

CHART

Adoption and Guardianship for Children in Kinship Foster Care: Comparison Chart for South Carolina

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 South Carolina.

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 HALOS. 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. 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.

Guardianship suspends the birth parents' decision-making responsibility.

Birth parents' rights may or may not be terminated. Certain rights and responsibilities, i.e. child support, consent to adoption, and visitation, may be retained by birth parents.

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 birth parent.

RIGHTS AND RESPONSIBILITIES

ADOPTION

GUARDIANSHIP

<p><i>Can the child visit their birth parents?</i></p>	<p>South Carolina is a closed adoption state. Adoption agreements do not have anything in them regarding visitation with birth parents. Once rights are terminated, the birth parents cannot petition the court for anything regarding the child.</p> <p>You will have the right to determine whether the child visits their birth parents.</p>	<p>The birth parents typically keep their right to visit the child. 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 last name as part of the adoption process.</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.</p> <p>If the child receives Non-Title IV-E Adoption Assistance payments, you will need to complete an annual verification form showing that you are still financially responsible for the child.</p>	<p>Once you obtain guardianship, the child welfare agency will no longer be in your lives.</p> <p>If the child receives guardianship assistance (both Title IV-E and Non-Title IV-E Guardianship Assistance), you will need to complete an annual verification showing that you are financially responsible for the child.</p>
<p><i>Will we continue to be involved with the court?</i></p>	<p>The case will be finalized. You are now the parent.</p>	<p>There will not be any scheduled court hearings. However, the birth parents can go to court and ask to have the child 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. The South Carolina Department of Social Services (DSS) does not do voluntary surrenders of adoptive children.</p> <p>If you are experiencing issues with a child you adopted through South Carolina's child welfare system, you should consult with South Carolina's DSS about which available services they can to provide you and your family to support the family unit.</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 be able to voluntarily surrender the child back to the agency.</p> <p>South Carolina requires guardians to name a successor guardian, who is then included in the legal action and named in the Guardianship court order. The successor guardian will assume guardianship if the guardian is incapable of caring for the child.</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 South Carolina.</p>

FINANCIAL AND LEGAL ASSISTANCE

ADOPTION

GUARDIANSHIP

<p><i>Is there financial assistance to help meet the needs of the child?</i></p>	<p>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. South Carolina has federally funded and state-funded adoption assistance. See Adoption Assistance - South Carolina Department of Social Services (sc.gov) for more information.</p>	<p>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. South Carolina has federal-funded and state-funded guardianship assistance. See KinGAP - South Carolina Department of Social Services (sc.gov) for more information.</p>
<p><i>How much is this assistance?</i></p>	<p>Under both South Carolina federally funded and state-funded adoption assistance programs, the adoption assistance amounts are a negotiated amount that cannot exceed what the child was receiving while in foster care.</p> <p>South Carolina offers Adoption Preservation Supports available through the South Carolina Department of Social Services if the child was adopted from South Carolina's DSS child welfare system. All referrals for service are made through the South Carolina DSS Regional Adoption Offices.</p>	<p>Under both South Carolina federally funded and state-funded guardianship assistance programs, the guardianship assistance amounts are a negotiated amount that cannot exceed what the child was receiving while in foster care.</p> <p>South Carolina has post-guardianship supports available through the South Carolina Department of Social Services. All referrals must be made through the South Carolina Department of Social Services' State Office Adoptions at slgpostlegal@dss.sc.gov.</p>
<p><i>How long does this assistance last?</i></p>	<p>In South Carolina, adoption assistance payments last until age 18. Payments are available until age 21 if one of the following is met each year and documentation is provided: the youth is enrolled in high school or an equivalent program, is enrolled in post-secondary or vocational school, is working 80 hours per month, in a job training program, or has a physical, mental or emotional disability that prevents them from participating in one of the above activities.</p>	<p>In South Carolina, guardianship assistance payments last until age 18. Payments are available until age 21 if one of the following is met each year and documentation is provided: the youth is enrolled in high school or an equivalent program, is enrolled in post-secondary or vocational school, is working 80 hours per month, is in a job training program, or has a physical, mental or emotional disability that prevents them from participating in one of the above activities.</p>
<p><i>Will I be reimbursed for my expenses to obtain the permanency option?</i></p>	<p>If you are adopting an eligible child with "special needs" from foster care under the federally-or state-funded adoption assistance program, South Carolina will reimburse up to \$1,500 in Non-Recurring expenses related to the legal adoption of the child. These expenses can include but are not limited to legal fees, court filing fees, and travel costs. A receipt(s) must be provided in order for the funds to be paid. This money is normally directly paid to the attorney and not the family.</p>	<p>If you are taking guardianship of a child exiting foster care as part of a federally-or state-funded guardianship assistance program, South Carolina will reimburse up to \$2,000 in Non-Recurring expenses incurred in obtaining guardianship. These expenses can include but are not limited to legal fees, court filing fees, and travel costs. A receipt(s) must be provided in order for the funds to be paid.</p>

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. All adoption assistance payments are counted as income when a family applies for the purposes of SNAP eligibility.

All guardianship assistance payments are counted as income when a family applies for purposes of determining SNAP eligibility. The child must be included in the household makeup.

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.

Children receiving subsidized guardianship assistance are not eligible 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.

Children in guardianship who do not receive subsidized guardianship assistance payments will likely qualify for a TANF Child-Only grant. Relative caregivers can choose to receive a TANF Child-Only grant for the child(ren) in their care. If they choose to receive benefits solely for the child(ren), their income and resources will not impact the TANF cash benefit amount for their household. Certain income/benefits received for the child(ren) may be counted. Relative caregivers may also choose to receive benefits for themselves as well as the child(ren) in their care. If they choose to be in the TANF benefit group, their income, resources, and/or needs will be included when determining the TANF cash benefit amount for their household.

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.

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

The child may be able to get Social Security benefits based on your work record if: (1) the child is not receiving Social Security benefits from the birth parents, (2) you have already adopted the child at the time you die or become disabled, and (3) when that death or disability occurs, the child's birth parents were not living in the same household and contributing regularly to the support of the child.

It is only possible 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/

The child may also receive disability SSI for their own disability. If a child is receiving SSI and the adoptive parents or guardians become the payee then the subsidy payments can be affected. The adoptive parent(s) must report all Social Security Payments and Subsidy payments to both Social Security Administration and the South Carolina DSS.

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

The child may also receive disability SSI for their own disability. If a child is receiving SSI and the adoptive parents or guardians become the payee then the subsidy payments can be affected. The guardian must report all Social Security Payments and Subsidy payments to both Social Security Administration and the South Carolina DSS.

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.
<i>Can the child receive Medicaid?</i>	<p>The child you adopted from foster care is automatically eligible for Medicaid if the child is receiving federally-funded adoption assistance.</p> <p>South Carolina automatically provides Medicaid for Non-Title IV-E funded children adopted from foster care.</p>	<p>If you obtained guardianship with a federally-funded guardianship assistance agreement, the child is automatically eligible for Medicaid.</p> <p>South Carolina does not automatically provide Medicaid for Non-Title IV-E Guardianship Assistance children. The guardian will have to apply for Medicaid and meet Medicaid's qualification requirements.</p>

FEDERAL AND STATE TAX CREDITS

ADOPTION

GUARDIANSHIP

<i>Is there a special tax credit that can help me?</i>	<p>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 www.irs.gov/taxtopics/tc607.html and www.nacac.org/category/adoption-tax-credit/</p> <p>South Carolina has a state adoption tax credit to claim against your state income tax. The South Carolina Department of Social Services provides a Tax Credit Letter to all adoptive families after finalization. Families are advised to consult their tax professional for assistance.</p>	<p>There is no federal guardianship tax credit.</p> <p>South Carolina does not have a state guardianship tax credit to claim against your state income tax.</p>
<i>Are there any other tax credits that I can claim?</i>	<p>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 www.irs.gov or the brief that accompanies this chart. There are no similar state tax credits to claim against your South Carolina income tax.</p>	<p>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 www.irs.gov or the brief that accompanies this chart. There are no similar state tax credits to claim against your South Carolina income tax.</p>
<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

<p><i>Can I plan for the child's care if I should die?</i></p>	<p>Like any parent, you can name a guardian in your will to take over your rights and responsibilities after your death. That person will need court approval to become the child's guardian.</p> <p>If the guardian wishes to adopt the child and the child was receiving adoption assistance, the new adoptive parent may be able to receive those payments.</p>	<p>South Carolina requires you to name a successor guardian. That person is named in the court order so no additional court hearing needed. The guardianship assistance payments will be transferred upon the successor guardian completing all required background checks.</p>
<p><i>Can the child inherit from me?</i></p>	<p>As an adopted child, the child will automatically inherit from you even without a will.</p> <p>The child will not automatically inherit from the birth parents. However, they can share their estate through a legal document known as a will.</p>	<p>The child cannot automatically inherit from you, but you can create a will and share your estate that way.</p> <p>The child continues to be able to automatically inherit from birth parents.</p>
<p><i>Will the child be able to get my pension or military benefits when I die?</i></p>	<p>The child will be able to receive your pension and military benefits the same as a birth child.</p> <p>The child will no longer be able to automatically receive pension or military benefits from birth parents.</p>	<p>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.</p>

COLLEGE AND INDEPENDENT LIVING

ADOPTION

GUARDIANSHIP

<p><i>What type of Chafee funds or education vouchers are available for an older child?</i></p>	<p>If adopted before age 16, the child is not eligible for independent living services or education and training vouchers (ETV).</p> <p>If the child was adopted after age 16, the child will remain eligible and can apply for this support at or after age 18.</p>	<p>If the child exited foster care to a guardianship before age 16, the child is not eligible for independent living services or ETV.</p> <p>If the child entered a guardianship after age 16, the child will remain eligible and can apply for this support at or after age 18.</p>
<p><i>How is my income used to determine the child's eligibility for financial aid for college?</i></p>	<p>Your income is considered when determining financial aid as part of the Free Application for Federal Student Aid (FAFSA). However, the child's past foster care status may be considered when determining aid.</p> <p>If the child was in foster care on or after their 13th birthday, they may select that they were a ward of, or orphan of the state on the 13th birthday. By selecting this, the adoptive parent's income will not be considered on the FAFSA and the child will be considered "independent".</p>	<p>If the child was in foster care on or after their 13th birthday, they may select that they were a ward of, or orphan of the state on the 13th birthday. By selecting this, the guardian's income will not be considered on the FAFSA and the child will be considered "independent".</p>

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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 and www.grandfamilies.org.

HALOS

HALOS promotes safe and nurturing homes for children in kinship care. Kinship care is when a family member steps up to take in a child who cannot be with their parents. HALOS provides a comprehensive system of support for kinship families so the children can thrive. HALOS provides case management, coordinated referrals for basic needs, access to legal counsel, long-term caregiver coaching, peer-led support groups, and mentorship from successful caregivers. To contact HALOS for services please visit [Charleston HALOS | Home](http://CharlestonHALOS.Home) or call (843) 990-9570 or (888) 320-0241.





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