

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

This chart is designed to help kinship foster parents compare adoption and guardianship as two options that you and the children in your care can pursue to exit foster care and create permanent families in Illinois.

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

Generations United created this chart in collaboration with Greenlight Family Services. It is developed from Generations United's National Comparison Chart and accompanying Brief on Adoption and Guardianship for Children in Kinship Foster Care, which are available at [www.grandfamilies.org](http://www.grandfamilies.org). The content on this chart should not be considered legal advice, but rather general information to help guide your decision. Anyone considering adoption or guardianship should consult with a local legal professional.



### RIGHTS AND RESPONSIBILITIES

#### ADOPTION

#### GUARDIANSHIP

*What are my legal rights and responsibilities for the child?*

You will become the parent in the eyes of the law forever. You have all rights and responsibilities for the child.

You will have most of the rights and responsibilities that come with caring for a child until the child reaches adulthood or the guardianship ends.

*What are the birth parents' rights and responsibilities for the child?*

The birth parents' rights are forever terminated.

Parents keep the rights to visit the child (within the discretion of the court the guardian) and to consent to adoption and/or name change. The child retains inheritance rights from the birth parents. Parents have an obligation to financially support the child if ordered by the court to pay child support.

*Do I have authority to access services for the child?*

As an adoptive parent, access to services for the child is the same as for any birth parent.

As a guardian, access to services for the child is typically the same as for any parent, as the guardian has legal court ordered custody of the child and is responsible for the child's welfare.

# RIGHTS AND RESPONSIBILITIES

## ADOPTION

## GUARDIANSHIP

<p><i>Can the child visit their birth parents?</i></p>	<p>You will have the right and complete discretion to determine whether the child visits their birth parents. Since the birth parents' rights will have been terminated, there is no legal relationship between them and the child, and they have no recourse to gain visitation, even in court. Visitation agreements made prior to adoption are not legally binding or enforceable.</p>	<p>The birth parents typically keep their right to visit the child, but the visitation is within the discretion of the court and the guardian. The court awarding guardianship often sets up terms for that visitation, which you must follow. You may have to supervise those visits.</p>
<p><i>Can I change the child's last name?</i></p>	<p>You can change the child's entire name as part of the adoption process. The adoption order will also include the name change and will double as the adoption order and the name change order .</p>	<p>You cannot change the child's last name as part of the guardianship process.</p>
<p><i>Is the child welfare agency still in our lives?</i></p>	<p>Once you adopt, the child welfare agency will no longer be in your lives. However, you will have access to the post adoption unit which you may contact with any post adoption questions or concerns.</p> <p>If the child receives adoption assistance, you will need to complete a short annual form regarding your continued responsibility and financial support of your child.</p>	<p>Once you obtain guardianship, the child welfare agency will no longer be in your lives. However, you will have access to the post guardianship unit which you may contact with any post guardianship questions or concerns.</p> <p>If the child receives guardianship assistance, you will need to complete a short annual form regarding your continued responsibility and financial support of your child.</p>
<p><i>Will we continue to be involved with the court?</i></p>	<p>The case will be finalized and there will no longer be any court involvement. You are now the legal parent of the child.</p>	<p>There will not be any scheduled court hearings. However, the birth parents may go to court to request that visitation be increased or modified, or they may request that the guardianship be vacated and the child returned to them.</p>
<p><i>Can the birth parents come back to claim the child?</i></p>	<p>Birth parents cannot come back and claim the child. Their rights and responsibilities are terminated.</p>	<p>Parents can seek to have the child returned to them. They must show the judge that something has changed with them, the child or you as the caregiver, and that the return is in the best interest of the child.</p>
<p><i>Can the child end up back in foster care?</i></p>	<p>Just like any child in the United States, the child welfare agency can remove the child from you in the event of abuse or neglect.</p>	<p>Just like any child in the United States, the child welfare agency can remove the child from you in the event of abuse or neglect. You may also go to court and request that the guardianship be vacated and the child be removed from your care. The child may then be placed back in foster care. If you are considering such a serious step, you should consult with professionals in your area.</p>
<p><i>When does the legal relationship end?</i></p>	<p>Adoption does not end – the child is permanently part of the family.</p>	<p>Guardianship ends when the child reaches adulthood, which is age 18 in Illinois.</p>

# FINANCIAL AND LEGAL ASSISTANCE

## ADOPTION

## GUARDIANSHIP

*Is there financial assistance to help meet the needs of the child?*

All states have adoption assistance for relatives adopting children with "special needs" from foster care. "Special needs" is defined broadly and 90 percent of all children adopted from foster care are eligible for adoption assistance. Illinois has federal-funded and state-funded adoption assistance. In general, the monthly rate cannot be more than the child received while in foster care. However, the entire subsidy amount may exceed the monthly rate the child received in foster care if the child requires services that the Medicaid card does not cover (the services will be specifically listed in the subsidy). For more information, visit [Adoption\(illinois.gov\)](http://Adoption(illinois.gov)).

Federally funded guardianship assistance programs exist in about 42 states and 11 tribes. They are modeled on adoption assistance and work in a similar way. Illinois has federal-funded and state-funded guardianship assistance. More information can be found at [Illinois Department of Children & Family Services](http://Illinois Department of Children & Family Services) and [Adoption\(illinois.gov\)](http://Adoption(illinois.gov)).

*How much is this assistance?*

Under both Illinois federally funded and state-funded adoption assistance programs, the assistance amount cannot be more than the child received while in foster care unless the child is in an unlicensed relative placement and In this case, upon entry of the adoption order, the adoptive family may receive the applicable licensed foster family rate (usually more than the unlicensed rate).

Under both Illinois federally funded and state-funded guardianship assistance programs, the assistance amount cannot be more than the child received while in foster care unless the child is in an unlicensed relative placement and In this case, upon entry of the guardianship order, the guardian and child may receive the applicable licensed foster family rate (usually more than the unlicensed rate).

Illinois has post-adoption supports available through the Illinois Department of Children and Family Services, the Post Adoption/Guardianship Unit, and a variety of child welfare agencies, depending on where the child resides. See [PATH Beyond Adoption Resources for Families\(illinois.gov\)](http://PATH Beyond Adoption Resources for Families(illinois.gov)) for more information. In addition, the Illinois Post Adoption and Guardianship Services booklet can be found at [cfs-1050-45-post-a-g-services.pdf\(illinois.gov\)](http://cfs-1050-45-post-a-g-services.pdf(illinois.gov)).

Illinois has post-guardianship supports available through the Illinois Department of Children and Family Services, the Post Adoption/Guardianship Unit and a variety of child welfare agencies, depending on where the child resides. See [Relatives Raising Children/ Extended Family Support\(illinois.gov\)](http://Relatives Raising Children/ Extended Family Support(illinois.gov)), and [PATH Beyond Adoption Resources for Families\(illinois.gov\)](http://PATH Beyond Adoption Resources for Families(illinois.gov)) for more information. In addition, the Illinois Post Adoption and Guardianship Services booklet can be found at [cfs-1050-45-post-a-g-services.pdf\(illinois.gov\)](http://cfs-1050-45-post-a-g-services.pdf(illinois.gov)).

*How long does this assistance last?*

In Illinois, adoption assistance payments last until age 18. Payments are available until age 19 provided that the youth is still enrolled in high school or equivalent, or until they reach the age of 21 if they have significant special needs and are qualified as a special needs youth due to needing a higher level of care.

In Illinois, guardianship assistance payments last until age 18. Payments are available until age 19 provided that the youth is still enrolled in high school or equivalent, or until they reach the age of 21 if they have significant special needs and are qualified as a special needs youth due to needing a higher level of care.

*Will I be reimbursed for my expenses to obtain the permanency option?*

If you are adopting an eligible child with "special needs" from foster care under the federally-or state-funded adoption assistance program, Illinois will reimburse you up to \$2,250 in nonrecurring expenses that you spent in finalizing the adoption. These expenses include legal fees, and court filing fees.

If you are taking guardianship of an eligible child exiting foster care as part of a federally-or state-funded guardianship assistance program, Illinois will reimburse you up to \$2,250 in nonrecurring expenses that you spent in finalizing the guardianship. These expenses include legal fees, and court filing fees.

## PUBLIC BENEFITS

### ADOPTION

### GUARDIANSHIP

*Is the child eligible for free school meals?*

Children adopted from foster care during the school year will remain eligible for free school meals for the remainder of the school year.

Children who exit foster care to guardianship during the school year will remain eligible for free school meals for the remainder of the school year.

After that, your income is used to determine if the child is eligible.

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*Is the child eligible for SNAP, which used to be known as food stamps?*

Your income is used to determine the household's eligibility for SNAP. The adoptive child is now part of your household. Any adoption assistance counts as income for purposes of SNAP eligibility.

You decide whether to include the child in the household for purposes of determining SNAP eligibility. If the child is included, guardianship assistance payments count as income for purposes of determining SNAP eligibility. If you choose not to include the child in the household for SNAP eligibility, the guardianship assistance payments will not count as income, but you will not receive SNAP for the child.

*Can the child receive welfare benefits under Temporary Assistance for Needy Families (TANF)?*

The child's adoption assistance will be counted as income and that alone will likely disqualify the child from a TANF child-only grant. Furthermore, TANF child-only grants are only available to children living with parents in a few limited situations – they are mostly for children living with non-parents.

The child's guardianship assistance will be counted as income and will likely disqualify the child from a TANF child-only grant.

Children in guardianships who do not receive guardianship assistance payments will likely qualify for a TANF child-only grant.

Whether to include the child (and the child's income) in a TANF family-grant will depend on whether that will help the family financially or not.

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*Will the child be able to get disability or survivor Social Security benefits based on my work record?*

The child may be able to get Social Security benefits based on your work record if the child is not receiving Social Security benefits from the birth parents, and you have already adopted the child at the time you die or become disabled.

It is only possible for the child to qualify for Social Security benefits based on your work record if the child is your grandchild. There are a number of other eligibility requirements, including that the birth parents must generally be deceased or disabled. See [www.ssa.gov/people/kids/](http://www.ssa.gov/people/kids/)

The child remains eligible to receive any Social Security benefits based on the parents' work records.

## HEALTH INSURANCE

### ADOPTION

### GUARDIANSHIP

<i>Can I put the child on my private health insurance?</i>	Your adoptive child can be put on your private health insurance just like a birth child.	Some private policies allow for the child to be included, but not all. You will need to check with your insurance carrier and/or your personal department.
<i>Can the child receive Medicaid?</i>	The child you adopted from foster care is automatically eligible for Medicaid if the child is receiving federally-funded adoption assistance. Illinois provides Medicaid automatically with state-funded adoption assistance as long as the Medicaid box is checked yes in the subsidy and therefore included as part of the subsidy agreement.	If you obtained guardianship with a federally-funded guardianship assistance agreement, the child is automatically eligible for Medicaid. Illinois provides Medicaid automatically with state-funded guardianship assistance as long as the Medicaid box is checked yes in the subsidy and therefore included as part of the subsidy agreement.

## FEDERAL AND STATE TAX CREDITS

### ADOPTION

### GUARDIANSHIP

<i>Is there a special tax credit that can help me?</i>	There is a federal adoption tax credit, which you can claim for up to \$16,810 per child adopted in 2024 (the rate typically increases each year). You may be eligible for the maximum amount of credit regardless of whether you had any qualifying expenses. For more information on this tax credit, visit <a href="http://www.irs.gov/taxtopics/tc607.html">www.irs.gov/taxtopics/tc607.html</a> and <a href="http://www.nacac.org/category/adoption-tax-credit/">www.nacac.org/category/adoption-tax-credit/</a>  Illinois has a state adoption tax credit to claim against your state income tax.	There is no federal guardianship tax credit.  Illinois does not have a state guardianship tax credit to claim against your state income tax.
<i>Are there any other tax credits that I can claim?</i>	There are other tax credits that you may be able to claim, including the Earned Income Tax Credit, child tax credit, additional child tax credit, and the child and dependent care tax credit. For information, see the IRS website at <a href="http://www.irs.gov">www.irs.gov</a> or the brief that accompanies this chart. There are similar state tax credits to claim against your Illinois income tax. Illinois has a state tax credit similar to the federal credit to claim against your state income tax: a refundable Earned Income Tax Credit equal to 18% of the federal credit.	There are other tax credits that you may be able to claim, including the Earned Income Tax Credit, child tax credit, additional child tax credit, and the child and dependent care tax credit. For information, see the IRS website at <a href="http://www.irs.gov">www.irs.gov</a> or the brief that accompanies this chart. There are similar state tax credits to claim against your Illinois income tax. Illinois has a state tax credit similar to the federal credit to claim against your state income tax: a refundable Earned Income Tax Credit equal to 18% of the federal credit.
<i>Are these tax credits considered "income" for purposes of determining eligibility for public benefits?</i>	Tax credits do not count as income. This is true even if you owe no taxes and receive a refund check.	Tax credits do not count as income. This is true even if you owe no taxes and receive a refund check.



# CAREGIVER SUCCESSOR PLANNING AND DEATH BENEFITS FOR CHILDREN

## ADOPTION

## GUARDIANSHIP

*Can I plan for the child's care if I should die?*

Like any parent, you may make a care plan and choose who you want to have custody of your child if you should die before they turn 18. After the adoption, you may also choose this person in court via a process called standby adoption. If you should die, the standby adoption would kick in and the standby person who you have designated would adopt your child through a similar adoption process. Your child would be able to retain their adoption assistance through the new adoptive parent.

You may name a successor guardian as part of your kinship guardianship agreement. That person may be able to step in your shoes pending court approval after your death and continue to receive the monthly guardianship assistance.

*Can the child inherit from me?*

As an adopted child, the child will automatically inherit from you even without a will.

The child cannot automatically inherit from you, but you can create a will and share your estate that way.

The child will not automatically inherit from the birth parents. However, they can share their estate through a legal document known as a will.

The child continues to be able to automatically inherit from birth parents.

*Will the child be able to get my pension or military benefits when I die?*

The child will be able to receive your pension and military benefits the same as a birth child.

The child will typically not be automatically able to get your pension or military benefits as they usually only pass down to a birth or adoptive child.

The child will no longer be able to automatically receive pension or military benefits from birth parents.

## COLLEGE AND INDEPENDENT LIVING

### ADOPTION

### GUARDIANSHIP

*What type of independent living or education vouchers are available for an older child?*

Each child who was at any time in state custody/ foster care will be eligible to apply for the DCFS scholarship, which includes tuition paid, a monthly stipend, and a medical card for college assistance; this can be awarded for a total of 5 years. A child who was adopted at or after the age of 16 is eligible for Education and Training Vouchers, which include payment up to \$5000 annually (for up to 5 years) of post-secondary education related expenses.

Each child who was at any time in state custody/ foster care will be eligible to apply for the DCFS scholarship, which includes tuition paid, a monthly stipend, and a medical card for college assistance; this can be awarded for a total of 5 years. A child who entered a guardianship at or after the age of 16 is eligible for Education and Training Vouchers, which include payment up to \$5000 annually (for up to 5 years) of post-secondary education related expenses.

*How is my income used to determine the child's eligibility for financial aid for college?*

Your income is considered when determining financial aid as part of the Free Application for Federal Student Aid (FAFSA). However, the child's past foster care status may be considered when determining aid.

The guardian's income is not considered in determining financial aid. A child in a guardianship is typically considered "independent" and the child's past foster care status may be considered when determining aid.

If the child was adopted at age 13 or older, the child is considered "independent" and your income does not count.

## Acknowledgments

Generations United gratefully acknowledges the Dave Thomas Foundation for Adoption for its support of this publication.

Generations United extends our gratitude to the following dedicated individuals and organizations:

- Generations United’s Ana Beltran for authoring the national chart; Jaia Peterson Lent for reviewing it and providing helpful suggestions; Chelsi Rhoades and Adina Wambua for coordinating the creation of this chart; and Sheri Steinig and Fabiola Venegas-Ramos for their graphic design.
- Greenlight Family Services for providing Illinois-specific content.
- Fried, Frank, Harris, Shriver & Jacobson LLP for providing Illinois-specific content.
- GRAND Voices, Generations United’s national network of caregiver advocates, for their invaluable guidance and review of the national chart, particularly LaNette Jacobs, Bob Ruble, and Lynn Urvina.
- Heidi Redlich Epstein of the American Bar Association Center on Children and the Law and Kim Stevens of the National Council on Adoptable Children (NACAC) for their expertise and thoughtful

## Generations United’s National Center on Grandfamilies

For over twenty years, Generations United’s National Center on Grandfamilies has been a leading voice for families headed by grandparents, other relatives, and close family friends. Through the Center, Generations United leads an advisory group of organizations, caregivers and youth that sets the national agenda to advance public will in support of these families. Center staff conduct federal advocacy, release an annual State of Grandfamilies Report, and train grandfamilies to advocate for themselves. The Center raises awareness about the strengths and needs of the families through media outreach, weekly communications, and awareness-raising events. It offers a broad range of guides, fact sheets and tools for grandfamilies, which cover issues from education and health care access to financial and legal supports. Those resources can be found at [www.gu.org](http://www.gu.org) and [www.grandfamilies.org](http://www.grandfamilies.org).

## Greenlight Family Services

Greenlight Family Services is a nonprofit organization that has been serving Illinois grandfamilies since 2003. Greenlight legal services help Illinois grandparents provide permanency for their grandchildren through legal adoption and guardianship. Grandfamilies may include grandchildren who were a part of the foster care system or grandchildren who were informally placed with their grandparents. All Greenlight legal services are available to the general public on a sliding fee scale. Some grandparents may qualify for financial assistance through generous grants awarded to Greenlight from the Illinois Department on Aging and the Illinois Bar Foundation. For more information, please contact us at [www.greenlightfamilyservices.org](http://www.greenlightfamilyservices.org) or call us 1-800-572-2390.







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