

Paths to permanency



Information for Minnesota foster families



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All children need a permanent family. Children need the unconditional love, sense of real belonging, mutual respect, family integrity and attachment that only permanency can provide. Without it, they often experience doubt, uncertainty and hesitancy about where they belong and who is going to care for them. Foster children who cannot safely return to their biological parents can move to legal permanency through adoption or a transfer of permanent legal custody. Long-term foster care is usually the least preferable option.

To ensure successful outcomes in permanency planning, the agency social worker should include everyone who has a relationship with the child in developing and implementing the plan. Primary in permanency planning are the child, the child’s biological parents, the child’s tribe, the child’s foster parents and the child’s extended family. The Family Group Decision Making process is a good way to engage everyone in permanency planning, because all parties can share their concerns and hopes for the child. A thoughtful permanency plan will support the child’s relationships to family and community. In the end, the county or tribal judge will consider the permanency plan and make the final legal decision.

Permanency is good for children, but is permanency right for you? What are the issues? This guide was developed for use by agency social workers to help you with this important decision.

Paths to permanency

Adoption is one route. Transfer of permanent legal custody is another.

Both options provide permanent caregivers with many of the same legal rights as birth parents. However, adoption is a lifetime relationship that gives the child all of the legal benefits of a child born into the family. While transfer of permanent legal custody also builds family relationships that can last a lifetime, the legal relationship ends when the child turns 18 and is considered an adult. This is one reason why adoption is considered to be a more permanent, lifetime commitment than a transfer of permanent legal custody.

Another important difference between the two permanency options concerns the birth parents' rights. For a child to be adopted, the rights of the birth parents must be legally terminated, voluntarily surrendered, or the birth parents must have signed a consent to the adoption. With a transfer of permanent custody, the birth parents' rights do not have to be legally terminated.

With both adoption and transfer of permanent legal custody, the permanent caregivers should realize that the birth parents and/or siblings may continue to be an important part of the child's life. Depending on what is in the best interest of the child, the birth family connections can be maintained with on-going contacts after an adoption or transfer of permanent legal custody. With help from the agency social worker, prospective permanent caregivers can decide what level of contact should be maintained with the child's birth parents and/or siblings.

The chart on the following page outlines some of the legal differences between adoption and transfer of permanent legal custody. Additional information regarding legal rights and responsibilities is available from the agency social worker, attorneys, or the judge involved in the case.



Key differences between adoption and transfer of permanent legal custody

	Adoption	Transfer of Permanent Legal and Physical Custody (TPLPC)
Legal status	The adoptive parents are given all the rights and responsibilities that once belonged to the birth parents.	The permanent legal caregivers have primary rights and responsibilities for the child's protection, education, care, control and decision-making on behalf of the child. The child continues to have a legal parent-child relationship with birth parents, but the birth parents' rights are secondary, subject to limits imposed by the rights of the permanent legal caregivers.
	Adoption is a permanent, lifetime, legal relationship.	TPLPC is a legal relationship that ends when the child reaches age 18.
	Birth parents' rights are voluntarily relinquished or involuntarily terminated forever.	Birth parents may retain important rights: visitation, access to information, notice of accidents or serious illness, etc. Birth parents can request that the TPLPC court order be vacated and the child be returned to their care.
	Birth parents are no longer obligated to pay child support.	Birth parents may have an ongoing child support obligation.
	When the adoptive parents are married, both spouses must adopt.	When married, either one or both spouses may be named permanent legal caregivers.
Decision making	The adoptive parents have complete rights to decision-making about the child.	The permanent legal caregivers have the authority to make all decisions affecting the child regarding school, medical treatment and consent for most other major life decisions.
Relationship with the birth parent(s) and siblings	The adoptive parents have the right to determine if the child will have any relationship with the birth parents. In many cases, connections with birth parents and/or siblings will remain important to a child. Adoptive parents may determine that those birth family connections are in the child's best interest and can choose to maintain them in a way that works well for the child and the adoptive family. The court may stipulate birth family contact agreements in the final adoption order.	When in the best interest of the child, permanent legal caregivers can facilitate visitation and involvement with the birth family as long as the court has not ruled against it. Connections to the child's birth family can be maintained in a way that works best for the child and the permanent legal caregiver. The court may stipulate birth family contact agreements in the final TPLPC court order.
Child's legal name	The adoptive parents determine the child's legal name.	The child retains his/her own legal name.
Child's right to inheritance	The child inherits from the adoptive parents unless the legal will provides otherwise.	The child inherits from the birth parents.
Returning a child to the county	As with biological children, an adoptive child could enter the child welfare system due to abuse or neglect. Existing child welfare laws would apply and a county agency could again assume custody of the child.	The permanent legal caregivers may ask the court to have the TPLPC court order modified, or to be relieved of permanent legal responsibility for the child. Good cause for modification must exist and the decision to modify the order would be at the discretion of the judge. The county is a party to any motion requesting modification of a TPLPC order.

Minnesota's Benefit Comparison Chart

Benefit type	Maintenance	Supplemental	Special benefits	Other
Foster Care	<p>Basic rate: \$539-\$647 per month based on child's age.</p> <p>Includes annual cost-of-living adjustments.</p>	<p>Difficulty-of-care ratings and payments for a child with mental, physical and/or emotional problems.</p> <p>Average foster care maintenance and difficulty-of-care supplemental payment is between \$700 and \$1100 per month, per child.</p>	<p>Services provided to foster parents and children at county option: child care, respite care, transportation.</p> <p>All children in foster care are entitled to Medical Assistance.</p>	<p>County child protection case management services are provided.</p>
Adoption Assistance (AA)	<p>Basic rate: \$247-\$337 per month based on child's age.</p> <p>The AA program does not require a "means test" based on parent income.</p> <p>No annual cost-of-living adjustments.</p>	<p>Supplemental AA payments are available based on child's diagnosed physical, mental, emotional or behavioral problems.</p> <p>Levels I - IV: \$150-\$500 per month.</p>	<p>Post-adoption services may be available: child care, respite care, family counseling, burial expenses, communication equipment, alterations to home or vehicle.</p>	<p>No county child protection case management services.</p> <p>If child is adopted, parents may be eligible (one time only) for nonrecurring adoption expenses.</p>
Relative Custody Assistance (RCA)	<p>Basic rate: \$247-\$337 per month based on child's age. The RCA basic rate is the same as the AA program basic rate.</p> <p>RCA is means-tested, based on parent income, and the RCA payment is offset by MFIP or any other child income.</p> <p>No annual cost of living adjustments.</p>	<p>Supplemental RCA payments are available based on the child's diagnosed physical, mental, emotional or behavioral problems.</p> <p>Levels I - IV: \$150-\$500 per month.</p>	<p>None.</p>	<p>No county child protection case management services.</p>

Minnesota foster families considering permanency options have two basic types of financial support.

1. Adoption Assistance program.

This program provides financial support to families who adopt children with special needs from the foster care system. Children with special needs are those who have, or who are at high risk of having, physical, mental, emotional/behavioral disabilities that make it hard for them to be adopted. Adopted children who are Title IV-E eligible are also entitled to Medical Assistance. Adoption Assistance benefits are individualized for each family. In addition to the basic financial benefit, county agencies may make supplemental payments for children diagnosed with special needs requiring care, supervision and structure beyond that ordinarily provided by a family. Provision of Adoption Assistance benefits is not based on family income, nor is it means-tested. The Adoption Assistance program offers families “special benefits” such as reimbursement for child care, respite care and specialized camp expenses. In Minnesota, however, the Adoption Assistance financial benefit is, on average, (excluding the “special benefits”), about 50 percent of what foster parents receive to support children in their care. The Adoption Assistance program financial benefit also does not include the same annual cost of living increases that are available in the foster care program.

2. Minnesota Relative Custody Assistance.

This program may provide financial support to families who accept a transfer of permanent legal custody of a child. The Relative Custody Assistance program is means-tested. The amount of the financial benefit is based on family income. If eligible for the Relative Custody Assistance program, the permanent legal caregiver will receive financial benefits equal to those available through the Adoption Assistance program. Unlike the Adoption Assistance program, the Relative Custody Assistance program does not offer “special benefits” such as reimbursement for child care, respite care and specialized camp expenses. Also different from the Adoption Assistance program,

Relative Custody Assistance benefits are offset by other government payments for the child such as the Minnesota Family Investment Program (MFIP child-only grant) or Supplemental Security Income (SSI) or child support. Under the Relative Custody Assistance program, children who receive the MFIP child-only grant or SSI also receive Medical Assistance. Similar to Adoption Assistance, the Relative Custody Assistance financial benefit is about 50 percent of what foster parents receive for children in their care. The financial benefit does not include annual cost-of-living increases that are available in the foster care program

The Benefit Comparison Chart outlines some of the basic differences between benefits sets in the state’s foster care, Adoption Assistance and Relative Custody Assistance programs.



Questions for foster parents when considering adoption or a transfer of permanent legal custody

	Yes	No
1. If the child cannot return home to their parents, can I commit to a lifetime relationship with him/her?	<input type="checkbox"/>	<input type="checkbox"/>
2. Am I interested in caring for the child without court oversight?	<input type="checkbox"/>	<input type="checkbox"/>
3. Am I capable of caring for the child without county child protection services, and am I able to access services on my own?	<input type="checkbox"/>	<input type="checkbox"/>
4. Do I have support from my family, friends, and community, needed to raise the child to adulthood?	<input type="checkbox"/>	<input type="checkbox"/>
5. Am I willing and able to work with the school to address the child's educational needs?	<input type="checkbox"/>	<input type="checkbox"/>
6. Am I willing and able to continue providing a safe and stable home environment for the child until age 18?	<input type="checkbox"/>	<input type="checkbox"/>
7. Am I confident in my ability to manage family issues such as illness and child-rearing, emotional/behavioral problems?	<input type="checkbox"/>	<input type="checkbox"/>
8. I do not have health conditions that would significantly limit my ability to care for the child?	<input type="checkbox"/>	<input type="checkbox"/>
9. Am I willing to accept legal and financial responsibility for the child?	<input type="checkbox"/>	<input type="checkbox"/>
10. Is the child well integrated into my family?	<input type="checkbox"/>	<input type="checkbox"/>
11. Am I comfortable changing the legal status of our family relationships?	<input type="checkbox"/>	<input type="checkbox"/>
12. Am I willing to pursue adoption or a transfer of permanent legal custody for the child?	<input type="checkbox"/>	<input type="checkbox"/>

Yes

If your answers are all “yes,” consider adoption or a transfer of permanent legal custody of the child in your care, and discuss your decision with the agency social worker.

No

If several of your answers are “no,” discuss those issues with the agency social worker.

Post-permanency services available

After foster parents choose a permanency option for a child, there will often continue to be a need for supportive services for the family. Although county child protection services will generally close when permanency goals are achieved, permanent caregivers will continue to have access to other county and private agency social service programs. Children will continue to remain eligible for case management services to address their mental health needs and developmental disabilities. A child's need for ongoing social services should be an important factor in any decision regarding permanency for children. Before making final permanency decisions and plans with the agency social worker, foster parents should inquire about post-permanency supports that will be available in the community. This section explains some of the services and how to find them.

Advocacy information and support

North American Council on Adoptable Children (NACAC)

970 Raymond Avenue, Suite 106
St. Paul, MN 55114
Phone: (651) 644-3036
Fax: (651) 644-9848
E-mail: info@nacac.org

Minnesota Kinship Caregivers Association

Phone: (651) 917-4640
E-mail: mkca@mkca.org

Family preservation services

When child or family related issues threaten the permanency plan, Minnesota Adoption Support and Preservation services (MN ASAP) can help. They offer crisis intervention, therapy, advocacy and other specialized services delivered through a statewide network of agencies.

Minneapolis office

430 Oak Grove Street, Suite 404
Minneapolis, MN 55403
Phone: (877) 966-2727
Fax: (612) 798-4033
E-mail: info@mnasap.org

St. Paul office

970 Raymond Avenue, Suite 106
St. Paul, MN 55114
Phone: (877) 966-2727
Fax: (612) 798-4033
E-mail: info@mnasap.org

Educational resources

Children who have been in foster care may be eligible for the Chafee Foster Care Independence Program, and Education and Training Vouchers. However, children who move from foster care to legal permanency before reaching age 14 may not be eligible for Chafee services and funds.

In Minnesota, the criteria for eligibility for Chafee-funded services include children who have experienced a "county approved placement" after the age of 14. They remain eligible for Chafee-funded services up to age 21. The Chafee Act stipulates that youth who are adopted at age 16 or older may apply for Education and Training Vouchers.

Training resources

The Foster, Adoptive, Kinship (FAK) training provided by the Minnesota Child Welfare Training System (MCWTS) is a comprehensive, competency-based training that provides high quality, culturally sensitive, family-centered training for foster care, adoptive care and kinship care providers. The MCWTS Web page is at: www.dhs.state.mn.us, then check for MCWTS in the search box or in the A-Z index.

Planning for future circumstances

It is important that families have a plan to care for children in the event of an absence, illness or even death. As families consider adoption or a transfer of permanent legal custody, they should also map out a back-up plan for another adult who could step in temporarily, if needed. That person should be someone who has a relationship with the child. They should also have adequate resources and agree to the arrangement, should it become necessary. Long-term plans for an adopted child can also be stated in a legal will.

This information is available in other forms to people with disabilities by contacting us at (651) 431-4671 (voice).

TTY/TDD users can call the Minnesota Relay at 711 or (800) 627-3529. For the Speech-to-Speech Relay, call (877) 627-3848.



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