

A RELATIVE CAREGIVER LEGAL CHECKLIST

This checklist is part of one provided in the Florida Kinship Center at the USF School of Social Work's *Kinship Care Legal Handbook*. [Click here](#) for the complete *FKC Handbook*, including a Spanish language version, which is available for download.

This version has been slightly modified to apply to kinship caregivers generally. [Click here](#) to view the original, specific to Florida caregivers.

Whether you are an attorney representing a relative caregiver or a relative caregiver yourself, we hope the following checklist will help guide you through some of the complicated legal issues you will undoubtedly need to address. In all instances, please refer to *State Fact Sheets for Grandparents and Other Relatives Raising Children* to find out what benefits, programs, and services are available in your state.

I. Custodial Relationship – Is the current legal relationship optimal?

1. CURRENT RELATIONSHIP

1. Informal → No paperwork
2. Informal → With paperwork
 - a. Durable power of attorney (specific or general)
 - b. Medical consent power of attorney
3. Court award of temporary custody
4. Court ordered placement after adjudication of dependency
 - a. Placement under protective supervision
 - b. Legal custody with protective supervision
 - c. Long term relative custody
5. Award of guardianship
6. Adoption

2. Questions To Ask Re: Changing the Custodial Relationship

1. Are the parents willing to agree to formalize the relationship?
 - a. Will they sign a durable power of attorney?
 - b. Will they consent to an award of temporary custody?
2. Has the Department been involved; if so, has there been an adjudication of dependency?
3. If the Department has not been involved, have the parents abused, abandoned, or neglected the child? How is abuse and neglect defined in your state?

4. What are your long term plans for the child? Are you working with the Department?

II. Government Benefits – Are relative caregivers receiving all entitled benefits?

A. Cash Benefits

1. Temporary cash assistance (TANF)
2. Relative caregiver benefits
3. Foster care payment
4. Adoption subsidy
5. Social Security Disability Insurance (SSDI)
6. Supplemental Security Income (SSI)
7. Child Support
8. Veteran's Benefits

B. Subsidized child care/guardianship

C. Food Assistance

1. Food stamps
2. WIC (women, infants, and children)

III. Health Care – Is the child insured and receiving medical care?

A. Medicaid – if the child is in the Department's custody or if the child receives he or she should be enrolled in Medicaid (in most states).

B. If the child is not Medicaid eligible or otherwise covered, what other programs are available in your state that you can apply for to receive coverage?

C. Mental health services – If the child has mental health needs that are not being met, refer to thte Community Mental Health Services.

III. Education – Is the child receiving an appropriate education?

A. Children 0-5 → Are they enrolled in child care/preschool?

B. Children 6+ → Are they currently enrolled in school?

1. Does the McKinney-Vento Homelessness Assistance Act Apply? (42 U.S.C. 11435(2)).
2. If so, the school must enroll the child without paperwork.

C. Special Educational Needs

1. Does the child have a physical, emotional, or learning disability that impairs school performance?
2. If so, has the school recognized the disability and conducted assessments?
 - a. If not, the caregiver can request evaluation and an IEP (Individual Education Plan) under the IDEA (Individuals with Disabilities Education Act).

III. Transition Services – Are older teens receiving benefits?

1. If the child is 14+ and deemed dependent, he or she may be eligible for transition benefits, college tuition, etc.
2. If the child is 14+ and disabled, transition services should be provided through the school and the Department of Vocational Rehabilitation.

III. Long-Term Issues

- A. Does the relative have a will?
- B. Has the relative identified a pre-need guardian/standby guardian?
- C. Do they need a trust?
- D. Have they purchased life insurance?