



# Making the

**ADOPTION** **GUARDIANSHIP**

# Decision

Illinois Department of  
**DCFS**  
Children & Family Services

# Questions to Help You Think Through What Is Best for Your Child

The following series of questions may help you think through what might be best for the child in your care:

- |   | Yes                      | No                       |
|---|--------------------------|--------------------------|
| 1. If the child/ren cannot return home to their parent/s, the best long range plan is for them to stay with me. | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. I am interested and capable of caring for the child/ren without caseworker intervention.                     | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. I have support from family, friends, community, etc. needed to raise the child/ren.                          | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. I am willing and able to work with the school to address the child/ren's needs.                              | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. I am willing and able to continue providing a safe and stable home environment for the child/ren.            | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. I am confident in my ability to manage family issues such as illness and child-rearing problems.             | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. I do not have health conditions that would significantly limit my ability to care for the child/ren.         | <input type="checkbox"/> | <input type="checkbox"/> |
| 8. The child is well integrated into my family.   | <input type="checkbox"/> | <input type="checkbox"/> |
| 9. I am comfortable with legally changing our family relationship.  | <input type="checkbox"/> | <input type="checkbox"/> |
| 10. I am willing to pursue adoption for the child/ren.  | <input type="checkbox"/> | <input type="checkbox"/> |

## YES

If your answers are all “yes”, then you should discuss adoption with your caseworker and agency.

## NO

If some of your answers are “no”, you and your caseworker should discuss other options for the child.

## QUESTION # 10

If your answer to number 10 is “no”, you and the child’s caseworker should discuss why.

Did you answer “no” because:

- A) You do not want the birth parent/s’ rights to be legally terminated?

OR

- B) You feel hopeful that the birth parent/s will ultimately get the child back?

AND

- C) You are willing and able to manage visits/relationships between the birth parent/s and the child in your care and to ensure the child’s safety?

If your answer to Questions A *or* B are “yes”, and you answered “yes” to Question C, discuss being named as the child’s legal guardian with your caseworker. With your input the caseworker and his/her supervisor will determine whether adoption or guardianship can best meet the child’s needs. Should the decision be to pursue another adoptive placement for the child, the caseworker will offer suggestions about how you can be supportive to the child.

# Introduction

All children need a permanent family. Youth in care who cannot return home can find a permanent family through *adoption or guardianship*. When adoption is not in the child's best interest, legal guardianship is another way for a family to build life-long relationships. We know families considering becoming a child's permanent family need information and answers to their questions about adoption and guardianship. That's why we've designed this booklet especially for you.

*Making the Adoption/Guardianship Decision* gives:

- Basic information about adoption and guardianship.
- Family considerations in decision-making.
- An adoption/guardianship comparison.
- Answers to common questions about financial assistance (subsidies), birth parent rights, responsibilities of adoptive families and guardians and more!

Adoption establishes you (and your spouse) as a child's legal parents with all the rights and responsibilities of a child born to you. Adoption is only possible when the birth parent/s have voluntarily relinquished their parental rights, are deceased or if the court has taken parental rights away from them. Guardianship is another permanency option for a child when it has been determined that return home and adoption have been deemed inappropriate and not in the best interest of the child, including through the concerns identified by the potential permanency resource in the checklist at the front of this booklet. Guardianship does not require relinquishment or termination of parental rights, but names you as the legal guardian rather than DCFS.

This booklet gives many more details on both adoption and guardianship as permanency options. Write down your questions as you read this handbook. Then, ask your child's caseworker about any information that seems unclear or confusing, or if you have questions about your specific situation. You should feel comfortable about having every answer you need before you make this important decision.

We appreciate your family's consideration of becoming a permanent family for the youth in your care. After you talk to your child's caseworker and the adoption specialist, if you need any further assistance please contact the Advocacy Office for Children and Families at 800-232-3798.



# Making the Decision to Become a Permanent Family for a Youth in Care

With *legal* permanency, children feel a sense of security and can move ahead to develop and live a healthy life. Having a permanent family and home can help in two important ways. First, children can gain confidence in their family's ability to operate independently without feeling that someone could easily disrupt the family's life. Second, the child can gain certainty that they will remain together as a family for life — having a *permanent* family and home. Without permanency, children often experience doubt, uncertainty and hesitancy about where they belong and who is going to care for them. A secure home and a family committed to caring gives the child a sense of attachment needed to promote healthy growth and development.

Even if you are willing to raise the child in your care until adulthood, unless you are the parent or guardian of the child, your family situation cannot be considered “permanent.” For example, if the child welfare system continues to maintain *legal* responsibility for the child instead of you, then the child's caseworker must continue to monitor the care of the child and the court will continue to assess and review your case. If you don't have a legal relationship with the child, your control over the child's life is limited. Legal permanency allows the child welfare system to close the child's case and allows your family to raise the child and make important decisions for her or him without state intrusion.



Every foster family's situation and every youth in care's situation is different. A foster family faces an important decision when a youth in their care needs a permanent family. Is adoption an option? Is becoming a guardian an option? As a foster parent you need to understand adoption and guardianship in order to make an informed decision about these two options. Foster parents who do not intend to adopt or become guardians still need to understand both subjects to assist the child with the transition to another family interested in providing a permanent home.

# What is adoption?

Adoption means making a lifelong commitment to a child. The court makes you, or you and your spouse (if you are married), the legal parents of a child. In certain circumstances, if you are separated from your spouse, you can adopt without your spouse's participation. As the adoptive parent/s, you have the same rights and responsibilities for your adopted child as if the child had been born to you. Once a youth in care is adopted, DCFS is no longer involved in or responsible for the care, supervision or custody of the child. As an adoptive parent, you assume all rights and responsibilities to make important decisions for your adoptive child, including the right to consent to major medical care and treatment, to marriage, to enlistment in the armed services, etc. Additionally, adopted children are generally entitled to survivor's benefits such as Social Security, pensions and perhaps inheritance upon the adoptive parents' death.



## Who can be adopted?

A child becomes “legally free” for adoption when his/her birth parents' rights are terminated, either voluntarily through the parents signing adoptive surrenders or consents, or involuntarily through termination of parental rights by the court. The court considers the unfitness of the parent and the best interests of the child when rendering this decision.

## What factors are considered in selecting an adoptive family?

The Adoption Act (750 ILCS 50/15.1) requires that these factors be considered when selecting an adoptive family for an eligible child:

1. Child's wishes.
2. Child's interaction and interrelationship with the person/s wanting to adopt.
3. Child's need for stability and continuity of relationship with parent figures.
4. The written wishes of the child's parent/s, expressed prior to the parent/s' consent or surrender for adoption.
5. Child's adjustment to his present home, school, and community.
6. The mental and physical health of all individuals involved.
7. Family ties between the child and the person/s wanting to adopt the child and the value of preserving family ties between the child and his/her relatives, including siblings.
8. Background, age and living arrangements of the person/s wanting to adopt the child.
9. Criminal background check report presented to the court as part of the investigation required under Section 6 of the Adoption Act.

Any licensed foster parent/s who has cared for a youth for a year continuously *shall be given preference and first consideration over all other applicants by DCFS* if the child becomes eligible and they apply to adopt. The *Court's* final decision about who shall adopt the child must be based on the welfare and best interests of the child, considering, but not limited to, all of the factors listed above.

## What is adoption assistance?

Adoption assistance or adoption subsidy means financial assistance from the department that is provided to the adoptive parents after the finalization of an adoption. Adoption assistance can include:

**Payment for non-recurring adoption expenses** incurred by or on behalf of the adoptive parents in connection with the adoption of a youth in care, up to a maximum of \$2,250 for each adopted child.



**Monthly payment** to be determined by the department and adoptive parents, based on the needs of the child. When the final order of adoption is entered, the adoptive family may receive monthly payments up to the applicable licensed foster family home rate.

**Managed care** is provided through the Illinois Department of Public Aid if a child is adopted.

**Payment for physical, emotional and mental health needs** not payable through insurance, managed care or public resources that are associated with or result from a pre-existing condition that has been established before the final order of adoption is entered.

**Employment related day care** payments may be made for children under the age of 3 if the adoptive parent is employed or in a training program that will lead to employment. This payment ends on the child's third birthday and cannot be used in addition to therapeutic day care.

**Therapeutic day care** is available only for children who are determined to have a disability that requires special education services through an Individualized Education Plan (IEP) or an Individual Family Services Plan (IFSP) and is not fundable through another source.

## How long does the adoption assistance last?

The adoption subsidy generally lasts until the child is 18. If the child is still in high school at 18, the payments can continue until graduation or the 19<sup>th</sup> birthday, whichever comes first. In some cases, payments may continue until age 21 if the child has a significant physical, emotional or mental disability that was documented prior to the adoption or transfer of guardianship. The condition must be re-confirmed before the child's 18<sup>th</sup> birthday. Additionally, the subsidy payment will stop when the child enlists in the military, marries, becomes an emancipated minor or dies. Adoption assistance will also end if the adoptive parents request that it permanently stop, or they cease to be legally or financially responsible for the child, the adoptive parents' parental rights are terminated or the adoptive parents die.

## Who is eligible for adoption assistance?

Most waiting youth in care are eligible for adoption assistance. In addition to being legally free for adoption, in order to qualify for adoption assistance the department must have determined that the child cannot or should not be returned to the home of his/her parents as determined by (1) a judicial finding that the child has been abused, neglected or dependent or that there is probable cause to believe that a child is abused, neglected or dependent; and (2) the child's permanency goal is adoption.

Additionally a child must:

- Be one year of age or older or
- Have an irreversible or non-correctable physical, mental or emotional disability or
- Have physical, mental or emotional disabilities correctable through surgery, treatment or other specialized services or
- Be a member of a sibling group being placed together when at least one of the siblings meets one or more of the above criteria or
- Be a child being adopted by adoptive parent/s who have previously adopted, with adoption assistance, another child/ren born of the same mother or father.



## What is guardianship?

Guardianship means that the court appoints you as the child's legal guardian. It differs from adoption because the birth parents' rights do not have to be terminated to appoint a guardian. ***When you are appointed guardian of the child, DCFS will not be involved in the care, supervision or legal custody of the child.*** However, the court will retain jurisdiction until the child reaches the age of 18. As guardian you assume the rights and responsibilities to make decisions in matters influencing the life and the development of the child. Families becoming guardians of youth in care of DCFS may receive subsidies that include financial assistance as well as services and resources described in detail on pages 9-11.

Guardianship lasts until the child reaches the age of 18. The child's parent(s) may consent to the guardianship arrangement, but if they do not consent, they will have an opportunity to object in court.

## What factors are considered in selecting a guardianship family?

DCFS must first determine that guardianship is in the best interest of the child. Many factors go into that decision including the wishes of the child, who must give consent if 14 or older. The wishes of the prospective guardian and the relationship and interaction with the child are also considered. Thought will be given to the child's need for stability and adjustment to the present home, school and community. To insure a safe and suitable placement, the physical and mental health of all individuals involved will be taken into account.

Additionally, DCFS will conduct a home study and criminal background check.

## Who is eligible for subsidized guardianship?

Guardianship can be considered for children who have been living in the home of a licensed relative for of at least six consecutive months. The relative home must have been licensed for the entire six month period. The permanency goals of return home and adoption should have been deemed inappropriate and not in the best interest of the youth.

The child should have a strong attachment to the potential guardian and the guardian should have a strong commitment to the child. Children who are age 17 and under may be considered for guardianship if they have lived with a licensed relative for six months.



Siblings who otherwise would not be eligible for guardianship may also qualify if they have a brother or sister in the same home that does meet the criteria.

In addition, with documentation and approval, DCFS could determine that subsidized guardianship is in the best interest of a child 12 years and older living with a licensed non-relative. The child 12 years and older must also have been living with the licensed non-relative for a period of six consecutive months. In addition, a younger sibling in the same home as the 12-year-old sibling may also go to guardianship. Through state-funded guardianship, unlicensed relatives have the option of obtaining guardianship when a child who is 12 or older has been placed in an unlicensed relative's home for at least six months.

## What is a guardianship subsidy?

The guardianship subsidy is the same as an adoption subsidy. It provides financial assistance, health insurance and other services from the department to the guardian after guardianship is transferred from the State.

The subsidy components that are available with a subsidized guardianship can include:

**Payment for non-recurring expenses** incurred for reasonable and necessary costs and legal fees related to subsidy review and the court hearing, that are directly related to the transfer of guardianship, up to \$2,250 per child.

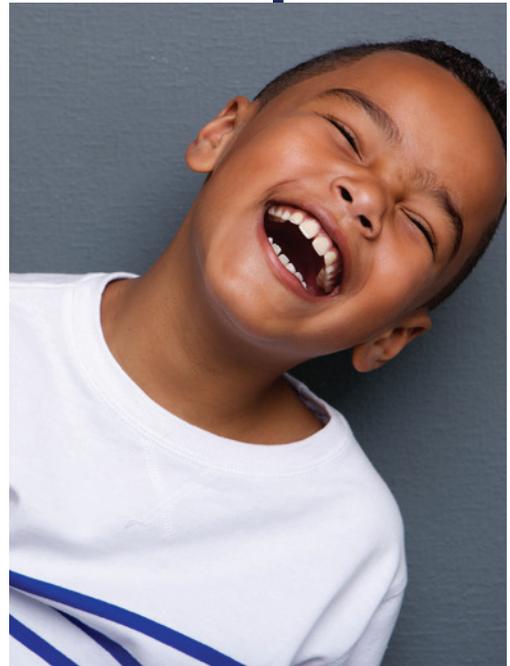
**Monthly payments** the amount of which are to be determined by the department and the prospective guardians, based on the needs of the child. When guardianship is transferred from DCFS, the family may receive monthly payments up to the applicable licensed foster family home rate.

**Managed Care** provided by the Illinois Department of Human Services.

**Payment for physical, emotional and mental health needs** that are not payable through managed care or public resources that are associated with or result from a pre-existing condition that has been established prior to the entry of the final transfer of guardianship. These costs must be approved by the department before they are incurred.

**Employment-related day care** payments may be made for children under the age of three years if the guardian is employed or in a training program that will lead to employment. This payment ends on the child's third birthday and cannot be used in addition to therapeutic day care.

**Therapeutic day care** is available only for children who are determined to have a disability that requires special education services through an Individualized Education Plan (IEP) or an Individual Family Services Plan (IFSP) and is not fundable through another source.



## How long does the guardianship subsidy last?

The guardianship subsidy lasts until the child is 18. If the child is still in high school at 18, the payment stops at graduation or on the 19<sup>th</sup> birthday, whichever comes first. Payments may continue until age 21 when the child has a significant physical, emotional or mental disability that was documented prior to the transfer of guardianship. The condition must be re-confirmed before the child's 18<sup>th</sup> birthday. The subsidy payment will stop when the child enlists in the military, marries, becomes an emancipated minor or dies. The subsidy will also end if the guardians request it to permanently stop, they cease to be legally or financially responsible for the child, the guardianship is vacated by the Court or the guardians die.

## What if I move out of state?

Illinois will continue to process your monthly subsidy payment and you will be required to contact your Illinois subsidy worker before you move out of state.

For medical coverage when moving out of state, guardians are encouraged to apply for the Medicaid program in their new state. A guardian may also select a medical provider who would choose to enroll in the Illinois Medicaid Program and thus be covered directly through Illinois Medicaid. A final option

would be to pay for medical services in the other state and be reimbursed by DCFS at the Medicaid rate for Medicaid-eligible services. Guardians should contact their subsidy worker when first considering a move out of state for assistance with coordinating these benefits.



# Who is eligible for a guardianship subsidy?

Your caseworker will help you determine if you are eligible to become a subsidized guardian for a child in your care. The following are minimum requirements for eligibility:

- The child must be eligible for foster care maintenance payments while residing for at least six consecutive months in the home of a licensed relative (the relative home must have been licensed for at least this consecutive six month period).
- ***Being returned home or adopted are not appropriate permanency goals for the child.***
- The child demonstrates a strong attachment to the prospective guardian and the guardian has a strong commitment to caring permanently for the child.
- With respect to a child who is 14–17 years of age, the child has been consulted regarding the kinship guardianship arrangement and consents to the guardianship.

In addition to the above criteria, the following exceptions may also qualify a child/youth for a guardianship subsidy:

- The child is a member of a sibling group of which at least one child has resided with the licensed prospective subsidized guardian for at least six months and meets all subsidized kinship guardianship criteria.
- The youth is 12 years of age or older and has lived with a licensed NON-RELATIVE for at least six consecutive month immediately prior to establishing subsidized guardianship.
- A child are 12 or older has lived with an unlicensed relative for the last six months.



## Adoption or Guardianship?

### Which is better for the child and our family?

Not every foster family adopts a child in their care or becomes their legal guardian, but many do. In fact, the great majority of the children adopted in Illinois are adopted by their foster families. Adoption and guardianship offer foster parents two similar paths to permanency. Both provide you with many of the same rights (enrolling the child in school, consenting to major medical care, etc.) However, adoption is a lifelong legal relationship that gives the child all the legal benefits of a child born into your family. Guardianship also builds family relationships that can last a lifetime, but the legal relationship ends when the child turns 18 and is considered an adult.

Another important difference between the two options concerns the birth parents' rights. For a child to be adopted, the child's birth parent/s' rights must have been legally terminated, or the birth parents must have voluntarily signed surrenders or consents to the adoption. This means that the birth parent/s' rights have been permanently terminated. With guardianship, the birth parent/s' rights do not have to be terminated.

With both adoption and guardianship, the caregivers should realize that for many children the birth parents or siblings may continue to be an important part of a child's life. Depending on the best interests of the child, those connections could be maintained with on-going contact or visits after the adoption or transfer of guardianship. The prospective adoptive parents or guardians can decide with help from the caseworker what involvement, if any, should be maintained.

The chart on the following pages outlines the differences between adoption and guardianship in more detail.



# What are the differences between adoption and guardianship?

	Adoption	Guardianship
<b>Legal Status</b>	The adoptive parent/s is given all the rights and responsibilities that once belonged to the birth parent/s.	A guardian is given legal responsibility for the child and assumes the rights of care, custody, and supervision of the child.
	Adoption is a permanent, lifelong, legal relationship.	The birth parent/s can request the guardianship be vacated and that the child be returned to their care if parental rights have not been terminated. In these cases, the court will make the decision regarding the possibility of vacating a guardianship.
	Birth parent's rights are voluntarily relinquished or involuntarily terminated.	Birth parent/s' rights are usually not relinquished or terminated.
	An adopted child has all of the same rights as birth children when the adoptive parent/s does not have a Will. Otherwise, inheritance rights are established through a valid Will as they are for birth children. Additionally, adopted children generally are entitled to survivor's benefits such a pension or Social Security in the event of an adoptive parent's death.	The child has no automatic right of inheritance from the guardian unless the child has been included in the guardian's Will. Additionally, children will not be entitled to survivor's benefits such as a pension or Social Security in the event of a guardian's death, unless they are named as beneficiaries.
	When the adoptive parents are married, both spouses must adopt unless they have been separated for more than a year.	When married, either one or both spouses may be named guardian.
<b>Decision Making</b>	All decisions are made by the adoptive parent/s.	Major decisions regarding school, medical treatment and consent for most other major life decisions are made by the guardian. Birth parent/s retain the right to consent to adoption when parental rights have not been relinquished or terminated.

	Adoption	Guardianship
<b>Financial Assistance</b>	<p>The adoptive parent/s, whether receiving a subsidy or not, are financially responsible for the support of the child. Financial assistance is available for the adoption of many youth in care. Refer to page 6.</p> <p>The adoption subsidy lasts until the child is 18, but may continue to age 19 if the youth is still in high school or until age 21 when the child has physical, emotional or mental health needs that were documented prior to the adoption or transfer of guardianship. The condition must be re-confirmed before the child's 18th birthday.</p>	<p>A guardian, whether receiving a subsidy or not, is financially responsible for the support of the child. Financial assistance is available for eligible children. Refer to page 9 for the types of assistance available. The guardian is responsible for financially supporting the child. If the birth parent/s' rights have not been terminated they can be held responsible to contribute to the financial support of the child.</p> <p>The guardianship subsidy lasts until the child is 18, but may continue to age 19 if the youth is still in high school or until age 21 when the child has physical, emotional or mental health needs that were documented prior to the transfer of guardianship. The condition must be re-confirmed before the child's 18th birthday.</p>
	<p><b>Note: Ongoing monthly payments for adoption and guardianship subsidies are the same as the foster care board payment received while the child was in foster care.</b></p>	
<b>Relationship with the Birth Parent/s and Siblings</b>	<p>The adoptive parent/s have the right to determine if the child will have any relationship with the birth parent/s and biological family members. However, in many cases connections with birth parents or siblings will remain important to a child. Adoptive parents may determine that those 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.</p>	<p>In general, parents retain the right to visitation with the child unless their rights were terminated. Courts will, for the most part, expect that guardians will facilitate at least one visit per month between the child and parent. For many children moving to guardianship, relationships with birth parents or siblings may remain important. When in the best interest of the child, guardians can facilitate involvement with the birth family as long as the court has not ruled against it. Those connections to the birth family can be maintained in a way that works well for the child and the guardianship family.</p>

	Adoption	Guardianship
<b>Child's Legal Name</b>	The adoptive parent/s determine the child's legal name.	The child retains his/her own legal name as identified on their birth certificate.
<b>Consent of the Child</b>	A child who is 14 years of age or older must consent to his/her own adoption.	A child who is 14 years of age or older must consent to the transfer of guardianship from the department to an individual. In addition, a child who is 13 years of age or older can petition for a change of guardianship.
<b>Death of Adoptive Parent/Guardian or Termination of Adoption/Guardianship</b>	A child adopted with adoption assistance remains eligible for adoption assistance when he/she is orphaned due to the death of his/her adoptive parent/s or when a court terminates the adoptive parent/s parental rights. He or she can continue to receive adoption assistance <i>if</i> adopted by someone else.	A child for whom guardianship subsidy was received does remain eligible for guardianship subsidy when he/she is orphaned due to the death or incapacity of his/her guardians(s), but the subsequent guardian must have been named by the first guardian as the back-up person.
<b>Returning a Child to DCFS</b>	An adoptive child would have to be found by the court to be abused, neglected or dependent in order to have DCFS again assume legal responsibility for the child.	A child for whom an individual has been named guardian would have to be found by the court to be abused, neglected or dependent or other good cause must exist in order for DCFS to again assume legal responsibility for the child. Otherwise the guardian or other interested party would have to petition the court to have the guardian relieved of the responsibility of guardianship. The decision would be at the discretion of the judge.

**Note:** Both adoption and guardianship are strong commitments to children. The commitment entered into by adopting a child is one that lasts for a lifetime. Although guardianship legally ends when the child reaches adulthood, most legal guardians have family ties or a close relationship with the child and thus enter into this commitment intending it to be a lifetime relationship. Adoption and guardianship are commitments to be taken seriously by caregivers.

# Becoming an Adoptive Parent



## What do I need to do?

If you believe that the best permanency option for the youth in your care is adoption, you should discuss adoption with your child's caseworker. If the decision is made that it is in the child's best interest to be adopted by you, the child's worker will prepare an "Adoptive Conversion Assessment" which provides information about you and your family and documents that your family is a good match for the child. You will also need to attend a nine-hour adoption training class that will help you understand the differences between being a foster parent and being an adoptive parent. The child's worker will give you all the necessary paperwork to apply for adoption assistance (a subsidy). You will also have to go to court to legally finalize the adoption.

## Can I adopt a legally free child not placed in my home?

In general, the child must be placed in your home before you can file a petition to adopt the child. Foster parents interested in adopting a waiting/legally-free child who is not placed in their home should contact Greenlight Family Services at 800-572-2390 or 773-728-7800. Photo listings of waiting children are available to view at [www.greenlightfamilyservices.org](http://www.greenlightfamilyservices.org). Like other prospective adoptive parents, foster parents will be referred to the waiting child's worker for more information about the child. Foster parents who are interested in a waiting child who is living with another foster parent who is unable to adopt should contact the child's worker to get more information and discuss the possibility of adoption. Foster parents who are interested in adopting a waiting child who is not currently placed in their home must have an approved adoptive home study and they will need to complete training.

## What background information about the child will I have prior to adopting?

Whenever DCFS places a child in a foster family home, the agency will provide information about the child's background to the caregiver that addresses four main areas: 1) the child's health and foster care history; 2) a copy of the child's section of the family service and visitation plan; 3) the child's educational background; and 4) social and behavioral information.

In adoption cases, Illinois law requires that adoptive parent/s be given certain non-identifying background information and medical and mental health histories on the family *prior* to when a child is placed for adoption. In DCFS cases, this will occur when a placement officially changes from being a foster care placement to an adoptive placement. The following information, if known, will be given to adoptive parent/s at this point:

- Birth parents' ages.

- Race, religion and ethnic background of each birth parent.
- General physical description of each birth parent.
- Education, occupation, hobbies, interests and talents of each birth parent.
- Existence of any other children born to the birth parents.
- Information about the birth grandparents; including reason for emigrating into the U.S., if applicable, and country of origin.
- Relationship between the birth parents.
- Detailed medical and mental health histories of the child, the birth parents and their immediate relatives.

None of this information will include the names or the last known address of the birth parent/s, grandparent/s, the siblings of the birth parent/s or any other relative of the adopted child.

## How will my responsibilities and rights change with adoption?

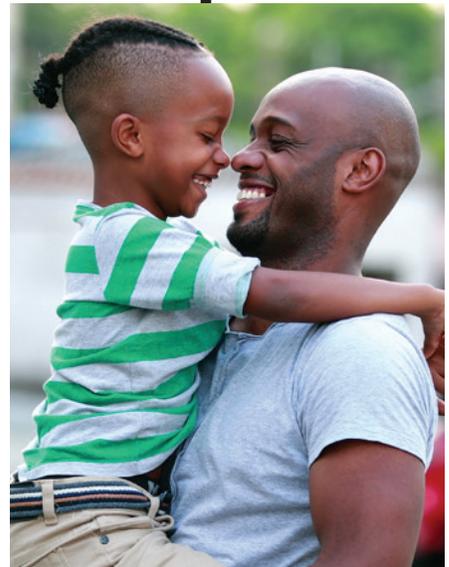
As the child's adoptive parent you will make all decisions in matters having an effect on the life and development of the child, just as you would for a birth child. There will be no further agency involvement in your child's life. You can choose to make use of the post-adoption services offered by DCFS. These services are described on the DCFS website [www2.illinois.gov/DCFS](http://www2.illinois.gov/DCFS).

## Will the child still visit the birth parent or biological siblings?

The birth parent/s' rights are legally terminated prior to the adoption. Therefore, the birth parent/s and siblings have *no* legal rights to have contact with the child. Any contact between the child and birth parent/s or between the child and the biological siblings is up to you. However, it may be in your child's best interest to maintain some level of contact with biological family members depending on the age of your child at the time of the adoption, the importance he/she places on staying connected with his/her birth parent/s and siblings and your willingness and ability to manage the ongoing connections.

## How else could the birth parent/s be involved in the child's life?

Again, as the result of the adoption, the birth parent/s' rights will have been terminated. Any further involvement with the birth parents in the life of the child (including former foster siblings) is up to you. However, adoptive parents should realize that connections to siblings and other birth relatives can be very important to adopted children.



# Becoming the Guardian



## What do I need to do?

If reunification has been ruled out as a permanency option and you are considering providing a permanent, legal family for the child in your care, but you are not willing to adopt, contact your caseworker to discuss the possibility of guardianship.

If the guardianship is going to be subsidized, the child must have lived with a licensed relative for six consecutive months. For children age 12 and older, guardianship may be an option if the child is in a

placement with a licensed non-relative or unlicensed relative.

If these criteria apply to the youth in your care, read the information on the following pages and then talk to the caseworker about becoming a subsidized guardian. If you and your caseworker agree that it is best for you to become the child's legal guardian, the caseworker will tell you what steps must be taken. The final step is going to court with the child for a hearing to legally transfer guardianship from DCFS to you.

## Can I take guardianship of a child not placed in my home?

No. After permanency goals of return home and adoption have been ruled out, guardianship can only be transferred to a caregiver after the child has been in the home for at least six months and the home has been licensed for this same period of time.

Individuals who desire to help a child achieve permanency for a child not already in their home can go through established channels for matching children to families. These include the Greenlight Family Services referral service, as well as referrals from DCFS or other private child welfare agencies. Guardianship can only be transferred to a caregiver after the child has been in the home for six months and the home has been licensed for at least this same period of time.

## As guardian, what information will I receive about the child's background?

As the process progresses to move a child from DCFS guardianship to private guardianship the child's caseworker is obligated to provide information about the child's background and history. Although Illinois law does not specify what types of information need to be provided to a guardian, as practice, the prospective guardian will be given non-identifying background information and medical and mental health histories prior to the transfer of guardianship. The following information, if known, will be given to the guardian/s in writing:

- Birth parents' ages.
- Race, religion and ethnic background of each birth parent.
- Education, occupation, hobbies, interests and talents of each birth parent.
- Existence of any other children born to the birth parents.
- Information about the birth grandparents; including reason for emigrating into the U.S., if applicable, and country of origin, when available.
- Relationship between the birth parents.
- Detailed medical and mental health histories of the child, the birth parents and their immediate relatives.

None of this information will include the names or the last known address of the birth parent/s, grandparent/s, the siblings of the birth parent/s or any other relative of the adopted child.

## **How will my responsibilities and rights change as the legal guardian?**

You will have responsibility for decision-making in matters having an effect on the life and development of the child, such as school enrollment and medical care. In addition, the guardian can consent to marriage, major medical treatment and enlistment in the armed services. There will be no further agency involvement in yours or the child's life, unless provided for in the guardianship subsidy or if you make use of the post guardianship services offered by DCFS. These services are described on the DCFS website [www2.illinois.gov/DCFS](http://www2.illinois.gov/DCFS).

## **Will the child still have visits with his or her birth parent/s?**

For many children moving to guardianship, relationships with birth parents or siblings remain important. Unless the court has ruled against it or parental rights have been terminated, the parents are entitled to visits with the child after guardianship order has been entered. Indeed, connections to the birth family can be maintained in a way that works well for the child and the guardianship family.

If the juvenile court case is still open and you believe that it is in the child's best interests not to visit the birth parent/s, you should address this issue with the caseworker before the case is closed. If visitation arrangements continue to be in dispute and/or you plan to seek a court order limiting/prohibiting parental visitation, you should address this during the court proceedings naming you legal guardian of the child. When birth parent/s retain parental rights and visitation arrangements are not in dispute, you can work out the visitation schedule with them.



After you become the child's guardian, it will be up to you to determine if parental visits need to be supervised and whether or not the child can be alone with the parent/s. If you have concerns about your ability to control or supervise parental visits, you should discuss these concerns with the caseworker before the case closes. As guardian, you should be prepared to manage visits. You will need to carefully consider your ability to do so prior to agreeing to accept guardianship of the child. As guardian, you are responsible for the child's safety and you should take into account any history of parental abuse or neglect in determining how visits should be arranged between the child and the birth parent/s. A good relationship with the birth parent/s, siblings and other family members can be of great benefit to you and to the child. Children who continue to have contact and a relationship with their birth parent/s generally have a strong loyalty to them.



## **Services Available to Adoptive and Guardianship Families**

Families wanting to adopt or become guardians often wonder what services will be available to them and their children after they become legally responsible for the youth in their care. Some families may have even heard that services are available but may not know how to request them. This section explains what types of services are available and how to find them.

### **Subsidies**

The Illinois Department of Children and Family Services (DCFS) provides and funds a variety of benefits after adoption or guardianship, including subsidies for families who adopt waiting children or become guardians of children in DCFS care. Subsidy agreements are entered into prior to court finalization of adoptions or approval of guardianships and become effective once the adoptions (adoption assistance agreements) or guardianships (subsidized guardianship agreements) are finalized. Details on the components of an adoption assistance agreement are found on page 6 and those for the guardianship subsidy are on page 9.

### **How is the amount of financial assistance determined?**

The ongoing monthly subsidy payment will, in general, be the same as the foster care rate the child would be receiving if still in foster care. Adoption and guardianship subsidies may be increased to reflect changes in the foster care rate.

The adoptive or guardianship parent's income and any other monetary resources the child receives after entering adoption/guardianship, such as inheritance, scholarships or income from a part-time job will not be considered when determining the amount of the ongoing monthly payment.

Children who qualify for SSI/disability benefits have the responsibility of notifying the Social Security Administration of the ongoing monthly subsidy payment. In general, monthly SSI benefits will be offset by the amount of the adoption/guardianship subsidy. For more information on social security benefits, see page 22.

## Answers to Subsidy Questions

For answers to questions about an adoption or guardianship subsidy, contact the DCFS Path Beyond Adoption toll-free support line at **866-538-8892** or visit [www.PathBeyondAdoption.illinois.gov](http://www.PathBeyondAdoption.illinois.gov) and you will be connected to the assigned adoption staff in your region.

If you have been receiving checks regularly, and suddenly don't receive your monthly subsidy check, call the DCFS Payment Unit at 800-525-0499.

## Mediation and Appeals

Your subsidy will be reviewed periodically. If your situation or the needs of the child have changed prior to that time, contact your subsidy worker for a subsidy review. If you believe, however, that your rights under an adoption assistance or subsidized guardianship agreement have been violated in some way, an Administrative Appeal may be available to you. For information about the DCFS Administrative Hearings system, call 217-782-6655.

## Post Adoption and Guardianship Resources

Please visit the DCFS website [www2.illinois.gov/DCFS](http://www2.illinois.gov/DCFS) for more information. It includes more details on the services and resources highlighted below.

### Education resources

Youth formerly under DCFS care that are adopted or living with guardians are eligible to apply for the DCFS scholarship program.

### Preservation services

When child or family-related issues threaten the adoption or guardianship, preservation services can help. They offer crisis intervention, therapy, advocacy and other specialized services delivered through a statewide network of agencies. Contact your regional post adoption staff for information about a provider located near you.

### Planning for future circumstances

It is important that families have a plan to care for children in the event of an absence, illness or even death. As families consider adoption or guardianship, they should 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. He or she should also have adequate resources and agree to the arrangement, should it become necessary. Long-term plans for an adopted child can also be stated in a Will.

Additionally, after adoption or the transfer of guardianship, there are legal provisions for stand-by adoption, stand-by guardianship and short-term



guardianship. These options provide a legal means of establishing a care plan if the adoptive parent or guardian becomes unable to carry out their role. Families can consult with an attorney about how these legal arrangements might be pertinent in their situations. Additional information can also be found on the DCFS website [www2.illinois.gov/DCFS](http://www2.illinois.gov/DCFS).



## What is SSI and what is SSA?

Supplemental Security Income (SSI) is a program administered by the Social Security Administration for blind and disabled persons with little or no income or resources. The Social Security Administration makes the determination of eligibility based on a person's diagnosed health or mental health condition, school information, and documentation from other sources. There is also a federal program for children whose parent is retired, deceased or disabled, called SSA. Based on the parent's earning history, the Social Security Administration determines the benefit amount. Therefore, the amount (if any) that the child is eligible to receive varies widely.

In order to claim either of these benefits, the adoptive parent or guardian will receive a letter from the DCFS Children's Accounts Unit instructing them to go to the local Social Security office. The adoptive parent or guardian must have a copy of the court documents showing proof of the change in legal relationship. If the adoptive parent or guardian is seeking SSI benefits, they will also need to provide information on the household income, including any subsidies or other public benefits received.

## Can I receive both SSA and a subsidy for my child?

If a child was receiving SSA benefits while in DCFS care, that child will remain eligible for benefits. In this case, the adoptive parent or guardian can receive both the subsidy and the SSA that the child is entitled to from his or her birth parent's death or disability. The adoptive parent and guardian should use the claim process described above.



If an adopted child was not receiving SSA while in DCFS care, the child would no longer be eligible for the benefits attached to his birth family. Instead, his eligibility will be based on the earnings and circumstances of the adoptive parent. If the child achieved permanency through guardianship, and the parental rights have not been terminated, then the guardian may apply for SSA benefits connected to the birth parent. With guardianship, the child is not eligible for SSA benefits that are attached to the guardian. The local Social Security Administration office can assist families with making new claims.

## Can I receive both SSI and a subsidy for my child?

Most adoptive parents or guardians will not be eligible for both SSI and a subsidy. However, if a child has been determined to have a qualifying disability, the Social Security Administration will determine whether or not the child is eligible to receive SSI funds. If the household income, including wages, subsidies and other public benefits is sufficiently low, then the Social Security Administration may determine that your child is eligible for a benefit. The most you will receive is the difference between the amount of the subsidy and the full SSI benefit. To find out if you qualify, you will need to use the claim process above.





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