Department of Children's Services

Guide to Full Disclosure of Permanency Options

Statewide Specialized Support Services Division

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Glossary:
None

Disclaimer:
The Tennessee Guide to Full Disclosure of Permanency Options is intended to educate Relative/Kinship families, caregivers, advocates, and the public. This guide provides an explanation of services, eligible benefits, and other information for general information purposes. This information should not be construed as legal advice on any subject matter, nor is it intended to substitute for obtaining legal advice from an attorney. The Tennessee Guide to Full Disclosure of Permanency Options disclaims all liability for actions you take or fail to take based on any content in this guide. The use of this guide does not create an attorney-client relationship between you and the authors or contributors.

Introduction:
There are many reasons why children can no longer remain with and be cared for by their parents. Parents may have a substance use disorder, mental illness, incarceration, or perhaps have even died. When a child comes to the attention of the Department of Children's Services (DCS) and needs out-of-home care, it is the responsibility of DCS staff to engage the family in identifying relatives who may be willing to serve as a placement resource. Placement with a family member who can provide safety, permanence, and well-being is preferred over placement with someone who has no connections to the child. The Department of Children's Services has an obligation to minimize the impact of trauma on children removed from their parents. Often trauma of separation is reduced when children are placed with relatives. It is in everybody's best interest if potential caregivers understand the legal or permanency options and support services available to help provide for the children. Recognizing that the time of initial contact may be stressful, DCS staff will revisit this conversation several times with relatives, so you understand your options.

Based on the family's circumstances, legal and permanency options may not apply, and available services may be limited or non-applicable. DCS staff will assist in answering questions.

A. Family Arranged Care

With family arranged care, the caregiver provides primary care of a child without any change in legal custody or legal responsibilities of the birth parents (i.e. Immediate Protection Agreement). This arrangement is an agreement between family members. The parents or caregiver can end this arrangement at any time.

1. Available Financial Assistance:

a) The child may be eligible to receive TANF/Child Only Grant and TennCare (depending on income of child and relationship to the caregiver).

b) A child must be a United States citizen or meet Qualified Alien Status to qualify for financial assistance, TennCare, or other benefits. Qualified Alien Status is defined by law and only includes certain immigration statuses. Please consult the International, Immigration, and Cultural Affairs division with questions.

2. Other Considerations:

a) The Department of Children's Services may not be involved with the child or the family if the family arranges care.

b) The child will not qualify for monthly foster care board payments.

c) The child will not have a caseworker through DCS who can assist the caregiver with such things as enrolling the child in school and obtaining health care.

d) The caregiver and child may receive community-based services, including services through the Relative Caregiver Program; such as support groups, recreation, and family advocacy. More information outlining these services can be found at the DCS Relative Caregiver Program website.

B. Power of Attorney

Power of Attorney is a legal agreement between parent(s) and the relative caregiver(s) to transfer "temporary care giving authority" for medical and educational decision making in hardship situations. With Power of Attorney, the caregiver has a legal document to help them consent to health care and educational services on behalf of the child. The parents still have legal custody of the child. The parents or the caregiver can end the Power of Attorney at any time

1. Available Financial Assistance

a) The child may be eligible to receive TANF/Child Only Grant and TennCare (depending on the child's income and relationship to the caregiver).

b) The child will not qualify for foster care board payments.

c) DCS can provide a copy of a Power of Attorney form that the family can use to execute the agreement.

d) A child must be a United States citizen or meet Qualified Alien Status to qualify for

financial assistance, TennCare, or other benefits. Qualified Alien Status is defined by law and only includes certain immigration statuses. Please consult the International, Immigration, and Cultural Affairs division with questions.

2. Other Considerations

   a) There is no ongoing involvement with courts.

   b) The Department of Children's Services may not be involved with the child or family if the relative provides care through a Power of Attorney.

   c) The child will not have a caseworker through the Department of Children's Services who can assist the relative caregiver with such things as enrolling the child in school and obtaining health care.

   d) The caregiver and child may receive community-based services, including services through the Relative Caregiver Program, such as support groups, recreation, and family advocacy. More information outlining these services can be found at the DCS Relative Caregiver Program website.

C. Legal Custody

Legal custody involves the caregiver being granted legal custody or guardianship by court order (juvenile, circuit, or chancery).

1. Available Financial Assistance

   a) The child may be eligible to receive TANF/Child Only Grant and TennCare (depending on the income of child and relationship to the caregiver).

   b) The child will not qualify for monthly foster care board payments.

   c) A child must be a United States citizen or meet Qualified Alien Status to qualify for financial assistance, TennCare, or other benefits. Qualified Alien Status is defined by law and only includes certain immigration statuses. Please consult the International, Immigration, and Cultural Affairs division with questions.

2. Other Considerations

   a) Parental rights are not terminated.

   b) The Department of Children's Services may not remain involved with the child or family once the relative caregiver becomes the child's legal custodian or guardian through court, unless otherwise started in the court order.

c) The parents can go to court and ask to have legal custody restored to them, and the child returned to them.

d) The child will not have a caseworker through the Department of Children's Services who can assist the relative caregiver with such things as enrolling the child in school and obtaining health care.

e) The relative caregiver and child may receive community-based services, including services through the Relative Caregiver Program; such as support groups, recreation, and family advocacy. More information outlining these services can be found at the DCS Relative Caregiver Program website.

D. Permanent Guardianship

The caregiver or other adult with a significant relationship is granted permanent guardianship by court order in juvenile court.

1. Available Financial Assistance

a) The child may be eligible to receive TANF/Child Only Grant and TennCare (depending on income of child and relationship to the caregiver)Available Financial Assistance.

b) The family will not qualify for monthly foster care board payments or subsidy payments as the child is not in the custody of the Department of Children's Services.

c) The caregiver and child may receive community-based services, including services through the Relative Caregiver Program. More information outlining these services can be found at the DCS Relative Caregiver Program website.

d) A child must be a United States citizen or meet Qualified Alien Status to qualify for financial assistance, TennCare, or other benefits. Qualified Alien Status is defined by law, and only includes certain immigration statuses. Please consult the International, Immigration, and Cultural Affairs division with questions.

2. Other Considerations

a) The Department of Children's Services does not remain involved with the child or family once the relative caregiver becomes the child's permanent guardian.

b) Reunification with the parents and adoption are not in the child's best interests when seeking permanent guardianship.

c) Parental rights may or may not be terminated but can be limited by the court of jurisdiction.

E. Relative Caregiver Program

While enrolled in the Relative Caregiver Program (RCP), the child is not in foster care, and an order of the court places the child in the care of a relative who is related to them by blood, marriage, or adoption. The identified relative with which the child is placed must be within three (3) generations of the birth parent to qualify for the RCP Through the RCP, children and relative caregivers receive supportive services geared toward prevention and maintaining the child within the family, instead of the child entering foster care.

1. Available Financial Assistance

   a) A monthly stipend may also be available for families that qualify.

   b) The child may be eligible to receive TANF/Child Only Grant and TennCare.

   c) The child will not qualify for monthly foster care board payments as the child is not in the custody of the Department of Children's Services.

   d) A child must be a United States citizen or meet Qualified Alien Status to qualify for financial assistance, TennCare, or other benefits. Qualified Alien Status is defined by law and only includes certain immigration statuses. Please consult the International, Immigration, and Cultural Affairs division with questions.

2. Other Considerations

   a) The Department of Children's Services may be involved with the child or family for matters that warrant involvement.

   b) The child(ren) must reside in the home of the relative caregiver through a court order.

   c) The relative caregiver must be willing to take part in a safety/needs assessment and be able to provide a safe home for eligible children.

   d) A parent of the child may not reside in the home of the relative caregiver. Eligibility for the Relative Caregiver Program does not guarantee eligibility for the Relative Caregiver Stipend Program. More information detailing the Relative Caregiver Program can be found at the DCS Relative Caregiver Program website.

F. Kinship Foster Care

Kinship Foster Care is when the child is in the custody of the Department of Children's Services and placed in the home of a caregiver or other adult with a significant relationship to the child and/or the child's family.

1. Available Financial Assistance

   a) The family is eligible to receive monthly foster care board payments (for current board

rates review the Foster Parent Board Rates page), as well as other services available through the Department of Children's Services, while the caregiver works to become an approved foster parent.

b) A child must be a United States citizen or meet Qualified Alien Status to qualify for financial assistance, TennCare, or other benefits. Qualified Alien Status is defined by law and only includes certain immigration statuses. Please consult the International, Immigration, and Cultural Affairs division with questions.

2. Other Considerations

a) The Department of Children's Services will also explain to the caregiver that if reunification with the parents is not a viable option for the child, then the caregiver can choose to pursue becoming a permanent home for the child, DCS staff will assess whether the caregiver meets the requirements and can assume legal responsibility for the child.

b) The caregiver will undergo a background check, home safety inspection, and home study prior to placement.

c) The caregiver is required to participate in meetings to ensure the child achieves permanency in a timely manner.

d) The Department of Children's Services and juvenile court will monitor how the child is doing in the home.

e) Becoming an approved foster parent is required to access the subsidized permanent guardianship option or to allow the child to remain in the home beyond 120 days without an order granting custody to the relative.

f) A foster parent must be a United States citizen or Legal Permanent Resident as approved by the United States Citizenship and Immigration Services.

g) Tennessee Code Annotated, Section 37-2-414(e): It is an offense for a foster parent from a kinship placement to knowingly allow a child in the foster parent's care to visit with the child's parent if the foster parent had knowledge of a current court order prohibiting the parent from visiting with the child. (B) A first violation of subdivision (e)(2)(A) is a Class C misdemeanor punishable by a fine only. (C) A second or subsequent violation of subdivision (e)(2)(A) is a Class B misdemeanor.

G. Subsidized Permanent Guardianship

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Subsidized Permanent Guardianship (SPG) allows children in foster care to exit custody to their relative/kinship foster family in the form of permanent guardianship when reunification and adoption are not appropriate.

1. Available Financial Assistance

    a) SPG provides financial assistance through a monthly subsidy payment, TennCare, and the reimbursement of legal expenses associated with obtaining permanent guardianship.

    b) The SPG subsidy is generally available up to age eighteen (18). In some cases, youth up to twenty-one (21) years old may be eligible if the youth has a handicapping condition or disability, is attending secondary or post-secondary education, is employed at least eighty (80) hours per month or is participating in an employment readiness program.

    c) A child must be a United States citizen or meet Qualified Alien Status to qualify for financial assistance, TennCare, or other benefits. Qualified Alien Status is defined by law and only includes certain immigration statuses. Please consult the International, Immigration, and Cultural Affairs division with questions.

2. Other Considerations

    a) Parental rights may or may not be terminated. If not terminated, parental rights can be limited by the court of jurisdiction.

    b) The child must be in DCS custody and living in an approved relative/kinship foster home for at least six consecutive months. Relative/kin is defined as any person with whom a DCS custodial child is related by blood, marriage, or adoption, or with whom the child has had a significant relationship such as godparent, friend, neighbor, church member, minister, teacher or foster parent.

    c) Youth over the age of twelve (12) must be consulted about permanent guardianship arrangements.

    d) Youth who leave custody after age sixteen (16) via SPG will be eligible for education and training vouchers for higher education or other vocational training.

    e) Youth who leave custody via SPG, aged sixteen (16) or older, may be eligible for Bright Future Services between the ages of 18 to 23.

    f) Permanent Guardians are eligible for Post Guardianship Support and Preservation Services at no cost to the family. Services include Individualized Counseling, Crisis Intervention, Support Group, Educational Resources, Relief Teams, Advocacy and

Community Education.

g) The Department of Children's Services does not remain involved with the child or family.

H. Adoption

In adoption, the caregiver becomes the permanent legal parent of the child. Parental rights are terminated or surrendered by the birth parents through the courts. All legal rights and responsibilities are transferred to the adoptive parent through the process of adoption.

1. Available Financial Assistance

a) Most children adopted from DCS foster care are eligible to receive a monthly adoption subsidy, TennCare, and reimbursement of legal expenses associated with finalizing the adoption up to $1,500.

b) The adoption subsidy is available to age eighteen (18), or in some instances age twenty-one (21), if the youth has a handicapping condition or disability, is attending secondary or post-secondary education, is employed at least eighty (80) hours per month or participating in an employment readiness program.

c) A child must be a United States citizen or meet Qualified Alien Status to qualify for financial assistance, TennCare, or other benefits. Qualified Alien Status is defined by law and only includes certain immigration statuses. Please consult the International, Immigration, and Cultural Affairs division with questions.

2. Other Considerations

a) All legal rights and responsibilities are transferred to the adoptive parent through the process of adoption. Therefore, the child will no longer have a DCS caseworker.

b) Parent's rights are terminated or surrendered.

c) Adoptive families are eligible for Post Adoption Support and Preservation Services at no cost to the adoptive family. Services include Individualized Counseling, Crisis Intervention, Support Group, Educational Resources, Relief Teams, Advocacy and Community Education.

d) Childcare Assistance is available to families who adopt children from DCS foster care. Kinship families who adopt may be eligible for support services through the Relative Caregiver Program.

e) Youth who are adopted, age sixteen (16) or older, will be eligible for education and training vouchers for higher education or other vocational training.

f) Youth who are adopted, age sixteen (16) or older, may be eligible for Bright Future Services between the ages of 18 – 23.

g) Adoptive parents who receive adoption assistance are required to submit yearly medical/mental health or educational documentation verifying the adopted child's well-being.

I. Permanency Options Comparison

	Family Arranged Care/POA	Legal Custody	Relative Caregiver Program (RCP)	Relative/Kinship Foster Care	Adoption	Permanent Guardianship	Subsidized Permanent Guardianship (SPG)
DCS Involvement Non-custodially	May be involved with the family	May be involved with the family	May be involved with the family	N	N	N	N
DCS Involvement Custodially	N	Y	N	Y	Y	Y	Y
Legal Status	Legal agreement between birth parents and the caregiver to transfer temporary care. Birth parents can terminate POA at any time.	Parental rights are not terminated. Birth parents can request of the court legal custody restored to them at any time. If involved, DCS may not remain unless otherwise stated in a court order.	Child must reside with caregiver through POA, court order or informal agreement with parents; parents cannot reside in same home.	DCS has full custody of child. The family is required to participate in meeting to ensure the child achieves permanency in a timely manner.	Parental Rights are terminated with all legal rights and responsibilities transferred to the adoptive parents when the adoption is legally finalized.	The court grants to caregiver legal responsibility to include rights of care, custody, and supervision of the child. Parental rights may or may not be terminated.	The court grants to caregiver legal responsibility to include rights of care, custody, and supervision of the child. Parental rights may or may not be terminated.
Inheritance	Remains with Birth Parents	Can remain with birth parents. Legal guardian can choose to include their will.	NA	NA	An adopted child has the same rights as birth children when the adoptive parents does not have a will. Otherwise, rights are established through a will. Adopted chidren are entitled to survivor's benefits such as pension or Social Security.	Legal guardian can choose to include the child(ren) in their will.	Legal guardian can choose to include the child(ren) in their will.
Decision-Making	Medical and Educational	Major decisions regarding school, medical treatment and consent for most other major life decisions.	Conducts an assessement to determine eligibility into the RCP program and receipt of the stipend.	DCS has final decision-making power.	All decisions are made by the adoptive parents.	All decisions are made by the Permanent Guardian.	All decisions are made by the Permanent Guardian.
Financial Assistance	Relative Caregiver Program and TANF/Child only grants by eligibility	Relative Caregiver Program and TANF/Child only grants by eligibility	If determined eligible, financial assistance is provided via RCP grant funds or monthly stipend. TANF/Child only grants may also be applicable.	Foster Care Board Payment	Monthly Subsidy Payment if the child is determined eligible Adoption Childcare Assistance if the child is determined eligible Post Adoption Support & Preservation Services at no cost to the family.	Relative Caregiver Program and TANF/Child only grants by eligibility	Monthly Subsidy Payment Post Guardianship Support & Preservation Services at no cost to the family.
TENNCARE	By eligibility	By eligibility	By eligibility	Y	By eligibility	By eligibility	By eligibility
Relationship with Birth Parents/Siblings	Is determined by Birth Parents and Caregiver.	Is determined by Birth Parents and Caregiver.	Confirmation obtained via court order and other legal documents.	Work toward reunification with parents unless otherwise determined.	Ongoing contact is determined at the discretion of the adoptive parent, considering the child's best interest	Ongoing contact is determined at the discretion of the permanent guardian, considering the child's best interest and any court order specifying contact/visitation.	Ongoing contact is determined at the discretion of the permanent guardian, considering the child's best interest and any court order specifying contact/visitation.

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	Family Arranged Care/POA	Legal Custody	Relative Caregiver Program (RCP)	Relative/Kinship Foster Care	Adoption	Permanent Guardianship	Subsidized Permanent Guardianship (SPG)
Child's Legal Name	NA	NA	NA	NA	The child 's name is typically changed when the adoption is legally finalized.	The child generally retains his/her legal name.	The child generally retains his/her legal name.
Consent of the Child	NA	NA	NA	NA	The court receives consent from youth 14 years of age or older.	Children 12 years or older are consulted about their permanent guardianship arrangement.	Children 12 years or older are consulted about their permanent guardianship arrangement.
Death of an Adopted Parent/Guardian or Termination of Adoption/Guardianship	NA	NA	NA	NA	If the adoption dissolves or the child becomes orphaned, he/she may remain eligible for adoption assistance so long as the child's previous adoption assistance agreement was federally funded and all eligibility criteria are met.	NA	If the Permanent Guardian dies or becomes incapacitated, the SPG payment can be transferred to the Successor guardian so long as the successor guardian was identified in the previous SPG agreement and all eligibility criteria are met.
Returning a Child to DCS	NA	NA	RCP is terminated upon a child's entry into custody.	NA	NA	NA	NA