

## **Making the Decision to Become a Child's Permanent Family**

Having a permanent family and home can help children in two important ways.

- ◆ A caring and loving family that is committed to providing a safe and permanent home promotes healthy growth and development and provides children a sense of belonging.
- ◆ Children can gain confidence in their family's ability to function independently without feeling that someone from the child welfare system (social worker, foster care licensing, guardian ad litem or judge) could disrupt their family's life.

Without permanency, children often experience doubt, uncertainty, and hesitancy about where they belong and who is going to care for them. Placement with a permanent family permits the child welfare system to close a child's case and allows the family to raise the child as a member of the family until adulthood and to make important decisions without governmental involvement.

Families face an important decision when a child in their care needs a permanent family. Every foster family's situation and every child's situation are different. To make an informed decision about the permanency option for a child in their care, foster parents and prospective guardians need to understand the legal and financial differences between foster care, adoption, and guardianship.

Foster parents who never intend to become guardians or adopt also need to understand the permanency options to assist children in their care with a transition to a permanent family.

### **Adoption or Guardianship? What's the Difference?**

Adoption and guardianship offer children and parents two similar paths to permanency. Both options provide permanent caregivers with many of the same legal rights as birth parents. However, adoption is a lifetime relationship that gives the child all of the legal benefits of a child born into the family.

While guardianship builds family relationships that can last a lifetime, the legal relationship established by a juvenile court guardianship ends when the child turns 18 and is considered an adult. This is one reason why adoption is considered to be a more permanent, lifetime commitment than guardianship.

Another important difference between the two permanency options concerns the birth parents rights. For a child to be adopted, the rights of the birth parents must be legally terminated, voluntarily surrendered, or the birth parents must have signed a consent to the adoption. With guardianship, the birth parents rights do not have to be legally terminated.

With both adoption and guardianship, the permanent caregivers should realize that the child's birth parents and siblings may continue to be an important part of the child's life. Depending on what is in the best interest of the child, the birth family connections can be maintained with ongoing contacts after an adoption or guardianship.

The following chart outlines some of the legal differences between adoption and guardianship.

## Differences Between Adoption and Guardianship

	<b>Adoption</b>	<b>Guardianship</b>
<b>Legal status</b>	The adoptive parents are given all the rights and responsibilities that once belonged to the birth parents.	The guardians have primary rights and responsibilities for the child's protection, education, care, control, and decision-making on behalf of the child.  The child continues to have a legal parent-child relationship with birth parents, but the birth parents rights are secondary, subject to limits imposed by the rights of the guardian.
	Adoption is a permanent, lifetime, legal relationship.	Guardianship is a legal and financial relationship that ends when the child reaches age 18. <b>Note:</b> A probate court may order guardianship beyond the age of 18, depending on the needs of the child.
	Birth parent's rights are voluntarily relinquished or involuntarily terminated forever.	Birth parents may retain important rights: visitation, access to information, notice of accidents or serious illness, etc. Birth parents can request that the guardianship order be vacated and the child be returned to their care.
	Birth parents are no longer obligated to pay child support.	Birth parents may have an ongoing child support obligation.
	When the adoptive parents are married, both spouses must adopt.	Either one or both adult caregivers in the household may be named guardian.
<b>Decision making</b>	The adoptive parents have complete rights to decision making about the child.	The guardians have the authority to make all decisions affecting the child regarding school, medical treatment, and consent for most other major life decisions.
<b>Relationship with birth parents and siblings</b>	The adoptive parents have the right to determine if the child will have any relationship with the birth parents. In many cases, connections with birth parents and siblings will remain important to a child.  Adoptive parents may determine that those birth family connections are in the child's best interest and can choose to maintain them in a way that works well for the child and the adoptive family.	When in the best interest of the child, guardians can facilitate visitation and involvement with the birth family as long as the court has not ruled against it.  Connections to the child's birth family can be maintained in a way that works best for the child and the guardian.
<b>Child's legal name</b>	The adoptive parents determine the child's legal name.	The child retains the child's own legal name.
<b>Child's right to inheritance</b>	The child inherits from the adoptive parents unless the legal will provides otherwise.	The child inherits from the birth parents.
<b>Returning a child to the state</b>	As with biological children, an adoptive child could enter the child welfare system due to abuse or neglect. Existing child welfare laws would apply, and a state agency could again assume custody of the child.	The guardian may ask the court to have the guardianship court order modified, or to be relieved of permanent responsibility for the child.  Good cause for modification must exist and the decision to modify the order would be at the discretion of the judge.

## Post-Permanency Services Available to Guardians

After a prospective guardian chooses a permanency option of guardianship for a child, there may continue to be a need for supportive services. Although the Department cases close after finalized adoption or guardianship, financial subsidies are available to children who meet eligibility requirements. Children who receive subsidies remain eligible for medical and mental health services through the Medicaid program.

For additional information or post-permanency services you may:

- ◆ Call 211 (in Iowa), or
- ◆ Access Medicaid services, or
- ◆ Explore free services in the community.

## Educational Resources

Under the demonstration program, children who enter subsidized guardianship after reaching age 16 are eligible to receive education and training vouchers funded through the Chafee Foster Care Independence Program. The Department may place priority to provide vouchers to foster care youth in the event the number of eligible youth exceeds available voucher funding.

## Planning for Future Circumstances

It is important that families have a plan to care for children in the event of the caregiver's absence, illness, or even death. As families consider guardianship, they should also map out a back-up plan for another adult who could step in temporarily, if needed. The person should be someone who has a relationship with the child. The person should also have adequate resources and agree to the arrangement, should it be necessary.

## Questions to Help Families Who Are Considering Guardianship

	Yes	No
1. If the child cannot return home to the child's parents, can I commit to a lifetime relationship with the child?	<input type="checkbox"/>	<input type="checkbox"/>
2. Am I capable of caring for the child without state services, and am I able to access services on my own?	<input type="checkbox"/>	<input type="checkbox"/>
3. Do I have support from my family, friends, and community, needed to raise the child to adulthood?	<input type="checkbox"/>	<input type="checkbox"/>
4. Am I willing and able to work with the school to address the child's educational needs?	<input type="checkbox"/>	<input type="checkbox"/>
5. Am I willing and able to continue providing a safe and stable home environment for the child until age 18?	<input type="checkbox"/>	<input type="checkbox"/>
6. Am I confident in my ability to manage family issues such as illness and child-rearing, emotional, and behavioral problems?	<input type="checkbox"/>	<input type="checkbox"/>
7. Am I free of health conditions that would significantly limit my ability to care for the child?	<input type="checkbox"/>	<input type="checkbox"/>
8. Am I willing to accept legal and financial responsibility for the child?	<input type="checkbox"/>	<input type="checkbox"/>
9. Is the child well integrated into my family?	<input type="checkbox"/>	<input type="checkbox"/>
10. Am I comfortable changing the legal status of our family relationships?	<input type="checkbox"/>	<input type="checkbox"/>
11. Am I willing to pursue adoption or guardianship of the child?	<input type="checkbox"/>	<input type="checkbox"/>

**Yes** – If your answers are all “yes,” consider guardianship of the child in your care, and discuss your decision with the case worker.

**No** – If several of your answers are “no,” discuss those issues with the case worker.