CHILD(REN)

*I/We wish to designate the following ALTERNATE person with a Power of Attorney to care for _____
_____ in case the first person cannot for any period of time.*

Full name and age of alternate caregiver: _____

Relationship to the child(ren): _____

Residential address: _____

Mailing address (if different): _____

Primary phone number(s): _____

Primary email(s) (if used regularly): _____

Immigration status: _____

E. CAREGIVER(S) AUTHORITY

Think about what you want the caregiver(s) to be able to do for your child(ren).

I/we want the caregiver(s) to be able to make the following decisions regarding the care of my/our child(ren) (mark all that apply):

- To enroll my/our child(ren) in school and extracurricular activities
- To access my/our child(ren)'s school records
- To participate in parent-teacher conferences on my/our behalf
- To sign waivers and grant permission for my/our child(ren) to participate in activities
- To make medical decisions for my/our child(ren)
- To access my/our child(ren)'s medical records
- To provide for my/our child(ren)'s food, housing, recreation, and travel
- To make or approve of personal care decisions for my/our child(ren), like haircuts
- To maintain my/our child(ren)'s connection to the child(ren)'s culture/faith
- To help my/our child with financial matters (like opening a bank account)
- To help with the following property and assets linked to my/our children (like a car):

Other: _____

Parent 1: _____ **Parent 2:** _____
Print Full Name Print Full Name

Signature Date Signature Date

This document must be either notarized or signed by two witnesses who are not the named caregivers and are not related to the parents.

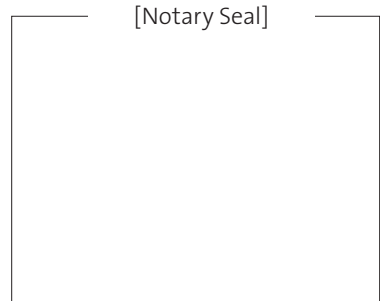
Witness 1: _____ **Witness 2:** _____
Print Full Name Print Full Name

Signature Date Signature Date

Notarial Certificate

State of Washington in the county of _____ .
This record was acknowledged before me on _____ (date)
by _____ (name of signing party).

Notary Signature Date



De Facto Parentage

Basic Information about De Facto Parentage

If someone has been like a parent to a child for a significant amount of time, that person might be a *de facto* parent with full parental rights. The person who wishes to be a *de facto* parent must file a petition with the court and prove seven requirements, listed below.

Filing a *de facto* parentage action with the court is time-consuming and can be costly. It is important to talk to an experienced family law lawyer before filing a *de facto* parentage petition. See “Legal Help” in the *Resources* section.

When Is De Facto Parentage a Good Option?

Like adoption, *de facto* parentage is a permanent, lifetime commitment. If you are a caregiver, consider carefully whether you are willing and able to make such a commitment to a child. It is your choice – the state cannot force you to become a *de facto* parent.

De facto parentage is a good option if:

- You want to have a permanent legal relationship with the child.
- You want the child to have all the legal rights and benefits parents and children have, such as the right to include the child on your employer’s health insurance, the right to your Social Security and pension benefits, and inheritance rights.

De facto parentage is **not** your best option if:

- You hope that the child will, at some point, be reunited with the birth parent(s).
- You are not willing and/or able to be the child’s parent permanently.
- You are not willing and/or able to financially support the child. (Note that many government benefits you and the child may receive would end, including the TANF Non-Needy Relative Grant and foster care payments.)

What Are the Requirements for De Facto Parentage?

You must prove to the court in your petition that all the following are most likely true:

1. You lived with the child, as a regular member of the child’s household, for a significant period of time;
2. You have been a consistent caretaker for the child;
3. You did this caretaking without any expectation of being paid in any way;
4. You held the child out as your own;
5. You established a bonded, dependent, parent-like relationship with the child;
6. The other parent supported* your parent-like relationship with the child; **and**
7. Continuing your relationship with the child is in the child’s best interest.

*The term “supported” has been interpreted by the court to mean both active and passive support. Therefore, if the parent did and said nothing to discourage your relationship with the child, that may be enough to satisfy this requirement. Also, note this does not mean the other parent must agree to the *de facto* parentage petition. See “Do the Other Parents Have to Agree?” on page 27.

When Is *De Facto* Parentage Not a Good Option?

Caregivers who cannot prove all seven requirements above might need to consider other options, such as minor guardianship. See “Minor Guardianship” on page 29. If there are safety issues and the child is at risk of harm, consider asking the court for emergency minor guardianship. See “Emergency Minor Guardianship” on page 36.

De facto parentage is NOT an option if the child has already turned 18. It is also not an option if the child is deceased.

Will there Be a Court Hearing?

There may or may not be a hearing to decide your *de facto* parentage petition. If there is a hearing, the court must expedite it (schedule it to occur soon).

Does the Child Have the Right to a Court-Appointed Lawyer?

No.

What If Someone Involved Is an Immigrant?

See the “Special Information for Immigrant Families” section in Chapter 3.

Are *De Facto* Parents Eligible for State and Federal Benefits?

Being a *de facto* parent grants the same rights and benefits as being an adoptive parent.

State benefits: You may be able to receive a Temporary Assistance for Needy Families (TANF) “Needy Family” Grant, plus food benefits and other benefits, if your family is financially eligible. TANF “Needy Family” Grants are usually given for a maximum lifetime period of 60 months (5 years).

If you were caring for the child before and were receiving a TANF “Non-Needy” Grant or child support payments, these will end when the *de facto* parentage is final. (Time spent receiving a TANF “Non-Needy” Grant will not count against the 60 months of “Needy Family” TANF benefits.)

Social Security benefits: The child may qualify for Social Security benefits as a “dependent child” based on your individual work records if:

- The child is not receiving Social Security benefits from the other parent(s), **and**
- You have already been deemed *de facto* parent to the child at the time one of you dies or becomes disabled, **and**
- When that death or disability occurs, the child’s other parent(s) was not living in the same household and contributing regularly to the support of the child.

Can I Get Income Tax Benefits?

Yes.

Dependency Exemption: As the *de facto* parent, you are entitled to claim the child as a dependent and take the dependency exemption on your income taxes.

Earned Income Credit: If you qualify, this credit reduces the amount of taxes you owe. If you don't owe taxes, the IRS will send you a refund check. You may be eligible if:

1. You qualify financially (if you have passive income such as interest earnings or dividend income you may not qualify for the earned income credit), **and**
2. You have at least one qualifying child living with you for more than half of a tax year. The child must be:
 - Under age 19,
 - A full-time student under age 24, or
 - Any age and permanently and totally disabled.

Check with the IRS to see if you qualify financially. *For more information about income taxes, go to WashingtonLawHelp.org.*

If the Child Has Other Legal Parent(s)

Can the Child Have More than Two Legal Parents?

Yes. In Washington State, a child can have more than two legal parents. Stepparents, grandparents, and others have been able to gain parental rights as *de facto* parents.

Do the Other Parents Have to Agree?

No. The court can grant a *de facto* parentage petition even if the other legal parents disagree.

What Rights Do Parents Have in a *De Facto* Parentage Case?

Parents do not have the right to a lawyer like they do with other petitions regarding the child, like Minor Guardianship. But legal parents do have the right to be served (officially notified with a copy of the petition) and respond.

Does the Court Decide Custody and Visitation at the Same Time?

No. The court must first grant the petition for *de facto* parentage. Then the parents must go back to court to work out custody and visitation in a parenting plan. If all parents agree, the judge will usually approve the proposed parenting plan. If there is disagreement, there will be a hearing or trial. If the other parent(s) miss the hearing or trial, the judge will usually approve the proposed parenting plan by default. See WashingtonLawHelp.org for information on parenting plans.

If there Is a Dependency Action Pending

Dependency actions are court proceedings in which the court is asked to determine if a child:

- Has been abandoned, abused, or neglected,
- Has no parent, guardian, or custodian capable of adequately caring for the child, or
- Is in danger of substantial psychological or physical damage.

If a dependency action has been started for the child, the court must give permission to file a separate *de facto* parentage action. *For more discussion of dependency, see Chapter 2.*

Minor Guardianship

(Formerly known as Nonparental Custody)

Basic Information about Minor Guardianship

What Is Minor Guardianship?

It is a legal relationship between a child and an adult caregiver. It is set up by the court, like a parenting plan. Minor guardianship gives the caregiver legal custody of the child and the right to make decisions about the child's care and upbringing.

What about Nonparental Custody?

"Nonparental custody" was a similar legal relationship available to caregivers before 2020. It is no longer an option in Washington State. Those who need something like nonparental custody must now set up a minor guardianship.

Existing nonparental custody court orders are still valid. Caregivers and parents who want to change final nonparental custody orders must do so under the new minor guardianship law.

How Does a Caregiver Get Minor Guardianship?

Anyone can ask the court to appoint (choose) a guardian for a child, including the child themselves. To begin a case, there are court forms that must be filled out and filed in Superior Court. *See "Setting Up a Minor Guardianship" on page 33.*

Who Can Become a Minor Guardian?

Any adult 18 or older with an interest in the welfare of the child may ask the court for minor guardianship. Many minor guardians are grandparents or other close relatives.

What If I Am or the Child or Parent Is an Immigrant?

Immigrant caregivers can become guardians, regardless of immigration status. *See the "Special Information for Immigrant Families" section in Chapter 3.*

Why Set Up a Minor Guardianship?

Minor guardianship sets a clear, long-term plan for the child's care. It can include agreements about where the child will live, a visitation schedule, and child support.

Minor guardianship is a good option for:

- Children who need a long-term plan for their care and whose parents are absent or not providing basic care for the child.

- Caregivers who do not qualify as *de facto* parents and can't or don't want to adopt the child. (This is a common situation for caregivers who hope the child can one day be reunited with the parents.)
- Parents who wish to give legal custody to a caregiver but keep legal rights to the child, like the right to visitation. Parents should know, however, that getting custody back can be very difficult. See "*Can my Minor Guardianship Later be Changed?*" on page 32.

Minor guardianship is the only option when:

- The child needs a long-term care plan,
- The child is not subject to a dependency action,
- Parents won't agree to adoption, **and**
- The caregiver doesn't qualify as a *de facto* parent.

Adoption almost always requires consent of the parents. Some parents may be against adoption but willing to agree to a minor guardianship. *De facto* parentage can give a caregiver all the rights as a parent, but not all caregivers qualify. See "*De Facto Parentage*" on page 25 and "*Basic Information about Adoption*" on page 40.

When Is Minor Guardianship Not a Good Option?

Minor guardianship may not be an option if the child is subject to a dependency case (see next question below).

Minor guardianship may not be the best option if the caregiver wants permanent parental rights that the birth parents cannot change later. Adoption and *de facto* parentage are two ways to secure permanent parental rights to the child. See "*De Facto Parentage*" on page 25 and "*Basic Information about Adoption*" on page 40.

What If there Is a Dependency Case?

Dependency cases involve allegations of neglect or abuse. The court is asked to determine if a child has been abandoned, abused, or neglected; has no parent, guardian, or custodian capable of adequately caring for the child; or is in danger of serious psychological or physical harm. *If a dependency action has been started for the child, see Chapter 2.*

How Is This Different from Chapter 13.36 Guardianship?

The main differences are procedural. For example, a Chapter 13.36 Guardianship can only be created for a child who is already subject to a dependency case. *If a dependency action has been started for the child, see Chapter 2.*

Does Minor Guardianship Terminate the Parents' Rights?

No. Parents can return to court and ask for the minor guardianship to be changed and can possibly get custody back. Only adoption or a termination of parental rights case brought by the state can terminate the parent's rights to the child.

What Does a Minor Guardianship Order Include?

If the court grants minor guardianship, it will create a written order outlining rights and responsibilities. The order can include:

- **Custody:** It will grant the caregiver custody of the child. The child will live with the caregiver, who will have all the rights and responsibilities of a parent regarding the child's support, care, education, and health.
- **Child support and health insurance:** The order can require one or both of the child's parents to pay child support and/or provide health coverage for the child.
- **Visitation:** It can set up a visitation schedule that allows one or both parents to visit the child. It can also set conditions on visitation, such as requiring that another person be present to supervise. If a parent wants visitation, the court will generally allow it unless it would be harmful for the child.

Can It Include a Protection Order?

No. If needed, caregivers can file a separate Domestic Violence Protection Order case to prohibit a parent from visiting, contacting, or harassing the caregiver or the child. Visit WashingtonLawHelp.org for information about protection orders.

How Long Does It Take to Set Up a Minor Guardianship?

Minor guardianships can take many months to set up, sometimes more than a year. If the child is at risk of harm, consider asking the court for emergency minor guardianship. See "What is Emergency Minor Guardianship?" on page 36.

Where Will the Child Live During the Minor Guardianship Case?

It depends on the situation. Several court orders could affect where the child lives: an immediate emergency minor guardianship order (described later in this section); a domestic violence protection order between the parents; a parenting plan/residential schedule between the parents; or a shelter care order or dependency order. And of course, if a parent's parental rights have been terminated, that parent has no right to custody or visits with the child.

If none of these orders exist, then the parent has the right to keep or reclaim the child at any time.

How Long Can a Caregiver Have Minor Guardianship?

Until the child turns 18 years old. Once the court approves the guardianship, the clerk of the court will issue Letters of Guardianship stating that the caregiver is guardian until the child turns 18. Guardianship also terminates if the child dies, is adopted, or is emancipated. It is not easy to make changes to a final order. Minor guardianship is considered a permanent plan in a dependency action. For more discussion of dependency, see Chapter 2 of this booklet.

Do Lawyers Need to Be Involved?

It is possible to do this without a lawyer, but the legal process is complicated. All parties have the right to hire a lawyer. Parents who disagree and are low-income have the right to ask for a free, court-appointed lawyer.

Caregivers should consider meeting with a lawyer, especially if the parents disagree with the guardianship. The court may appoint a free lawyer for a child 12 years old or older. *See “Do Children Participate in Minor Guardianship Cases?” below.*

Some lawyers accept payment plans or offer reduced fees. Some lawyers offer unbundled legal services (also known as limited representation). In unbundled legal services, you can keep costs lower by doing some of the legal work and research yourself. For example, you could complete all the documents for the case but have the lawyer review them to make sure they are complete. You could have the lawyer complete all the documents and you go to court on your own. Or you could hire the lawyer to represent you for just one or more court hearings.

Another option is mediation. Mediation can help the parties reach an agreement without having an expensive trial. In mediation, a skilled mediator works with both sides to try to help them come up with their own solution to the problem.

For more information about finding legal help as well as forms and instructions for how to file the petition yourself, see listings under “Free Publications” and “Legal Help” in Resources at the end of this booklet.

Also consider contacting Kinship Navigators listed in the Resources section under “General Services and Supports.”

Do Children Participate in Minor Guardianship Cases?

Yes. Children have several legal rights in minor guardianship cases. Here is a summary of those rights.

- Children have the right to file their own minor guardianship case and ask for a guardian.
- If the child is 12 or older, they have the right to be notified about the case. A caregiver can ask the court to keep the child from seeing documents.
- If the child is 12 or older, the court must appoint a court visitor. The court visitor meets with the child to explain the child’s rights and to find out the child’s views about the guardianship.
- The court may, but is not required to, appoint a free lawyer for a child 12 or older who requests one. The court may also appoint a lawyer for a child if a guardian ad litem recommends one or if the court decides the child needs one. *See “What is a Guardian Ad Litem?” on page 35.*
- Children have the right to attend and participate in minor guardianship hearings. The court can exclude children from the hearing if the minor lacks the maturity to participate or attendance would be harmful to the child.

See “I am age 12–16. What are my rights in a Minor Guardianship Case?” by the Northwest Justice Project, listed under “Free Publications” in the Resources section.

Can a Minor Guardianship Order Later Be Changed?

Yes, the minor guardianship order can be “modified” (changed), such as changes to visitation, decision-making, or access to records, etc. It can also be terminated (ended). It is difficult to do this if the guardian disagrees. A petition must be filed in court that explains the changes. *See “Changing or Terminating a Minor Guardianship” later in this section.*

Setting Up a Minor Guardianship

Does Anyone Have the Right to a Free Lawyer in a Minor Guardianship Case?

Yes. Parents who qualify as low-income and disagree with the guardianship have the right to a court-appointed free lawyer. Parents must file a form called “Motion to Appoint a Lawyer” to request a free lawyer.

The child may also qualify for a free lawyer (*see “Do Children Participate in Minor Guardianship Cases?” on page 32*).

Caregivers do not have the right to a free lawyer.

How Is a Minor Guardianship Case Started?

Anyone can ask the court to appoint (choose) a guardian for a child, including the child themselves. The person who files the case is called the “petitioner.” Petitioners are often the child’s caregiver.

To begin the case, there are many court forms to be filled out and filed in Superior Court. The caregiver must submit a declaration (a sworn statement) about the child’s circumstances. Evidence, such as declarations from other people, police reports, and the child’s records (medical, school, CPS), can be attached to the declaration. The parents (and others) must be notified (see next question).

The court will decide whether to appoint a guardian or not, and who that guardian will be. *See “File a Minor Guardianship Petition” by the Northwest Justice Project, listed under “Free Publications” in the Resources section.*

Who Must Be Notified about a Minor Guardianship Case?

The person who files the case must notify many people by giving them copies of the filed court forms and documents. This is called “service.” *For information on how to serve someone, see “How to Serve the Other Party in a Family Law Case” by the Northwest Justice Project, listed under “Free Publications” in the Resources section.*

Certain people have the right to be served in-person (other methods are sometimes allowed with the court’s permission):

- Parents, even if the parents aren’t involved in the child’s life. If the caregiver doesn’t know where the parent lives, the court will appoint a court visitor to help locate the parent.
- The child if the child is 12 years old or older. (A caregiver can ask the court to keep the child from seeing documents.)
- Any other guardian of the child or person with nonparental custody.

Grandparents and adult siblings of the child must also be served but it does not have to be in-person service. They can be served by mail or another reasonable way.

What Happens Next?

Once notified, the parent(s) can either:

- **Fight the petition:** If one or both of the child’s parents fight the petition, there will be a trial. *See “What if the Parents Disagree with the Minor Guardianship?” below.*
- **Agree to the petition:** If the parents agree and the caregiver does not have a troubling criminal or CPS history, the court is likely to grant the minor guardianship. The petition does not need to include reasons or evidence for why the guardianship is needed. If those details are left out, it will likely be easier for a parent to change the order and get custody back later. *See “Can My Minor Guardianship Order Later Be Changed?” on page 32.*
- **Fail to respond:** If either parent fails to respond, the court will issue a “default” judgment against him or her. A default judgment is a court order issued against someone who does not appear in court, usually in favor of the party that has appeared.

What If a Parent Disagrees with the Minor Guardianship?

If there is disagreement, the case will go to trial. At trial, a caregiver can present evidence, testimony from witnesses, and provide other documents. Parents, in their written responses and at trial, present their own evidence and witnesses. The court will also consider other information.

If you are a parent and disagree with the guardianship, you must respond in writing and on time. If you don’t respond on time, you may lose the case by default. This means the court will make its decision about the guardianship without considering your objections. “Responding” means filing a court form stating your objections and serving a copy of that form to the person who filed the case. Look for the “Summons” and the “Notice of Hearing” in the paperwork you were served. The Summons will include the deadline to file a response. The Notice of Hearing explains what form to use for the response. Parents who disagree should get legal help. Parents who qualify as low-income can file a form called “Motion to Appoint a Lawyer” to request a free lawyer.

If you are the caregiver seeking guardianship, you will have to prove that the guardianship is in the best interests of the child and there is “clear and convincing evidence” (very strong evidence) that the child’s parents are unwilling or unable to care for the child. It is not enough for the caregiver to show that they are better at parenting or that they can provide a better home environment. The caregiver must also:

- Get copies of Washington State Patrol criminal records for all adults living in the household and file the records with the court.
- Complete online guardianship training and submit a form to the court stating they completed the training.

The court will:

1. Get records for all adults in the intended guardian’s household. The CPS records are sealed, but the judge will review them.
2. Review its judicial database for information relevant to the case.
3. Determine whether the Indian Child Welfare Act (ICWA) applies to the case. *See the “Indian Child Welfare Act” section in Chapter 3 for more information about this federal law.* If the ICWA applies, the superior court may transfer the case to the appropriate juvenile court or tribal court if requested by the tribe. If the matter is transferred to juvenile court, the caregiver will need to file a private dependency action. The ICWA is complicated, so consider hiring a lawyer.

What Is a Guardian Ad Litem (GAL)?

A guardian ad litem (GAL) is a person appointed by the court to represent the best interests of a child in court proceedings. The GAL must be a neutral party and cannot be the caregiver for the child.

There are two types of GAL: a Court Appointed Special Advocate (CASA), who is a volunteer, and a private GAL, who is often (but not always) a lawyer paid for by the person seeking custody. GALs conduct investigations and make reports to the court.

Any party who thinks the child's interests are not being represented in court may ask the court to appoint a GAL, or the court may appoint one on its own. You may submit names of appropriate GALs to the court. If you have filed the lawsuit or are directly involved in the case, you have a right to know the training and background of the appointed GAL and may request this information.

Changing or Terminating a Minor Guardianship

Changing the Guardianship: Parents, children, and guardians may ask the court to modify the guardianship order.

- If parents and guardians *agree* to the change, they can proceed with the new agreement at any time. They can get the changes formally approved by the court, but they don't have to. *Important:* The changes must be approved by the court to be legally enforceable.
- If parents and guardians *disagree*, the person who wants the change can file a petition in court.

Changing Child Support Provisions: Either the guardian, the child's parents, or the Division of Child Support can request modification of child support provisions. In deciding whether to change child support, a court will consider:

1. A change in the guardian's financial situation,
2. A change in the parents' financial situation,
3. The length of time since the previous order, *and*
4. A change in the child's needs or age.

The Division of Child Support may be able to help you request modification of the child support provision. If the agency cannot help you, and/or the other parties do not agree to the change, then you will need to go to court.

Terminating the Guardianship: A court will terminate the guardianship if the original reasons for the minor guardianship no longer exist, *unless* it finds that:

1. Termination of the guardianship would be harmful to the child, **and**
2. The child's interest in continuing the guardianship outweighs the parent's interests in ending it.

Emergency Minor Guardianship

What Is Emergency Minor Guardianship?

If a child is at risk of harm, a regular minor guardianship case may not be fast enough to protect the child. A regular minor guardianship case can take many months, sometimes a year or more. Emergency minor guardianship, however, takes about two weeks. It is allowed only in certain situations.

Who Can File for Emergency Minor Guardianship?

Any adult 18 or older with an interest in the welfare of the child may ask the court for emergency minor guardianship. Many emergency minor guardians are grandparents or other close relatives.

What Is the Process to Get an Emergency Minor Guardianship?

Emergency minor guardianship can be filed on its own or as a motion within a regular minor guardianship case. The caregiver's criminal history and state CPS records will be examined. The judicial database will be checked for information relevant to the case. The parents must be notified and have the right to respond. *For instructions and forms, see "File an Emergency Minor Guardianship Petition" by the Northwest Justice Project, listed under "Free Publications" in the Resources section.*

Once emergency minor guardianship forms are filed, the court schedules a hearing about two weeks later. At the hearing, a judge will look at the evidence and make a decision. The court may grant the emergency minor guardianship if it would prevent substantial harm to the child's health, safety, and welfare, and no other person appears to have authority, ability, and willingness to act.

What If the Child Is at Risk of Immediate Harm?

If the child is at risk of harm, two weeks may be too long to wait for a court decision. Sometimes, just notifying the parents about the case can put the child at risk of harm. Caregivers can ask the court for an *immediate emergency guardianship and restraining order*. It must be filed along with the emergency minor guardianship court forms. If granted, the caregiver will have temporary emergency guardianship on the same day the case is filed, without the parents being notified first. The parents must then be notified with a copy of the order within 48 hours and the emergency minor guardianship case will proceed as described in this section. *Instructions and forms for an immediate emergency guardianship and restraining order are included in "File an Emergency Minor Guardianship Petition" by the Northwest Justice Project, listed under "Free Publications" in the Resources section.*

Where Will the Child Live During the Emergency Minor Guardianship Case?

Unless an immediate emergency guardianship has been filed (described above) then the parent has the right to keep or reclaim the child at any time until the emergency guardian is appointed.

What If a Parent Disagrees with the Emergency Minor Guardianship?

Parents who object to emergency minor guardianships can file a response in the case and appear at all hearings. If it is brought by motion in a regular minor guardianship case, parents who qualify as low-income can file a form called "Motion to Appoint a Lawyer" to request a free lawyer. It is highly recommended that parents who disagree get legal help. Parents who do not participate in the case risk being in default for not showing up. Default means the court may grant the caregiver everything they want including custody of the child.

How Long Do Emergency Minor Guardianships Last?

Emergency minor guardianships last for 60 days, which is not enough time in most situations. Extensions don't happen automatically. Caregivers who need extensions must request them from the court. Parents can object to extensions.

If a caregiver also files a regular minor guardianship case, the court may extend the emergency minor guardianship through the trial in that case. If a caregiver does not file for regular minor guardianship, the emergency minor guardianship must end after 120 days.

When You Have Minor Guardianship

Can the Child or I Receive Public Assistance or Similar Benefits?

Yes. If you have guardianship of a child, this may entitle the child and you to:

- Temporary Assistance for Needy Families (TANF);
- Medical assistance;
- Food benefits;
- Child care subsidy;
- Child support; and
- Social Security benefits.

If you are related to the child and you qualify, you may all be eligible for a TANF "Needy Family" Grant, as well as food benefits. If only the child qualifies, he or she may be eligible for a TANF "Non-Needy" Grant.

TANF: To apply for TANF benefits, contact the Department of Social and Health Services (DSHS). Depending on the type of grant, DSHS will consider certain income of all adults and children in your household, as well as the income of the child who is the subject of your guardianship. You may be required to sign over your right to receive child support to DSHS.

Things to know about the Non-Needy Grant:

- Only the child's income is considered in determining eligibility for a Non-Needy Grant.
- Your assets (home, savings, etc.) are not considered in determining eligibility for a Non-Needy Grant.
- Non-relatives and some more distant relatives must undergo a Washington State Patrol background check in order to receive a Non-Needy Grant.
- A Non-Needy Grant has no time limit.

Food benefits: See *"Food Assistance" in Resources at the end of this booklet.*

Medical benefits: See *"Medical Assistance" in Resources at the end of this booklet.*

Child care subsidy: See *"Child Care and Early Learning" in Resources at the end of this booklet.*

Child support: Parents may be required to provide some amount of child support for a child, depending on the parents' income and the child's age. The court may attribute income to a parent for the purposes of determining child support, even if that parent is unemployed. In addition, the parent will be required

to provide the child's medical coverage if it is available through the parent's employer at low or moderate cost. The court will not consider the caregiver's income when calculating child support.

Social Security benefits: The child may be eligible to receive Social Security benefits (such as survivor, disability, or retirement benefits) through their parents' or grandparents' work record. As the non-parent caregiver, you can apply for these benefits on behalf of the child. *See Resources at the end of this booklet.*

Can We Get Foster Parent Payments from the State?

No. Having minor guardianship does not qualify you to receive foster parent payments. To receive such payments, you need to go through a separate licensing process through DCYF.

Can I Get Income Tax Benefits?

Maybe. It is best to talk to a tax professional about your specific situation. Here are two tax benefits relevant to caregivers with minor guardianship:

Dependency Exemption: If you are providing over half of the child's support, the minor guardianship court order should specifically state that you are entitled to claim the child as a dependent. Even if it doesn't, you may still be able to take the exemption. The IRS may ask for proof that you are supporting the child, so keep receipts and a list of expenses.

Earned Income Credit: If you qualify, this credit reduces the amount of taxes you owe. If you don't owe taxes, the IRS will send you a refund check. You may be eligible if:

1. You qualify financially (if you have passive income such as interest earnings or dividend income you may not qualify for the earned income credit), **and**
2. You have at least one qualifying child living with you for more than half of a tax year. The child must be:
 - Under age 19,
 - A full-time student under age 24, or
 - Any age and permanently and totally disabled.

Check with the IRS to see if you qualify financially. *For more information about income taxes, go to WashingtonLawHelp.org.*

Will the Child Have Inheritance Rights to My Estate?

Having legal guardianship of a child does not affect that child's right to inherit your property. If you want a child in your care to receive any of your property when you die, the best way to guarantee this is to say so in a will. If you die without a valid will, state laws determine how your property will be distributed. Under those laws, such a child must be a blood or adopted relative to inherit from you and may have a lower priority than other family members such as your spouse or your children. *For more information about wills and estate planning, see the Legal Voice publication "Handbook for Washington Seniors: Legal Rights and Resources" listed in Resources at the end of this booklet.*

Can I Get Health Insurance for the Child Through My Employer?

If there is a child support order, the parent(s) may be required to provide medical insurance for the child. If insurance is available through the parent(s), you may request that the parent(s) or the Division of Child Support buy coverage for the child.

If coverage through the child's parent(s) or state medical benefits are not an option, you may be able to include the child on your employer's health insurance policy. Even if you can include the child on your employer's plan, you may have to pay the monthly premium. Check with your employer.

Note that the child may qualify for medical benefits from the state. *See Resources at the end of this booklet.*

Can I Take Family Leave to Care for the Child?

Maybe.

Under the Washington State Paid Family & Medical Leave Act, you might qualify for up to 12 weeks of **paid** leave. Most employees in Washington qualify, but there are specific requirements. Visit PaidLeave.wa.gov to find out if you qualify and to apply.

Under the federal Family and Medical Leave Act, you may be entitled to take up to 12 weeks of **unpaid** leave. Visit dol.gov/agencies/whd/fmla to learn more and find out if you qualify.

For more information, see also the Legal Voice publication "Family Leave Laws" listed in Resources at the end of this booklet.

Successor Guardianship

What Is Successor Guardianship?

A successor guardianship is one way to plan for a child's care in case something happens to the current guardian that will keep them from caring for the child for a significant period of time, such as serious illness or deportation. The court must appoint the successor guardian. Any person interested in the welfare of a child, including the child themselves, the current guardian, or someone else, may petition the court for a successor guardian to be appointed. The court can appoint a successor guardian to take effect immediately or when a designated event occurs.

Can I Name a Successor Guardian for the Child in My Will?

No. But you can express in your will your preference for who you think should be the successor guardian if you die or become incapacitated. Having this in your will could be helpful if the court must choose another guardian.

Adoption

Basic Information About Adoption

What Is an Adoption?

Adoption is a legal process that creates a parent-child relationship. Once a child is adopted, that child has the same legal rights as a birth child – the right to support, inheritance, etc. Likewise, an adoptive parent has the same legal duties as a birth parent to care for and raise the child.

Adoption also usually involves the final and complete termination (ending) of the parental rights and duties of the child's birth parents (except in some cases of "open adoption" discussed later in this section). Although all legal rights and duties between the child and birth parents end, it is possible for a relationship between the birth parents and child to continue. Arrangements can be made between the adoptive parent(s), birth parent(s), and child to continue a relationship if they choose.

Who May Adopt?

Any person age 18 or older who is legally competent may be an adoptive parent. Both single individuals and married couples can seek to adopt. If a couple is married, both spouses must agree to the adoption – one member of a married couple may not adopt alone.

Who May Be Adopted?

Any person may be adopted at any age. If you are adopting across national borders, special rules may apply depending on the countries involved. If you are seeking to adopt an American Indian/Alaska Native child, special rules will apply. *See the "Indian Child Welfare Act" section in Chapter 3.*

What If I Am or the Child or Parent Is an Immigrant?

See the "Special Information for Immigrant Families" section in Chapter 3.

How Does an Adoption Work?

Adoption is a complex legal process. Here are the basic steps.

- The adoptive parent(s) must be investigated and must show that they will be fit parent(s). A social worker, approved court employee, or DCYF staff member handles the investigation and files a report with the court. This report is called a "home study" or "pre-placement report." A second report called a "post-placement report" is required after the child has been placed in the adoptive home.
- The parental rights of the child's birth parents must be terminated. The usual method is to have the birth parents consent to the adoption in writing. The court must then decide if the consent is valid. If the court finds that the consent is valid and that termination is in the best interest of the child, it will terminate the birth parents' rights. If one or both parents do not consent, the person seeking to adopt will have to get the court to order termination of parental rights (discussed later

in this section). If the child is involved in a dependency case because of parental neglect or abuse, the parent(s)' rights may be terminated in that proceeding with or without their consent.

- If the court determines that the parental consents are valid, then the court must determine that the adoption is in the child's best interest. The court considers the investigative reports and information presented at a hearing. If the court finds that the adoption is in the child's best interest, it will issue a decree of adoption. The decree makes the adoption final.
- If the child is (or may be) American Indian/Alaska Native, the Indian Child Welfare Act may apply. If you have any information that the child is or may be eligible for membership in a tribe, you should immediately notify your lawyer, DCYF, or the case investigator. *See the "Indian Child Welfare Act" section in Chapter 3.*

When Is Adoption an Appropriate Choice?

Adopting a child is a permanent, lifetime commitment. Consider carefully whether you *want to* and are *able to* make such a commitment to a child. It is your choice – the state cannot force you to adopt any child, not even your grandchild.

Adoption is your best option if:

- You want to take complete and permanent responsibility for the child.
- You do not want the child's birth parent(s) to be able to legally interfere. (You may choose to allow the child's birth parents to stay involved through visits or other contact, but you do not have to.)
- You want the child to be entitled to all the benefits of a birth child, such as any health insurance coverage through your employer, if possible (discussed later in this section); the right to your Social Security and pension benefits if you die; and inheritance rights if you die without a valid will.

Adoption is **not** your best option if:

- You hope that the child will, at some point, be reunited with his or her birth parent(s).
- You feel willing and able to care for the child only temporarily.
- You are not willing or able to financially support the child. Know that, once adopted, many government benefits you and the child may receive, including the TANF Non-Needy Relative Grant and foster care payments, will end (discussed later in this section).

What Is an "Open Adoption"?

In some cases, the parties in an adoption want the child's birth parent(s) to keep the legal right to have visitation or other contact (telephone calls, letters, etc.) with the child after the adoption. They may then seek an "open adoption." An open adoption can occur only if both the birth parent(s) and adoptive parent(s) voluntarily enter into a written agreement. If the child has a lawyer or guardian ad litem, that person must also approve the agreement. DCYF must also approve the agreement if the state has custody of the child. And finally, the agreement is enforceable only if it is approved by the court, which will do so only if it finds that the agreement is in the child's best interest.

What If One or Both of the Child’s Parents Will Not Consent to an Adoption?

If one or both parents will not consent to an adoption, there can be no “open adoption.” In rare circumstances, however, you can ask the court to terminate the rights of the parent who does not consent. To do so, you must prove:

1. It is in the child’s best interest to terminate the relationship between the parent and child;
2. The parent has shown a “substantial lack of regard” for his or her parental obligations; **and**
3. The parent is withholding consent to the adoption against the child’s best interests.

For private adoptions (adoptions that do not involve a dependency case), it is not clear under Washington law whether it is possible to terminate the parental rights of both parents who do not consent to the adoption. Generally, private adoptions are done with at least one parent consenting. An adoption lawyer can advise you if you need to terminate the parental rights of one or both parents.

Do I Need a Lawyer for an Adoption?

Yes. It is best to get a lawyer with experience handling adoptions. The adoption process is complicated and technical requirements must be strictly followed. If you want to adopt a child and the parents agree to the adoption, the lawyer’s fees and costs (home study fees, filing fees, etc.) may range from \$1,000 to \$4,000 or more. If only one parent agrees and you must prove that the other parent’s rights should be terminated, the fees and costs will be substantially higher. Feel free to ask a lawyer about the possibility of a payment plan, a reduced fee, or unbundled legal assistance. *See “Preparing to See a Lawyer” on page 74.*

If DCYF is providing some of the adoption services (e.g. a pre-placement report), you may be able to get them on a reduced-fee basis. If the child has special needs, as defined by the state, you may also be eligible for reimbursement from DCYF of some adoption expenses, including legal fees, court costs, and travel costs. You must apply for adoption assistance before you adopt the child.

When You Have Adopted the Child

Can the Child or I Receive Public Assistance and Similar Benefits?

State benefits: Once you adopt a child, your eligibility for state benefits may change:

- You may be able to receive a Temporary Assistance for Needy Families (TANF) “Needy Family” Grant, plus food benefits and other benefits, if your family is financially eligible. TANF “Needy Family” Grants are usually given for a maximum lifetime period of 60 months (5 years).
- If you were caring for the child before the adoption and were receiving a TANF “Non-Needy” Grant, foster care payments, or child support payments, these will end when the adoption is final. (Time spent receiving a TANF “Non-Needy” Grant will not count against the 60 months of “Needy Family” TANF benefits.)
- With few exceptions, medical benefits and other benefits from the government will also end unless your family continues to be financially eligible.

Social Security benefits: If you and your spouse, or you alone, adopt the child, that child may qualify for Social Security benefits as a “dependent child” based on your individual work records if:

1. The child is not receiving Social Security benefits from the parents, **and**
2. You have already adopted the child at the time one of you dies or becomes disabled, **and**
3. When that death or disability occurs, the child’s birth parent was not living in the same household and contributing regularly to the support of the child.

Can I Get Income Tax Benefits?

Yes.

Dependency Exemption: As the adoptive parent(s), you are entitled to claim the child as a dependent and take the dependency exemption on your income taxes.

Earned Income Credit: If you qualify, this credit reduces the amount of taxes you owe. If you don’t owe taxes, the IRS will send you a refund check. You may be eligible if:

1. You qualify financially (if you have passive income such as interest earnings or dividend income you may not qualify for the earned income credit), **and**
2. You have at least one qualifying child living with you for more than half of a tax year. The child must be:
 - Under age 19,
 - A full-time student under age 24, or
 - Any age and permanently and totally disabled.

Check with the IRS to see if you qualify financially. *For more information about income taxes, go to WashingtonLawHelp.org.*

Will the Child Have Inheritance Rights to My Estate?

Once a child is adopted, he or she has the same inheritance rights as a biological child. If you want your adopted child to receive any of your property when you die, the best way to guarantee this is to say so in a will. If you die without a will, state laws determine how your property will be distributed. Under those laws, your adopted child will have lower priority than your spouse. In addition to inheriting property from you, an adopted child may also be able to receive federal Social Security or pension benefits if you die or become disabled while the child is a minor. *For more information about wills and estate planning, see the Legal Voice publication “Handbook for Washington Seniors: Legal Rights and Resources” listed in Resources at the end of this booklet.*

Can I Get Health Insurance for the Child Through My Employer?

Once the child is adopted, she or he is eligible for any family health insurance benefits offered by your employer. Even if you can include the child on your employer’s plan, you may have to pay the monthly premium. Check with your employer.

Note that the child may qualify for medical benefits from the state. *See Resources at the end of this booklet.*

Can I Take Family Leave to Care for the Child?

Maybe.

Under the Washington State Paid Family & Medical Leave Act, you might qualify for up to 12 weeks of **paid** leave. Most employees in Washington qualify, but there are specific requirements. Visit PaidLeave.wa.gov to find out if you qualify and to apply.

Under the federal Family and Medical Leave Act, you may be entitled to take up to 12 weeks of **unpaid** leave. Visit dol.gov/agencies/whd/fmla to learn more and find out if you qualify.

For more information, see also the Legal Voice publication “Family Leave Laws” listed in Resources at the end of this booklet.

Can I Name a Guardian for the Child in My Will?

Yes. You may also name a standby guardian to take over if you become disabled. *See “What If I Want to Make a Plan for My Kids, Just in Case?” on page 15.*



Chapter 2

Legal Options When the State Has Filed a Dependency Action

- A Brief Summary of Dependency Actions
- Relative Placement in a Dependency Case
- Chapter 13.36 Guardianship
- Adoption and Minor Guardianship in Dependency Actions
- Juvenile Court Dependency Proceedings Chart

A Brief Summary of Dependency Actions

Introduction

Generally, the government does not interfere in family matters. However, the law does allow the government to step in to protect a child from harm or neglect within the family. This is called a “dependency action.” Here’s how a dependency action works.

What Is a “Dependent Child”?

A “dependent child” is a child who:

- Has been abandoned by her or his parent, guardian, or other custodian;
- Has been abused or neglected by a person legally responsible for the care of the child;
- Has no parent, guardian or custodian able to adequately care for the child, creating a danger of substantial damage to the child’s psychological or physical development; or
- Is receiving extended foster care services.

Who Can File a Dependency Action?

Anyone may file a dependency action in Juvenile Court if there is information proving that a child is a “dependent child” as defined above. Most dependency cases, however, are filed by the Washington State Department of Children, Youth and Families (DCYF). If the child is found to be a dependent child, the court may order DCYF to provide the parents with services to address their parenting issues, and the child may be removed from the home.

This is a complicated action. If you file such an action, it is strongly recommended that you work with a lawyer.

Where Will the Child Live During the Dependency?

In cases where the child is in danger, DCYF may place the child in temporary “shelter” care. This can be in state foster care, with a relative (any blood or half-blood relative in the extended family, including those related by adoption or step-relationships, but excluding step-grandparents), or another “suitable” person (someone with a tie to either the parent(s) or the child). Whoever provides care for the child during dependency must pass required background checks and be competent to care for the child.

Important: At this stage in the process, DCYF will only consider placing the child with relatives or suitable others who live in Washington State. Non-parent relatives who live out of state who wish to be considered as a potential placement must go through an application process known as the Interstate Compact on the Placement of Children (ICPC), which can take several months to complete. If you are a non-parent relative living out of state, contact the DCYF social worker and/or the lawyer for the parent(s) *immediately* and ask about starting the ICPC process.

Are There Other Ways a Child Can Be Removed from the Parent(s)?

A child can also be removed from his or her parent(s) in other ways without court action. Law enforcement officers may take a child into custody without a court order if they believe that a child is abused or neglected and that the child will be injured if he or she is not immediately removed. If this happens, a court hearing must be held within 72 hours of removal, not counting weekends and holidays. Hospitals and health care providers also have the ability to “hold” a child against the parent’s wishes if they think a child has been abused or neglected. This happens most frequently with newborn babies, when doctors don’t believe the child should go home with the parent(s). They then place an administrative hold on the baby. If a dependency action is filed, a series of court hearings will then be held. These hearings are explained in this section. They are also summarized in the chart on page 63.

Do I Have the Right to a Lawyer?

The child’s parent(s), legal guardian, or custodian has the right to a lawyer at the hearing and throughout the dependency process. If that person cannot afford a lawyer, the court will appoint a public defender free of charge. Parents must file a form called “Motion to Appoint a Lawyer” to request a free lawyer.

However, a non-parent is not considered a party to the case and does not have the right to a lawyer. Foster parents, pre-adoptive parents, or other current caregivers do have a right to be heard before each court hearing and are allowed to provide reports about the child to the court. DCYF is required to give notice of this right.

Does the Child Have the Right to a Lawyer?

The court will appoint a guardian ad litem (GAL) for the child unless it finds there is good cause not to do so, like if the child already has a lawyer. The GAL’s role is to represent the child’s best interests. The GAL is usually not a lawyer. *For more information about GALs, see page 34.*

State law requires that a child age 12 or older must be notified of their right to request a lawyer if they don’t have one. There are certain situations where the court is required to appoint a lawyer for the child (such as six months after parental rights have terminated for both parents). In most other cases, whether or not the court will appoint a lawyer for the child depends on the county. Some counties appoint a lawyer when a child reaches a certain age.

What Happens Once the Dependency Process Has Begun?

The dependency process includes a series of hearings before a judge, as well as at least one meeting regarding the placement plan for the child. Most are in-court hearings, which are described here. *See also the Juvenile Court Dependency Proceedings chart on page 63.*

If you have an interest in the case and wish to testify at any meeting or hearing, inform your lawyer (if you have one), contact DCYF in writing if possible, and contact the parent(s)’ lawyer and the child’s GAL; clearly inform them of your wish. The court may or may not grant your request. *See “What Is My Role During the Court Dependency Process?” at the end of this section for information on the right to testify.*

72-Hour Shelter Care Hearing: Once a child is removed from the home, a “shelter care hearing” must be held within 72 hours of the removal (not counting weekends and holidays). If the child is not removed from the home, the hearing must be held within 72 hours of filing the dependency petition.

At the 72-hour shelter care hearing, the court decides whether the child should be removed from the parent(s)' home or not. If the child has already been removed, the court will decide whether removal was appropriate and if it is safe for the child to home. The court may also dismiss the case.

If the child is to remain out of his or her parent(s)' home, the court decides where the child should live until a later, more in-depth hearing is held. The options the court will consider are relative care or the care of a "suitable person." The court also decides what, if any, limitations should be placed on visitation with the parent(s). The parties may discuss what services could be provided to the parent(s) in order to address the problem(s) that led to the removal of the child, and if medical, mental health, or drug or alcohol evaluations are appropriate. However, at this stage in the process, the court cannot order the parent(s) to participate in any services or evaluations unless the parents agree to participate. Until dependency is established or denied, anything the parent(s) say or do, including during any agreed-upon services, can be used against them in the dependency fact finding hearing.

30-Day Shelter Care Hearing: A second shelter care hearing may be held within 30 days of the first hearing to determine if anything has changed. At this hearing the court may order that the child be returned to the parent(s) or remain in placement. If the parties agree, the court may also order additional services for the parent(s) and the child. Not every county requires this in-court "30-day shelter care hearing." The parties can forego the hearing and agree to ongoing DCYF involvement, continued shelter care, and participation in agreed-to services. However, the court still must sign a written order authorizing that agreement within the 30-day period.

Case Conference: If the shelter care order requires it, a "case conference" (mediation) must be held no later than 30 days before the fact-finding hearing. At the case conference, the parents, DCYF, the GAL, lawyers for the parties, and others meet to discuss what services DCYF wants to see in place. The parent(s) can agree to accept these services or not. The discussions held during the case conference are strictly confidential, and statements and offers made cannot be used against any party if the case proceeds to a fact-finding hearing.

Fact-Finding Hearing: A fact-finding hearing, also called the dependency trial, is generally held within 75 days of filing the petition. At this hearing, the parties can present testimony and other evidence to a judge, who will decide whether or not the child is dependent. To establish dependency, the judge needs only to find that it is more likely than not that the allegations in the dependency petition are true. Instead of going through with this hearing, the parent(s) can agree to establish dependency, permit ongoing DCYF involvement and to participate in services. Once dependency is established, the court can order the parent(s) to participate in services without their agreement. The permanency plan must be distributed to all parties before the fact-finding hearing (*see next paragraphs to learn about permanency plans*).

Disposition Hearing: If the court finds the child is dependent, it will, either immediately or within two weeks, hold a disposition hearing to determine what happens next. Based on facts proven at that hearing, the court then will either place the child with a relative or other "suitable person," or will leave it up to DCYF to choose placement for the child. DCYF can decide to place the child in the home of another "suitable person," or in foster care or a group home. The court will also order what services the parent(s) must complete, as well as what DCYF must do to help the parent(s) complete the services. The goal at this stage is to have the child reunited with his or her parent(s). If the child is staying in the home, the goal is to eliminate risks to the child's safety and well-being. In a disposition order that removes a child from parental custody, the court will allow the parent(s) to visit the child regularly unless the child is

harmed by the visitation. Visitation may be supervised or unsupervised, and relatives may be chosen as supervisors. The court may also require parent(s) to pay child support if they are able to do so.

As part of this disposition process, DCYF must propose a “permanency plan” including the steps necessary to achieve the proposed plan. This plan will set one or more goals for the child:

- Returning to his or her parent, guardian, or legal custodian; **or**
- Adoption (which requires terminating parental rights); **or**
- Other long-term arrangements such as guardianship or long-term relative care or foster care for children close to 18 who are “aging out” of the system.

Note about guardianship: Both Chapter 13.36 guardianship and minor guardianship are considered permanent plans in a dependency action. They have different processes and requirements. A Chapter 13.36 guardianship can be a part of the dependency action, but a minor guardianship must be set up separately and with the court’s permission.

Review Hearings: Once dependency is established, the court must hold a review hearing at least once every six months to determine if the state is making reasonable efforts to eliminate the need for out-of-home placement; the parent(s)’ compliance with court-ordered services and progress toward remedying any identified parental deficiencies; and any proposed changes to the dispositional plan or to the child’s placement. Proposed revisions to the permanency plan must be distributed to all parties before each hearing to review the plan.

Permanency Planning Hearing: Within 9-12 months after the child has been placed out of the parent(s) home, there will be a hearing to finalize the permanency plan.

American Indian/Alaska Native Children: Under federal law and state agreements with tribal governments, special rules apply to placement of American Indian/Alaska Native children in dependency cases. *See the “Indian Child Welfare Act” section in Chapter 3 of this booklet for more information.*

When Would the Court Terminate Parental Rights?

If the parties and/or the court believe that the child will not be able to return to the parent(s)’ care, DCYF may file a petition asking the court to terminate parental rights. This is a separate proceeding from the dependency case, though it will be based on the record established during the dependency. The court will terminate parental rights only in cases where it is in the best interest of the child to terminate the parent-child relationship, and at least one of the following has been shown:

- The child was seriously abused and/or neglected while in the care of the parent(s);
- The parent(s) will not or cannot remedy the parental issues that led to the removal of the child; or
- The parent(s) agree to termination of their rights.

If the parent(s) oppose termination of parental rights, the court must set a separate trial (another fact-finding hearing) date at which the parties have the right to introduce evidence, give testimony, and question witnesses.

What Is My Role During the Court Dependency Process?

The state has a duty to inform those caring for a dependent child about the dates and locations of any dependency, review, and permanency planning hearings that affect the child. If you are a non-parent caregiver, you can provide in writing information to the court about the child's welfare before the hearing. You may attend the disposition hearing and other proceedings about the child (unless the court decides not to allow it for some reason), but you may or may not be allowed to testify or to provide information at the hearing. *See "What Happens Once the Dependency Process Has Begun?" earlier in this section for a description of the steps in a dependency.*

If you are not the child's non-parent caregiver, you will not automatically be notified about these hearings. If you want to attend, you must notify DCYF, the child's GAL, the parent's lawyer, and your own lawyer (if you have one) that you wish to attend.

For support through this process, consider contacting Kinship Navigators listed in the Resources section under "General Services and Supports."

Relative Placement in a Dependency Case

Basic Information about Long-Term Relative Care in a Dependency Case

What Is Long-Term Relative Care in a Dependency Case?

When the court has ruled that a child is dependent (*see previous section*), has removed the child from the parent(s)' home, and DCYF has developed a "permanency plan" for the child (defined in the Glossary), the state places the child in a new home. The state may choose to place the child either with a relative or other responsible adult, in foster care, or in group care.

The law states a strong preference for placing the child with a relative or other "suitable person" for this period, if certain requirements are met. This is called "long-term relative care." It applies primarily to children between the ages of sixteen and eighteen, but can include younger children if such long-term placement is appropriate. It requires a written agreement between the parties and the caregiver.

The person who cares for a child in such a placement has the duty to care for, feed, clothe, shelter, educate, and provide routine medical care for the child. If the court gives the child's parents the right to visit the child, the relative must see that the child is made available for visits. The person is not responsible, however, for making major decisions regarding the child, because the child remains legally in the custody of the state.

What Requirements Must I Meet to Gain Long-Term Relative Care of a Child?

DCYF will conduct an investigation to determine whether placement with you is appropriate and will then make a recommendation to the court. The investigation will usually include a home study and a criminal history background check, as well as a CPS background check to verify that there is no previous history of child abuse by any adult in your household. The law requires that you have a relationship with the child and be willing and available to care for the child. The child must be comfortable with you. In addition, placement with you must not jeopardize the child's welfare or harm efforts to reunite the child with his or her parent(s). You must cooperate with the agency case plan and follow all court orders.

Non-parent relatives who live out of state who wish to be considered as a potential placement must go through an application process known as the Interstate Compact on the Placement of Children (ICPC), which can take several months to complete. If you are a non-parent relative living out of state, contact the DCYF social worker and/or the lawyer for the parent(s) immediately and ask about starting the ICPC process.

How Long Does Long-Term Relative Care Last?

It depends on the case. If the child cannot be reunited with his or her parent(s), the relative placement may last for several years, possibly until the child reaches age 18. That said, if the child cannot be returned to the parent(s), DCYF will usually seek out a more permanent placement, such as a Chapter 13.36 Guardianship, adoption, or other permanent custody arrangement.

How Do I Have a Dependent Child Placed with Me for Long-Term Relative Care?

Any relative or “suitable person” can work with the child’s DCYF case worker to seek placement of the child in his or her home. In some cases, it may also be helpful to work with the child’s parent(s), with the parent(s)’ lawyer, or with the child’s guardian ad litem.

Do I Need a Lawyer?

You do not need your own lawyer to do this unless DCYF is unwilling to place the child with you and you want to fight for the placement. However, it is difficult to have a child placed with you over DCYF’s objection. The courts do not usually allow relatives or other concerned individuals to legally intervene or become parties in a dependency case filed by DCYF.

What If I Am or the Child or Parent Is an Immigrant?

See the “Special Information for Immigrant Families” section in Chapter 3.

Once You Have Relative Placement

Can the Dependent Child or I Receive Public Assistance or Similar Benefits?

If a dependent child is placed with you, you and the child may be entitled to:

- Temporary Assistance for Needy Families (TANF) or foster care payments;
- Food benefits;
- Medical assistance;
- Child care subsidy; and
- Social Security benefits.

TANF: To apply for TANF benefits, contact the Department of Social and Health Services (DSHS). Depending on the type of grant, DSHS will consider certain income of all adults and children in your household, as well as the income of the dependent child. You may be required to sign over your right to receive child support to DSHS.

Things to know about the Non-Needy Grant:

- Only the child’s income is considered in determining eligibility for a Non-Needy Grant.
- Your assets (home, savings, etc.) are not considered in determining eligibility for a Non-Needy Grant.
- Non-relatives and some more distant relatives must undergo a Washington State Patrol background check in order to receive a Non-Needy Grant.
- A Non-Needy Grant has no time limit.

Foster care payments: To receive foster care payments, you need to become a licensed foster care home. To become licensed, you must meet a variety of health and safety, space, training, and other requirements. Once you are licensed, you will receive foster care payments, medical benefits, subsidized childcare, and additional benefits such as respite care if the child has very special needs.

Note: Consult with DCYF about whether TANF or foster care payments make the most sense for you. Whether foster care or TANF payments will benefit you the most will depend on your situation. For example, additional payments for special needs children are available to foster parents. Talk to an experienced lawyer or a TANF caseworker about public benefits and eligibility, what work requirements exist, and what the financial support amount will likely be.

Food benefits: See “Food Assistance” in Resources at the end of this booklet.

Medical benefits: See “Medical Assistance” in Resources at the end of this booklet.

Child care subsidy: See “Child Care and Early Learning” in Resources at the end of this booklet.

Social Security benefits: The child may be eligible to receive Social Security benefits (such as survivor, disability, or retirement benefits) through their parents’ or grandparents’ work record. As a relative caregiver, you can apply for these benefits on behalf of the child. See Resources at the end of this booklet.

Can I Receive Child Support?

The child is eligible for child support and medical insurance coverage from both parents. The court can order the child’s parent(s) to pay child support to the relative based on the parent(s)’ income and to provide insurance coverage if it is available through the parent(s)’s work or at low cost. If you are receiving TANF or medical benefits, the state Division of Child Support will try to collect support from the parent(s) to reimburse the state for those benefits. The Division of Child Support can seek support through an administrative hearing or through a court action. You must cooperate with the state in the child support process to be eligible to receive benefits.

Can I Get Income Tax Benefits?

Maybe. It is best to talk to a tax professional about your specific situation. Here are two tax benefits relevant to caregivers:

Dependency Exemption: If you provide over half of a child’s support during the year, you may be able to take the exemption for dependents on your income taxes that year. The IRS may ask for proof that you are supporting the child, so keep receipts and a list of expenses.

Earned Income Credit: If you qualify, this credit reduces the amount of taxes you owe. If you don’t owe taxes, the IRS will send you a refund check. You may be eligible if:

1. You qualify financially (if you have passive income such as interest earnings or dividend income you may not qualify for the earned income credit), **and**
2. You have at least one qualifying child living with you for more than half of a tax year. The child must be:
 - Under age 19,
 - A full-time student under age 24, or
 - Any age and permanently and totally disabled.

Check with the IRS to see if you qualify financially. *For more information about income taxes, go to WashingtonLawHelp.org.*

Will the Child Have Inheritance Rights to My Estate?

Having relative placement for a dependent child does not affect the child's right to inherit your property. If you want the child to receive any of your property when you die, the best way to guarantee this is to say so in a will. If you die without a valid will, state laws determine how your property will be distributed. Under those laws, such a child must be a blood or adopted relative to inherit from you and may have lower priority than other family members such as your spouse or your children. *For more information about wills and estate planning, see the Legal Voice publication "Handbook for Washington Seniors: Legal Rights and Resources" listed in Resources at the end of this booklet.*

Can I Get Health Insurance for the Child Through My Employer?

If there is a child support order, the parent(s) may be required to provide medical insurance for the child. If insurance is available through the parent(s), you may request that the parent(s) or the Division of Child Support buy coverage for the child.

If coverage through the child's parent(s) or state medical benefits are not an option, you may be able to include the child on your employer's health insurance policy. Even if you can include the child on your employer's plan, you may have to pay the monthly premium. Check with your employer.

Note that the child may qualify for medical benefits from the state. *See Resources at the end of this booklet.*

Can I Take Family Leave to Care for the Child?

Under the Washington State Paid Family & Medical Leave Act, you might qualify for up to 12 weeks of **paid** leave. Most employees in Washington qualify, but there are specific requirements. Visit PaidLeave.wa.gov to find out if you qualify and to apply.

Under the federal Family and Medical Leave Act, you may be entitled to take up to 12 weeks of **unpaid** leave. Visit dol.gov/agencies/whd/fmla to learn more and find out if you qualify.

For more information, see also the Legal Voice publication "Family Leave Laws" listed in Resources at the end of this booklet.

Chapter 13.36 Guardianship

Basic Information about Chapter 13.36 Guardianship

What Is a “Chapter 13.36 Guardianship”?

A Chapter 13.36 Guardianship is a legal arrangement set up for a dependent child by the Juvenile Court. The court appoints someone to care for the dependent child and manage the child’s affairs. Chapter 13.36 Guardianship is considered a permanent plan for dependent children and can lead to the dependency being dismissed. (Before 2010, it was called “dependency guardianship.” A few dependency guardianships may still exist, but that old law does not affect Chapter 13.36 Guardianships.)

The court holds a hearing to decide whether a Chapter 13.36 guardianship is in the child’s best interests – better than adoption, and better than continuing to try to return the child to the parent(s). The parties involved can be the parents, the child, a guardian ad litem, the child’s legal custodian, and/or the Department of Children, Youth, and Families (DCYF). All parties must agree to the Chapter 13.36 Guardianship and agree that the proposed guardian is qualified and capable. If the parties cannot agree, a series of other requirements must be met.

How Long Does Chapter 13.36 Guardianship Last?

Once set, the Chapter 13.36 Guardianship continues until the child turns 18 unless the court orders it terminated earlier. Establishing a Chapter 13.36 Guardianship also terminates the child’s dependency and the responsibilities of DCYF, unless the court orders otherwise.

How Is This Different from Minor Guardianship?

The main differences are procedural. For example, a Chapter 13.36 Guardianship can only be created for a child who is already subject to a dependency case. Also, only DCYF, the parent(s), or the child may request a Chapter 13.36 Guardianship. A proposed guardian usually cannot.

Also, in a Chapter 13.36 proceeding, an attorney or a GAL *must* be appointed for the child. Minor guardianship does not require attorneys for children.

The standard to terminate a Chapter 13.36 Guardianship is also slightly different; the parent must show that the child or caregiver’s lives have substantially changed, or the termination must be agreed to by all parties. In a minor guardianship, a parent must show that the reason for the guardianship no longer exists.

How Can a Caregiver Become a Chapter 13.36 Guardian?

A Chapter 13.36 Guardian must meet all these requirements:

1. Be over age 21;
2. Meet the same minimum requirements for people licensed to care for a child outside the child's home (like foster parents);
3. Be either:
 - a licensed foster parent; or
 - a relative of the child, or
 - a "suitable person" who meets several requirements and has custody of the child following a dependency fact-finding hearing; **and**
4. Must pass a criminal background check *as must all other adults living in the home.*

Only a party to a dependency action — i.e., parent, child, guardian ad litem, or child's legal custodian — can file a Chapter 13.36 Guardianship petition. However, a party can seek to have a caregiver appointed as a Chapter 13.36 Guardian. If the parties to the dependency action, including DCYF and the parent(s), agree that the caregiver should be the Chapter 13.36 Guardian, the state will prepare necessary documents and ask the court to appoint the caregiver to this position. In this case, the caregiver won't need to hire a lawyer or file a petition on their own. It's possible, though not likely, that the caregiver could "intervene" (join) in a Chapter 13.36 Guardianship action to raise issues they think are important. For this, working with a lawyer is strongly recommended. See "*Preparing to See a Lawyer*" on page 74.

If either DCYF or the parent(s) object to the caregiver as the child's Chapter 13.36 Guardian, it will be more difficult for the caregiver to be appointed. If the caregiver has DCYF support but not the parent(s)', DCYF can still petition the court to have the caregiver appointed as guardian. The court will decide. Likewise, if the caregiver has the parent(s)' support but not DCYF's, the parent(s)' lawyer (usually a public defender) can petition the court on the caregiver's behalf. The caregiver's likelihood of being appointed despite DCYF objections will depend on the particular facts of the case, and whether the child is already living with the caregiver.

If both DCYF and the child's parent(s)' oppose your appointment, the caregiver is unlikely to be appointed the child's Chapter 13.36 Guardian. In all cases, the caregiver should figure out who among the parties to the dependency supports the caregiver as guardian and work with them. The caregiver should realize, though, that they are not represented by DCYF, the parents, or the parents' lawyer. Therefore, in this situation, the caregiver should consider hiring their own lawyer with experience in dependency issues. See "*Preparing to See a Lawyer*" on page 74.

What Are the Caregiver's Rights and Duties as a Chapter 13.36 Guardian?

The Juvenile Court will set out the specific rights and responsibilities in a court order. Generally, a Chapter 13.36 Guardian has most of the rights and duties of a parent, including:

1. The duty to protect, nurture, discipline, and educate the child;
2. The duty to provide food, clothing, shelter, the education required by law, and health care (including medical, dental, mental health, psychological, and psychiatric care and treatment);
3. The right to consent to health care and sign a release authorizing the sharing of health care information with appropriate authorities, according to state law;
4. The right to consent to the child's participation in social and school activities;
5. The duty to notify the court of a change of address; **and**

6. If the child has independent funds or other valuable property under the caregiver's control, the duty to submit to the court an annual written accounting of the child's assets with appropriate documentation.

The court order will also specify whether and how often the child may have contact with parent(s) or any siblings.

Though the caregiver has most of the rights and responsibilities of a parent, it's important to remember that the parent(s)' rights are not terminated by a Chapter 13.36 Guardianship order. A parent can move to modify the order at any time.

Why Should a Caregiver Consider Becoming a Chapter 13.36 Guardian?

If the caregiver thinks they may be caring for a dependent child indefinitely, but can't or don't want to adopt the child, a Chapter 13.36 Guardianship may be a good option.

While Chapter 13.36 Guardianship is considered a "permanent" plan for dependent children, the parent(s) will still have parental rights to the child and could petition to terminate the guardianship. DCYF and other caregivers are often reluctant to support Chapter 13.36 Guardianships for younger children because of this. They do, however, see it as a good option for older children who want both a relationship with parent(s) and a stable caregiving arrangement.

Again, Chapter 13.36 Guardianship is not necessarily a permanent solution like adoption. *See the next section of this chapter for more information about adoption in a dependency case.*

Can the Chapter 13.36 Guardianship Be Terminated?

Yes. There are two ways to do this:

By petition: The parent(s) can petition the court to terminate the guardianship. The parent(s) must prove that:

1. A substantial change has occurred in the child's or guardian's circumstances, **and**
2. Termination is necessary to serve the child's best interests.

If the guardianship is terminated, the court will grant custody to the parents, give the child a substitute guardian, or place the child in temporary custody with another person or out-of-home placement.

By agreement: The court may terminate the guardianship and return the child to the parent(s) if:

1. All the parties (including the child if she or he is 12 years old or older) agree, **and**
2. The court finds the parent(s) successfully corrected parenting deficiencies, **and**
3. That returning the child to the parent(s) is no longer a risk to the child's health, safety, or welfare, **and**
4. That returning the child to the parent(s) is in the child's best interests.

What If I Am or the Child or Parent Is an Immigrant?

See the "Special Information for Immigrant Families" section in Chapter 3.

When You Are a Chapter 13.36 Guardian

Can the Child or I Receive Public Assistance or Similar Benefits?

If you are a Chapter 13.36 Guardian, this may entitle you and the child to:

- Relative Guardianship Assistance Program (R-GAP) subsidy or Temporary Assistance for Needy Families (TANF);
- Food benefits;
- Medical assistance;
- Child care subsidy; and
- Social Security benefits.

R-GAP: DCYF provides ongoing monthly cash payments and Medicaid for dependent youth through R-GAP. To qualify, you must be a relative of the child and a licensed foster care provider, and the child must have been living with you as a foster child for at least six months when the court entered your Chapter 13.36 Guardianship order. R-GAP is an agreement between the relative guardian and the Children’s Administration at DCYF. The R-GAP agreement must be signed before a court orders a Chapter 13.36 Guardianship. The R-GAP benefit ranges between 80% and 95% of what you were receiving in foster care payments, depending on the age of the child.

TANF: If you do not qualify for R-GAP subsidies, you and the child may still be entitled to Temporary Assistance for Needy Families (TANF), and to medical assistance. To apply for TANF benefits, contact the Department of Social and Health Services (DSHS). Depending on the type of grant, DSHS will consider certain income of all adults and children in your household, as well as the income of the child who is the subject of your guardianship. You may be required to sign over your right to receive child support to DSHS.

Things to know about the Non-Needy Grant:

- Only the child’s income is considered in determining eligibility for a Non-Needy Grant.
- Your assets (home, savings, etc.) are not considered in determining eligibility for a Non-Needy Grant.
- Non-relatives and some more distant relatives must undergo a Washington State Patrol background check in order to receive a Non-Needy Grant.
- A Non-Needy Grant has no time limit.

Food benefits: See “Food Assistance” in Resources at the end of this booklet.

Medical benefits: See “Medical Assistance” in Resources at the end of this booklet.

Child care subsidy: See “Child Care and Early Learning” in Resources at the end of this booklet.

Social Security benefits: The child may be eligible to receive Social Security benefits (such as survivor, disability, or retirement benefits) through their parents’ or grandparents’ work record. As a non-parent caregiver, you can apply for these benefits on behalf of the child. See Resources at the end of this booklet.

Can I Receive Child Support?

The court can order the child's parents to pay child support to you, as guardian, based on both parents' income. The court can attribute income to a parent who is not employed. If you are receiving R-GAP subsidies, TANF, or medical coupons, the state Division of Child Support will try to collect support from the parents to reimburse the state for those benefits. The Division of Child Support can seek support through an administrative hearing or through a court action.

Can I Get Income Tax Benefits?

Maybe. It is best to talk to a tax professional about your specific situation. Here are two tax benefits relevant to Chapter 13.36 Guardians:

Dependency Exemption: If you provide over half of a child's support during the year, you may be able to take the exemption for dependents on your income taxes that year. You can request that the Juvenile Court award you the exemption in its guardianship order. The IRS may ask for proof that you are supporting the child, so keep receipts and a list of expenses.

Earned Income Credit: If you qualify, this credit reduces the amount of taxes you owe. If you don't owe taxes, the IRS will send you a refund check. You may be eligible if:

1. You qualify financially (if you have passive income such as interest earnings or dividend income you may not qualify for the earned income credit), **and**
2. You have at least one qualifying child living with you for more than half of a tax year. The child must be:
 - Under age 19,
 - A full-time student under age 24, or
 - Any age and permanently and totally disabled.

Will the Child Have Inheritance Rights to My Estate?

Being a child's guardian does not affect the child's right to inherit your property. If you want the child to receive any of your property when you die, the best way to guarantee this is to say so in a will. If you die without a valid will, state laws determine how your property will be distributed. Under those laws, such a child must be a blood or adopted relative to inherit from you and may have a lower priority than other family members such as your spouse or your children. *For more information about wills and estate planning, see the Legal Voice publication "Handbook for Washington Seniors: Legal Rights and Resources" listed in Resources at the end of this booklet.*

Can I Name a Guardian for the Child in My Will?

No. But you can express in your will your preference for who you think should be "successor guardian" if you die or become incapacitated. Having this in your will could be helpful if the court must choose a new guardian. *See "Successor Guardianship" on page 38.*

If you have an R-GAP Agreement with DSHS, you may name a successor legal guardian in your agreement to receive your subsidy in the event of your death or incapacity.

Can I Get Health Insurance for the Child Through My Employer?

If there is a child support order, the parent(s) may be required to provide medical insurance for the child. If insurance is available through the parent(s), you may request that the parent(s) or the Division of Child Support buy coverage for the child.

If coverage through the child's parent(s) or state medical benefits are not an option, you may be able to include the child on your employer's health insurance policy. Even if you can include the child on your employer's plan, you may have to pay the monthly premium. Check with your employer.

Note that the child may qualify for medical benefits from the state. *See Resources at the end of this booklet.*

Can I Take Family Leave to Care for the Child?

Maybe.

Under the Washington State Paid Family & Medical Leave Act, you might qualify for up to 12 weeks of **paid** leave. Most employees in Washington qualify, but there are specific requirements. Visit PaidLeave.wa.gov to find out if you qualify and to apply.

Under the federal Family and Medical Leave Act, you may be entitled to take up to 12 weeks of **unpaid** leave. Visit dol.gov/agencies/whd/fmla to learn more and find out if you qualify.

For more information, see also the Legal Voice publication "Family Leave Laws" listed in Resources at the end of this booklet.

What Is the Difference Between a Chapter 13.36 Guardianship and Long-Term Relative Placement?

A Chapter 13.36 Guardianship and Long-Term Relative Placement are similar approaches to dealing with a dependent child on a long-term basis.

One big difference is DCYF's involvement. With a Chapter 13.36 Guardianship, the child is no longer a dependent of the state under DCYF supervision. But in a long-term relative placement arrangement, DCYF continues to be involved.

There could also be a difference in DCYF subsidy payments. A relative with long-term placement *who is also a foster parent* has a greater maximum subsidy than a Chapter 13.36 guardian.

A Chapter 13.36 guardian may have more court-ordered rights and responsibilities than a relative with long-term placement.

Adoption or Minor Guardianship in a Dependency Case

Adoption and minor guardianship are also possible for a child in a dependency proceeding (in addition to relative placement and Chapter 13.36 Guardianship – discussed earlier in this chapter). Here is information about adoption and minor guardianship when there is a dependency case. *See Chapters 1 and 2 for more information about adoption and minor guardianship.*

How Does Adoption Work in a Dependency Case?

The adoption process is basically the same whether a dependency case is pending or not. The main difference is that in a dependency, the DCYF social worker is the one who files a petition for termination of parental rights. No child can be adopted until he or she is legally free, meaning the parental rights of both parents have been given up voluntarily or terminated by the court.

Open Adoption: A parent who voluntarily gives up parental rights may also have the option of entering an open adoption agreement. The details of the agreement are worked out between the birth parents, the DCYF social worker, the guardian ad litem for the child, and the prospective adoptive parents. If you are the DCYF-designated adoptive parent, you should talk to a lawyer before signing an open adoption agreement. These agreements must be approved by Juvenile Court. *For more on open adoption, see “Basic Information about Adoption” in Chapter 2.*

When DCYF Disagrees: If you are not the DCYF-designated adoptive parent, it is still possible for you to file an adoption petition and ask the court to disagree with DCYF’s designation. However, it can be difficult to win if DCYF contests (fights) your adoption petition. You must prove to the court “by clear, cogent and convincing evidence” that your proposed adoption is in the best interest of the child over DCYF’s objections. Again, working with a lawyer is strongly advised.

Subsidized Adoption: You may be eligible for federal and/or state-funded adoption support through DCYF if you decide to adopt a child as part of a dependency case. Adoption support is cash support payments and medical coverage for special needs children provided on an ongoing basis after the adoption. This is called a “subsidized adoption.” You must apply *before* the adoption is finalized. Once the subsidy is approved, adjustments can be made as the child gets older and as the child’s needs change. Subsidies can be increased to cover the cost of counseling, or even the need for residential treatment if necessary.

How Does a Minor Guardianship Work in a Dependency Case?

In dependency cases when neither reuniting a child with the parents nor terminating parental rights are appropriate, minor guardianship is one option. *See page 29.* A minor guardianship order may grant custody until the child turns 18. It allows the person with guardianship to act as a parent for the child. Since the order is considered a permanent plan, the dependency action is dismissed and there is no further court or DCYF involvement.

Where Is the Minor Guardianship Action Heard?

Usually in family court. If you file a minor guardianship action while the child is involved in a dependency action, you will need to get permission from the juvenile court (where the dependency action is taking place) allowing the family court to make a decision about minor guardianship. This is called “concurrent jurisdiction.” The process may vary depending on the county; some counties have a Unified Family Court, which allows the dependency and the guardianship actions to be addressed at the same time and by the same court.

What If I Am or the Child or Parent Is an Immigrant?

See the “Special Information for Immigrant Families” section in Chapter 3.

Juvenile Court Dependency Proceedings

What:	72-Hour Shelter Care Hearing	30-Day Shelter Care Hearing	Fact-Finding Hearing	Disposition Hearing	Review Hearing	Permanency Planning Hearing
When:	Within 72 hours of placement.	30 days from entry of shelter care order.	Within 75 days of filing of petition unless exceptional circumstances exist.	At the Fact-Finding hearing or within 14 days of the Fact-Finding hearing.	At least once every 6 months after dependency is established.	Within 60 days of DCYF involvement and at least every twelve months after that.
Issues to Address:	<input type="checkbox"/> Placement: <ul style="list-style-type: none"> • Home • Relative • Responsible adult • Foster care • Group Care <input type="checkbox"/> Visitation: <ul style="list-style-type: none"> • Supervised • Unsupervised • Frequency • Time/Place 	<input type="checkbox"/> Shelter Care <ul style="list-style-type: none"> • Whether current shelter care order is still appropriate while parties await the fact finding hearing. 	<input type="checkbox"/> Determine facts as alleged in petition <input type="checkbox"/> Determine legal sufficiency of the case <input type="checkbox"/> Determine type of dependency: <ul style="list-style-type: none"> • In-home with services • Out-of-home with services 	<input type="checkbox"/> Placement: <ul style="list-style-type: none"> • Home • Relative • Responsible adult • Foster care • Group Care <input type="checkbox"/> Services* <input type="checkbox"/> Visitation: <ul style="list-style-type: none"> • Supervised • Unsupervised • Frequency • Time/Place 	<input type="checkbox"/> Progress and compliance with court order <input type="checkbox"/> Services* <input type="checkbox"/> Placement <input type="checkbox"/> Visitation (if the child is not returned home)	<input type="checkbox"/> Long-term permanent plan for the child (determined by Court), including services to parents, visitation with siblings.
Parent Choices:	<ul style="list-style-type: none"> • Agree/cooperate • Compromise/negotiate • Disagree: Judge decides placement and visitation issues 	<ul style="list-style-type: none"> • Agree to status-quo order • Disagree – See <i>Options</i> below 	<ul style="list-style-type: none"> • Agree/cooperate • Compromise/negotiate • Disagree/contest dependency 	<ul style="list-style-type: none"> • Agree/cooperate • Disagree/contest placement, services, and visitation proposed by DSHS 	<ul style="list-style-type: none"> • Agree/cooperate • Disagree/contest findings, placement, services, and visitation proposed by DSHS 	<ul style="list-style-type: none"> • Agree/cooperate • Disagree/contest proposed permanent plan
Options:	<ul style="list-style-type: none"> • Court determines whether there is a basis for shelter care • If not, the child returns home • If so, the child is placed in out of home care 	<ul style="list-style-type: none"> • Continue current order • Change order (To do so, parents must file a motion and demonstrate a substantial change in circumstances. Motion can be noted at any time between 72-hour shelter care hearing and fact-finding hearing.) 	<ul style="list-style-type: none"> • Court establishes dependency • Court denies dependency 	<ul style="list-style-type: none"> • Child returns/stays home • Child placed/stays in out-of-home care 	<ul style="list-style-type: none"> • Continue dependency • Change in placement/return home • Dismissal 	<ul style="list-style-type: none"> • Continue dependency • Dismissal • Return home • Long-term foster care • Permanent custody order • Proceed with Chapter 13-36 Guardianship • Proceed with termination of parental rights

* Examples of services to be ordered: evaluations, parenting classes, counseling, substance abuse counseling, anger management classes, domestic violence classes, sexual offender treatment, victim/survivor treatment



Chapter 3

Other Information

- Indian Child Welfare Act
- Non-parents' Visitation Rights
- Child In Need of Services (CHINS) and At-Risk Youth (ARY) Procedures
- Preparing to See a Lawyer

Indian Child Welfare Act

A Brief Summary:

If a child is American Indian or Alaska Native, special rules may apply in dependency, minor guardianship, termination of parental rights, and adoption proceedings in state court. This is because of the Indian Child Welfare Act (“ICWA”), a federal law passed in 1978 that protects children who are tribal members, or eligible to be tribal members, from being unfairly removed from their families and tribes. Congress passed the law because American Indian/Alaska Native children for many years had been removed from and placed outside their families, tribes, and native culture in disproportionately high numbers.

Washington state also has an Indian Child Welfare Act, which is very similar to the federal ICWA. It expands the ICWA to also cover children whose tribes are not recognized by the federal government (for example, Canadian First Nation children) and American Indian/Alaska Native children who are not enrolled in a tribe.

The ICWA is complex. This booklet does not give detailed information about it. If you know or suspect that the child is a tribal member or may be eligible to be a tribal member, **you must tell your lawyer, DCYF worker, the guardian ad litem and/or the parent’s lawyer immediately**. Everyone must comply with the law’s requirements. This will avoid potentially serious problems later.

The federal ICWA defines an “Indian child” as:

1. An unmarried person under age 18 who is
 - a member of an American Indian/Alaska Native tribe, **or**
 - eligible for membership in an American Indian/Alaska Native tribe, **and**
2. Is the biological child of a member of an American Indian/Alaska Native tribe.

The law defines “Indian tribes” as those tribes recognized by the federal Bureau of Indian Affairs. This definition includes Alaska Natives who are members of any Alaska Native village.

ICWA affects dependency, minor guardianship, termination of parental rights, and adoption cases in a variety of ways. If an American Indian/Alaska Native child lives on a tribal reservation or has been made a ward of tribal court, the state court normally must transfer the case to that tribal court. If the child lives off the reservation and is not a ward of the tribal court, the state court must transfer the case to the appropriate tribal court *unless* there is good reason not to or a parent objects. The ICWA does not apply to cases in tribal court.

Washington State courts must consider certain factors when determining the placement of a American Indian/Alaska Native child. There is a higher “burden of proof” in ICWA cases. Qualified experts must be involved. The law requires the state to prove that active efforts and services designed to prevent the breakup of the child and parents were unsuccessful. Parents threatened with losing custody of their Indigenous child may have the right to a free court-appointed lawyer.

If the state proves the child cannot live with her or his parents, the court will prioritize placing the child with a relative. The state and tribal governments have legal agreements that further detail the processes and circumstances that govern the placement of an American Indian/Alaska Native child.

The child's parents and the child's tribe — or any tribe the child may belong to — must be notified of the case. The child's tribe has the right to “intervene” (join) in the case.

Washington State has determined that it is in the best interests of American Indian/Alaska Native children to place them in accordance with priorities established by federal and state ICWA laws. ICWA requires that a child be placed with extended family members, even if those family members are not American Indian/Alaska Native. The law says “extended family members” are those defined by the law or custom of the child's tribe as a relative of the child. If there is no law or custom defining an “extended family member,” the term means a person who is at least eighteen years old who is a grandparent, aunt or uncle, sibling, niece or nephew, first or second cousin, or stepparent, even one no longer married to the child's blood parent. If a family placement is not available, then an American Indian/Alaska Native child may be placed in a foster home licensed, approved, or specified by the child's tribe, (unless there is a good reason not to do so.)

In adoption cases, the ICWA (and related state laws) sets out specific timetables and rules governing the parents' consent to the adoption and their right to revoke the consent. The child's tribe must be given notice of the adoption proceeding. The law also requires that the child be placed for adoption with a member of the child's extended family, other members of the child's tribe, or other American Indian/Alaska Native families (unless there is a good reason not to do so).

For further information or advice, talk to a legal expert on the Indian Child Welfare Act (ICWA) and its procedures.

Non-Parents' Visitation Rights

Certain relatives and step-relatives have the right to ask the court for visitation with a child. Washington law calls this right "nonparental child visitation." Extended family members of an American Indian/Alaska Native child also have this right (*see the "Indian Child Welfare Act" section of this chapter*).

Important: Only once may a relative file for nonparental child visitation rights. This cannot be filed over and over again, even if the situation changes.

Who Can Ask for Nonparental Child Visitation?

Many close family members can ask the court for visitation rights, including any blood relative (including grandparents and other relatives from older generations), stepparents, stepsiblings, and half-siblings.

What Must the Relative Prove to the Court?

The relative must show the court clear and convincing evidence (defined below) that:

- The relative has an ongoing and substantial relationship with the child;
- The relationship has lasted at least two years (or if the child is under two, at least half the child's life);
- Visits are in the child's best interest; and
- The child will or likely will suffer harm if visitation is not granted.

What Is "Clear and Convincing Evidence"?

Clear and convincing evidence is a legal term that basically means very strong evidence. In this type of case, it means the evidence shows that the situation very certainly meets the requirements listed above. It is a higher legal standard for evidence than required in most civil cases.

What Is an "Ongoing and Substantial Relationship"?

The law defines this as a relationship kept up through interaction, companionship, and mutually shared affection, without an expectation of financial compensation on the relative's part. In other words, the relative and child have spent a lot of time together, love each other, and the relative was not paid to take care of the child (like a babysitter).

What If the Parent/Guardian Does Not Want the Relative to Have Visits?

The court will presume that a fit parent or guardian's decision to deny visitation is in the best interest of the child. The court may deny the petition if it sees no reason to doubt the parent/guardian's fitness.

If the court accepts the case, the parent/guardian can present evidence to explain why visitation is not in the child's best interests. The court will consider:

- The length and quality of the relative and child's relationship so far,
- The strength of the relative and child's relationship now, and
- The relative and parent/guardian's relationship.

Are there Risks to Filing a Case?

The relative may have to pay the attorney fees and costs of anyone who responds in the case, even if the relative's request is granted.

Also keep in mind that a relative can file this petition only once. It cannot be filed over and over again, even if the situation changes.

If you are interested in asking the court for this visitation, you should talk to a lawyer. *See "Preparing to See a Lawyer" on page 74.*

Child in Need of Services (CHINS) and At-Risk Youth (ARY) Procedures

What can a parent or guardian do when a child refuses to accept fixed curfew hours and stays out all night? When he or she won't go to school or is smoking so much marijuana it seriously affects his or her behavior? When he or she threatens suicide and has, several times, cut him or herself? Or when he or she runs away from home and moves in with a friend? None of these children should be prosecuted as criminals. None of them qualify for help as "dependent" children. But help is available.

Washington law helps these children and their families through two separate but similar court-based programs, one for "at risk youth" (ARY) and the other for "children in need of services" (CHINS). The purpose of both procedures is to bring the child and family back together. The Department of Children, Youth and Families (DCYF) handles ARY and CHINS cases for the state.

You *cannot* file an ARY or CHINS petition if you have no legal rights to the child. However, you may participate in the process of helping the court determine placement options and services for the child.

ARY is for children with difficult behavior problems. Only the parent(s) or legal custodian(s)/guardian(s) can start the ARY process. It cannot be started by the child, DCYF, or anyone else. This petition cannot be filed if the child is the subject of an active dependency action.

CHINS is for children experiencing more serious problems (like sexual abuse) who need a place to live while receiving services. The parent(s) or legal custodian(s)/guardian(s), the child, and DCYF are able to start the CHINS process. It *cannot* be started by anyone else.

Under each program, the court may order out-of-home placement and can order psychiatric and medical care, mental health, drug or alcohol treatment, and other social services to meet the needs of the child, the parent(s), and the family. The law and related procedures change often. Talk to an experienced lawyer if you have any questions or need legal advice.

At-Risk Youth (ARY) Petitions

What Makes a Child an "At-Risk Youth"?

An "at-risk youth" (ARY) is any unemancipated person under age 18 who:

- Is absent from home for at least 72 hours without parental consent; **or**
- Is beyond parental control, therefore causing a danger to him/herself or others; **or**
- Has a substance abuse problem for which there are no pending criminal charges.

How Do I Start the Process?

To have the court rule that a child is an at-risk youth, you (the child's parent, legal guardian or custodian) must file an ARY petition in your home county court. DCYF can be involved at your request. This petition cannot be filed if the child is the subject of an active dependency action.

Among other things, the ARY petition must:

1. State that court intervention and supervision are necessary to assist the parent in the care, custody, and control of the child;
2. Identify any alternatives to court intervention that have been tried, **and**
3. Identify the reasons why any other alternatives have not been tried.

No petition can go forward in the process until a family assessment has been completed by DCYF. Depending on claims made in the petition, the court will decide whether to consider the issues at a fact-finding hearing, or to dismiss the case.

Can I Stop the ARY Process Once It Has Begun?

Maybe. You may dismiss the petition at any time *unless*:

1. A contempt-of-court action is pending,
2. An out-of-home placement hearing still needs to happen, or
3. The out-of-home placement has been granted but the court is still involved in the case.

Do I Have the Right to a Lawyer?

In ARY petition proceedings, only the child has the right to a free, court-appointed lawyer (or the child can hire a lawyer). You do not have a right to a court-appointed lawyer, but you may hire a lawyer at your own expense.

What Will an ARY Court Order Require?

During the ARY process, the child must live with you unless you have approved an out-of-home placement. At the disposition hearing the court will hear recommendations from all parties and will enter an order intended to help you maintain the “care, custody and control” of the child. Possible conditions include school attendance; counseling for the child and/or you; substance abuse or mental health outpatient treatment; and periodic reporting to DCYF or another designated person or agency. You are financially responsible for all costs related to the plan unless you or the child is eligible for cost coverage through public benefits.

What If the Child Is a Serious Danger to Her/Himself?

The court can order the child be placed in a staff-secure facility (such as a mental health treatment facility) if:

1. State funds are available, **and**
2. The court finds that the child has serious mental health or substance abuse issues, **and**
3. A less restrictive environment cannot provide appropriate protections.

This order will be reviewed after 30 days. Generally, such placement or other court oversight will not continue for more than 180 days.

What If the Child Does Not Follow the Court Order?

The court can impose up to seven days detention and a \$100 fine for any party found in contempt of the court order. A contempt ruling requires the judge to find that the party willfully violated the court order.

What If I Am or the Child or Parent Is an Immigrant?

See the “Special Information for Immigrant Families” section in Chapter 3.

Child in Need of Services (CHINS) Petitions

The Child in Need of Services (CHINS) petition, like the ARY petition, is a civil proceeding, filed in the Juvenile Division of a State Superior Court.

A CHINS is used only for situations where the child’s residence is in dispute. As with ARY, the CHINS petitioner must get a DCYF family assessment before filing the petition (or before the petition may proceed).

A CHINS petition is one way a child can get legal permission for an out-of-home placement which the parent(s) oppose. The child must show good cause for the out-of-home placement.

What Makes a Child a “Child In Need of Services”?

Although the CHINS petition is similar to the ARY petition, the requirements that need to be satisfied are different. Before the court will grant a CHINS petition involving an unemancipated child under age 18, at least one of the following conditions must be met:

- The child is beyond parental control, and this makes the child a danger to him/herself or others; **or**
- The child has been reported as a runaway (meaning gone from his/her proper residence for more than 24 hours on two or more occasions) and either has a serious substance abuse problem or acts in ways that create risks to him/herself or others; **or**
- The child needs special services and the parent(s) have been unsuccessful, or unwilling, to create and maintain a functioning family situation; **or**
- The child is sexually exploited (the victim of commercial sexual abuse).

How Does the Process Start?

A child, a parent, legal custodian or guardian, or DCYF may file a CHINS petition asking for a court order to allow a child to reside outside his or her legal residence. Petitions may be filed at any Superior Court location, but hearings will occur in the courthouse corresponding to the parent’s residential zip code.

Among other things, the CHINS petition must:

- Explain how the child meets the definition of a Child in Need of Services;
- Identify any alternatives to court intervention that have been tried.

No petition can go forward in the process until a family assessment has been completed by DCYF.

Do I Have the Right to a Lawyer?

All parties that qualify as low-income have the right to a free, court-appointed lawyer. You do not have the right to a lawyer if you are not a party to the case, but you may choose to hire a lawyer at your own expense.

What Will a CHINS Court Order Require?

Requirements under a CHINS order are the same as for an ARY order. However, more ongoing case management and counseling services are available to parties in a CHINS case than in an ARY case. The court may order a temporary out-of-home placement for up to 14 days without a dispositional hearing. An out-of-home placement must be reviewed every 90 days and may last up to 180 days. The court may order the parent(s) to pay child support unless the parent objects to the placement and is actively working on reuniting with the child.

What If the Child Does Not Follow the Court Order?

Contempt of a CHINS order can result in a fine, up to seven days detention, or both, for *any* party. A contempt ruling requires the judge to find that the party willfully violated the court order.

What If I Am or the Child or Parent Is an Immigrant?

See the “Special Information for Immigrant Families” section in this chapter.

Preparing to See a Lawyer

It is always best to talk to a lawyer if you decide to pursue a court action on behalf of a child in your care. *For information on finding, interviewing, retaining, and working with lawyers, see the Legal Voice publications “How to Find a Lawyer and Other Legal Resources in Washington State” and “Working with a Lawyer,” listed in Resources at the end of this booklet.*

Your first meeting with a lawyer is called an “initial consultation.” During this meeting, the lawyer will decide if she or he wants to take your case, and you will decide if you want to hire this lawyer. *Note:* Initial consultations are confidential, meaning everything said and written between you and the lawyer at this meeting cannot be shared without your permission.

It is helpful if you have a list of questions for the lawyer written out beforehand, with space to write notes. This will help you remember the lawyer’s answers and your thoughts. Your notes will be helpful if you are comparing lawyers.

Gather documents related to the child and bring copies to the initial consultation. This may include court orders, medical records, police reports, the child’s birth certificate, school records, or other records related to the care and well-being of the child. Also bring information regarding childcare providers.

Prepare a timeline that shows where and with whom the child has lived since birth.

Bring the names, addresses, and phone numbers of the parents, foster parents, and/or DCYF staff who have been responsible for the child.

Feel free to ask a lawyer about the possibility of a payment plan or a reduced fee, or about using mediation to try to reach agreement without having an expensive trial. In mediation, a skilled mediator works with all sides to try to help them come up with their own solution to the problem. Additionally, ask the lawyer if he or she will provide **unbundled legal services** (also known as limited representation) for you. In unbundled legal services, you keep costs lower by doing some of the legal work and research yourself. For example, you could complete all the documents to file a guardianship case but have the lawyer review them to make sure they are complete; you could have the lawyer complete all the documents and you go to court on your own; or you could hire the lawyer to represent you for only some of the court hearings.

For more information about finding legal help as well as forms and instructions for how to file the petition yourself, see listings under “Free Publications” and “Legal Help” in Resources at the end of this booklet.

Special Information for Immigrant Families

If you, the parent, or child is an undocumented immigrant, you may have questions about

- Whether it is safe for you to go to court or file a court case;
- Whether the court will ask about the immigration status of you, the child, or the parents;
- What may happen to the child if you or a parent is deported; and
- What immigration relief might be available for the child if you become the child's guardian, or adopt the child?

For answers to these questions, it is strongly recommended that you talk to a family law lawyer and immigration lawyer to determine how the immigration status may impact your specific family situation. There may be important immigration relief available for children who have been abused, neglected, or abandoned by a parent. Consult with an immigration lawyer about possible options.

See listings under “Legal Help” and “Immigrants” in Resources at the end of this booklet.

Glossary

ADOPTION: The legal creation of a parent-child relationship. Adopted children are treated as natural children of the adoptive parents for all legal purposes, including inheritance rights. *See also “Open Adoption” and “Subsidized Adoption.”*

AT RISK YOUTH (“ARY”): An unemancipated person under the age of 18 who is absent from home for at least 72 hours without parental consent; **or** is beyond parental control, therefore causing a danger to himself or others; **or** has a substance abuse problem for which there are no pending criminal charges.

CAREGIVER: A general term describing a non-parent who cares for a child.

CHAPTER 13.36 GUARDIAN: A person age 21 or over who meets the minimum requirements to care for children under R.C.W. 74.15.030, including, but not limited to a licensed foster parent, relative, or “suitable person,” whom the court makes the guardian of a dependent child under R.C.W. Ch. 13.34 and Ch. 13.36. The Chapter 13.36 Guardian is responsible for the care, custody, control, and nurturing of the child. (A “suitable person” is someone with ties to the child or family, who has completed required criminal background checks and appear able to care for the child.)

CHAPTER 13.36 GUARDIANSHIP: A legal arrangement in which the Juvenile Court appoints someone other than the parent to care for a dependent child. It is considered a permanent plan for dependent children and is intended to dismiss the dependency. See the full text of the law in RCW 13.36.

CHILD IN NEED OF SERVICES (“CHINS”): An unemancipated child under age 18, who is beyond parental control, making him or her a danger to himself/herself or others; **or** who has been reported as a runaway (gone from his or her proper residence for more than 24 hours on two or more occasions) **and** who either has a serious substance abuse problem or acts in ways that create risks to himself, herself or others; **or** who needs special services **and** whose parent(s) have been unsuccessful, or unwilling, to create and maintain a functioning family situation; **or** who is sexually exploited (the victim of commercial sexual abuse).

COURT APPOINTED SPECIAL ADVOCATE (CASA): A volunteer appointed by the court to act as guardian ad litem for children in dependency and/or family court matters.

DE FACTO PARENTAGE: A type of court case where a caregiver asserts they have a parent-like relationship with the child and should be given the same legal rights as actual parents. Caregivers must meet a seven-factor test, found in RCW 26.26A.440, to convince the court they are de facto parents.

DEPENDENCY: A legal proceeding in which the court determines whether a child is a dependent child and if so, orders appropriate remedies to end the situation.

DEPENDENT CHILD: A child who has been abandoned; or who is abused or neglected by someone responsible for the child’s care; or who has no parent, guardian, or custodian capable of adequately caring for the child, thus creating a danger of substantial psychological or physical damage.

EMERGENCY MINOR GUARDIANSHIP: A special type of minor guardianship under RCW 11.130.225. It can be a separate court case from a regular minor guardianship case or combined. Emergency minor guardianship gives caregivers a fast way to get temporary care of the child if the child is at risk of substantial harm and no other person appears to have authority and willingness to act.

FOSTER PARENT: A person who meets the legal requirements to be a foster parent, is licensed by the state to have foster children placed in his/her home, and is eligible for foster care pay.

GRANDPARENT: The legal parent of a child's parent is a grandparent to that child, either by birth or adoption. Step-grandparents are usually not considered grandparents by law.

GUARDIAN AD LITEM (GAL): A person who is appointed by the court to represent the best interests of a child in legal proceedings.

ICWA: The Indian Child Welfare Act, a federal law passed in 1978 that protects American Indian/Alaska Native children from being arbitrarily removed from their families and tribes.

IMMEDIATE RESTRAINING ORDER: In an emergency minor guardianship case, a way for a caregiver to get immediate temporary guardianship of a child, without the parents first being notified. As stated in RCW 11.130.225(4), petitioners must prove that the minor's health, safety, or welfare will be substantially harmed by the parents being notified first.

INFORMED CONSENT: As used in this booklet, this refers to RCW 7.70.065, a law that lets certain relatives make decisions about health care for people who are not competent to consent, which includes people under 18.

LONG-TERM RELATIVE CARE: The court's placement of a dependent child with a relative or other responsible adult, in a foster home, or in group care. This type of placement is used primarily with children between the ages of sixteen and eighteen, but can include younger children if such long-term placement is appropriate. The law states a strong preference for placing the child with a relative or other "suitable person" for this period, if certain requirements are met. It requires a written agreement between the parties and the care provider.

MEDIATION: An alternative to a court hearing, available in visitation disputes, which allows both parties to the dispute to work out an acceptable resolution of disputed issues with the aid of a trained mediator, outside of court.

MINOR GUARDIANSHIP: A new type of court action in Washington as of 2021 that replaced nonparental custody. It is known as Article 2 of the Uniform Guardianship Act, RCW 11.130. Minor guardianship gives someone other than the child's parents legal custody of the child. Caregivers seeking minor guardianship must prove that the guardianship is in the child's best interests and that there is clear and convincing evidence that no parent of the minor is willing or able to exercise parenting functions.

NONPARENTAL CHILD VISITATION: Found in RCW 26.11, the right of certain non-parent relatives and step-relatives to ask the court for visitation with a child.

NONPARENTAL CUSTODY: A custody option that existed until 2021 for nonparents with significant ties to a child. This court action can no longer be filed. *See instead Minor Guardianship and Chapter 13.36 Guardianship.*

OPEN ADOPTION: An arrangement agreed to in writing by the child's birth parents and adoptive parents, in which both parties may agree that the birth parents have a legal right to visitation or other contacts (telephone calls, letters, etc.) with the child after the adoption; the agreement must be approved by the court, the child's lawyer and/or guardian ad litem, as well as DCYF if it has custody of the child.

OUT-OF-HOME CARE: Placement of a child away from her/his home, usually in relative care, a foster home, group care home, or with another responsible adult who is not the child's parent or guardian.

PARENT: An individual with legal rights and obligations to perform parenting functions for a child, either by birth or adoption.

PARENTING FUNCTIONS: Those aspects of the parent-child relationship in which the parent makes decisions and performs functions necessary for the care and growth of the child. A complete list of the functions is in RCW 26.09.004.

PERMANENCY PLAN: In dependency actions, this is the long-term plan for the care of the child. It is a plan of care that identifies end goals for the child, services to be provided, and visitation rights, until the child is reunited with the parent(s), turns 18 years old, or becomes emancipated. The permanency plan may include return of the child to the parent, guardian or legal custodian; termination of parental rights and adoption; Chapter 13.36 guardianship; minor guardianship; or long-term relative or foster care. The plan is usually formed by DCYF with input from others involved in the case.

PERMANENT CUSTODY: This term is used in the dependency statutes to refer to nonparental custody. It is a placement option that allows a child to be placed permanently and grants the custodian rights to make decisions on behalf of the child. Once the court orders permanent custody, the dependency is dismissed and juvenile court hearings are no longer needed.

PETITION: In the legal system, petitions are usually written and filed with the court, requesting the court to take or not take an action.

POWER OF ATTORNEY FOR PARENTS: A written agreement between parents and caregivers authorized by RCW 11.130.145. It lets parents give another person the temporary authority to care for a child and make decisions regarding the child.

PREVENTIVE SERVICES: Services offered to a family to prevent out-of-home placement while still protecting the child.

PRO SE: A Latin term used to describe someone who is representing themselves in court, without a lawyer.

RELATIVE CARE: See "*Long-Term Relative Care.*"

RELATIVE GUARDIAN ASSISTANCE PROGRAM (R-GAP): An ongoing monthly cash payment for Chapter 13.36 Guardians who are related to the child.

STANDBY GUARDIANSHIP: Part of the Minor Guardianship law and authorized in RCW 11.130.220, this allows a parent to nominate someone to take over parenting responsibilities for the child if something happens to the parent. A court petition must be filed for the nominee to seek appointment as standby guardian.

SUBSIDIZED ADOPTION: A program that allows adoptive parents of a special needs child who was previously deemed to be a dependent child to receive payments to help meet the special needs of the child.

SUCCESSOR GUARDIAN: A person appointed by the court to take over guardianship of the child if something happens to the child's primary guardian. The primary guardian can share their preference, but the court must agree to and appoint a successor guardian.

TANF: Temporary Assistance for Needy Families, a state financial benefit program.

TANF NON-NEEDY GRANT: A TANF grant in which the government provides grant funds to the child based on the income of the child (eligibility is different for certain child welfare cases). The Non-Needy grant has no time limit.

TANF NEEDY FAMILY GRANT: A TANF grant in which the government provides funds to both the child and the caregiver's family, based on the income of the child and all adults and children in the household. A household may get a TANF Needy Family grant for 60 months maximum and employable household members must enroll in a work program.

TERMINATION OF PARENTAL RIGHTS: A legal procedure that ends the legal relationship between a child and parent(s). Parental rights are legally protected rights and are terminated by court order only when the court has sufficient reason to do so and after notice and hearing are given to the parent(s). After all parental rights are terminated, a child is available for adoption.

UNBUNDLED LEGAL SERVICES: An arrangement between a lawyer and a client in which the lawyer is paid to help with only specific aspects of the case, like preparing or reviewing documents, giving legal advice, or appearing at a hearing.

Resources

Statewide Resources

Below are various resources, benefits, and support services available to relatives through the Department of Social and Health Services (DSHS), Division of Children, Youth, and Families (DCYF), and other public and private agencies.

Adoption

- Check your local court website for information on filing an adoption case as well as accessing adoption information from the county clerk's office.
- **King County Adoption Services:** Assists pro se litigants in limited types of adoptions. Litigants may purchase adoption legal forms and schedule adoption facilitation appointments with the Adoption Paralegal. Adoption Services also conducts file review for adoption termination, finalization, and review hearings. .
Online: www.kingcounty.gov/courts/superior-court/family/adoption-services.aspx
- **Post Adoption Questions and Answers**, by DCYF: See listing under "Free Publications" in this section.

Child Care and Early Learning

- **Child Care Aware:** For other child care information, including Homeless Child Care.
By phone: 1-800-446-11141
Online: <https://childcareawarewa.org/families/>
- **ECEAP (Early Childhood Education and Assistance Program) and Head Start:** Provides free services and support to 3- and 4-year-olds who have risk factors that could interfere with school success, including children in kinship care.
Online: www.dcyf.wa.gov/services/earlylearning-childcare/eceap-headstart
- **Washington State Child Care Programs:** Relative caregivers may qualify for one of the state's subsidized child care programs, listed below.
By phone: 1-844-626-8687 for the Child Care Contact Center
Online: www.dcyf.wa.gov/services/earlylearning-childcare/getting-help
 - **Child Care Subsidies:** Relatives who are employed and caring for state-dependent children may also be eligible for subsidized child care and should contact their social worker. For caregiver with non-state dependent children in their care, they are also eligible for state child care subsidies if they are receiving the TANF Non-Needy grant.
 - **Homeless Child Care:** For families who are temporarily homeless (limited to certain counties). Caregivers must not be eligible for any other child care subsidy program and must be engaged in an approved activity, such as looking for work or for housing.

- **Seasonal Child Care:** For seasonal agricultural workers. In most cases, caregivers may qualify even if only one person in a couple is working. If both are legal guardians to the child and listed in the court documents, both must be working to qualify.
- **Working Connections Child Care (WCCC) for employed caregivers:** In most cases, caregivers may qualify even if only one person in a couple is working. If both are legal guardians to the child and listed in the court documents, both must be working to qualify.

Child Support

- **Division of Child Support (DCS):** You can apply for DCS services even if you don't receive any public assistance. Receiving TANF or some kinds of medical assistance will automatically result in DCS opening a paternity case. DCS establishing paternity can help the family access benefits for which the child may be eligible, such as Social Security, and help provide a family medical history. If you are afraid that establishing paternity or enforcing child support may be dangerous for you or the child, contact your local Community Services Office to discuss "good cause," which is a waiver of child support enforcement. DCS will enforce an existing child support order, such as a divorce decree, or will establish a support order if needed. DCS sets child support obligations based on a parent's ability to pay. DCS will also attempt to have the parents cover the child on their own medical insurance, if available.
By phone: 1-800-442-KIDS
Online: www.dshs.wa.gov/esa/division-child-support

Dental Services

- **Consent for Medical Care:** State law allows relative caregivers to give informed consent for medical care for the child in their care (including dental and mental health care) even if they do not have a court order. When caring for a child in state custody, you must talk with the social worker to understand medical care the court must approve. For more information, see listings under "Free Publications" later in this section.
- **Washington 2-1-1:** Call from anywhere in Washington to speak to an Information & Referral Specialist for assistance to find local dental contacts (translators available).
By phone: 2-1-1 or 1-877-211-9274 (toll-free)
Online: <https://search.wa211.org/>
- **The Center for Pediatric Dentistry (CPD):** A collaboration of the University of Washington and Seattle Children's Hospital, provides comprehensive and specialty dental care to children of all ages, including children with special needs. Apple Health accepted.
By phone: 206-543-5800
Online: <https://thecenterforpediatricdentistry.com>
- **The Mighty Mouth:** Lists low-cost community dental clinics by county.
Online: www.themightymouth.org
- **Washington State Department of Health:** A list of resources for finding dental care.
Online: www.doh.wa.gov/YouandYourFamily/OralHealth/FindingDentalCare

Educational Advocacy

- **The Office of the Education Ombuds (OEO):** Resolves complaints, disputes, and problems between families and public schools in all areas that affect student learning. The OEO functions independently from the public school system. Services are available to students from kindergarten to 12th grade and are free and confidential. Contact OEO when you have an unresolved problem with a public school that impacts your student's education; you want an independent assessment of the situation; or you have other questions about the education system.
By phone: 1-866-297-2597
Online: www.oeo.wa.gov

Financial Help

- **Kinship Caregivers Support Program (KCSP):** Short-term funds to help pay for basic and emergent needs (food, housing, clothing, school supplies, etc.) are available for relatives whose children are not involved in the child welfare system.
By phone: 1-800-422-3263 or 360-584-2450 to locate a local KCSP office
Online: www.dshs.wa.gov/altsa/hcs/kinship-care/benefits; click on "Financial Help."
- **TANF (Temporary Assistance for Needy Families) Non-Needy Grant:** Monthly cash grants may be available for relatives who are the primary caregivers raising children. Only the child's income is considered in determining eligibility for a Non-Needy Grant. Caregivers may also be eligible for a TANF grant for themselves if they meet eligibility criteria. Recipients of Non-Needy TANF can get additional one-time cash payments for help with emergency housing or utility needs through the Additional Requirements for Emergent Needs (AREN) program. Call or visit your local Community Service Office or apply online.
By phone: 1-877-501-2233
Online: www.dshs.wa.gov/esa/esa-find-office; apply online at www.washingtonconnection.org
- **Relative Support Service Funds (RSS):** Provide emergency short-term funds to unlicensed relatives and other approved caregivers with a state-dependent child (state-dependent children are in the legal custody of the state, have an open case with DCYF, and an assigned social worker). Funds can pay for furniture, clothing, gas, deposits, school supplies, etc. Contact the child's social worker to access these funds or for more information. Foster parents are not eligible.

Food Assistance

- **Child Nutrition Programs:** Children who meet federal income guidelines or receive TANF or Basic Food are eligible for free or reduced-price school breakfast and lunch. To find out more information, contact the child's school.
- **Child and Adult Care Food Program (CACFP):** Offers meals at no charge to children in care at organizations participating in the program. Many CACFP sites offer breakfast, lunch, and snacks. Some public and private schools offer snacks and/or meals after the regular school day. To find out more information, contact the child care provider where your children are in care.
Online: www.fns.usda.gov/cacfp

- **The Statewide Family Food Line:** Provides additional information about food resources, including the state’s Basic Food program, free summer meals for kids, local food banks, and the Senior Farmers Market Nutrition Program.
By phone: 1-888-436-6392
- **Summer Meal Programs:** All children, 18 years and younger, regardless of household income, are eligible for free meals at organizations that serve meals during the summer months.
By phone: 1-866-3-HUNGRY
Online: www.fns.usda.gov/summerfoodrocks
- **The Women, Infants and Children (WIC) Nutrition Program:** Helps young children under five, pregnant women, and new mothers eat well, learn about nutrition, and stay healthy. Relatives and foster parents who are primary caregivers of children (ages 0-5) may receive WIC services for the child(ren) in their care. Besides monthly checks to help purchase healthy food, WIC provides nutrition education and health screenings, and referrals. To find a WIC clinic or learn if you may be eligible:
By phone: Help Me Grow Hotline: 1-800-322-2588
Online: <http://parenthelp123.org/resources/food-assistance-resources/the-wic-program/>
- **Washington’s Basic Food program:** Offers monthly food benefits to those who qualify. Call or visit your local Community Service Office or apply online.
By phone: 1-877-501-2233
Online: www.dshs.wa.gov/esa/esa-find-office; apply at www.washingtonconnection.org

Free Publications

- **DCYF/ DSHS publications:** You can order publications that have a DCYF or DSHS publication number from the Washington State Department of Printing. When ordering publications, please include publication name, number, your name, and mailing address. The publication number is normally on the back page. Publication requests may be placed:
By phone: 360-664-4343
Email: fulfillment@prt.wa.gov
Online: *see accompanying links below*
 - *Consent to Health Care for the Child in Your Care: A Kinship Caregiver’s Guide* (DSHS 22-1119x): Includes a sample consent to health care form. www.dshs.wa.gov/altsa/kinship-care/dshs-kinship-publications (See also *Consent to Health Care: A Kinship Caregiver’s Guide* from the Northwest Justice Project, listed below.)
 - *Education Advocacy Guide for Caregivers – Supporting School Success for Children and Youth in Care* (DSHS 22-1192): Helps caregivers understand what education advocacy is and what is expected of students from preschool to high school. www.dshs.wa.gov/node/8343
 - *Grandparents, Relatives, and Others: Kinship Care – Do You Know about the Services and Supports for You and the Children in Your Care?* (DSHS 22-1120):
A list of resources, benefits, and support services available to relatives raising children. www.dshs.wa.gov/altsa/kinship-care/dshs-kinship-publications
 - *A Guide to Child Support Services for Relative Caregivers* (DSHS 22-1143):
What services DSHS Division of Child Support (DCS) can provide if you are taking care of a relative’s child. www.dshs.wa.gov/altsa/kinship-care/dshs-kinship-publications

- *Options for Grandparents and Other Nonparental Caregivers: A Legal Guide for Washington State*, by Legal Voice: This is the booklet you are now reading, available online for free at www.LegalVoice.org, or in print for free from DCYF.
 - *Post Adoption Questions and Answers* (DCYF CWP_0063; DSHS 22-1211): Information about the adoption support program, and resources that may be available to assist you in raising your child. www.dcyf.wa.gov/node/1649
 - *Relatives as Parents: A Resource Guide for Relatives Raising Children in Washington State* (DSHS 22-996): This booklet is an extensive resource guide for relative caregivers. www.dshs.wa.gov/altsa/kinship-care/dshs-kinship-publications
- **Legal Voice publications:**
Online: www.legalvoice.org
 - *Family Leave Laws*
Describes Washington state and federal family leave laws.
 - *Options for Grandparents and Other Nonparental Caregivers: A Legal Guide for Washington State*
This is the booklet you are now reading. It is available for free online and in print for \$10. Free print copies are available from DCYF.
 - See also listings under “Legal Help” later in this resource list.
 - **Northwest Justice Project publications:**
Online: www.washingtonlawhelp.org
 - *Consent to Health Care: A Kinship Caregiver’s Guide*
If you are taking care of a relative’s child, read this to find out how you can get health care for that child.
 - *File a Minor Guardianship Petition*
Instructions and forms needed for this case.
 - *File an EMERGENCY Minor Guardianship Petition*
Instructions and forms needed for this case.
 - *How to ask for a lawyer if you are a parent in a minor guardianship case*
Information about this right, plus forms and instructions.
 - *How to Serve the Other Party in a Family Law Case*
Instructions for how to give notice of your court actions to everyone involved, called “service of process” (like the child’s parents in a minor guardianship case).
 - *How to Work with GALs and Parenting Evaluators*
Tips to help you work successfully with a guardian ad litem.
 - *Indian Child Welfare Act*
Information about the ICWA and how it affects custody cases.
 - *I Am Age 12-16. What are my Rights in a Minor Guardianship Case?*
If you are a teen and someone has filed to have a court appoint a guardian for you, read this to find out what your rights are.
 - *Minor Guardianship of Native American Children*
When someone who isn’t a parent wants to get legal custody or guardianship of Indian children, special laws and procedures apply.
 - *Power of Attorney (POA) for Parents*
Instructions and template for drafting this document.

General Services and Supports

- **Alliance CaRES:** Mentorship and support for kinship caregivers and foster parents.
Online: www.alliancecares.org
- **Foster Parenting & Kinship Care (DCYF):** Information about kinship care, foster care, and the child welfare system.
Online: www.dcyf.wa.gov/services/foster-parenting
- **Federal Poverty Guidelines:**
Online: <https://aspe.hhs.gov/poverty-guidelines>
- **Kinship Navigators:** A one-stop shop providing information and assistance to relatives who may not know where to apply for benefits and services in their community. Kinship Navigators serve most areas of the state. Tribal Navigators serve selected Tribes.
By phone: 1-800-422-3263 or 360-584-2450
Online: www.dshs.wa.gov/altsa/kinship-care-support-services
- **Local support groups for relatives raising children:**
By phone: 1-800-422-3263; or Rosalyn Alber, Kinship Navigator Manager: 360-584-2450
Online: www.dshs.wa.gov/altsa/kinship-care-support-services
- **Partners for Our Children:** Offers free training classes for both relatives and foster parents.
Online: www.partnersforourchildren.org/projects/national-training-and-development-curriculum-ntdc-evaluation
- **Safe Medication Return Program:** Mail your expired or unwanted medications for free or drop them off at a participating kiosk.
By phone: 360-236-4698
Email: SafeMedReturn@doh.wa.gov
Online: <https://doh.wa.gov/you-and-your-family/healthy-home/safe-medication-return>
- **Social Security:** Information on Social Security Retirement and Disability benefits, Social Security numbers, and related topics.
By phone: 1-800-772-1213 (TTY 1-800-325-0778)
Online: www.ssa.gov
- **Washington Connection:** Provides information and help with applying for DSHS services, including TANF grants and food assistance.
Online: www.washingtonconnection.org
- **Washington Poison Control Center (WAPC):** Provides immediate, 24/7, free, and expert treatment advice and assistance by phone in case of exposure. All calls are confidential.
By phone: 1-800-222-1222
Online: www.wapc.org

- **WithinReach:** Provides information and referrals on many health and social services and benefits related to raising children of all ages including health insurance, nutrition, immunization, childcare, child development, and children with special needs.
By phone: 1-800-322-2588 (TTY 711)
Online: www.parenthelp123.org

Help with Mental Health and Substance Use Disorders

- **Does your child or young person need immediate help?**
 - **For a life-threatening emergency:** Call 911.
 - **For suicide prevention:** Call or text 988 (Suicide & Crisis Lifeline) <https://988lifeline.org/>
 - **For 24-hour emotional support and referrals:** Contact the Washington Recovery Help Line (listed below) or call or text 988.
- **Behavioral health and recovery services information:**
By phone: 1-833-303-5437
Online: www.hca.wa.gov/health-care-services-and-supports/behavioral-health-and-recovery
- **Preventing underage substance use:**
Online: www.StartTalkingNow.org
- **Washington Recovery Hotline:** 24-hour help for substance abuse, problem gambling, and mental health.
By phone: 1-866-789-1511 (TTY 206-461-3219)
- **Washington State's Wraparound with Intensive Services (WISe):** Provides comprehensive behavioral health services in many areas of the state. WISe supports Apple Health eligible youth, up to 21 years of age, with complex behavioral health needs, and their families.
By email: WISupport@dshs.wa.gov
Online: www.hca.wa.gov/health-care-services-supports/behavioral-health-recovery/wraparound-intensive-services-wise

Help with Special Needs

- **DSHS' Developmental Disabilities Administration (DDA):** Provides services for those diagnosed with an intellectual or developmental disability or delay. Services depend on need and funding. Services include individual and family support, personal care, employment supports, day programs, and residential care. To contact your local DDA office:
Online: www.dshs.wa.gov/dda/consumers-and-families/eligibility
- **Washington State Early Support for Infants and Toddlers (ESIT):** Provides intervention services for children ages 0-3. If you care for a child with a disability or have a concern about a child's development, contact ESIT.
By phone: 360-725-3500; for help with referrals, call 1-800-322-2588
By email: ESIT@dcyf.wa.gov
Online: www.dcyf.wa.gov/services/child-development-supports/esit

Immigrants

- **King County Bar Association Immigration Legal Clinic:** Wednesdays, 5:30-7:30 PM, downtown Seattle. By appointment only. To make an appointment, call 206-587-4009 and press 9 for the receptionist.
- **KIND (Kids in Need of Defense):** Legal services for children who are facing deportation or have been deported.
Online: www.supportkind.org/reintegration-referral-form
- **Northwest Immigrant Rights Project:** Free immigration legal services for qualifying immigrants. Also maintains a lawyer referral list.
By phone: See the webpage for the office nearest you; ask for the Children & Juvenile Unit
Online: www.nwirp.org
- **Safety Plan for Youth and Children**, by Legal Counsel for Youth and Children: To help families who are facing potential detainment or deportation of parents with children (children with or without status).
Online: <https://lcywa.org/blog/2021/1/14/safety-plan>
- **Planning Ahead for Your Children's Safety**, Northwest Justice Project: Created specifically to address the needs of immigrant families but can be used by anyone. Note that this form does not give the non-parent caregiver legal custody.
Online: www.washingtonlawhelp.org

Legal Help

- See also listings under “Free Publications” earlier in this resource list.
- **Kinship Care Solutions:** Free legal representation for low-income, King County residents seeking minor guardianship. Call the intake line to be screened for eligibility.
Intake line: 206-267-7086
Online: www.kcba.org/For-the-Public/Free-Legal-Assistance/Kinship-Care-Solutions
- **Legal Voice:** Free and low-cost publications on a variety of topics, including lawyers and the legal system.
Online: www.legalvoice.org
 - *How to Find a Lawyer and Other Legal Resources in Washington State*
 - *Working with a Lawyer*
 - *Handbook for Washington Seniors: Legal Rights and Resources, 2nd Edition*
- **Northwest Justice Project (NJP):** Offers free self-help information including a website and a toll-free hotline. NJP's Coordinated Legal Education, Advice, and Referral (CLEAR) program provides free legal assistance with civil legal problems to eligible low-income people.
By phone: King County residents should call 2-1-1, or 206-464-1519 weekdays 8 am – 6 pm
Other counties call 1-888-201-1014 weekdays 9:15 am – 12:15 pm
If you are over 60 at any income level call 1-888-387-7111
Online: www.nwjustice.org/apply-online (complete this online intake form to apply for a call back)

- **Washington Law Help:** Provides free legal education materials, including detailed instructions and forms to help you represent yourself in court. Also lists free legal aid programs, basic eligibility, and contact information.

Online: www.washingtonlawhelp.org

Family Law Court Facilitators

For information about facilitators, visit your county facilitator's webpage. Note that some facilitators do NOT assist with guardianship, custody, or dependency.

Benton County Court Facilitator

By appointment only

509-736-3071

www.co.benton.wa.us/pView.aspx?id=791&catid=45

Chelan County Family Law Facilitator

By appointment only

509-667-6380

www.co.chelan.wa.us/clerk/pages/court-facilitator

Clallam County Family Court Facilitator

Appointments encouraged

223 E 4th St, Rm 212, Port Angeles WA 98362

564-397-2292

www.clallam.net/superiorcourt/facilitator.html

Clark County Court Facilitator

By appointment only, visit in person to make an appointment

1200 Franklin St, Vancouver WA 98663

www.clark.wa.gov/courts/clerk/family-court.html

Douglas County Court Facilitator

By appointment only

509-745-8529

www.douglascountywa.net/267/Courthouse-Facilitator

Ferry County Court Facilitator

By appointment only

215 S Oak St, Rm 208, Colville, WA

509-684-7575

Franklin County Courthouse Facilitator

By appointment only

509-545-3525

www.co.franklin.wa.us/clerk/court_facilitator.php

Grant County Family Law Facilitator

By appointment only

509-754-2011 Ext 401

www.grantcountywa.gov/307/Court-Facilitator-Information

Grays Harbor County Family Law Facilitator

102 W Broadway, Rm 203, Montesano WA 98563

360-249-3842 Ext 1823

www.co.grays-harbor.wa.us/departments/public_defense/civil_matters.php

Island County Court Facilitators

By appointment only

360-678-5111

www.islandcountywa.gov/SuperiorCourt/Pages/CourtFacilitator.aspx

Jefferson County Family Law Facilitator

By appointment only

360-385-9124

www.co.jefferson.wa.us/161/Clerk

King County Facilitator, Regional Justice Center

401 4th Ave N, Rm 3D, Kent WA 98032

206-263-3542

www.kingcounty.gov/courts/superior-court/family/facilitator.aspx

Kitsap County Courthouse Facilitator

By appointment only

360-337-7260

www.kitsapgov.com/clerk/Pages/Facilitator-Information.aspx

Klickitat County Court Facilitator

Phone appointments only

509-773-2388

[www.klickitatcounty.org/1349/
Court-Facilitator-Program](http://www.klickitatcounty.org/1349/Court-Facilitator-Program)

Lincoln County Courthouse Facilitator

PO Box 68, Davenport WA 99122

509-725-1401

www.co.lincoln.wa.us/clerk/

Mason County Family Law Facilitator

419 N 4th St, 2nd Fl, Shelton WA 98584

360-427-7775

[www.co.mason.wa.us/forms/superior-court/
facilitator.pdf](http://www.co.mason.wa.us/forms/superior-court/facilitator.pdf)

Okanogan County Family Law Facilitator

149 3rd N, Okanogan WA 98840

509-422-7132

[https://okanogancounty.org/offices/judicial_
courts/superior_court/facilitator/index.php](https://okanogancounty.org/offices/judicial_courts/superior_court/facilitator/index.php)

Pend Oreille County Courthouse Facilitator

By appointment only

509-447-2435

[https://pendoreilleco.org/your-government/
county-clerk/court-facilitator/](https://pendoreilleco.org/your-government/county-clerk/court-facilitator/)

Pierce County Family Law Facilitator

By appointment only

253-798-3627

www.piercecountywa.gov/faq.aspx?qid=872

San Juan County Courthouse Facilitator

By appointment only

360-370-7446

www.sanjuanco.com/1041/Court-Facilitator

Skagit County Courthouse Facilitator

By appointment only

360-416-1200

[https://skagitcountywa.gov/Departments/
SuperiorCourt/familylaw.htm](https://skagitcountywa.gov/Departments/SuperiorCourt/familylaw.htm)

Skamania County Court Facilitator

Phone appointments only

509-427-3765

[www.skamaniacounty.org/departments-offices/
superior-court/courthouse-facilitator](http://www.skamaniacounty.org/departments-offices/superior-court/courthouse-facilitator)

Snohomish County Family Law Facilitator

3000 Rockefeller Ave, Rm C-125, Everett WA 98201

425-388-3795

[https://snohomishcountywa.gov/471/
Courthouse-Facilitator](https://snohomishcountywa.gov/471/Courthouse-Facilitator)

Spokane County Court Facilitator

Family Law Center W 1116 Broadway, Rm 101,

Spokane WA 99260

509-477-7612

[www.spokanecounty.org/1403/
Court-House-Facilitator](http://www.spokanecounty.org/1403/Court-House-Facilitator)

Stevens County Court Facilitator

By appointment only

215 S Oak St, Rm 206, Colville WA 99114-2862

509-684-7575

[https://stevenscountywa.municipalcms.com/
pview.aspx?id=21121&catid=25](https://stevenscountywa.municipalcms.com/pview.aspx?id=21121&catid=25)

Thurston County Family Court Facilitator

By appointment only

2801 32nd Ave SW, Tumwater WA 98512

360-709-3269

[www.thurstoncountywa.gov/clerk/Pages/
facilitators.aspx](http://www.thurstoncountywa.gov/clerk/Pages/facilitators.aspx)

Walla Walla Court Facilitator, Blue Mountain Action Council

1520 Kelly Place, Suite 140, Walla Walla WA 99362

509-529-4980 Ext 141

www.bmacww.org

Whatcom County Family Law Facilitator

By appointment only

311 Grand Ave, Ste 507, Bellingham WA 98225

360-738-2459

www.co.whatcom.wa.us/426/Court-Facilitators

Whitman County Courthouse Facilitator

400 N Main, Colfax WA 99111

509-397-6240

www.whitmancounty.org/214/Clerk

Yakima County Family Court Facilitator

By appointment only

509-574-2695

www.yakimacounty.us/2692/Court-Facilitator

Medical Assistance

- **Consent for Medical Care:** State law allows relative caregivers to give informed consent for medical care for the child in their care (including dental and mental health care) even if they do not have a court order. When caring for a child in state custody, you must talk with the social worker to understand medical care the court must approve. *For more information, see listings under “Free Publications” in this section.*
- **Apple Health Care Connections (AHCC):** Addresses the health care needs of state-dependent children in out-of-home placement. AHCC can help identify what services or providers your child needs, previous health problems for newly placed children, answer questions about children’s health problems, and assist in navigating Washington Apple Health and the greater health care system. Children are eligible for AHCC if they are under age 21 and in placement through tribal or state dependency. For more information, contact your child’s social worker or call the number below.
By phone: 1-844-354-9876 (TTY 711)
Online: www.coordinatedcarehealth.com/members/foster-care.html
- **Bright Futures:** Information, guides and resources for families and children about health, well-child doctor visits, and more.
Online: www.aap.org/en/practice-management/bright-futures/bright-futures-family-centered-care/
- **Childhood Immunization Frequently Asked Questions:** Detailed information to help parents and caregivers make informed decisions about immunizing their children. Includes the booklet Plain Talk About Childhood Immunization (DOH #348-o8o).
Online: <https://doh.wa.gov/you-and-your-family/inmunizacion/children/childhood-faq>
- **Child Profile Health Promotion:** Now called Watch Me Grow (listed below)
- **Health Care Providers:** Find health care providers that accept Washington Apple Health coverage for medical and dental care.
By phone: 1-800-562-3022 (self-service and access to live person for Apple Care Assistance)
Online: <https://fortress.wa.gov/hca/prfindaprovider/>; caregivers must contact the provider to find out if they are accepting new Apple Health patients
- **Health Insurance for Children in Kinship Care:** Children living with a relative caregiver may be eligible for free Washington Apple Health coverage. Apply online or by phone (caregivers may apply for themselves at the same time).
By phone: 1-855-923-4633
Online: www.wahealthplanfinder.org
- **Health Insurance for Children in Foster Care:** Children who are dependents of the state are automatically eligible for Washington Apple Health and no application is needed. The Division of Children, Youth, and Families (DCYF) will enroll the child.
- **Watch Me Grow Washington (formerly known as Child Profile Health Promotion System):** Offers important health and safety information for children ages 0-6 by mail and online.
Online: <https://doh.wa.gov/you-and-your-family/immunization/watch-me-grow-washington>

National Resources

- **AARP: *Grand Families Guide* (2011):** Though many of the resource links are out of date, this guide offers good tips and information on a variety of topics. Online only.
Online: www.aarp.org/relationships/friends-family/info-o8-2011/grandfamilies-guide-getting-started.html
- **American Bar Association, Center on Children and the Law:** Offers information, advocacy, resource lists, and publications for lawyers and the public on a wide range of legal issues facing children.
By phone: 202-662-1720
Online: www.americanbar.org/groups/child_law.html
- **Child Welfare Information Gateway:** Resources on all aspects of adoption, with a focus on adoption from the U.S. foster care system. A service of the U.S. Department of Health & Human Services.
By phone: 1-800-394-3366
By email: info@childwelfare.gov for general questions; library@childwelfare.gov for publications
Online: www.childwelfare.gov/topics/adoption
- **Child Welfare League of America:** Offers online trainings and publications relevant to non-parent caregivers.
Online: www.cwla.org/our-work/
- **Children’s Defense Fund:** Serves children through a variety of programs and initiatives that empower communities and advocates to create change through political action and leadership.
By phone: 202-628-8787
By email: cdinfo@childrensdefense.org
Online: www.childrensdefense.org/programs/
- **Generations United’s National Center on Grandfamilies:** Offers broad range of guides, fact sheets, trainings, and tools for grandfamilies, which cover issues from educational and health care access to financial and legal supports. Publications include *Raising the Children of the Opioid Epidemic: Solutions and Supports for Grandfamilies*, *A Grandparents and Other Relative’s Guide to Raising Children with Disabilities*, and many more.
By phone: 202-289-3979
Online: www.gu.org/resources/
- **Grandfamilies of America:** A national membership organization run by relative caregivers. Provides grandparents/relative caregivers with the education and tools to enable them to provide 24/7 safety and permanency for the children in their care, while at the same time preserving family ties and heritage for future generations.
By phone: 301-358-3911
By email: owenspat@aol.com, Pat Owens, director
Online: www.grandfamiliesofamerica.org
- **Grandfamilies State Law and Policy Resource Center:** Free legal resources, publications, and information on a wide range of legal issues facing non-parent caregivers.
Online: www.grandfamilies.org

- **Grandparenting Today, a University of Wisconsin Cooperative Extension:** A series of fact sheets, especially for grandparents raising young children, developed by specialists with feedback from grandparents.
Online: <https://fyi.extension.wisc.edu/grandparenting/>
- **National Council on Aging Benefits Checkup:** Online screening tool designed for seniors. A confidential questionnaire determines eligibility for 1300 different federal, state, and private benefit programs that assist with the cost of prescription medications, health care, housing, energy, and other essentials.
Online: www.benefitscheckup.org
- **National Family Caregiver Support Program:** Offers information, counseling, training, respite care, and supplemental services to family caregivers. A service of the U.S. Administration on Aging, Administration for Community Living.
By phone: 1-800-677-1116 (to find local resources)
Online: www.acl.gov/programs/support-caregivers/national-family-caregiver-support-program
- **National Indian Child Welfare Association:** Offers technical assistance, information, and resources.
By phone: 503-222-4044
By email: info@nicwa.org
Online: www.nicwa.org

Chart of Legal Options

Type of Arrangement:	Unwritten Agreement	Power of Attorney for Parents	Title 13:36 Guardianship	Minor Guardianship	Emergency Minor Guardianship	De Facto Parentage	Adoption
Where do you get it?	No court action is required	No court action is required	Juvenile Court	Superior or Family Court	Superior or Family Court	Superior or Family Court	Superior or Family Court
What are its legal effects?	Gives caregiver specific rights and responsibilities listed by the parents.	Gives caregiver specific rights and responsibilities listed by the parents.	Guardian's legal rights and responsibilities will be decided by the court. Dependency may be dismissed.	Guardian's legal rights and responsibilities will be decided by the court. Order may provide for visitation and child support.	Gives the guardian legal and physical custody of the child for 60 days.	De facto parent has same rights as a biological parent. Inheritance rights may be gained.	Biological parents' rights are terminated. Inheritance rights may be lost. Adoptive parent has same rights as a biological parent. Inheritance rights may be gained.
What must you prove in court to get it?	Does not apply.	Does not apply.	Guardianship is in child's best interests (rather than adoption or reunification with parent) and the guardian is qualified and capable.	Guardianship is in child's best interests.	It would prevent substantial harm to the child, and no other person appears to have authority and willingness to act.	That a parent-like relationship exists, it's in the child's best interests, and other factors. See page 24 for all seven requirements.	Adoption is in the child's best interests.
How long does it last?	Until the parents decide to end the verbal agreement.	24 months maximum. Parents can renew the agreement.	Until the child turns 18, unless the court terminates it earlier.	Until the child turns 18, unless the court changes or terminates it earlier.	60 days, with the possibility of a 60-day extension or till any regular Minor Guardianship case is over.	Like adoption, de facto parentage is permanent.	Adoption is permanent.
What government benefits are available?	Standard benefits* may be available.	Standard benefits* may be available.	R-GAP: Monthly subsidy for qualified relative guardians. Unsubsidized guardianships: Standard benefits*	Standard benefits* and Social Security may be available.	Standard benefits* and Social Security may be available.	Standard benefits* and Social Security may be available.	Standard benefits* and Social Security may be available. Adoption support may be available if the child has special needs.

* TANF, medical assistance, subsidized child care, and tax benefits.

Options for Grandparents and Other Nonparental Caregivers:

A Legal Guide for Washington State

EVALUATION FORM

Please complete this form and return by: Mail: Legal Voice, 907 Pine St., Suite 500, Seattle, WA 98101
Email: info@LegalVoice.org
Fax: 206-682-9556

This will help us to make changes in this booklet to make it more useful for people.

1. Where did you get this booklet? _____

2. Which sections have you used? _____

3. Did you find any sections difficult to understand? Which ones? _____

4. Did you use any of the resources listed? Which ones? _____

5. Was this booklet useful for you? _____

6. Today's date: ____/____/____

7. (OPTIONAL) Your Name: _____

Address: _____

Phone: _____



THANK YOU!

