



# Understanding the Options for Out of Home Care in California:

## A Fact Sheet for Kinship Caregivers

### OPTIONS FOR OUT OF HOME CARE IN CALIFORNIA

When a child can no longer reside safely in the home of a parent, connecting a child with a known family member increases child well-being, improves educational outcomes, minimizes trauma, creates stability for the child, and enables children to remain together with siblings.

Several options are available to support children in kinship care:

1. **Foster care** (including placement with a relative or close family friend including teachers, medical professionals, clergy, and neighbors)
2. **Voluntary placement agreement**
3. **Legal guardianship through the probate court**
4. **"Informal" arrangements** outside of foster care or any other formal system

Each option has different legal requirements and may hold different benefits for the family. The overall wellbeing and the best interests of the child and family should be considered when making decisions.

### CHILDREN'S COURTS IN CALIFORNIA

In California, there are three separate branches of the Superior Court that can make decisions changing the legal and physical custody of a child:

- **Juvenile Court:**
  - The Juvenile Dependency Court hears cases involving alleged abuse and neglect of children.
  - The Juvenile Delinquency Court hears cases involving alleged law violations by children and can also make findings regarding abuse and neglect for children under its jurisdiction.
- **Probate Court:** The Probate Court establishes guardianships "of the person" when a child is living with an adult who is not the child's parent, and the adult needs a court order to make decisions on behalf of the child.
- **Family Court:** The Family Court adjudicates domestic disputes (including divorce and separation), including custody decisions that affect the health, safety, and welfare of children.

# Foster Care

Foster parents, called **resource parents**, provide a supportive and stable family for children who have been formally removed from their homes by the Juvenile Court while the family works to resolve the issues that led to the child being removed from the home. Both the Juvenile Dependency Court and the Juvenile Delinquency Court may place a child in foster care.

In foster care, the county agency (usually the child welfare agency and sometimes the juvenile probation department) has care, custody, and control over the child, with authority to place the child in the most appropriate setting.



## Relative Preference

Resource parents do not have to be unknown to the child. In fact, **the preferred placement of children who require out-of-home care is with relatives** because it maintains the children's connections with their families and communities. Children in foster care may be placed with relatives or close family friends called **non-relative extended family members (NREFM)**.

- If a child is removed from their parent(s), the social worker must conduct, within 30 days, an investigation to identify and locate all grandparents, parents of a sibling of the child, if the parent has legal custody of the sibling, adult siblings, and other adult relatives of the child, including any other adult relatives suggested by the parents.
- Counties must provide all located relatives with written and oral notification unless notification is inappropriate due to the relative's history of family or domestic violence.
- The court shall order the parent to disclose to the social worker the names, residences, and any known identifying information of any maternal or paternal relatives of the child.
- The county social worker and court must give preferential consideration to certain relatives (grandparent, aunt, uncle or sibling).
- The social worker will assess any relatives that request to be considered for placement. However, assessment and approval as a resource family does not **guarantee** placement of the child.
- Placement is separate from the assessment and approval of a relative or NREFM. After approval, social workers and courts must consider specific factors when assessing a relative to determine whether or not the relative is the best placement option for the child.



## Legal Standard

Placement in foster care is based on a determination by the Juvenile Court that continuance in the home of a parent is contrary to the child's welfare and reasonable efforts were made to avoid removal. A child in foster care must be found to be a person described in Section 300 of the Welfare and Institutions Code, which outlines several categories of abuse and neglect.



## Reunification with Parents

The goal of the Juvenile Court is the preservation of the family. County social workers are legally obligated to make reasonable efforts to prevent the need for a child's removal from the home and, if the child is removed from the home, facilitate the child's return to the parent. Efforts to reunify a child with their parent(s) are formalized through the family's case plan. The case plan can include supports and services like parenting classes, counseling, visitation, and substance issue counseling. The Juvenile Court can order reunification services for a certain duration and can also terminate reunification services under limited and specific circumstances.



## Review & Licensing

Resource parents must complete a review and licensing process called **Resource Family Approval**. As part of the approval process:

- Minimum personal, safety and space requirements in the home are required by law.
- A county licensing worker will visit the home and meet with prospective resource parents and other family members.
- Prospective resource parents and other adults residing in the home must complete and pass a criminal background check, though exemptions are available for individuals with certain past convictions.
- Resource parents must also complete at least 12 Pre-Approval hours and 8 Annual hours of training on topics like trauma and attachment, challenging behaviors, and CPR.



## Financial Support

Resource parents receive a monthly payment to feed, clothe, and meet the material needs of the children placed in their care.

- The current basic level rate for resource family placements is \$1,037. Additional funds may be available to support children with specialized needs, including children who are Regional Center consumers and youth who are parenting their own children.
- Depending on available funding and county policy, funds may be available to support child care when children are first placed.
- Full-scope medical and dental coverage, as well as medically necessary community-based mental health care, are provided through the Medi-Cal program.
- Older youth in foster care may participate in the county Independent Living Program if they were in care on or after age 16.
- Youth who were in foster care on or after age 16 can qualify for Chafee Education and Training Vouchers to fund their postsecondary education.
- Older youth who turn 18 in foster care can opt to continue receiving foster care benefits and additional independent living supports through the Extended Foster Care program up to age 21.



## Education and Medical Decision Making

Parents retain education decision making authority unless revoked by the court. The county social worker is responsible for arranging medical care, and resource parents may make medical decisions based on the prudent parent standard.



## Caseworker and Legal Support

All children in foster care are assigned a social worker who will visit the child and caregiver throughout the time the child is in foster care. In addition, **the child and the parent will be appointed legal counsel** to provide representation for associated court hearings. The resource parent may provide information to the court but is not provided counsel.



## Court Involvement

The cases of children in foster care are overseen by the county Juvenile Court. The Juvenile Dependency Court is the branch of the Superior Court which hears cases involving neglected and/or abused children. A smaller number of foster care cases are overseen by the county Juvenile Delinquency Court. The court is required to review the status of each child in foster care regularly through Review Hearings held every six months.

After a child has been in foster care for a certain amount of time, and reunification services do not result in the child's return home, the court may order a permanent plan of guardianship or adoption. If the court orders guardianship or adoption with the child's relative or NREFM caregiver, court oversight and involvement will decrease or end entirely. In most cases, the financial supports that the family had while in foster care will continue once they exit foster care to a guardianship or adoption through the Juvenile Court.

# Voluntary Placement Agreement

A voluntary placement agreement (VPA) is a signed contract that places a child in out of home care (ideally with a relative or family friend), with a specific visitation schedule. Voluntary placement is a **planned and time-limited approach**, with the goal of returning children safely to their home without Juvenile Dependency Court intervention. It aims to reach consensus on a safety plan that protects the child and preserves the family.

When a VPA is in effect, the county child welfare agency has care, custody, and control over the child, with discretion to place the child in the most appropriate setting. A VPA does not assign legal custody to the child's caregiver.



## Legal Standard

There is no legal standard for a custody change effectuated through a VPA. It is intended to be made at the request of the parent.



## Reunification with Parents

Voluntary placement agreements are limited to **six months** while parents are provided support and services aimed at reunification. A voluntary placement agreement can be extended an additional six months. A parent has the right to end a voluntary placement agreement at any time. Visitation may be supervised or unsupervised, depending on the reason the child was removed from the home.



## Review & Licensing

The county child welfare agency completes a health and safety check of the caregiver's home, including a review of the state criminal records system and Child Abuse Central Index (referred to as CACI). **Resource Family Approval is not required.**



## Financial Support

Resource parents receive a monthly payment to feed, clothe, and meet the material needs of the children placed in their care.

- The current basic level rate for resource family placements is \$1,037. Additional funds may be available to support children with specialized needs, including children who are Regional Center consumers and youth who are parenting their own children.
- Depending on available funding and county policy, funds may be available to support child care when children are first placed.
- Full-scope medical and dental coverage, as well as medically necessary community-based mental health care, are provided through the Medi-Cal program.



## Education and Medical Decision Making

While a VPA is in effect, the parent authorizes the county welfare agency to give legal consent for medical care, school attendance, and other services, but may limit the scope of that authorization.



## Caseworker and Legal Support

The caseworker supports the family through monthly visits. Before the expiration of the VPA, the caseworker must do one of the following:

- Return the child to their parents;
- Refer the child to a licensed adoption agency;
- File a formal petition to place the child in foster care (they can remain in placement with the relative), or

- Extend the voluntary placement agreement another six months through a formal administrative process.

Children cared for by a relative or NREFM in a voluntary placement agreement are not assigned legal counsel, and neither are their parent(s) or caregiver(s).

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## **Court Involvement**

There is no court involvement during the six months that a VPA is in effect, but when the VPA expires the county caseworker may decide to file a formal petition to place the child in foster care.

# Probate Guardianship

A family may petition the Probate Court to establish a legal guardianship because the child is living with an adult who is not the child's parent, and the adult needs a court order to make decisions on behalf of the child. Generally, probate guardianships are for children under 18, with some exceptions for guardianships for youth under the age of 21.

In a guardianship, **the guardian has the same responsibilities to care for the child as a parent would.** That means the guardian has full legal and physical custody of the child and can make all the decisions about the physical care of the child that a parent would make. The guardian is responsible for the child's care, including the child's:

- Food, clothing and shelter
- Safety and protection
- Physical and emotional growth
- Medical and dental care
- Education and any special needs

Anyone can be a guardian: relatives, friends of the family, or other people suitable to raise the child can ask to be legal guardians.



## Legal Standard

The Probate Court may establish a legal guardianship if it determines that the guardianship is necessary or convenient and is in the best interests of the child.



## Reunification with Parents

The Probate Court may grant visitation to parents whose children are in a guardianship, if the parents request visitation and if it is safe to do so. Additionally, the parent can request that the guardianship be terminated, but no support services are available through the probate court to facilitate the child's return home.



## Review & Licensing

Following the initial court interaction, which may include an investigation and report by a Probate Court investigator or Child Protective Services (CPS), court interaction will be limited. There are no licensing requirements for guardians.



## Financial Support

A relative legal guardian caring for a child who is not a dependent of the Juvenile Court is ineligible to receive foster care payments. Relatives may apply for the California Work Opportunity and Responsibility to Kids (CalWORKs) **Non-Needy Caretaker Fund** for relatives, which is a non-income based payment available to any relative caring for a child (the relative does not need a probate guardianship to receive these funds). This payment currently is a maximum of \$606 per month per child and is adjusted based on numerous factors when there are two or more children.

A non-relative extended family member (NREFM) who is caring for a non-dependent child would not be eligible to receive the CalWORKs payment, but may be eligible for state foster care funding. That foster care funding terminates at age 18, with the possibility of extending to age 19 under certain circumstances. Youth who turn 18 in a legal guardianship established by the probate court are not eligible for Extended Foster Care funding and supports.



## **Education and Medical Decision Making**

Probate guardians make education and medical decisions on behalf of the child.

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## **Caseworker and Legal Support**

Children cared for by a legal guardian through Probate Court are not assigned a social worker. Kinship navigation services may be available depending on available funding and county policy.

Children may be appointed legal counsel in a Probate Court matter depending on whether the matter is contentious or other reason, at the court's discretion. The probate guardian and parent(s) may seek outside legal representation at their expense. Parents must be informed ("given notice") if a guardianship petition has been filed in Probate Court.

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## **Court Involvement — Probate Court**

Following the initial court interaction, which may include an investigation and report by a Probate Court investigator or Child Protective Services, court interaction will be limited. Legal guardianships may be further supervised by the Probate Court, depending on what kind of guardianship is being granted.

# “Informal” Kinship Care

Relatives and NREFMs may care for children outside of foster care or any other formal system. In this arrangement, parents retain full physical and legal custody of the child.



## Reunification with Parents

Parents of children cared for by a relative or non-relative extended family members (NREFM) outside of foster care are not provided reunification support services outside of any community-based services that the parent or family can access on their own.



## Review & Licensing

There is no formal review of the caregiver or licensing requirements.



## Financial Support

A relative caring for a child who is not a dependent of the Juvenile Court is ineligible to receive foster care payments. Relatives may apply for the CalWORKs Non-Needy Caretaker Fund for relatives, which is a non-income based payment available through the county social services agency. This current maximum payment is \$606 per month per child, based on the region, and is adjusted based on numerous factors when there are two or more children.

A NREFM who is caring for a non-dependent child would not be eligible to receive the CalWORKs payment nor any foster care payments.



## Education and Medical Decision Making

Parents retain education decision making and medical decision-making rights for children cared for by a relative or NREFM outside of foster care or other formal change in custody. There are a few procedures, such as a caregiver authorization affidavit, that allow for temporary or limited decision making by the caregiver.



## Caseworker and Legal Support

Children, caregivers, and parents with an informal caregiving arrangement are not assigned a social worker or legal counsel. Kinship navigation services may be available depending on available funding and county policy.



## Court Involvement

Children cared for by a relative or NREFM outside of foster care or any other formal system are not subject to court oversight or involvement.





## Making an Informed Decision for Your Family

Informed decision making requires having information available, consideration of all the factors, and a decision making environment that allows family members to ask questions and make choices that are truly voluntary.

- Focus on the best outcome for the child—both now and in the future.
- Understand and evaluate all the options and how each option will impact you, your family, and the child.
- Ask questions about the options being presented by CPS and other agencies involved in your family's situation. Seek legal advice, talk to other caregivers who have been in your position, and identify community-based organizations that can answer your questions and provide resources.
- Engage others, including family members, extended family, and community members who have insight into your family's strengths and needs.
- Seek support. There are kinship navigators, support groups, and respite care providers that can help alleviate the stress and pressure that can feel suffocating during a family crisis.

**ALLIANCE**  
*for* **CHILDREN'S**  
**RIGHTS**