

This brochure describes the types of legal relationships that kinship caregivers can have with the child in their care. The caregiver may decide to use the services of a lawyer to keep the child safe and secure, get medical care, enroll them in school and plan for their future. If so, the attorney should be one who knows the law, who will work well with the caregiver, and who can advocate effectively for the rights of the child. The lawyer should have experience in abuse and neglect law, guardianship, and adoption. They should also know about programs like SSI that may provide support to the family.

If the caregiver cannot afford to pay, there are services that may be able to provide help:

- ✓ **Legal Aid.**
These local law offices help low-income people with common legal problems.
- ✓ **Law School Clinics.**
If there is a law school in the community, they may have a clinic that represents kinship caregivers in child welfare or custody cases. A law student may work with the caregiver, supervised by an experienced lawyer.
- ✓ **Pro Bono Lawyers.**
Private lawyers may work for free or a reduced fee. For information, contact the Ohio State Bar Association at (800) 232-7124. Also, county or city bar associations may have pro bono attorneys available for representation.


The views expressed herein do not necessarily represent those of the Ohio State Bar Foundation.



Ohio Federation for Health Equity & Social Justice

332 Hamilton Avenue
Columbus, OH 43203

 www.ohiofederationfortheequity.org

 rbrowder@ohiofederationfortheequity.org

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Legal Information for Kinship Caregivers

Legal Custody

When a child is born, the mother automatically has legal custody, and so does the father if they are married. Kinship caregivers must go to a court, in their county, to get legal custody of the child in their care. Court-ordered legal custody can give certain rights and responsibilities to the adult kinship caregiver with respect to the child being raised. Legal custody allows the caregiver to:

- ✓ Provide emotional support for the child.
- ✓ Determine where and with whom the child will live.
- ✓ Make many of the major decisions regarding the child's care, upbringing, education, and medical needs.
- ✓ Provide food, shelter, education, and ordinary medical care for the child.
- ✓ Protect and discipline the child.

Legal custody is not limited to parents and blood relatives. If it is best for the emotional and physical well-being of the child, the court may award legal custody to an unrelated person who has demonstrated a willingness and ability to raise the child.



Types of Legal Custody



A Custody Order.

If a judge issues a custody order, the caregiver will be responsible for the child's day-to-day care, but the parents will continue to have a legal relationship with the child. They will have a right to visit, unless the judge does not approve, and could someday request that the judge return custody to them.



Guardianship.

If a caregiver is appointed the child's legal guardian, they will be given day-to-day responsibility for the child, while the parents maintain some rights. The main difference between a custody order and guardianship is the guardianship is usually granted in the probate court with different rules.



Adoption.

If the caregiver adopts the child, they will become the child's legal parent. The legal relationship between the child and the child's birth parents will end, and the caregiver will decide if and when the parents can visit. The birth parents do not have the right to ask the judge to return the children to them, except in the extremely rare situation during the first year after an adoption decree is issued.

Other Options

If a grandparent (applies only to grandparents and no other kinship caregivers) is caring for a grandchild, but does not have legal custody or guardianship and is unable to make decisions about and access educational and medical services for the grandchild, there are two other options to obtain care, physical custody and control: a Power of Attorney or a Caretaker Authorization Affidavit.

Power of Attorney

Allows the grandparent to temporarily:

- Authorize the grandchild's enrollment in school.
- Access educational information
- Be involved in the child's educational planning.
- Provide consent for educational activities.
- Arrange for the child's routine and emergency medical, dental, and psychological treatment.

To obtain the Power of Attorney forms, go to the Ohio Grandparent Kinship Coalition website at:

www.ohiograndparentkinship.org
info@ohiograndparentkinship.org

Caretaker Authorization Affidavit

If the grandparent has tried but failed to locate the grandchild's parents after making reasonable efforts to do so, they may obtain a Caretaker Authorization Affidavit. The affidavit allows the grandparent to temporarily:

- Authorize the grandchild's enrollment in school.
- Access educational information.
- Be involved in the child's educational planning.
- Provide consent for educational activities.
- Arrange for the child's routine and emergency medical, dental, and psychological treatment

A Caretaker Authorization Affidavit does not give the grandparent authority over the grandchild's adoption, marriage, or custody arrangements..

To obtain the Caretaker Affidavit form, go to the Ohio Grandparent Kinship Coalition website at:

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