

TEXAS YOUNG LAWYERS ASSOCIATION  
AND THE STATE BAR OF TEXAS

# PERMANENT KINSHIP PLACEMENT



As a kinship caregiver, your willingness to open your home to raise a child who has come into the state's care or custody due to abuse or neglect, shows how selfless you are and the amazing amount of love and care you have for others. There comes a point in the court process where a determination is made whether or not the child can be returned home or whether a more permanent solution is needed. This brochure addresses what becoming a permanent kinship caregiver means and your rights and obligations as a permanent kinship placement.

**What does kinship placement mean?** When a child is removed from his or her biological parents, Child Protective Services ("CPS") will try to place the children with a family member first. This is called "kinship care" or "relative care." A benefit of kinship placement is that the child will be able to have stability while maintaining family bonds during a difficult time in their life.

**What is a permanent managing conservator?** It means that a judge appoints a person or persons to be permanently, legally responsible for a child without adopting the child.

**What happens once you are named permanent managing conservator?**

- The Department of Family Protective Services is dismissed from the case.
- The day you are appointed you become responsible for day care, health insurance, and any other services that the Department of Family Protective Services was providing.
- If you were the child's foster parent and receive a reimbursement, you will no longer receive the reimbursement.

**What rights do you have as a permanent managing conservator?** The judge will typically decide the rights of a permanent managing conservator. The rights of a permanent managing conservator typically include the right to:

- Physically possess the child.
- Choose moral and religious training.
- Provide clothing, food, shelter, and education.
- Provide and consent to medical, psychiatric, psychological, dental, and surgical care.

- Obtain the child's medical record.
- Receive money that supports the child. Hold or give out money that supports the child.
- Consent for the child to get married.
- Consent for the child to join the armed forces.
- Represent the child in legal issues.
- Make legal decisions affecting the child.
- Decide where the child lives and goes to school.
- Claim the child as a dependent on your tax return.
- Make other decisions that a child's parent would normally make.

### **What rights will the birth parents have?**

- If the parental rights of the birth parents are terminated, they have no legal rights or obligations regarding the child.
- If the birth parents rights are not terminated, they will have certain rights decided by the Judge taking into consideration what is in the best interest of the child. The rights of the birth parents will be in the court order, and these rights may include the right to visitation.

Sometimes the birth parents are referred to as the possessory managing conservator. The rights of a possessory managing conservator may include the right to:

- Confer with the managing conservator to the extent possible before making decisions concerning the health, education, and welfare of the child.
- Access medical, psychological, dental, and educational records of the child.
- Attend school activities.
- Consult with school officials concerning child's welfare and educational status.
- Consult with a physician, psychologist, or dentist of the child.

During periods of possession of the child:

- Duty of care, control, protection, and reasonable discipline of the child.
- Duty to support the child.
- Right to consent to medical and dental care not involving an invasive procedure.
- Right to direct the moral and religious training of the child.

**Child Support.** The Court may order the birth parents to pay child support. It is your responsibility to enforce the court order in regards to child support. You will typically want to contact the Attorney General regarding enforcing child support payments.

**Continuing Legal Action.** Although you have been appointed permanent guardian of the child, the court case is still open until the child turns 18. This means that the following can happen:

- The birth parents can petition the court to obtain custody of the child.
- The birth parents can ask that changes be made to the court order, including more visitation rights.
- You can ask for child support or a modification to child support.
- You can ask for changes to the order so that additional restrictions would be put in place on the rights of the birth parents including visitation, access to information, etc.

**Financial Assistance for Permanent Managing Conservator.** Deciding to be a permanent managing conservator often poses a financial burden on families. You may be eligible through the state or county government for assistance in offsetting this financial burden. Some resources that are available, depending on eligibility, include: permanency care assistance, kinship financial assistance, Medicaid for the child, public assistance, and TANF for grandparents. Additionally, the child may be eligible for free tuition/fees at a Texas state college.

**Other Things to Know:**

- It is unlikely the court will appoint an attorney to represent you. You may want to consider hiring legal counsel to represent you in these matters including in the initial decision of whether or not you want to be a permanent managing conservator.
- Be sure to carefully read the final court order and ask any questions before you sign the document because the order is a binding document and you can be held in contempt for not following the order. While you may not have an attorney,

you should try to address your concerns with the case worker and the children's attorney ad litem or guardian ad litem. You should also try to attend all hearings.

- You will want to order a couple certified copies of the court order because you may need to provide a copy of the court order to provide proof that you are permanent managing conservator when applying for insurance, enrolling the child in school, dealing with any legal matters, applying for benefits on behalf of the child, and handling other matters.
- If you decide to be permanent managing conservator, be sure to ask the Department of Family Protective Services or the child's caseworker for the child's birth certificate, social security card, and any medical records so that you will not have to obtain these documents at a later date when it might be more difficult to do so.

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