

Kinship Caregiver Handbook

A Guide for Grandparents, Aunts, Uncles, and
Any Relatives Who Are Raising a Child

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Funding for this project was provided by Lilly Endowment



United Way agency

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About the Agency

Kids' Voice of Indiana

Kids' Voice of Indiana is a 501(c)3 organization which has been committed for more than twenty-five years to promoting, protecting, and preserving the rights and best interest of children across the state of Indiana through three programs including the Derelle Watson-Duvall Children's Law Center of Indiana, the Bette J. Dick GAL for Kids Program, and the Supervised Parent-Child Visitation Program.

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INTRODUCTION

Are you an aunt, uncle, grandparent, or someone who is raising a child that is not your own? Have you decided or been asked to take on the difficult responsibility of providing a loving and nurturing home for a child who is not yours? Then you are what is referred to as a kinship caregiver. You are not alone as a kinship caregiver either, and there are resources and information that may be helpful to you. The purpose of this pamphlet is to help you understand the situation that you are in and to provide resources and information to guide you as a kinship caregiver.

In today's society, it is not unusual for a grandparent, aunt, cousin, sibling, or family friend to take responsibility for the raising of a child. The United State census bureau estimated in 2008 that 6,221,444 grandparents had a household where grandchildren resided with them. It may be intimidating to be a kinship caregiver. Changing from being a friend, grandmother, aunt, or uncle to a fulltime caregiver is difficult, for both you and the child. This pamphlet provides information to help you as a kinship caregiver. Below is a brief roadmap that is intended to be used as a reference guide. Within the roadmap there are references to later sections with more information.

I. Kinship Caregiver Roadmap

You are a kinship care provider – maybe you agreed to provide care for a relative or friend's child or the Court asked you to give a child a home. What are the first things you may need to do?

a. Who may I need to contact?

i. Department of Child Services (DCS)

The Department of Child Services (DCS) may have already been involved in the child's life. If you were appointed to care for the child as a result of a Child in Need of Services (CHINS) hearing, then you likely have already been in contact with DCS. Be sure to keep in touch with the DCS Family Case Manager (FCM) assigned to the child's case. It is important that you cooperate with the DCS investigation if one is ongoing. Make sure that the child attends all meetings and counseling or doctor's appointments that are part of the DCS case plan. You may also want to talk to DCS about becoming a Resource Family. See Section (II) for more information about becoming a Resource Family.

ii. The Child's School

If the child was enrolled in school you should contact the school and inform them that you are now caring for the child. Inquire what information the school needs from you such as emergency contact information. You may also want to ask the school about transportation, parent-teacher conferences, if the child receives counseling services at school, and if the child has an Individualized Education Plan (IEP). You may need to be

the legal guardian of the child to access school records and be involved in the child's education. See Section (III) on Guardianship & Third party Custody below.

Schools are often supportive networks of teachers and staff that care about the child and want to see him or her succeed. By working together with the school staff you will be able to share information about the child and better serve him or her.

iii. Court Office, Prosecutor's Office, or Parent's Attorney

If the child is the subject of a Court case, you should notify the Court office that the child is living with you. You should give the Court your contact information, including your phone number and address. If the child's parent is represented by an attorney, you may want to contact the attorney. Notify him or her that you are caring for the child and provide your contact information so you may be notified of any upcoming Court proceedings. If you are represented by an attorney, your attorney will contact the Court office and the parent's attorney on your behalf.

The child you are caring for may be entitled to child support from the child's parent(s). In Indiana, the Prosecutor's Office may be able to help you establish a child support order for the child in your care.

iv. Biological Parent, Biological Grandparent, Legal Guardian

Depending on the situation, it may benefit the child to have frequent visitation with one or both biological parents. The Court may order that the child have visitation with his or her parent(s). The Court may order that you supervise the child's visitation with the parent(s) or that you transport the child to and from a supervised visitation center. If the child was previously cared for by a grandparent or legal guardian, you may need to facilitate visitation with the grandparent or legal guardian. Be sure to follow any Court orders regarding the child's visitation with parents. The child's physical, mental, and emotional health should be the primary concern in all visitations.

The child's parents, grandparents, or legal guardians may have information that will be helpful as you care for the child. For example, the parents or legal guardians may be able to tell you the name of the child's primary doctor/physician, what medication the child is currently taking, the child's favorite toy, or what time the child normally goes to bed. Transitioning to your care may be difficult for the child and the little things you can do to make the child feel more at home will ease the transition.

v. Siblings of the child

Maintaining as much of a family structure as possible will be helpful to the child. If the child has siblings, try to encourage the child to stay in contact with the siblings when it is safe for the child to do so. Encouraging the child's sibling relationships may involve having the siblings visit the child in your home or transporting the child to and from

supervised visitation facilities. If the child has older siblings, they may be a good resource with information about the child's past, needs, and preferences.

b. Transferring schools or enrolling the child in school

If the child remains in his or her current school, you should notify the school that the child is now residing with you and provide the school with your contact information. Speaking with the child's teacher, counselor, and school psychologist or therapist, when applicable, will allow the school to better serve the child and will keep you informed of the child's education.

You may not be able to keep the child at the school that he or she previously attended if you live in a different school district. The school the child will attend depends on the child's legal settlement. See the Department of Education's form III attached to the back of this pamphlet. You may ask the parents to sign this form and take the signed form to the school.

If the child lives with you, the legal settlement may be your home if:

- The child lives with you because the parents are unable to support the child, and
- The child is not living with you for the primary purpose of attending the school in your district

In this situation, your home may be considered the child's legal settlement and the school may not require you to establish a legal guardianship to enroll the child in the school in your district.

If the child lives with you and you are supporting and caring for the child, the legal settlement of the child is your home, except when:

- The parents are able to support the child but have placed the child in your home, or allowed the child to live with you, for the primary purpose of attending the school in your district

In situations where the above factors are disputed, the school may require that you be appointed the legal guardian or custodian of the student.

If the child does change schools, you may contact the child's previous school to get transcripts and records for the new school. It will greatly assist the new school in providing services for the child if you are able to provide the child's school records.

c. Getting the child's clothes and belongings

The child may have clothes, toys, pictures, and other personal items. Getting the child's personal items will help the child have consistency in his or her life and will make the transition to your home easier. If it is reasonable to do so, contact the child's parent or previous caregiver and arrange to pick up the child's belongings.

The child may come to your care with little or no personal belongings. You may need to provide items such as clothing, school supplies, and bedding for the child. See Section (I)(f) below on assistance.

d. Providing medical care for the child

You may be able to consent to health care for a child in a few different situations.

- i. If a judge has appointed you guardian of the child then you may consent to health care for the child.
- ii. If you are not a Court appointed guardian but are an adult sibling of the child, then you may consent to health care if there is no guardian, if the parent or person caring for the child refuses to act, or if the health care provider does not know of the existence of the parent or person caring for the child.
- iii. If you are in loco parentis for the child, meaning that you have assumed the parental rights and duties of the child, then you may consent to medical care if there is no guardian, if the guardian is not available to act or declines to act, or if the health care provider does not know that the guardian exists.
- iv. In an emergency situation you should take the child to the emergency room to receive medical treatment even if you do not have legal guardianship or legal custody. Failure to seek medical treatment for the child in an emergency could result in liability for child neglect. IC 16-36-1-5.

You may want to ask the child's parent or previous caregiver if the child was seen by a primary physician. You may want to continue taking the child to the primary care physician or you may want to contact him or her to get the child's medical records so the child may be seen by another doctor.

If the child received health insurance, Hoosier Healthwise, or Medicaid, you will need to request the child's health insurance, Hoosier Healthwise, or Medicaid cards from the parent or the previous caregiver. If you are unable to get the information from the parent you may need to contact the Family and Social Services Administration (FSSA) to complete the necessary steps to get the child's Hoosier Healthwise information. If the child receives Social Security payments because of the child's or parent's disability, or the parent's death, you may want to consider arranging to receive the Social Security benefits on the child's behalf. Contact the Social Security Administration for more information. The contact information for FSSA and the Social Security Administration are provided in Section (IV), Useful Terms and Contact Information.

Check with the child's parents or previous caregiver to learn whether the child was taking any regular medication. You will need to arrange for filling and picking up the child's prescription(s). If the child's medication was paid for by Hoosier Healthwise then you will need to get the Hoosier Healthwise card.

It may be possible for you to place the child on your insurance. Some health insurance plans will allow an individual to add a family member or a child. Every plan is different and who may or may not be insured under the plan will change depending on a person's health insurance plan. One place to start to determine whether the child can be placed on your insurance is by contacting your employer's human resource officer. They will be able to provide you the information or point you in the right direction.

e. Providing counseling for the child

Ask the child's parent or previous caregiver if the child was seeing a therapist or counselor. If the child already has a mental health care provider, arrange for the child to keep seeing this individual if possible. If the child is not currently seeing a therapist, you may want to consider enrolling the child in counseling. An in-school counselor may be provided at the child's school.

f. Financial assistance to care for the child

As you likely know, taking care of a child is expensive and there may be financial resources available to help provide for the child's care.

Whether you are a formal or informal kinship care provider, the child may be eligible for government assistance such as Temporary Assistance for Needy Families (TANF), Food Stamps, Hoosier Healthwise (Medicaid), or Social Security benefits. You may want to check with the child's parent or previous caregiver to determine if the child was receiving government assistance. If the child was previously receiving government assistance, you will need to make sure that the necessary forms are completed so that the child, if eligible, may continue to receive the assistance while living in your care. Contact the FSSA Division of Family Resources and ask what you need to do so that the child continues to receive assistance while living with you.

If the child was not previously receiving government assistance, you may want to consider applying for assistance for the child.

Different forms of government assistance may be available for children in unlicensed relative placement, or informal kinship care, and children in licensed relative placement, or formal kinship care. A kinship caregiver should apply for financial assistance such as TANF, and confirm eligibility for Supplemental Security Income (SSI) or other Social Security Benefits. Children who qualify may only be eligible to receive SSI or TANF. Many factors will have to be considered but it is important to apply for the assistance and see what is available.

II. What is Kinship Care?

Kinship care can have many meanings. Per the Indiana Department of Child Services (DCS) website in August, 2010, Indiana DCS defines kinship care as "the full time care, nurturing and protection of children by relatives or other adults who have a relationship or bond with the family, who are members of their tribes or clans, or are godparents." The Child Welfare League of America uses a broader definition and defines kinship care as "the full-time care, nurturing and protection of children by relatives, members of their tribes or clans, godparents, stepparents,

or any adult who has a kinship bond with a child.” What this means for you is that you have chosen to or were chosen to care for a child with whom you have a relationship but you are not the child’s biological mother or father.

There are two different types of kinship care in Indiana, **formal** and **informal**.

Formal kinship care occurs as a result of a Court hearing called a Child in Need of Services (CHINS) adjudication that results with the child being placed with a relative or other adult who has a relationship with the family. A CHINS adjudication often occurs when there is some reason to believe that the child is abused or neglected and the Court needs to be involved to protect the child and ensure that the child is receiving appropriate treatment or care. This begins with a petition filed by DCS. The importance here is that this form of kinship care only begins after a formal ruling by a Court, naming you or someone you know as the child’s caregiver.

Informal kinship care occurs when an individual cares for a child not his or her own without a ruling from the Court appointing the individual as the child’s caregiver. In informal kinship care, the caregiver may have initially believed that he or she would be caring for the child for only a short time. Yet for a variety of reasons, the parent(s) were unable or unwilling to resume care of the child. Although the kinship caregiver may provide the day to day care for the child, in the eyes of the law the parent is still in charge of the child. Most likely the caregiver has no legal rights or legal relationship to the child and cannot make legal decisions on the child’s behalf. Informal kinship caregivers may be able to apply for financial assistance such as Hoosier Healthwise or TANF. Each governing agency for assistance has their own criteria to determine when they will and will not provide financial assistance.

A Closer Look at Formal Kinship Care...

Because the Court is more closely involved in formal kinship care, additional information is provided. In Indiana, the Indiana Code (IC) regulates CHINS processes and any formal/informal kinship care relationships. For more information see Section (V)(ii) on how to access the Code. The Code will be referenced throughout the pamphlet. The Code begins with IC and the following numbers indicate the title, article, chapter, and section where more information can be found.

Formal Kinship Care and the CHINS Process

A formal kinship care provider may be involved as a temporary placement for the child before the child is adjudicated a CHINS. A child may be taken into temporary protective custody by law enforcement with a Court order, or by a law enforcement officer, probation officer, or a family case manager if there is probable cause to believe the child is a missing child or is a CHINS. These both may be done before the filing of a CHINS petition. IC 31-34-2-1. IC 31-34-2-3.

The Juvenile Court may designate a place where children taken into temporary protective custody without a Court order shall be taken. IC 31-34-4-3; IC 31-34-4-4. The Court shall consider placing the child with a suitable and willing blood relative, adoptive relative, de facto

custodian, or stepparent, before placing the child in any other out-of-home placement, but relatives who are not licensed foster parents must have a home study and criminal history check before placement. IC 31-34-4-2; IC 31-9-2-22.5. Please see DCS's website for more information at www.in.gov/dcs. On the left hand side of the screen click on "Foster Care."

Indiana law prevents a person who has been convicted of the following offenses from being approved for a foster care license: murder, causing suicide, assisting suicide, voluntary manslaughter, reckless homicide, battery, domestic battery, aggravated battery, kidnapping, criminal confinement, a felony sex offense under IC 35-42-4 (rape, criminal deviate conduct, child molesting, child exploitation, vicarious sexual gratification, child solicitation, child seduction, sexual battery, sexual misconduct with a minor), carjacking, arson, incest, neglect of a dependent, child selling, a felony involving a weapon under IC 35-47 or IC 35-47.5, a felony relating to controlled substances under IC 35-48-4, an offense relating to material or a performance that is harmful to minors or obscene under IC 35-49-3, and a felony that is substantially equivalent to a felony listed above which was convicted in another state. IC 31-27-4-13.

A potential kinship care provider may also be involved in the CHINS proceeding. In a CHINS proceeding, you may ask the DCS family case manager to be considered as a placement for the child. Indiana law requires DCS or the Court to notify kinship care providers of the date and time of CHINS hearings. For most hearings the Juvenile Court must give kinship care providers the opportunity to be heard in Court and to make recommendations to the Court. The Court will also appoint a Guardian Ad Litem or a Court Appointed Special Advocate to represent the child's best interest. A kinship care provider should stay in contact with the Guardian Ad Litem or Court Appointed Special Advocate regarding the child's needs and well-being.

If the child is adjudicated a CHINS, the Court may consider placing the child with a kinship care provider. The Juvenile Court shall hold a dispositional hearing within 30 days of a child being adjudicated a CHINS to consider, among other things, the alternatives for care, treatment, rehabilitation, or placement. IC 31-34-19-1. Dispositional options for the child which the Juvenile Court may order include removing the child from home and placing the child in foster care, relative care, a shelter care facility, or other placement. IC 31-34-20-1.

The Court is required to hold a permanency hearing twelve months after the child is removed from the parents or the dispositional decree is entered, whichever occurs first. A kinship care provider may be identified as the child's proposed permanent family at the permanency hearing. IC 31-34-21-7.5. This would not be a final decision though. The child may be placed for adoption. IC 31-34-21-7.5 (c)(C). The child may also be placed with a responsible person including an adult sibling, a grandparent, aunt, uncle, or other relative who is able and willing to act as the child's permanent custodian and carry out the responsibilities required by the permanency plan. IC 31-34-21-7.5 (c)(D).

A legal guardian may also be appointed for the child. The legal guardian is a caretaker in a judicially created relationship between the child and caretaker that is intended to be permanent and self-sustaining. The parental rights of care, custody, and control of the child and decision

making concerning the child's upbringing are transferred to the caretaker. IC 31-34-21-7.5 (c)(E).

Periodic review hearings will continue until the CHINS case is closed or dismissed and the DCS wardship is released. After the plan has been identified it will be put into place through other Courts and processes under different cause numbers. For example, a new guardianship, third party custodianship, or adoption case may be initiated.

Beginning January 1, 2010, children who are wards of DCS in unlicensed relative placements may receive financial assistance from DCS. DCS may provide a personal allowance for children in an unlicensed relative placement for 180 consecutive days. These children may receive an annual personal allowance of up to \$240. The personal allowance funds may also be used to pay for some of the child's recreation expenses and some educational expenses. DCS has guidelines about when and how the funds may be spent. It is important to remember that all of DCS policies and directives are subject to change. For more information refer to DCS's website at www.in.gov/dcs. Click on "Foster Care" on the left hand side, then on "Relative/Kinship Caregivers."

Children in unlicensed relative placement may also receive clothing assistance from DCS. At the time a child is removed from his or her parent or caregiver, DCS will make sure that the child has adequate clothing for the child's own needs. DCS may also provide the relative caregiver with an Initial Clothing and Personal Items Allotment of up to \$200.00 per child. The Clothing and Personal Items Allotment is based on the child's individual needs; therefore, children who are removed from their home with sufficient clothing may not receive funds whereas other children with clothing needs may receive the entire \$200. DCS has guidelines on how and when the clothing funds may be spent. All clothing and personal items will go with the child if the child is returned home or moved to a different caregiver's home.

Children in unlicensed relative placement may receive a onetime payment of up to \$400 from DCS for a bed and bedding. The bed and bedding will go with the child if he or she moves from the caregiver's home. Additionally, assistance for children in relative placement may be available to pay for travel and childcare.

DCS policies may change. Check the DCS website at <http://www.in.gov/dcs> for updated information click on "DCS policies" on the left hand side of the home page and then click on "Child Welfare Policies" which will appear beneath.

Formal Kinship Care and Becoming a Licensed Resource Family

As a formal kinship care provider, you will need to become a licensed Resource Family through DCS. If a child is placed with you in formal kinship care, you will be supervised by DCS. You will need to meet DCS requirements to become a licensed resource parent. DCS requirements include attending training, demonstrating financial and emotional stability, passing a home inspection, providing medical statements for everyone living in your home, and passing a background check of CPS history and criminal history. Contact your local DCS office for more information about becoming a Licensed Resource Family.

Licensed resource parents, or formal kinship care providers, may receive a foster care per diem from DCS. The per diem rates will vary according to the needs of the child and/or the agency that holds the license. The per diem rates are subject to change and should not be relied upon as an exclusive means to care for the child. In recent years due to state budgetary issues the rates have been subject to reduction. For additional information, contact the DCS family case manager or private agency licensing worker.

III. Different Legal Options

As a kinship caregiver you have different legal options as you care for the child.

a. Guardianship

A guardian is “a person appointed by a Court to have the care and custody of a child or the child’s estate, or both.” IC 31-9-2-49. You may become the guardian of a child through a probate proceeding under Title 29. You may also become a legal guardian as a permanency option for a child who has been adjudicated a CHINS in the Juvenile Court.

Potential Positive Aspects

A guardian will typically have all the rights and responsibilities of a parent. If you are Court appointed as the child’s guardian you can more easily make legal decisions for the child, such as enrolling the child in school and providing medical care for the child. A guardian may also sign legal documents on behalf of the child. For example, a legal guardian can sign an application for the youth’s driver’s training, driver’s license, or permit, as long as the Court approves this decision. It is important to remember that the guardian assumes full financial responsibility for any damage or injury caused by the youth while driving.

Establishing a guardianship may also provide you and the child more stability. A guardianship may be terminated by a Court Order. This means that once the guardianship is established, the parent(s) of the child cannot remove the child from your care without a Court Order terminating the guardianship. In contrast, in an informal kinship care arrangement with no Court Order, the parents are still the legal guardians of the child and may remove the child from your care at any time.

As a legally established guardian, you may have access to financial assistance to help you care for the child. Possible financial assistance you may apply for includes TANF if you are a relative of a certain degree, free or reduced school lunches, food stamps, and Hoosier Healthwise. The various forms of financial assistance have certain requirements that must be met. Some of the programs may require the child to be related to you within a certain degree. If you are uncertain whether you will receive assistance, it is important to remember that you still may apply for the assistance. The assistance agencies may not prevent you from applying. If you apply and are denied, you may be able to appeal the denial.

Potential Negative Aspects

If the parent(s) do not consent to you having guardianship of the child, then establishing a guardianship may be a difficult legal process for you. The Court will begin with the presumption that children should be with a parent. As the person petitioning to become guardian, you will need to overcome this parental presumption by proving that the child should not be with the parent. The person wishing to establish the guardianship will need to prove that the parent is unfit, or has long acquiesced in leaving the child with the guardian or third party custodian, or present evidence demonstrating that a strong emotional bond has formed between the child and the guardian. These factors are important, but the Court is not limited to this criteria. The Court must also be convinced that the child's best interests are substantially and significantly served by placement with another person and that the guardianship or third party custodianship is in the child's best interests.

Establishing a guardianship when the parent does not consent may be difficult emotionally. You will need to present the Court with negative information about the parent which may strain your relationship with the parent.

If a guardianship is granted, the Court may order that the parent(s) have parenting time (visitation) with the child. The Court will balance the parent's right to parenting time with the child's right to safety and stability. If the Court orders parenting time, you may need to provide transportation for the child to and from visits with the parent(s) or may need to host visits in your home. When it is safe to do so or the Court so orders, it is important that you as the guardian encourage the child to see his or her parent(s), even though this may require extra work from you.

A guardianship is not a permanent legal relationship. Unlike adoption, which is permanent, a guardianship terminates by operation of law when the child turns 18 years old. A guardianship may be terminated before the child turns 18 years old if it is no longer necessary. Another person could be appointed guardian or the child could be returned to a parent when your guardianship terminates. Additionally, the guardianship may terminate if the parent petitions to terminate the guardianship.

If the parent petitions to terminate the guardianship, the Court will schedule a hearing on the petition. As Guardian, you may seek an attorney to present evidence as to why you should continue to be the child's guardian. The guardian has the burden of proving that the parent is unfit at that time, has long acquiesced in the guardian caring for the child, or a strong emotional bond has formed between the child and guardian, and that the child's best interest are still substantially and significantly served by the guardianship. You may go to Court with or without an attorney. The assistance of an attorney will be very helpful in these proceedings, see Section (V), Legal Resources, for information about legal aid providers and representing yourself in Court.

Once your guardianship of the child terminates, you have no legal rights to the child as the child's former guardian. This means if the parent contests your guardianship of the child and the Court terminates the guardianship, the Court cannot order the parent to allow you to see the

child. It may be emotionally difficult for both you and the child if the guardianship terminates and the parent does not allow you to maintain contact with the child.

b. Third Party Custody

In third-party custody, a person who is not the child's parent may be granted custody by the Court to determine the child's upbringing, including the child's education, health care, and religious training. You may be appointed as third party custodian of a child when there is already a paternity or divorce Court with jurisdiction. Third party custody is different from guardianship because guardianship occurs when there is not a paternity or divorce Court with jurisdiction.

Custodians may be included in the CHINS proceeding. A permanent custodian may be appointed as a permanency option in a CHINS adjudication. A child may be placed with a responsible person including: an adult sibling, a grandparent, an aunt, an uncle, or other relative who is able and willing to act as the child's permanent custodian and carry out the responsibilities required by the permanency plan. IC 31-34-21-7.5(c)(D).

The Court may grant you custody of the child as the de facto custodian. A de facto custodian is a person who has been the primary caregiver and the financial support of a child for six months if the child is under three years of age and for one year if the child is at least three years of age. IC 31-9-2-35.5. In a divorce or paternity case, if the Court finds by clear and convincing evidence that the child has been cared for by a de facto custodian then the de facto custodian will be made a legal party to the Court case. IC 31-17-2-8.5, IC 31-14-13-2 and 2.5. The Court will consider the required factors and may award custody to the de facto custodian if it will be in the child's best interests.

Potential Positive Aspects

Third party custody shares many of the same positive aspects as guardianship. For example, as a third party custodian you will be able to make legal decisions on behalf of the child. A third party custodianship will also provide you and the child with more stability as the parents will need to go back to Court and ask for the custodianship to be changed. The Court will schedule a hearing on the petition and you as custodian may seek an attorney to present evidence as to why you should continue to be the child's custodian.

A custody proceeding may be initiated by a person other than a parent. Third party custodians may be a family member such as a grandparent, aunt, or uncle. They may also be people who are not related to the child by blood.

The parents can choose to consent to the third party custodianship. If the parents do consent to the custodianship, the legal proceeding will be much easier for all the parties involved than if the parents do not consent. The Court will conduct a fact sensitive inquiry when determining whether to establish the custodianship. This means that the Court will look closely at the specific facts of your case and the reasons why a custodianship may or may not be best for the child.

As a third party custodian, if you are financially eligible and related to the child in a certain way, you may be able to receive TANF and Hoosier Healthwise benefits to assist in your care of the child.

Potential Negative Aspects

The custodian's rights and duties may be limited as agreed by the parties in writing or if the Court determines that the child's physical health would be endangered or emotional development would be significantly impaired otherwise. This means that you may not be able to make some decisions for the child or raise the child a specific way if the parties agree or the Court so orders. For example, you may need to raise the child in a religion different from your own if the parents will only consent to the custodianship if you agree or if the Court orders you.

Like a guardianship, a third party custodianship may be difficult to establish when the parents do not consent. There is a strong presumption that the child's best interests are ordinarily served by placement in the custody of the natural parent. However, a person other than the natural parent may have custody of the child if this person shows clear and convincing evidence that the best interests of the child require the placement, that the placement with this person will be a substantial and significant advantage to the child, and that the parent is unfit or acquiesced in the third party caring for the child so that a strong emotional bond has formed between the child and the third party.

If a third party custodian is appointed for a child, the Court may order specific parenting time be provided to the child's parents. The Court will balance the parents' rights to parenting time with the child's right to safety and stability. You may need to facilitate the child's parenting time with his or her parent(s).

Also like guardianship, third party custody may terminate. Custody may be modified from a third party custodian back to a parent. The burden to maintain the third party custodianship is on the custodian. The third party custodian must prove by clear and convincing evidence the natural parent's unfitness or acquiescence or demonstrate that a strong emotional bond has formed between the child and the third party. The third party custodian must present detailed and specific information that the custodianship is in the child's best interests. Once again, it may be emotionally difficult for you to show the Court evidence of the parent's unfitness. A contested third party custody proceeding may strain your relationship with the parents; however, this may be necessary to do what is best for the child.

c. Foster Care or Relative Placement through a CHINS Proceeding

In foster care or a relative placement as a result of a CHINS proceeding, DCS has legal wardship of the child and the child lives with the caregiver selected by DCS. A grandparent, relative, or non-parent may care for the child while a CHINS proceeding is pending, as a dispositional placement option, or as a permanency option.

DCS is required to consider relative placements for children in many different stages of the CHINS proceeding, including in the case plan, detention, and disposition. The Court may order

that the caregivers complete a relative home study and that DCS makes a recommendation to the Court before a child is placed with a relative.

Placement with a relative is encouraged, as Indiana law prefers placement in the least restrictive, or most family like setting, which is close to the parents' home, least interferes with family autonomy, is least disruptive of family life, and provides reasonable opportunity for parent participation in the child's care and treatment. IC 31-34-18-4.

If a child is placed with a relative as a permanency option through a CHINS proceeding, this arrangement is formal kinship care. In formal kinship care, the caregiver will need to become a resource parent licensed through the State. A person may have to invest time, money, and energy into becoming a resource parent. A resource parent is a licensed adult who meets the minimum requirements in place to be able to foster a child or be a formal kinship care giver. DCS has set these minimum requirements to help them establish a guideline that they will use to determine who they feel will be able to care for those children. It is important to remember that DCS is working to reunify the child with his or her parent(s).

Potential Positive Aspects

Once a caregiver becomes a licensed resource parent, the caregiver may be eligible for financial assistance from the State in the form of a foster care per diem. The per diem rates will vary according to the needs of the child and/or the agency that holds the license. The per diem rates are subject to change and should not be relied upon as an exclusive means to care for the child. Contact the DCS Family Case Manager for information about the current foster care per diem rate.

As a licensed resource parent, you may find it easier to legally provide for the child. As a licensed resource parent, you have a legally recognized relationship with the child and may consent to things for the child, such as medical care or enrolling the child in school. Often a resource parent may be able to consent to medical treatment for emergency and routine procedures.

In formal kinship care, you must become a licensed resource parent. Becoming a licensed resource parent will involve you spending time, energy, and possibly money necessary to complete the required trainings, home visits, and background checks.

Although the child lives with you, DCS has a wardship over the child. While you will be able to make many of the day to day decisions for the child, any legal decision is ultimately left to DCS. It is also important to remember that DCS will be working toward reunifying the child with his or her parent(s). It may be frustrating or emotionally difficult for some caregivers to care for a child while knowing that the child may eventually be returned to his or her parent(s).

DCS has outlined numerous events and requirements that must be met for a caregiver to become a licensed foster parent. The prospective foster parent must be at least 21 years of age and be capable of passing a criminal history and background check. The caregiver's fingerprints will be taken. The caregiver must also be able to demonstrate that he or she is financially stable and

owns or rents a home that meets the physical safety standards. There are numerous training requirements as well, along with home visits and assessments. Please see DCS's website at www.in.gov/dcs for more information on becoming a licensed foster parent.

d. Adoption

In adoption, a new permanent parent-child relationship is created. An adoption forever dissolves the biological parent-child relationship and creates a new parent-child relationship. Once an adoption decree is entered, the biological parents have no legal duties or obligations to the child. Likewise, an adoption removes the biological parents' rights to the child. The parent-child relationship is terminated by operation of law. IC 31-19-15-1. A new birth certificate may be issued for the child. IC 31-19-13-1.

Adoption may be a permanency plan for a CHINS.

Indiana case law provides that relatives do not have a preferential legal right to adopt. Blood relationship is a material factor but is not controlling. Instead, the controlling factor in an adoption is the best interests of the child. In Re Adoption of Childers, 441 N.E. 2d 976, 980 (Ind. Ct. App. 1982).

DCS has requirements that must be met before a person may be an adoptive parent. Please see DCS's website at <http://www.in.gov/dcs/2730.htm> or call 1-888-25-ADOPT for more information on becoming an adoptive parent.

Potential Positive Aspects

Adoption provides the most protection and stability among the various legal options discussed in this pamphlet. The intention of a legal adoption is the termination of the biological parents' rights and the establishment of a new parent-child relationship, but it is possible a legal proceeding could be implemented by the biological parent(s) to contest the adoption. Once an adoption decree is entered, it is extremely difficult for a parent to have the Court overturn the adoption and take the child.

Adoption makes legally caring for the child very easy. Once the adoption is finalized you have full rights to the child, just as you would to a child who is biologically yours. The adoptive parents are permanently responsible for the child, until the child is emancipated.

Caregivers who adopt children may apply for government assistance for the child, such as Supplemental Security Income or Social Security Benefits, when applicable. Caregivers who adopt children may also apply for post adoption financial assistance from DCS.

Potential Negative Aspects

If the caregiver was previously a foster parent to the child before adopting the child, the foster care per diem will stop after the adoption. It is possible that the foster care per diem may end before any adoption assistance payments begin. Additionally, post adoption financial assistance

has changed significantly in recent years and it is possible that there may not be post adoption financial assistance available, or that the assistance amounts may be reduced.

Adoptions are also complex legal proceedings and often require the prospective adoptive parents to hire an attorney to navigate the legal process. The cost of the attorney's legal services may be paid by DCS as a Non Recurring Adoption Expense.

IV. Useful Terms and Contact Information

Adoption

Adoption is the act of terminating the biological parent's legal rights and assigning those legal rights to the adopting parents. Adoption is a legal process that occurs through the Court system where the biological parents either agree to, or the Courts remove, their legal rights. The Court then assigns the legal rights to the adoptive parents.

Child In Need of Services (CHINS)

Abused and neglected children are called Children In Need of Services (CHINS) in Indiana law. There are ten CHINS categories:

1. Neglect
2. Abuse
3. Victim of Sex Offense
4. Parental allowance of child's participation in obscene performance
5. Parental allowance of child's participation in sex offenses
6. Child endangerment of self or others
7. Parental failure to participate in school disciplinary proceedings
8. Missing child
9. Child born with fetal alcohol syndrome or trace amounts of substance in system
10. Child has injury or abnormal development or endangering condition caused by mother's use of substance during pregnancy.

Court Appointed Special Advocate

Is a community volunteer who has been trained in a program approved by the court and is appointed by the court to represent the child's best interest during the course of proceedings.

Custodian

Custodian is the person with whom a child resides.

De Facto Custodian

A person other than a parent who has served as the primary caregiver and financial support of a child for one year, or six months if the child is under three years of age. Any time period after a legal custody proceeding has begun does not count toward the one year or six months time requirement. Foster parents are not de facto custodians.

Department of Child Services (DCS)

The Department of Child Services (DCS) is a state agency that provides direct attention and oversight of protecting children and child support enforcement. DCS protects children who are victims of abuse or neglect and strengthens families through services that focus on family support and preservation. The Department also administers child support, child protection, adoption and foster care throughout the state of Indiana. The DCS Central Office is located in the Indiana Government Center South at 402 West Washington Street, Room W302. DCS may be found on the internet at www.in.gov/dcs/ for any policy decisions please refer to the website and on the left hand side click “DCS policies” then click on “Child Welfare Policies” which appears beneath.

Dissolution Court

The Court where divorces are granted and custody and parenting time of the children are determined.

Foster Care

Foster care is the system coordinated by DCS where they place children with individuals to provide a stable environment while the reunification process is occurring. The individuals are licensed through DCS and have physical custody of the children while DCS retains a wardship over the children.

FSSA (Family and Social Services Administration)

The FSSA, Division of Family Resources is the State agency that is responsible for receiving applications for Medicaid, Food stamps, TANF, and other health related items. On the internet at www.in.gov/fssa. To view a list of county offices click on the blue text stating “To locate your FSSA Division of Family Resources County Office, please click here.” You can also dial 211 to get contact information for human services.

GAL (Guardian Ad Litem)

Like the Court Appointed Special Advocate, the GAL is an individual who has received specialized training and represents the child’s best interest in different proceedings.

Guardianship

Guardianship is a legal relationship that is created through the Court system where a person other than the child’s parent has legal custody of the child. The Guardian is the individual who is legally responsible for the child.

In Loco Parentis

In loco parentis means in place of the parent and it occurs when someone other than the parent has assumed the parental rights and duties of the child.

License

Includes a license for foster homes that may be issued to a person applying to be a foster family home. May be issued by the DCS Central Office through the Residential Licensing Unit Manager. Issued through the Residential Licensing Unit Manager when

the applicant completes the application process and the local DCS director or the director's designee submits his or her recommendation and approval.

Licensed Child Placing Agency

Licensed Child Placing Agencies are private agencies that provide training and make recommendations regarding families and children in adoption settings.

Paternity Court

The Court that hears and decides cases when a child is born to an unmarried woman. This Court has the authority to establish paternity.

Probate Court

The Court that orders and terminates guardianships.

Putative father

Putative father is the term used to refer to a man who is believed to be the father of a child. That man has not had actual paternity established but is believed to be the father because of some reason, like mother's statements.

Resource Home

Foster homes, pre-adoptive homes, and relative homes that are resources for children in out of home placements or adoptions.

Resource Family

Foster parents, adoptive parents, relative or kinship caregivers.

Relative Placement

A qualified adult relative provides care for a related child through a placement that may be either licensed or unlicensed. Indiana law provides that the Court must consider placing the child in the home of a relative before placing the child elsewhere.

Social Security Administration

The federal agency responsible for providing assistance to individuals, primarily those who are retired, disabled, or survivors. The Social Security Administration website is www.ssa.gov. The Social Security Administration can also be contacted by telephone at 1-800-772-1213.

State Office of Guardian Ad Litem/Court Appointed Special Advocate

A program of the Indiana Supreme Court that certifies, distributes funding, and provides training for the Indiana county programs that provide Guardian ad Litem/ Court Appointed Special Advocates for children in CHINS cases. The website, www.in.gov/judiciary/galcasa/ includes a directory of all of the Indiana county programs.

Temporary Conditional Custodian

When a guardianship is established, a temporary conditional custodian is designated as the person responsible for caring for the child upon the death of the guardian. The temporary conditional custodian would take the child into his or her home temporarily and may petition the Court for permanent custody.

Third Party Custody

Third party custodianships are granted in paternity or divorce Courts. An individual other than a biological parent, or adoptive parent, retains custody over a child. This third party could be a friend, a family member, or a foster parent.

V. Legal Resources

i. Access to Pro Bono Attorneys

The Indiana Pro Bono Commission of the Indiana Supreme Court lists pro bono providers who provide legal representation to eligible people who lack funds to pay a private attorney. Indiana is divided into fourteen pro bono districts. The names and telephone numbers for pro bono providers may be accessed through the Indiana Supreme Court website at <http://www.in.gov/judiciary>. Click on “Citizens” on the left-hand side of the Indiana Supreme Court home page, then on “Pro Bono Legal Services.” Unfortunately, the pro bono legal providers have limited resources and cannot accept every eligible person who applies to them for services.

ii. Help for People Who are Representing Themselves

Some Indiana counties have a law library located in the county Courthouse which can be used by members of the public to research Indiana laws and legal forms. Some public libraries have copies of Indiana statutes, and the reference librarian can help the public find statutes. All of Indiana’s statutes can be found on the legislative website, <http://www.in.gov/legislative>. Scroll down to the “Laws” bar on the Indiana General Assembly home page and click on “Constitution & Statutes” and then click on Indiana Code. The thirty-six (36) named Titles of Indiana law can then be accessed by article number and name and chapter number and name.

People who are representing themselves in Court may view informational videos on self-representation on the Indiana Supreme Court website. Click on “Citizens” on the left-hand side of the home page, <http://www.in.gov/judiciary>, then scroll down and click on “Representing Yourself in Court” to find the “Self Service Legal Center.” The Self Service Legal Center link contains a video, Court forms, and other information, including Spanish language information.

FORM III
DOE 7/06

*ELECTION TO ATTEND SCHOOL WHERE
THE PARENTS ARE DIVORCED OR SEPARATED*

This agreement is prepared by the State Superintendent of Public Instruction, as required by Indiana Code 20-26-11-3, to implement I.C. 20-26-11-2.5. **Form III** is to be used where the student's parents are divorced or separated but live in different public school corporations. **Form III** must be signed by the parent with physical custody or by the student if the student is eighteen (18) years of age and competent.

Student Information

Name: (last) _____ (first) _____ (mi) _____
(street) _____
(city) _____ (state) _____ (zip code) _____
(date of birth) _____
Last school corporation attended: _____
School corporation elected: _____

Parent Information

Mother:
Name: (last) _____ (first) _____ (mi) _____
(street) _____
(city) _____ (state) _____ (zip code) _____
(telephone) _____ (email) _____

Father:
Name: (last) _____ (first) _____ (mi) _____
(street) _____
(city) _____ (state) _____ (zip code) _____
(telephone) _____ (email) _____

Parent with whom the student will live: _____

In order to make an election under I.C. 20-26-11-2.5, the parent or student, if the student is eighteen (18) years of age, understand and agree:

- This form must be completed and presented not later than fourteen (14) days before the first student day of the school year to the school corporation where the election to attend has been made.
- In order to make this election, one or both of the student's parents must live in the school corporation where the election to attend has been made.
- The election to attend the school corporation is effective for one (1) school year.
- This form must be completed and presented to the school corporation for each subsequent school year.

I affirm, under the penalties for perjury, that the foregoing representations are true.

Name (printed) **Parent with Physical Custody**

Name (printed) **Student (if 18 Years of Age)**

Signature

Signature

Date

Date

