



**TEXAS
LEGAL
SERVICES
CENTER**

NAVIGATING KINSHIP CARE IN TEXAS

A GUIDE TO YOUR RIGHTS & RESOURCES

“The closest thing to being cared for is to care for someone else.”

Carson McMullers

About Texas Legal Services Center

Formed in 1977 and founded in 1981, Texas Legal Services Center (TLSC) is a nonprofit organization that provides legal advice, advocacy, representation, and education to underserved people across the state.

With more than a dozen practice areas, our work touches almost every aspect of civil law that impacts low-income Texans.

Our mission is to ensure equal justice for all Texans by educating, empowering, and representing vulnerable people while reshaping the greater legal system that impacts us all.

TexasLawHelp.org is Powered by TLSC

TexasLawHelp.org began in 2002 and is part of a greater TLSC effort to empower self-represented litigants. All content on the website is free. The website houses DIY legal guides, pro-se forms, and directories for free legal aid clinics and organizations. Topics span across the civil law landscape, including family law, housing, protection from abuse, access to government benefits, and more.

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INTRODUCTION

A **kinship caregiver** is a person raising a child who is not their own. A kinship caregiver doesn't have to be a relative. The arrangements can be temporary or more permanent, formal or informal, and Child Protective Services may or may not be involved. Because of this, caregivers can have different legal rights and responsibilities depending on the type of arrangement or relationship.

The goal of this Guide is to help kinship caregivers—and those who support them—better understand a caregiver's legal status since this determines what decisions the caregiver can make for the child, eligibility for certain resources, services that might be available, and actions that might be needed to continue or change the legal relationship.

Please note that this guide is intended only for informational purposes and should not be considered legal advice. Information provided is based on laws and available resources at the time of its writing and may be updated as changes occur.



THE GUIDE HAS FOUR SECTIONS:

①

Legal Status

An overview of the different legal arrangements that can affect a caregiver's rights and responsibilities.

②

Child Protective Services (CPS) Involvement

An explanation of the ways CPS can become involved with a family, the different stages of a CPS case, and how that process can lead to children being placed with kinship caregivers.

③

Help for Basic Needs

An overview of state and federal benefits that might be available to caregivers, along with how to apply.

④

Other Topics & Resources

A directory of programs and supports, which may vary depending on the caregiver's legal status.

LEGAL STATUS

The legal and resource options available to kinship caregivers depend on what documents or court orders a caregiver may or may not have. This section is intended as a broad overview, and you might need to consult with an attorney to determine your legal status.

Types of Kinship Caregivers

Kinship caregiver and nonparent caregiver are used interchangeably in this Guide. There are four main categories of caregivers referred to in this Guide:

Legal parent: A caregiver who has adopted the child following termination of the biological parents' rights through a Family Court or CPS Court proceeding. While a custody order naming the caregiver as conservator may not exist, the caregiver holds an Order of Adoption and is listed as the parent on the child's amended birth certificate, giving that adoptive parent the same legal rights as a birth parent would have. Biological mothers and some fathers are also legal parents, which is further explained in the next section.

Conservator: The caregiver has a signed court order granting the caregiver temporary or permanent conservatorship (custody) either by intervening (joining) in a CPS Court case or beginning or joining a custody case in Family Court. Conservators have legal standing (party status) in current or future custody litigation as well as independent rights to the child as defined by the court order. These rights may be enforced through the courts. If a case is dismissed before final orders are signed, any existing temporary orders do not last indefinitely—a final order is what gives a conservator permanent legal rights after a court case is finished.

Formal kinship caregiver: The child is in the temporary or permanent conservatorship (custody) of CPS and has been “placed” with a caregiver. The CPS case is active and overseen by a judge, who holds regular hearings on the case. No court orders name the placement as a conservator, meaning the caregiver does not have independent legal rights to the child but instead provides daily care with permission of the conservator, CPS. Parents cannot remove the child from the caregiver's home, but a judge may order a change of placement to a different caregiver or back to the parent.

Informal kinship caregiver: No court orders have been signed by a judge granting the caregiver conservatorship (custody). The caregiver might not have any written documents from the parent or could have out-of-court documentation signed by the parent, such as a Safety Plan, Parental Child Safety Placement, or Authorization Agreement. Because these documents are not court orders and do not award custody, parents can take the child back at any time and resume parenting. These documents do not give temporary custody or temporary guardianship and only give limited permission to make certain decisions for the child. This category includes families without CPS involvement or with CPS involvement specific to out-of-court matters such as Investigations or Family-Based Safety Services. This category does not include either cases in CPS Court when a judge has signed a court order placing the child temporarily in the caregiver's home or cases in Family Court.

Legal Parents

A legal parent has the right to make significant decisions for a child, including those related to education, medical care, and residence. When no court order exists, both legal parents share equal rights and responsibilities for the child. Individuals who are not legal parents may make these decisions only if they have a valid written authorization or a court order granting that authority. Unless there is a signed court order that specifically states otherwise, a caregiver has no legal authority to keep a child from a parent.

A biological or birth mother is a legal parent, unless a court terminates parental rights. Adoptive parents are legal parents. However, a man is not automatically considered a legal parent. Fathers must take an extra step to establish legal parenthood (paternity). Simply believing a man is the father or him taking a DNA test without following up with court action is not enough. Until a man establishes that he is a legal parent, he has no legal rights to a child.

Texas law recognizes three primary categories of legal fathers:

1. **Acknowledged:** both parents sign an Acknowledgment of Paternity form under penalty of perjury or both sign the child's birth certificate.
2. **Presumed:** the man is married to the child's mother at the time of the child's birth; the child is born within 300 days after the marriage ends; or the man lived with the child for the first two years of the child's life and represented himself to others as the child's father.
3. **Adjudicated:** a court issues an order determining that the man is the child's father. This usually follows DNA testing by a certified laboratory but may also be based on sworn testimony before a judge.

i Read more about establishing paternity:
<https://texaslawhelp.org/family-divorce-children/paternity>

i Read more about parents' rights when no custody orders exist:
<https://texaslawhelp.org/article/parents-rights-when-no-custody-orders-exist>

Conservatorship (Custody)

In Texas, the legal word for custody is conservatorship (not guardianship). Custody and conservatorship describe the adult's relationship with a child and can only be established through a court order—whether that's an order agreed to by the parties involved in the lawsuit or an order issued by a judge after each side presents their case in a contested hearing. A custody lawsuit in Texas is called a Suit Affecting the Parent-Child Relationship (SAPCR). In a SAPCR, the judge issues orders regarding conservatorship (custody), possession and access (visitation), child support, and medical/dental support. A final court order remains in effect unless and until it is modified in a future lawsuit. Certain out-of-court documents (such as a Power of Attorney, temporary Authorization Agreement, Parental Child Safety Placement, or Safety Plan) may allow a child to live with the caregiver or permit the caregiver to make certain decisions, but these documents do not create any kind of legal custody. They are not enforceable in court, may be revoked at any time, and do not override a parent's legal rights. Unless a court order specifically grants temporary or permanent custody to a nonparent, a legal parent has a right to possession of their child—regardless of who has the child or how long the child has lived with someone else. As discussed later in this Guide, an out-of-court document (such as a Power of Attorney, temporary Authorization Agreement, Parental Child Safety Placement, or Safety Plan) does not give the caregiver the legal right to keep a child from the parent, even if the child came to live there due to parental substance abuse, mental health issues, or domestic violence. While there may be other consequences for the parent if CPS is involved, withholding a child without a court order can carry both civil and criminal penalties.

Types of Conservators

Texas law recognizes three types of conservators:

- 1. Joint Managing Conservator (JMC):** Joint managing conservators share decision-making about most issues, including healthcare; this does not mean that conservators get equal time with the child. The order will say when each person has the right to time with the child. In most joint conservatorship orders, one conservator will have the exclusive right to decide where the child lives, and the child usually lives primarily with that conservator. A nonparent can be JMC with one parent or both parents.
 - i Read Texas Family Code 153.074** for a conservator's rights and duties during their possession time.
- 2. Sole Managing Conservator (SMC):** A sole managing conservator has the exclusive right to make most decisions about the child. Some reasons a judge might name a nonparent or parent a sole managing conservator are family violence, child abuse or neglect, alcohol or drug abuse, or absence of a parent from the child's life.
 - i Read Texas Family Code 153.371** for a list of the rights and duties of a nonparent sole managing conservator
- 3. Possessory Conservator (PC):** If a nonparent is named the sole managing conservator, the parent or parents may be named the possessory conservator. A possessory conservator still has the rights of a parent but will not have the final say on most decisions.
 - i Read Texas Family Code 153, subchapters D and E** to learn the rights, duties, and guidelines for a possessory conservator.

Standing (Right to file a custody case)

Someone must have a legal right to file a court case, which is called standing. Only certain people have standing to file a custody case, and the judge can dismiss the case at the very beginning if a nonparent cannot prove standing. As of September 1, 2025, Texas Family Code 102.003-0031 requires the following:

- **if the nonparent is a relative**, the nonparent must be related to the child within the 4th degree of consanguinity (each degree represents a generation from a common ancestor) AND
 - » both parents must have died
 - » Or, the nonparent must show that the child's present circumstances would "significantly impair the child's physical health or emotional development" AND file a document swearing to specific facts as to what the impairment is and why it would be significant
 - » Or, both parents, the surviving parent (if one is deceased), or a parent who was named a Managing Conservator in another suit filed the custody petition OR agree that the nonparent may file the custody petition.
- **if the nonparent is a placement or foster parent in a current CPS Court case**, the child must have lived with the nonparent by court order for 12 months or longer and the child must not be back with the parent.
- **if the nonparent is none of the above**, the nonparent must have had "exclusive care, control and possession" of the child for at least 6 months, meaning that the nonparent has taken on the duties of a parent which cannot have ended more than 90 days before the suit is filed. As this law is new, there is a question as to what exclusive care, control, and possession may mean if the parent still lives with the nonparent and the child.

"Significant impairment" means that something is happening that would cause actual harm to the child; it does not mean that the nonparent just doesn't agree with the parent's decisions or that the nonparent believes they'd provide a better home. The question is "[w]ould the child actually be physically or emotionally harmed if the parent(s) cared for the child and how?"

Parental presumption

Nonparents and parents are not on equal footing in custody cases, and the question is not whether the nonparent would provide a better home for the child. Even if a nonparent has standing to file a custody suit, Texas Family Code 153.131 requires the judge to presume that it is in the child's best interest for one or both parents to raise the child unless it can be proven by clear and convincing evidence (a very high standard of proof) that the child remaining with the parents would cause harm to the child.

Modifications

A Petition or Motion for Modification requests a change from the existing final court order involving the child. It can ask for a change to custody and/or visitation and/or child support. A person must have standing to file a modification and must show that there has been a “material or substantial change in the circumstances” and that the request is in the child’s best interest. The judge will only consider what has happened since the most recent final order.

If a nonparent files a modification asking for custody when the parent already has custody, the nonparent must prove to the court that the parent has put the child in physical or emotional danger or failed to provide proper care.

It is important for a nonparent to know whether a court order already exists because any requests to modify must be filed with that same court. If a court already made decisions for a child, another court cannot make decisions for that same child unless a request is made to transfer that decision-making ability to a different court. There are legal rules and procedures that must be followed to do this. A good tip to remember is that if a parent is ordered to pay child support or visits the child on a court-ordered schedule, there is an existing conservatorship case.

i Read more about how to find an existing court order here: <https://guides.sll.texas.gov/court-records> or find out more about custody and modifications at <https://texaslawhelp.org/family-divorce-children/child-custody-visitation>.

Authorizations

In some situations, a parent may decide that it is in the child’s best interests for someone else to provide care, either temporarily or for a longer period. A parent may voluntarily give permission for a caregiver to make certain decisions for the child; however, this permission does not transfer parental rights. If a caregiver has an authorization but no court order naming them as a conservator, they do not have custody.

Authorizations can be either exclusive to cases involving CPS or available in both CPS and non-CPS cases.

Authorizations used only in CPS cases

Families might encounter Child Protective Investigations (CPI) and/or Child Protective Services (CPS). CPS involvement is discussed in more detail beginning on page 12 of this Guide.

SAFETY PLAN

A safety plan is a tool used by CPI or CPS but has no legal effect once an Investigation or Family-Based Safety Services (FBSS) case is closed. It is a written plan voluntarily signed by the parent. CPS policy requires it be used only to supervise parent-child contact or relocate the parent and child together to remove them from a dangerous situation. Safety plans are not permitted to place a child away from both parents and do not grant custody to the supervisor. A safety plan cannot override or conflict with an existing custody court order unless all parties affected by that order agree.

Under CPS policy, a safety plan may not last more than 30 days unless there is a written extension. Because safety plans are voluntarily signed by a parent, they can be revoked at any time—while doing so might result in CPS filing a court case against the parent, the caregiver cannot enforce a revoked safety plan.

PARENTAL CHILD SAFETY PLACEMENTS (PCSPS)

A PCSP is a voluntary authorization signed by a parent in a CPS case that temporarily allows a child to be placed with a relative or family friend (“fictive kin”) to keep a child safe while parents are working on the issues CPS has identified as risks. PCSPs do not award custody to the caregiver and aren’t valid legal documents once the CPS case is closed. A PCSP cannot override or conflict with an existing court order unless all parties affected by that order agree.

CPS policy limits a PCSP to 30 days unless extended in writing; the total duration may not exceed 90 days unless certain exceptions apply. Unless accompanied by a court order requiring out-of-home placement, a PCSP is voluntary and may be revoked by the parent at any time. While a revocation may lead CPS to file a court case against the parent, the caregiver cannot enforce a revoked PCSP.

Sometimes CPI or CPS will notify the informal caregiver that the Investigation or FBSS case will close while the child remains with the caregiver. This oftentimes means that the caregiver is left with no official authority to make decisions for the child because if the Investigation or FBSS case is closed without CPS first filing a court case, a safety plan or PCSP are no longer valid. If the parent didn’t sign an Authorization Agreement (explained in the next section) but the child remains with the caregiver, the caregiver may have difficulty making medical and educational decisions for the child.

Authorizations not exclusive to CPS cases

CPS sometimes utilizes an Authorization Agreement in Investigations and FBSS cases; since these authorizations are not specific to CPS, they survive the case closure unless rescinded by the parent. It is important to remember that these authorizations only give limited authority to make certain decisions for the child. These authorizations do not grant the caregiver even temporary custody, and parents can take the child back at any time and resume parenting.

AUTHORIZATION AGREEMENT FOR VOLUNTARY ADULT CAREGIVER

Texas Family Code 34.002 authorizes this form, which is informally known as a “Chapter 34.” Unless a custody order exists, this form can be drafted and notarized without involving the court. Court permission is required if there is an existing court order or pending custody case. This form allows the caregiver to do any of the following:

1. consent to medical treatment for the child;
2. get insurance for the child;
3. enroll the child in school or daycare;
4. consent to extracurricular activities;
5. consent to the child getting a driver’s license or state identification card;
6. consent to the child getting a job;
7. apply for and receive public benefits on behalf of the child;
8. get copies of the child’s state-issued personal identification documents, such as the birth certificate; and
9. get copies of federally issued personal identification documents such as the social security card (to the extent authorized under federal law).

It does not allow the caregiver to consent to an abortion, emergency contraception, get the child vaccinated if the parent has not agreed, or apply for the child’s passport.

At least one parent must sign the form, and if there is another legal parent, a copy of the signed form must be sent to their last known address with certain exceptions. The parent can revoke the authorization at any time; otherwise, it automatically renews every six months unless there is an expiration date.

- i** The form and instructions are available on <https://texaslawhelp.org/article/authorization-for-nonparent-care-of-a-child>.

TEMPORARY AUTHORIZATION FOR CARE OF A MINOR CHILD

If a legal parent cannot be located or refuses to sign a voluntary authorization, Texas Family Code 35.002 allows nonparents to request a court order that gives the caregiver certain decision-making permissions for one year. This is informally known as a “Chapter 35.” The child must have lived with the caregiver for at least 30 days before the petition is filed, and the parent cannot have previously signed some other form of written authorization.

This court-ordered authorization may give the caregiver the authority to:

1. consent to medical, dental, psychological, and surgical treatment and immunization of the child;
2. execute any consent or authorization for the release of information as required by law relating to that treatment or immunization;
3. obtain and maintain any public benefit for the child;
4. enroll the child in daycare, preschool, or primary or secondary school;
5. authorize the child to participate in age-appropriate extracurricular, civic, social, or recreational activities, including sports; and
6. authorize or consent to any other care for the child essential to the child’s welfare.

It does not give permission to apply for a passport, and although the authorization is ordered by a court, it does not grant the caregiver legal custody. Although it may be renewed, the authorization expires after one year.

It is important to know that because this authorization is a lawsuit, it requires filing a petition with the court and sending notice to the legal parent(s) via certified mail to a last-known address. If a parent objects to the authorization, the judge must immediately dismiss the case. If the authorization has already been granted and the parent isn’t in agreement, the parent may file a motion for the termination of the order.

i Read more and find the forms and instructions at <https://texaslawhelp.org/guide/temporary-authorization-for-care-of-minor-child-texas-family-code-35>.

CONSENT TO MEDICAL TREATMENT BY A NONPARENT

Texas Family Code 32.001 allows certain nonparents to consent to medical, dental, psychological, and surgical treatment of a child when the parent or person having the right to consent cannot be contacted and has not specifically said that the treatment cannot be given. This is informally known as a “Chapter 32.” Those nonparents that may consent include:

- a grandparent of the child
- an adult brother or sister of the child
- an adult aunt or uncle of the child
- an adult who has actual care, control, and possession of the child and has written authorization to consent from a person having the right to consent.

i Read more and get the form and instructions here: <https://texaslawhelp.org/article/consent-to-medical-treatment-by-a-non-parent>.

CPS INVOLVEMENT

In Texas, what most people call “CPS” is part of the Texas Department of Family and Protective Services (DFPS). DFPS has two separate divisions involved in child protection: Child Protective Investigations (CPI), which investigates allegations of abuse or neglect, and Child Protective Services (CPS), which provides ongoing services through Family-Based Safety Services and sometimes seeks court intervention.

There is much confusion around a nonparent caregiver’s legal status when DFPS is or was involved in the child living with the caregiver. Some of this confusion is likely caused by how much the laws governing child welfare have changed over the past few legislative sessions, narrowing when DFPS can file court cases and increasing the rights of a family not to engage with DFPS.

How a CPS case starts

A CPI investigation only begins after a report is made to Statewide Intake through its 24/7 phone line (800-252-5400) or online at txabusehotline.org. Not all reports meet the legal definitions of abuse or neglect under Texas Family Code 261.001 and related sections of the Texas Administrative Code. Reports that do not meet certain criteria are not investigated. Even if an

investigation is opened, it may be closed without CPS becoming involved.

CPI investigates cases involving children 17 or younger where the alleged abuser is legally responsible for the child’s care. Parents or caregivers may also be investigated for failing to protect a child from someone else’s abuse or neglect.

Investigations

The initial timeline of a CPI investigation is 45 days, though it can be extended longer or closed sooner. Unless CPI files for and obtains an Order in Aid of Investigation, the family’s cooperation is voluntary. During the investigation, CPI can request that the parents voluntarily agree to either a Safety Plan or Parental Child Safety Placement, both explained on pages 12-13 of this Guide. If a parent refuses to do so, CPI can staff the case for legal intervention with their supervisor and attorney but cannot force a parent to sign either document.

At the end of the investigation, CPI can:

- close the investigation with no further CPS involvement; or
- transfer the case to Family-Based Safety Services (FBSS) with CPS for voluntary services to address any remaining dangers in the home; or
- staff with their supervisor and attorney to request legal intervention.

FBSS is voluntary unless court ordered, and if a family agrees to participate then a family plan of service will lay out what services the parent(s) agree to complete. There are no deadlines in FBSS

cases, and CPS can often be involved for several months. During the FBSS case, the caseworker visits the family 1-3 times per month depending on their assigned risk level. Safety plans and PCSPs are often

used in FBSS cases—but a reminder that those do not grant custody to the caregiver and do not survive once the case is closed.

When CPS goes to court

If DFPS decides legal action is needed, it can file one of two types of court cases. When DFPS files either one of these cases, they are the Petitioner, and the parents are the Respondents. Unless a nonparent previously had conservatorship as ordered by a court or intervenes into the existing court case, there are no additional legal parties to either type of case.

COURT ORDERED SERVICES/MOTIONS FOR REQUIRED PARTICIPATION (COS/MTP)

These cases are court-ordered FBSS cases and are filed per Texas Family Code Chapter 264. COS and MTP cases are the same thing, just referred to differently depending on the county.

In a COS/MTP case, a SAPCR isn't typically filed and therefore custody isn't established or modified. Instead, the judge orders the parent(s) to participate in services to alleviate the concerns of abuse or neglect. The judge can order the child be placed outside of the home under a PCSP with a relative or fictive kin for a period time, which cannot exceed 90 days absent certain circumstances. However, this is not foster care, the placement is not awarded custody, and the PCSP expires once the COS/MTP case is concluded. These cases have a statutory deadline of 180 days that can only be extended once, for a second period of 180 days.

TEMPORARY MANAGING CONSERVATORSHIP (TMC)

In a TMC case, DFPS files a SAPCR and petition for termination of parental rights per Texas Family Code Chapter 262. The court grants DFPS temporary custody of the child, and DFPS places the child with a relative, fictive kin, licensed foster home, shelter, or residential treatment center. The person or home where the child is placed does not have conservatorship (custody) unless a court order names them as a conservator.

TMC cases operate under a statutory deadline of one year, which can be extended one time for six months if extraordinary circumstances are found. At the conclusion of a TMC case, if the child isn't returned to a parent, DFPS will seek:

1. termination of parental rights, or
2. permanent custody to the placement, or another adult, or
3. permanent custody to itself.

If parental rights are terminated, the child becomes eligible for adoption and will remain in DFPS's Permanent Managing Conservatorship (PMC) until an adoption is finalized.

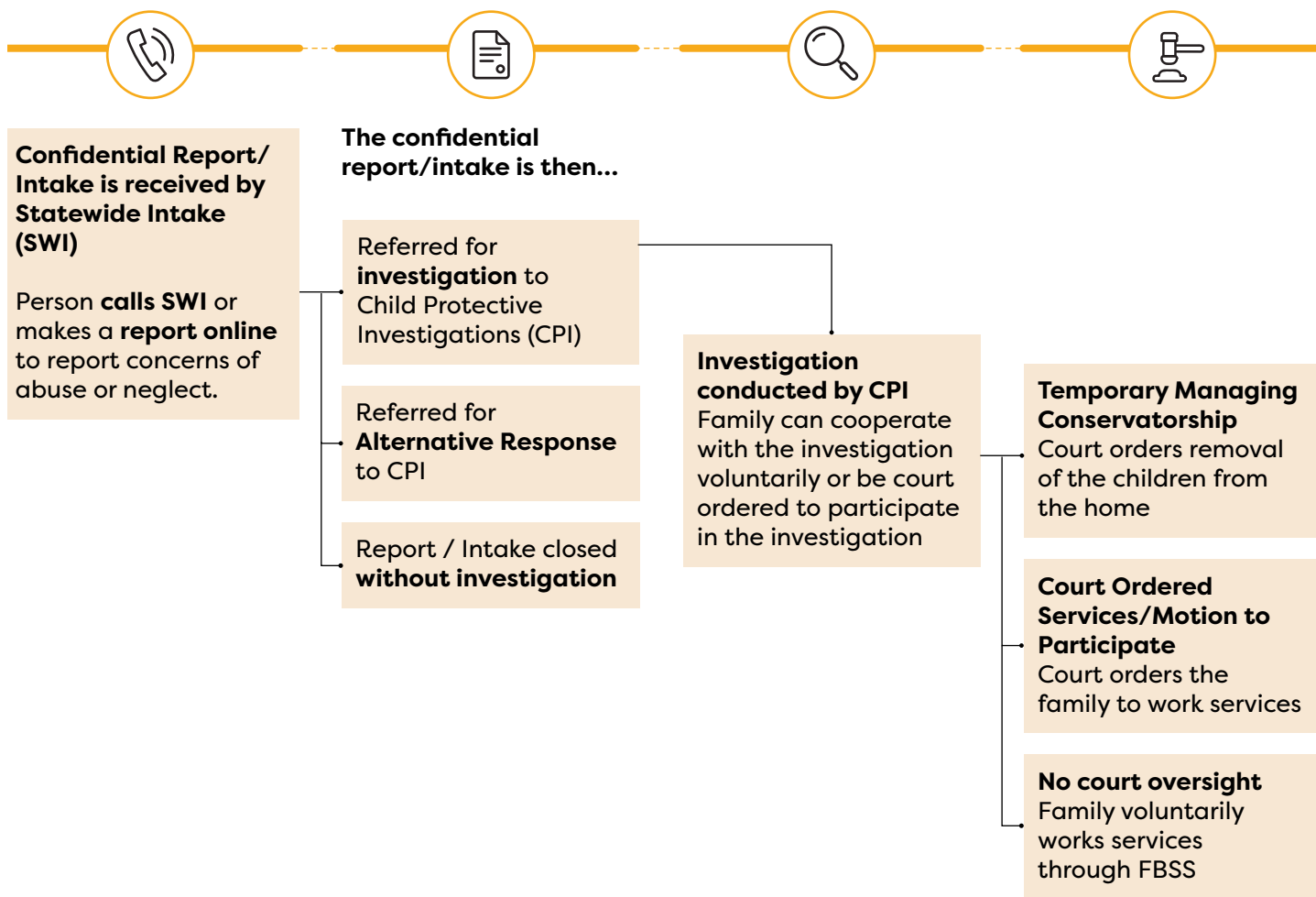
When permanent custody is given to someone other than DFPS or the parents, the court will issue a final order of conservatorship. This order removes DFPS from the case and defines who has conservatorship, what visitation the other conservators are entitled to, and who must pay child support and medical support.

If DFPS is awarded PMC of the child without all parents' rights being terminated, the child is not eligible for adoption. DFPS may later file a

modification and request that PMC transfer to another person, return custody to a parent, or seek termination of parental rights. When PMC is awarded to a relative or fictive kin without terminating parental rights, the caregiver may qualify for Permanency Care Assistance (explained on page 15 of this Guide).

DFPS involvement is not currently the way for most nonparents to obtain custody or legal rights to the children in their care, as a small percentage of all cases investigated result in adoption or conservatorship awarded to a nonparent.

DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES:
Overview of how an allegation moves through the system



Financial Benefits for DFPS Conservatorship Cases

Certain financial support and benefits are available to kinship caregivers serving as placements in TMC and PMC cases. Eligibility and amounts depend on the caregiver's official status. Each kinship caregiver should be assigned a Kinship Development Worker through the Texas Department of Family and Protective Services (DFPS), who can provide up-to-date information on financial benefits, resources, and case management.

- i** The DFPS Kinship Care page has the most current information: https://www.dfps.texas.gov/Child_Protection/Kinship_Care/default.asp

Caregivers may also find support and community through the Texas Kinship Caregivers Facebook Group.

Unlicensed placements: placements who have not gone through the official foster care licensing process. If a caregiver's total household income does not exceed 300% of the federal poverty level and CPS has approved the home through a home assessment, the caregiver is eligible for \$23.45 per day, per child.

Licensed (verified) kinship foster parent: placements who have gone through the official foster care licensing process. These caregivers are eligible to receive the full foster care rate, set at \$27.07 per child, per day.

Permanency Care Assistance (PCA): if a nonparent is awarded Permanent Managing Conservatorship (PMC) after a child was legally removed by DFPS and the parents' rights are not terminated, then the caregiver might be eligible for this additional financial assistance. PCA requires that the caregiver become a verified kinship foster parent and that the child be placed with the caregiver for at least six months before PMC can be transferred. Monthly payments are \$400-\$545 per month and continue until the child turns 18 (or 21 if the child was 16 years or older when adopted).

- i** Read more here: https://www.dfps.texas.gov/Child_Protection/Kinship_Care/PCA.asp

- i** **Note:** CPS law and policy are complex, and this guide provides only a summary. For questions specific to Texas CPS cases, contact Texas Legal Services Center's Family Helpline at (844) 888-6565

HELP FOR BASIC NEEDS

This section includes an overview of state and federal benefits that might be available to caregivers, as well as how to apply.

Food Assistance

Food Banks and Pantries

A food bank is a warehouse that collects and stores food from food donations and food drives. A food pantry is where people can get free food. A food pantry gets its food from a food bank and gives it directly to people.

- Anyone who needs extra help affording food can visit a food pantry, although some may have additional requirements, like living in a certain area. The caregiver may have to fill out a form about the family's needs or answer basic questions.
- A great website to help you find the nearest food bank or pantry is: <https://www.feedingamerica.org/find-your-local-foodbank>.

Supplemental Nutrition Assistance Program (SNAP) (Food Stamps)

These are benefits that are used like cash to buy certain food items to help supplement grocery money. An amount is put monthly on an electronic debit-type card called the Lone Star card to be used at the grocery store. To determine eligibility and benefit amount, the Texas Health and Human Services Commission reviews income, assets, and the total number of people living in the household. *There is no requirement for a kinship caregiver to have legal custody.* Foster care or Permanency Care Assistance benefits are considered income unless the child is not counted as part of the household.

A household can receive SNAP benefits for three months in a three-year period with exceptions.

There is a work requirement, but there are exceptions for disability and caring for a child under six years of age.

- **i** Read more at <https://texaslawhelp.org/article/food-stamps-snap> and <https://texaslawhelp.org/article/facts-about-the-supplemental-nutrition-assistance-program>
- **i** Apply at <https://www.yourtexasbenefits.com/Learn/Home>.

Supplemental Nutrition Program for Women, Infants, and Children (WIC)

WIC can provide free food, baby formulas and nutritional information if the child in kinship care is 5 years old or younger. *There is no requirement to have legal custody*, but the caregiver may have to prove that the child lives with them, and a doctor's recommendation or referral is necessary. There are household income restrictions.

- **i** Read more and apply online: <https://texaswic.org/apply-wic/> and <https://texaslawhelp.org/article/wic-benefits-in-texas>

National School Lunch Program (NSLP)

Any student attending a school that participates in the National School Lunch Program or School Breakfast Program can receive a meal. Children from low-income families are eligible for free or reduced-price school meals.

An application must be made with the school and can be made at any time during the school year. ***A caregiver does not need legal custody of a child to apply.***

Applications may only require the information necessary for a school to make an eligibility determination including:

- the names of all household members;
- the amount and source of income each member received in the previous month;
- the signature of an adult household member; and
- the last 4 digits of the Social Security number of the adult household member who signs the application, OR if the adult does not have a Social Security number, there is a check box indicating the person has no Social Security number.

Requests on the application for ANY other information are strictly optional.

The child's school then compares the household size and total income to the Federal Income Eligibility Guidelines to make an eligibility determination. It is important to know that If a household member loses a job or has hours or wages reduced, the current income should be used. If a caregiver is in the military, income includes basic pay, cash bonuses, any cash value allowances for off-base housing, food, or clothing, or Family Subsistence Supplemental Allowance payments but housing allowance or combat pay from a deployment should not be reported or counted.

A child may be eligible for free meals if the child:

- Has a household income of below 130% of the federal poverty level
- Receives SNAP or TANF or is in the Food Distribution Program for Households on Indian Reservations (FDPIR)
- Is in the care of CPS or other foster care agency
- Is in Head Start or Early Head Start programs, or qualified as "homeless" under the federal McKinney-Vento Act (contact the McKinney-Vento liaison for the school district to determine eligibility).

A child may be eligible for reduced-price meals (no more than 30 cents for breakfast and 40 cents for lunch) if the child:

- Receives WIC, or
- The household income is 130-185% of the federal poverty level

i Find out if the child may qualify for the free or reduced-fee lunch program, visit <https://www.federalregister.gov/documents/2025/03/13/2025-03821/child-nutrition-programs-income-eligibility-guidelines#p-15>. If the application is denied or the caregiver disagrees with the decision, the best thing to do is to talk with school officials.

Other free or low-income meal help may be available:

- **Summer Nutrition Programs:** known as summer meals.
- **Summer EBT Program:** provides families with about \$120 per child in federally funded grocery benefits during the summer months if children are eligible for free and reduced-price school meals during the school year.
- **After-school Nutrition Programs:** provide healthy meals and snacks to children to ensure they are fed after school, on weekends, and during school holidays.
- **The Emergency Food Assistance Program (TEFAP), Commodity Supplemental Food Program (CSFP), and the Food Distribution Program on Indian Reservations (FDPIR):** also help ensure healthy food reaches individuals and families in need.

i Read more about the National Free School Lunch Program from the Texas Department of Agriculture (TDA) visit <https://squaremeals.org/Programs/National-School-Lunch-Program/Eligibility-and-Verification>

TDA provides a tool for households to enter income information and determine if the household qualifies for meals before submitting an application. That tool is available at:

<https://SquareMeals.org/AmIEligible>

i To read more from the USDA, visit <https://www.fns.usda.gov/cn/eligibility-manual-school-meals>

i Find these and other available programs, visit <https://findhelp.org/>.

Cash Assistance

Temporary Assistance for Needy Families (TANF) (child-only and household)

TANF is a federal program that provides financial assistance to children through their parents or other caregivers. *There is no requirement to have legal custody of the child to apply for assistance.*

Applying for TANF can be done in two ways:

As Payee (the caregiver is only applying for the child—also known as Child-only TANF). Only the child's income counts (child support and Social Security disability payments may count as income).

The caregiver/applicant does NOT have to meet other TANF requirements). On the application, the kinship caregiver is designated as the “contact person.” It's possible to receive up to \$151/month.

As Caretaker (both the kinship caregiver and the child are the applicants—also known as Household TANF). The caregiver's income and resources count, including Social Security, and TANF requirements must be met (look for work/job training, follow child support rules, parenting skills class, etc.).

It is important to know that how someone applies can make a difference as to whether TANF is granted or denied and for whom. Just because the kinship caregiver may not qualify does not mean the child won't. The caregiver should make sure the application is properly completed, and if denied, it is important to make sure the application was properly processed. If a caregiver is unsure or believes they were incorrectly denied, it is recommended that the kinship caregiver contact an attorney as soon as possible because there are time limits to request a fair hearing (appeal).

i Learn more about TANF and apply here:
<https://www.yourtexasbenefits.com/Learn/Home>.

One-Time Only TANF (OTTANF)

This benefit is a once-in-a-lifetime payment of \$1,000 to kinship caregivers who meet all of the following:

1. are over age 25;
2. caring for a relative child (relatives include grandparents, great-grandparents, sisters, brothers, aunts, uncles, great-aunts, great-uncles or their spouses);
3. the relative child living with the caregiver is eligible for or receiving TANF;
4. do not have the child's parents living with them; and
5. have a family income of 200% or below the federal poverty level guidelines and \$1000 or less in the bank.

To apply, a kinship caregiver should apply as a "Payee."

- i** To learn more, visit <https://texaslawhelp.org/article/tanf-benefits-for-grandparents>
- i** To apply, visit: <https://www.yourtexasbenefits.com/Learn/Home>

One-Time TANF for Families in Crisis

This is a \$1000 payment that can be given once every 12 months for families in short-term crisis IF the family is not already receiving regular TANF. An applicant must meet the same income and resource limits required for TANF for Families.

A short-term crisis may be:

- Job loss
- Loss of child support or help paying living expenses
- Inability to find a job due to broken vehicle
- Loss of a home
- Medical emergency
- Inability to find a job after graduating from university, college, junior college or technical school

i To apply for assistance go to:
<https://www.yourtexasbenefits.com/Learn/Home>.

Social Security Disability (SSDI) and Supplemental Security Income (SSI)

Social Security Disability is monthly financial assistance for disabled adults. Applicants must have worked 10 years and earned at least 40 work quarters, and the amount paid is based on the income earned. Adults generally must not be able to work because of a physical or mental issue that is expected to result in death or last for at least 12 consecutive months. Benefits can be paid to the approved disabled person and certain family members. Recipients are eligible for Medicare after a 24-month waiting period.

Supplemental Security Income is monthly financial assistance for low-income disabled adults and children or adults over age 65. Applicants must meet citizenship and residency requirements and have limited income and resources.

A disabled adult under 65 generally must not be able to work because of a physical or mental issue that is expected to result in death or last for at least 12 consecutive months. Adults over 65 must

only qualify financially. Applicants may only have 1 vehicle and 1 property as resources. If an applicant receives \$1 of SSI, they are automatically entitled to Medicaid, which begins right away.

For a child to be eligible, they must have a physical or mental condition that seriously limits their daily activities and has lasted (or is expected to last) 12 months, or to result in death. A child is limited to \$2000 in resources and some income can be “deemed”—meaning the child’s parent’s or caregiver’s income and resources can be taken into consideration.

A caregiver can apply for benefits for themselves or the child in their care. There is no legal requirement to have custody. To find out more about what documents and information need to be provided, visit: <https://www.ssa.gov/forms/ssa-4.html>

i To apply, visit: <https://www.ssa.gov/apply>.

Old-age, Survivors and Disability Insurance Benefits (OASDI)

If the caregiver is the spouse, divorced spouse, child, or dependent parent of someone who worked and paid Social Security taxes before they died, they may qualify for survivor’s benefits. The caregiver can get a monthly payment and may be eligible for Medicare based on the work history of the family member who died.

A minor child may qualify if the child has a parent who has died, retired, or is disabled OR if they are being raised by a living grandparent who has worked.

Under a parent’s record:

1. the child’s parent must have worked enough to earn the appropriate amount of work credits (usually must have worked 10 years) **and**
2. the child must be unmarried AND younger than 18 or between ages 18 and 19 and in high school full-time or 18 or older and disabled.

Under a grandparent’s record:

1. If the grandparent caregiver is already receiving Social Security at the time of the child’s application, the grandparent must have adopted the child.
2. If the grandparent caregiver is not yet receiving Social Security and has not adopted the child at the time of the child’s application, the parents must have died OR be living and severely disabled and not regularly contributing to the child’s support AND the child must have been living with and been supported by the grandparent for a specified amount of time.

The grandparent caregiver should be ready to provide detailed records of the financial support they are providing and length of time the child has been living primarily with caregiver.

Generally, a caregiver is not required to have legal custody but for OASDI under a grandparent’s record, adoption may be required. Read above and read more here: <https://texaslawhelp.org>

MANAGEMENT OF A CHILD’S SOCIAL SECURITY BENEFITS

If the child is under 18, payments go to the child’s Representative Payee, who is a person or organization appointed by Social Security to receive the child’s payments. This is an important appointment because the payee should make sure that the child’s benefits are used for the child’s needs.

Most often, the child’s biological or adoptive parent who has custody is appointed, but if no biological or adoptive parent can be appointed, SSA will look at the following persons in the listed order:

1. A stepparent with custody,
2. A close relative with custody **and** who provides for the child’s needs,
3. A relative or close friend without custody but shows strong concern for the minor child,
4. An authorized agency or institution, **or**
5. Anyone else not listed who may have strong concerns for the child.

If the child is involved in a CPS court case where the child has been removed into CPS's custody, then usually CPS is named as the child's representative payee. The monthly benefits are sent to CPS, who then will give them to the child's official placement to help support the child. If the CPS court case is over and the kinship caregiver is awarded custody, CPS will resign as Representative Payee but the relative or kinship caregiver must then apply to be appointed. SSA may also then reevaluate whether the child will continue to financially qualify for SSI based on the caregiver's income and resources.

A Representative Payee can also be changed when custody changes, or the child lives with a different caregiver, or simply because it is best to meet a child's needs. To request a change and apply to be a child's Representative Payee, a caregiver must complete a special form (an SS-11) and show proof of custody or with whom the child lives (such as school

records, an authorization, or medical records with the kinship caregiver's address), and explain why changing the payee arrangement is in the child's best interest.

Veterans' benefits

There are benefits available to members and former members of the armed forces, as well as possibly surviving spouses or children or adult children with disabilities of the veteran.

- i** The best way to determine what benefits might be available is to go to: <http://www.va.gov/> or Texas Veterans Commission at <https://tvc.texas.gov/>
- i** Find other information and help, visit <https://texaslawhelp.org/veterans-military/benefits-for-veterans-military-families>.

Medical and Dental Care

If a caregiver is struggling with obtaining medical care for a child they do not have conservatorship (custody) of, please see the Authorization section on page 9 of this Guide for other options to obtain specific permission from a parent or a court to obtain medical or dental care. The forms are not necessary to apply for all potential benefits or services, but can make the process smoother.

Child-Only Medicaid

A child living with a caregiver may be eligible for medical insurance even if the caregiver is not eligible. The caregiver may apply for child-only Medicaid. The child must be 18 years old or younger or a 19 to 20-year-old with a disability; must be a Texas resident; and must be a U.S. citizen or qualified non-citizen. Income is based on the child's income only (any foster care or Permanency Care Assistance payments do not count). Child-only Medicaid can help with doctor visits, hospitals, prescription medication, vaccinations, physicals, glasses, and mental health services, among others. For children with disabilities, there is additional coverage.

- i** To learn more, visit: <https://texaslawhelp.org/article/childrens-health-insurance-program-chip-and-childrens-medicaid>
- i** To apply, visit: <https://www.yourtexasbenefits.com/Learn/Home>.

Children's Health Insurance Program (CHIP)

CHIP is a health care program for children whose families earn too much to qualify for Medicaid but cannot afford private health insurance. An applicant must be a Texas resident and a U.S. citizen or legal permanent resident. A kinship caregiver who lives at least 50% of the time with an uninsured child may apply. A child who is aged 18 or younger and who lives on their own may apply. A pregnant woman of any age may apply.

- i** To learn more, visit <https://texaslawhelp.org/article/childrens-health-insurance-program-chip-and-childrens-medicaid>
- i** To apply, go here: <https://www.yourtexasbenefits.com/Learn/Home>.

Housing

Housing assistance may be available depending on the situation:

Homeless Shelter: provides temporary shelter, typically not longer than 30 days.

Transitional Housing: provides households experiencing homelessness with temporary housing stability and support so that they can successfully move into and maintain permanent housing. The length of stay depends on the program.

Rapid Re-housing: helps households experiencing homelessness quickly move into permanent housing by providing financial assistance, such as rent and move-in assistance, and housing-focused services, such as help with finding housing and case management.

Group Home (“shared living arrangement”): provides care or supervision for a limited amount of people with disabilities or older adults in a small residential setting.

Permanent Supportive Housing: provides permanent, affordable housing with voluntary services for households experiencing homelessness. Households are allowed to live in their homes if they meet the basic obligations of their lease and pay their rent.

Low Income/Subsidized Rental Housing: help for low-income households by either providing public housing or rental assistance by a voucher. They require an application, and usually there is a waiting list.

i Visit the following website for different options in Texas: <https://www.texas.gov/texas-housing-assistance/> or <https://www.211texas.org/housing-choices-finding-a-place-to-live/>.

OTHER TOPICS & RESOURCES

General Support

TexasLawHelp.org: offering free legal information
<http://texaslawhelp.org>

Call 2-1-1 from anywhere in Texas to find local community resources: These resources may include referrals to food, housing, childcare, crisis counseling, and substance abuse treatment.

www.findhelp.org

Area Agency on Aging: Call 800-252-9240

Child Welfare Information Gateway: offers information on kinship care and resources for families <https://www.childwelfare.gov/>

State resources for grandfamilies: <https://www.grandfamilies.org/Resources>

Kinship navigator finder (helping with supports and resources): https://www.dfps.state.tx.us/Child_Protection/Kinship_Care/default.asp

Grandparents Raising Grandchildren:
<https://txgrg.com> or call 210-762-3208

Help for Texans, operated by the Texas Department of Housing and Community Affairs:
<https://www.tdhca.texas.gov/help-for-texans>

Brookdale Foundation's Relatives as Parents Program (RAPP): <https://www.brookdalefoundation.org/relatives-as-parents>

Texas Parent Helpline: 1-833-680-0611 Call or text 24/7

Get parenting tips: www.getparentingtips.com

Texas Free Legal Answers:
<https://texasfreelegalanswers.org/>

National Alliance on Mental Illness: <https://www.nami.org> and Helpline at 1-800-950-6264, text "helpline" to 62640 or chat online. In a crisis, call or text 988.

Your Life, Your Voice: teen and young adult crisis line answered 24/7 at 1-800-448-3000 or <https://www.yourlifeyourvoice.org>

Child Care

Texas Workforce Commission's Child Care Services (CCS)

CCS provides financial aid in the form of scholarships for childcare. Families must meet certain eligibility requirements, including income limits and participation in work, school, or job training. Eligible families may choose from the following childcare programs that meet local and state requirements (some are for children ages 13 and under only):

- Licensed childcare centers
- Licensed or registered childcare homes
- Relative providers who are 18 years of age or older, and are a grandparent, great grandparent, aunt, uncle or sibling of the child(ren) receiving care

- ❶ To start a search, go to <https://www.twc.texas.gov/programs/child-care/for-parents> or visit the Texas Child Care Availability Portal at <https://childcare.twc.texas.gov/find/welcome>.

Apply through the Texas Child Care Connection (TX3C) system: <https://tx3c.info/>. Kinship caregivers would apply as a “primary sponsor.”

YMCA'S EARLY CARE OR SCHOOL-AGED CARE PROGRAMS
<https://www.ymca.org/what-we-do/youth-development/child-care>.

Child Support

The Texas Office of the Attorney General-Child Support Division (OAG) can help establish a court order that addresses conservatorship (custody), visitation (or possession and access time), and child, medical and dental support, including establishing the child's legal father (“paternity”). *However, it is important to remember that the goal is simply to make sure that the proper amount of child support is ordered, especially if the child is receiving public benefits. They do not help with custody matters only; any lawsuit that the OAG's office may file is to ensure that child support is established, and to do that, a Suit Affecting Parent-Child relationship must be filed, which also includes the establishment of custody and visitation.* It's also important to remember that their office does not represent the kinship caregiver or the parents—they represent the State of Texas; therefore, if there is a lawsuit that is filed and an agreement cannot be reached regarding custody and/or visitation, each party will need to represent themselves or hire an attorney to argue on those matters before the court.

- ❶ To apply: <https://www.texasattorneygeneral.gov/child-support/get-started>. A reminder that if an applicant is speaking with the OAG via telephone or in-person, the application is for help with child support—not just custody.

The OAG also can help collect and pay out child support received from the parent(s), and they can also help enforce a court order when a parent is not paying the court-ordered child support.

- ❶ Read more about child support here: <https://texaslawhelp.org/article/child-support-in-texas>

Early Childhood Intervention (ECI)

ECI is a statewide Texas Health and Human Services program that provides help and supports for families with children up to 3 years old who may have developmental delays that affect their ability to walk, talk, crawl, understand, see or hear.

To qualify, ECI staff will do an assessment and then develop a plan for services. Evaluations, assessments and plans of service are free under

federal law. Services are free unless the family can afford to share in the cost of services, using a sliding-fee scale based on family size and income and allowable deductions.

- **Search for a local ECI program, visit:**
<https://citysearch.hhsc.state.tx.us/>.

Education

Head Start and Early Head Start

Head Start is designed to promote the school readiness of children aged 0 to 5 and provide certain services for pregnant women. Program options are offered in a variety of settings including centers, family childcare, childcare partnerships, and in-home.

- **To apply, visit** <https://headstart.gov/how-apply> or call 1-866-763-6481 Monday-Friday, 9 a.m.-7 p.m. to find out if you qualify for free or low-cost childcare.

Registering the Child/School Enrollment

Texas Education Code 25.085 requires that a child must attend school if he/she turns 5 years old on or before September 1. The child will usually be assigned to attend a public school in the district in which the kinship caregiver resides except in certain circumstances. To find a district assignment, call the local independent school district administrative office number.

Options If a kinship caregiver does not have custody:

- **Authorization Agreement for Voluntary Adult Caregiver (discussed on page 10 above) or Temporary Authorization for Care of a Minor Child (discussed on page 11 above)**
- **Specific school district parent authorization:** Some parents may not feel comfortable signing a form allowing the caregiver to make lots of decisions but may feel comfortable signing a form that only gives permission to enroll the child in school. A caregiver can ask the school or the district administration office if they have a form or go online to the school district website.
- **Contact the school's McKinney-Vento or homeless liaison:** The McKinney-Vento Homeless Assistance Act ("McKinney-Vento") is the law that entitles homeless children and youth to certain rights and services and ensures that they may receive a free and appropriate education. A child who qualifies as homeless under this law will be automatically enrolled in school and gain special protections and benefits. "Homeless" has many definitions and most often, children living with kinship caregivers qualify.

- **To find the State Coordinator for McKinney-Vento, visit:** <https://nche.ed.gov/data/>

Documents needed for enrollment are:

- **Birth certificate or other proof of the child's identity:** Check with the school campus for more information or see page 28 in this Guide about obtaining identification documents
- **Report card and/or transcript from the last school the child attended**
 - » Under the law, the school should request a copy of the child's school records from the school they last attended.
- **Current immunization record**
 - » A child may be enrolled for a short period of time while waiting to complete immunizations or the school may be able to keep the child out of school until a copy of the child's immunizations can be provided.
 - » For help regarding vaccinations, contact the McKinney-Vento liaison for the school district or read about voluntary authorizations on page 10 of this Guide.
- **Proof of residency:** if documents need to be gathered, the school should still enroll the child or tell the registrar or administrator that the child may be McKinney-Vento eligible and ask that the child be immediately enrolled.

A school district cannot deny a child enrollment solely because documents proving identity or previous school records have not been provided. However, if the required information is not provided within 30 days after enrollment, the district must notify local law enforcement per Texas Education Code 25.002(c).

i To read more or get help, visit www.tea.state.tx.us or <https://disabilityrightstx.org/>.

Special Education

The Individuals with Disabilities Education Act (IDEA) is the federal special education law in the United States that requires schools to provide special education services to eligible children with disabilities. The law covers kids from birth through high school graduation or age 21, whichever comes first. States and schools must follow the rules and processes laid out in this law. The Texas Department of Education (TEA) oversees local school districts and is responsible for enforcing IDEA and making sure schools follow the law.

School districts must provide free appropriate public education (FAPE) to children with disabilities. Schools must provide special education that meets a child's unique needs and that allows the child to make progress. They also must make sure that children learn with other children without disabilities as much as possible.

When schools know or think a child has a disability, they must do a full evaluation to determine if the child does have a qualifying disability and if so, make a plan for services and supports the child needs to make progress. These requirements are known as Child Find. Schools must give parents a voice in their child's education, and IDEA gives parents and those who act in the role of a parent specific rights and protections at every point in the process.

To qualify for special education, children must have a disability in one of 13 categories that IDEA covers. The most common are specific learning disability, other health impairments (including ADHD), speech or language impairment, and autism.

Section 504 of the Rehabilitation Act of 1973 is a civil rights law that protects children with disabilities from discrimination at school. The purpose is to remove barriers so that children can learn with their schoolmates. 504 plans come from this law, which list supports and accommodations a student will get at school.

IDEA and the TEA recognize that some children do not have biological parents who can be located

or are living with nonparent caregivers. Under this law, a nonparent caregiver can act in the role of a parent if the nonparent caregiver:

- has been authorized to make educational decisions for the child, or
- is a person acting in the place of a parent, such as a grandparent or relative with whom a student with a disability lives, or
- is legally responsible for the child's welfare, or
- is a surrogate parent appointed by the district.

It should be noted that an Authorization Agreement for Voluntary Adult Caregiver does not specifically authorize the nonparent to make educational decisions for the child beyond enrolling the child in school. If the nonparent has another authorization that gives that specific permission or otherwise fits into one of the above categories, a nonparent caregiver should be able to request or consent to an evaluation, request and attend planning and disciplinary meetings, provide input, review the child's educational records, communicate with the child's teacher(s), advocate for the child regarding educational decisions, and advocate for resources.

- i** For more answers, contact the school's guidance counselor or the director of special education in the school district the child attends or is zoned for, and

request information as to how to ask for help.

- i** **Note:** some of these may be changing due to federal and state law and policy changes. To keep updated or get help, visit www.tea.state.tx.us or <https://disabilityrightstx.org/>.

Discipline

Recent changes have been made to the Texas Education Code's school discipline laws, effective beginning the 2025-2026 school year. The changes included expansion of teacher removals from the classroom, expansion of in-school suspension and out-of-school suspension, and the introduction of a new virtual expulsion program.

Disability Rights Texas recommends that families of students with disabilities understand these changes so that they can make sure school personnel do not mistake disability-related behaviors for disciplinary issues.

- i** To read more, visit <https://disabilityrightstx.org/en/handout/school-discipline-updates-for-2025-2026-school-year/>.

Obtaining Identification Documents

Birth Certificate

A child's birth certificate can be one of the most needed documents for a kinship caregiver. Only certain people can request a copy of a birth certificate—the child, his/her immediate family members (either by blood, marriage, or adoption), his/her legal guardian, or his/her legal agent/representative. An immediate family member is defined as any of the following:

- child (person named on the birth certificate and has a valid ID)
- parent/guardian (must be listed on certificate

as parent or have a court order signed by a judge proving relationship to the child)

- brother/sister (must have birth certificate showing shared parent with child)
- grandparent (must have birth certificate showing person is the parent of either the mother or the legal father as listed on the birth certificate or court order)
- spouse (must show marriage license to the applicant)

Section 181.1(21) of the Texas Administrative Code provides that all other applicants must provide legal documentation that documents a direct, tangible interest in the birth or death certificate, such as a power of attorney, attorney-client retainer contract with State Bar ID card, verified agent designation, court order or agency or law enforcement badge, funeral home representative, or an insurance policy listing the applicant as the beneficiary, etc.).

If the kinship caregiver cannot prove one of the relationships above, obtaining a birth certificate may not be possible. Please see the *Legal Parents* section on page 6 of this Guide. For example, if a grandparent caregiver to a child whose father has not established paternity through signing a birth certificate, signing an acknowledgement of paternity, or through a court order, that grandparent caregiver may not be able to prove the required legal relationship to the child and may not be able to obtain the child's birth certificate until the father legally establishes paternity.

Please note, however, that a named nonparent caregiver in a properly signed and valid Chapter 34 Authorization Agreement for Voluntary Adult Caregiver of a Child is also allowed to obtain "copies or originals of state-issued personal identification documents for the child, including the child's birth certificate." See page 10 of this Guide for more information about this Authorization.

- i** To view the requirements for obtaining a birth certificate, go to: <https://www.dshs.texas.gov/vital-statistics/check-order-status/requirements-mail-person-orders>.
- i** An application to request the birth certificate can be downloaded here: <https://www.dshs.texas.gov/vital-statistics/birth-records>. Walk-in applications are possible but because the requirements are stringent, it is best to ensure all needed documents are gathered before going in person.

Social Security Card

A grandparent kinship caregiver can apply to get a Social Security card for the child or to have a replacement card issued if the original has been lost. The grandparent will be required to show the child's original or a certified copy of the birth certificate, as well as other proof of their identity. If the caregiver signs the application form on behalf of the child, the kinship caregiver will need to provide proof of identity.

- i** To find a local Social Security Administration Office, go online at <https://ssa.gov> or call toll-free 1-800-772-1213.

A named nonparent caregiver in a properly signed and valid Chapter 34 Authorization Agreement for Voluntary Adult Caregiver (explained in page 10 of this Guide) can also be used, to the extent authorized under federal law, to obtain copies or originals of federally-issued personal identification documents for the child, including the child's Social Security card.

However, a Chapter 35 Temporary Authorization for Care of a Minor Child does **not** give that explicit authorization, so in the petition filed with the court, a kinship caregiver may have to request that authorization and tell the court why that would be "care for the child essential to the child's welfare." See page 11 of this Guide, along with Texas Family Code 35.005.

IMPORTANT! Never mail in an original identification document or give it to someone unless their identification is confirmed and that giving an original is required. If possible, submit a photocopy or scanned version. If someone takes the originals to make copies, be sure they are returned and keep them in a safe place. A password-manager on a telephone is another place to maintain a copy but again, the original certified paper copy should also be kept in a safe place.

Respite care

Respite care can provide kinship caregivers with short-term relief from a few hours to several weeks to be able to rest, travel, or spend time with other family and friends.

- i** Find respite care programs in Texas, visit <https://apps.hhs.texas.gov/taketimetexas/search.cfm> or <https://archrespice.org/caregiver-resources/respitelocator/>.

Taxes

EARNED INCOME TAX CREDIT (EITC)

A kinship caregiver or spouse of a kinship caregiver who has a child living in the home for at least half of the year may be able to claim the child as a dependent on their federal income tax return. This credit can reduce the taxes owed and possibly increase a refund. It is filed with regular federal income tax. The child or children must be under age 19 (or 24 if a full-time student) or any age if a child is permanently and totally disabled.

- i** To determine eligibility, visit the IRS' "qualifying assistant": <https://www.irs.gov/credits-deductions/individuals/earned-income-tax-credit/use-the-eitc-assistant>.
- i** Information can also be found in the IRS publications #503 and 972 available here: www.irs.gov/formspubs/index.html.

CHILD TAX CREDIT

The Child Tax Credit can help a kinship caregiver gain a tax break. The children must be dependent and age 17 or under and may be any relation to the kinship caregiver (except cousins). The child must have lived with the kinship caregiver for more than half the year, and the child must have a Social Security number. *There is no requirement to have custody or have adopted the child.*

To determine eligibility or to read more, go to: <https://www.irs.gov/help/ita/does-my-childdependent-qualify-for-the-child-tax-credit-or-the-credit-for-other-dependents> or <https://texaslawhelp.org/article/the-irs-child-tax-credit>.

Traveling with Children

INTERNATIONAL TRAVEL REQUIREMENTS FOR A CHILD

Federal law (22 Code of Federal Regulations 53.1 and 53.2 -11) requires that all United States citizens must have a valid U.S. passport to enter or depart the United States, except:

On a cruise ship: The ship must be traveling entirely within the Western Hemisphere, and the person must board in the United States and return on the same cruise ship to the same port or place of departure.

- » **if the U.S. citizen is under the age of 16:** the child may present either an original or a copy of his or her birth certificate, a Consular Report of Birth Abroad issued by the Department, or a Certificate of Naturalization issued by U.S. Citizenship and Immigration Services
- » **if age 16 or older:** the child may present a government-issued photo identification document in combination with either an original or a copy of his or her birth certificate, a Consular Report of Birth Abroad issued by the Department, or a Certificate of Naturalization issued by U.S. Citizenship and Immigration Services before entering the United States. If traveling by land or seaports of entry to/from Mexico or Canada:
- » **children under age 16:** permitted to present either an original or a copy of his or her birth certificate, a Consular Report of Birth Abroad, or a Certificate of Naturalization issued by U.S. Citizenship and Immigration Services
- » **groups of children under age 19:** A child age 18 or under who is traveling with a public or private school group, religious group, social or cultural organization, or team associated with a youth sport organization may present either an original or a copy of his or her birth certificate, a Consular Report of Birth Abroad, or a Certificate of Naturalization issued by U.S. Citizenship and Immigration Services, when the group, organization or team is under the supervision of an adult affiliated with the organization (following

listed requirements) and when the child has parental or legal guardian consent to travel. For purposes of this paragraph, an adult is considered to be a person who is aged 19 or older.

To prevent questions about potential child abduction or trafficking, a kinship caregiver with court-ordered custody travelling anywhere with a child should bring a copy of the signed court order. The State Department suggests that a nonparent kinship caregiver without custody should attempt to have the parent(s) give a letter stating that they are aware the caregiver is travelling and give consent for the child to travel with the kinship caregiver.

PASSPORTS

A kinship caregiver without court-ordered custody or the specific right to apply for a passport may have a very difficult time attempting to obtain a passport for the child without parental assistance.

To apply for a passport as a kinship caregiver caring for a child under 16 years old:

- the kinship caregiver must have a notarized statement from both parents/conservators giving the caregiver permission to apply for the child AND the parents must give a photocopy of their identification.
- if the statement is from only one parent/conservator, the kinship caregiver must also include evidence that the consenting parent either has sole custody or is the only parent (for example, a certified copy of the child's birth certificate listing only one parent, a certified copy of an adoption decree stating there was only one adoptive parent, or a certified copy of the death certificate of the only parent or the parent that cannot appear in person)

To apply for a passport as a kinship caregiver caring for a child who is aged 16 or 17:

- the child must have a completed Form DS-11 and show citizenship evidence and show evidence that one legal parent or conservator is aware of application by child (such as a notarized statement) and show the child's current photo ID, and
- the child must be accompanied by a parent OR have a parental note with a photocopy of the parent's ID OR a check or money order with the parent's name on it.

i For more information: <https://travel.state.gov/content/dam/passports/forms-fees/8%20Steps%20for%20a%20Childs%20Passport.pdf> or <https://www.usa.gov/child-passport>.

Wills and End of Life Planning

Kinship caregivers are naturally concerned about what may happen to a child if the caregiver can no longer take care of the child, especially if the caregiver is elderly. Unless a kinship caregiver has adopted a child, a caregiver does not have the right to decide who will take the child upon a caregiver's death. Upon death of a caregiver, the parents have a lawful right to the child unless their rights have been terminated by a court or someone else has asked for and been awarded custody by the court. If a caregiver has been awarded custody and can no longer care for the child, the caregiver could ask another person to take care of the child if the caregiver has been awarded the specific right to determine the child's residence in the custody order. However, custody and the rights outlined by the court will not be transferred to that person unless and until a custody lawsuit is filed by that person and those rights are awarded in a court order.

Many legal aids or volunteer attorney associations have periodic wills clinics to assist with end of life planning documents.

i To find an attorney, visit <https://texaslawhelp.org/wills-estate-planning/wills>

i Find a local legal clinic at <https://texaslawhelp.org/legal-events-and-clinics>.

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