

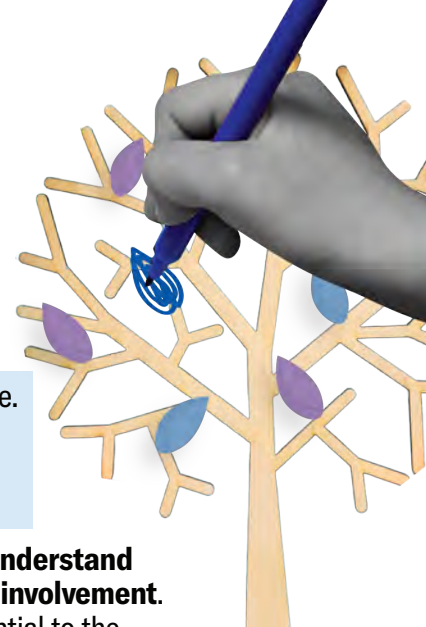
KIN FIRST:

A Parent's Guide to Relative Involvement in the Foster Care System

ACLU Illinois

DISCLAIMER: This document contains general information about the law. It is not legal advice. It is offered as a resource to help you generally.

NOTE: In this document, any reference to the Department of Children and Family Services (DCFS) includes its contractual providers.



Whether you've had prior contact with DCFS or this is your first time, this guide will help you **understand how your family can be involved in your child's case and how to assert the right to that involvement.** Understanding how your family can be involved in your child's case and why it matters is essential to the well-being of your child. This guide ensures that you are prepared to advocate for a kin-first approach as you and your child navigate the child welfare system.

The **Kinship in Demand (KIND) Act** ensures that DCFS prioritizes placing your child with relatives when they cannot remain at home in your care. A relative (or a nonrelative who maintains a close relationship with your child and/or family) may act as a relative caregiver or a certified relative caregiver, with various benefits provided to each. This guide will help you understand the requirements for both, as well as how you can be involved as a parent and talk to your relatives about becoming a caregiver.

PART ONE: THE FAMILY FINDING & RELATIVE ENGAGEMENT PROCESS

A. An Overview of the Process, Your Rights, & DCFS Obligations

If the court determines that it is in your child's best interest to be removed from your home, DCFS must first attempt to place your child with a relative, rather than a foster care home. This can include both relatives and fictive kin (nonrelatives who have a close relationship with your child and/or family). Placement with relatives has consistently been shown to improve the likelihood of reunification when children are required to be in the care of someone other than their parents. DCFS must consider placements that will permit your child to maintain a meaningful relationship with you.

REMEMBER: You **MUST** be provided with information about your legal proceedings. You have rights in the courtroom, and if they're being ignored, you can and should say something.

The **KIND Act** requires **DCFS** to do the following:

- Consistently search for and engage with relatives that may be potential caregivers for your child. At your hearing(s), you can ask the court for confirmation that DCFS has done so.
- Within **5 DAYS** of your child's removal, DCFS must attempt to locate and interview each person that you and/or your child have named to determine if that relative has both the interest and ability to take care of your child or provide other support.
- Notice **WILL NOT** be sent to any relatives who have known family violence- or domestic violence-related criminal convictions, indicated findings, or court findings of family or domestic violence.

You have the following rights in the family finding and relative engagement process:

- The court is required to ask you to identify all adult relatives that your child could potentially be placed with during the shelter care hearing.
 - The court and DCFS are required to take your suggestions into consideration when placing your child and searching for potential relatives, so being prepared can be extremely beneficial to the future of your child.
- You must have the opportunity to provide DCFS with all known names, addresses, and telephone numbers of each of your child's living adult relatives who could potentially serve as caregivers.



Why is this important?

If you don't provide information about certain relatives, it does not mean DCFS won't reach out to them. They **MUST** contact all relatives. If you don't provide the information, good or bad, someone else will find it and reach out to those relatives anyway.

With that in mind, help them help you. It is most beneficial to identify relatives early and often, with as much context as possible. You should also speak candidly with your lawyer, who can provide background investigation and continue advocating for relative placement. This will make things easier and better aligned with your preferences. Additionally, it's important to flag if there is someone you think would be an inappropriate choice as a relative caregiver and why they are potentially harmful to your child.

Some things to keep in mind:

- Family finding is a legal requirement, not a favor. DCFS is required to do so, and the requirement applies even when a child is already placed with a relative. This process must continue until a case is closed or unless the court has decided to stop family finding.
- DCFS is required to provide notice to BOTH sides of a child's family.
- Fictive kin is included in the definition of "relative" and includes people like family friends, godparents, etc.

THE POINT: Your voice **MUST** be heard. If your suggestions regarding relatives aren't taken into consideration, you can and should make that clear to the court. You should also share this information with your attorney and make your preferences clear to them so they can best advocate for you.

B. Initial Identification of Relatives

Because the court must take your relative suggestions into consideration, it is important to provide as many options as you can and come prepared with specific information about your relatives. Although DCFS must continually search for and consider new relatives, giving them options as soon as possible will likely result in a better situation for your child. In the spaces provided below, list all the names of relatives or close family friends (like godparents or other deep relationships) that you think could provide a supportive home for your child. You don't need to have all of this information, these are just suggestions to help you think about potential relatives, how you want to talk about them, and how you may be able to contact them. There is a copy of the below prompts provided on our website for additional printing.

Name: _____

Age: _____

Location: _____

Relationship to you: _____

Relationship to your child: _____

Phone number(s): _____

Email(s): _____

Social media account(s): _____

Other ways to get in touch: _____

Why you think they would (or would not) be a good caregiver: _____

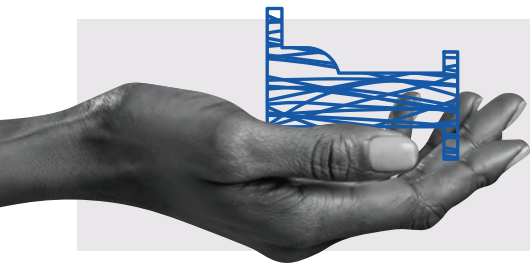
C. How to Talk to Your Relatives

1. ABOUT CAREGIVING

Becoming a relative caregiver can be overwhelming, so it's important to help relatives understand why and how their support is crucial, as well as the steps they must take to get there.

Here are some tips for getting the conversation started...

- Emphasize the goal of family reunification and that placement with relatives results in a higher likelihood of reunification.
- Highlight the importance of continuity regarding cultural and family ties.
- Provide any relevant details about your case that will help them better understand the situation and why their support is needed.
- Let them know there are financial supports, required by law, that DCFS provides to relative caregivers, including:
 - **Monthly Payments**
 - Any relative homes providing care to a child placed by DCFS shall be eligible to receive payments from DCFS in an amount no less than 90% of the payments made to the licensed foster family homes and certified relative caregiver homes. Relatives who are becoming certified will continue to receive the 90% payments until they are certified.
 - When a relative has been approved as a certified relative caregiver, they must receive the full established foster care maintenance payment rate for foster parents based on the number and ages of children placed in care.
 - **Resources and equipment** for the home or transportation to help meet DCFS' criteria (i.e., if something in a home needs to be repaired, DCFS cannot deny a relative because of that, they must help fix it).



Ex. Tiffany's sister has agreed to become a certified relative caregiver for Tiffany's 3-year-old daughter. Her sister does not have an extra bed or a car seat for Tiffany's daughter, but otherwise has a suitable home for child care. If Tiffany's sister cannot afford those resources, DCFS must assist her in accessing a car seat and a bed in order to approve her as a certified relative caregiver home.

IN PRACTICE: Sample Script for Placement

Talking to relatives can be difficult, and sometimes it may make you feel uncomfortable or require you to be vulnerable. Remember to focus the conversation on your child and how your relative could be a positive influence and stable caregiver in their life. Below is an example of what talking to a relative about caregiving and placement could look like.

"DCFS is removing my child from my custody. You have been a vital part of our family throughout their life, and I think you would be a strong, supportive caregiver. Placing a child with a relative leads to more success in the child's growth and development, and gets us one step closer to family reunification."

I know this is a big ask, and I am prepared to help you throughout the process in any way I can. In the end, we're hoping that we can reunify and only make this a temporary arrangement. There's also a general resource page for relative caregivers and parents with more information: www.aclu-il.org/KIND."

2. ABOUT VISITATION, CASE PLANNING, AND OTHER FORMS OF SUPPORT

Not every relative will be able to serve as a caregiver, but there are several other ways they can get involved with your family in a positive and impactful way. When discussing other forms of support, you can continue to highlight the value of maintaining cultural and family ties, as well as general continuity in your child's life.

IN PRACTICE: Sample Script for Other Forms of Support

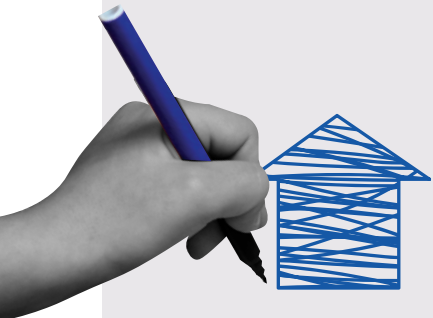
“DCFS is removing my child from my custody. Even if you can’t act as a full-time caregiver for them, there are other ways to get involved. For example, providing transportation to and from school, extra-curricular activities, or medical appointments for [your child’s name] is an extremely valuable form of support. There may also be a need for supervising visitation between me and [your child’s name] or additional opportunities to provide them support through phone calls or mentoring.

Case planning is another area where you can provide support. This is a place where important decisions about my child’s care and temporary plans will be made. You could also be a resource in court, which can be as simple as providing emotional support or an extra hand during hearings, which can be a little daunting.”

Relative Involvement and Support Options

FORMAL SUPPORT

- Placement
- Backup placement option should needs change
- Extended respite care



NATURAL SUPPORT

- Short-term respite care
- Mentoring
- Supporting & advocating for parents
- Child care
- Transportation to services or activities
- Supervising visitation



INFORMAL SUPPORT

- Phone calls or emails
- Social media contact
- Provide family photographs or cards for special occasions
- Offer emotional support in court/hearings or case planning meetings
- Plan outings or celebrate important events in a child's life



D. The Relative Caregiver Certification Process & Requirements

When you speak to a relative about becoming a certified relative caregiver, you should be prepared to tell them about the basic requirements of the process and their obligations. Below are the three major checkpoints for becoming a certified relative caregiver.

1. BACKGROUND CHECK

All certified relative caregiver applicants, as well as any other adults in their household who are 18 or older, must authorize and complete a background check. Each adult must be fingerprinted within 14 days after a child is placed in the home. Only information that has a “reasonable and rational relation” to the caregiving capacity of the potential certified relative caregiver and the other adult member(s) of the household will be used.

2. SAFETY & NEEDS ASSESSMENT

DCFS must evaluate the safety of the potential relative caregiver's living space and identify needed support, like concrete goods or safety modifications. DCFS must work with the potential relative caregiver to provide or assist them with what's needed to safely house and care for your child or children.

It's important to know what things DCFS will look for, so that any potential relative caregivers can set up or modify their homes accordingly. Some of these things include: safe water for drinking and bathing, heating and cooling, electricity, functioning smoke and carbon monoxide detectors, etc.

3. CAREGIVER ASSESSMENT

DCFS will conduct a review of the potential certified relative caregiver to ensure they can manage the physical, emotional, medical, and educational needs of your child. DCFS will document and review the caregiver's plans, utilization of available resources, and reactions to various situations to confirm your child or children will have their needs met. This is to ensure that the potential certified relative caregiver can make careful and sensible decisions about your child's health, safety, and overall best interests.

E. Relative Denial & The Decision Review Process

Your relative may initially be denied for placement, certification, or visitation, but that doesn't mean it's the end of the road in their involvement. If your relative's application is rejected, they **MUST** receive a denial letter from DCFS explaining the reason for the denial and the Decision Review Process. This is not the process that is used if your relative has been denied for a particular visitation schedule, only if you've been denied for visitation altogether.

The following tips are things you can do to help them work through it and potentially gain another opportunity for approval:

- Ask your relative why they were denied – did DCFS provide its reasoning?
- Ensure that they received an official written denial. DCFS is required to send a letter in the mail with the written denial to relatives who have applied for placement, certification, or visitation.

Tell your relative that they can complete the form provided within the DCFS letter and appeal the decision. You can find a sample letter provided by DCFS on our [website](#). Encouraging them to try again will provide an extra layer of support throughout the process.

- Talk to your attorney about the process for additional advice on what helpful information can be provided to DCFS.
- Help address any additional concerns your relative may have.

Not all criminal background findings are automatically disqualifying and/or there may be opportunities for mitigation. See "[Navigating Criminal Records in DCFS' Certified Relative Caregiver Process Advocacy Guide](#)" for more information to confirm whether your relative falls within that category. Although relatives with certain criminal records are not eligible to become certified relative caregivers, they may still be eligible to serve as a resource in another capacity.

REMEMBER: Highlighting the importance of certification is key. A certified relative caregiver receives more financial support, setting your child up for a greater chance of stability and success.

PART TWO: PERMANENCY OPTIONS & HOW YOU CAN BE INVOLVED

Although achieving reunification is an uphill battle with setbacks and struggles, it's important to stay on track and stay the course because your wishes matter. **Remember:** DCFS must provide services in support of your case plan goals. When reunification is unavailable, setting up a permanent situation with a family member is typically the next best thing. If you think it's in your child's best interest to stay with a relative, the below information will help you navigate that option.

Long-term options for your child will be determined at the permanency hearing(s). This hearing must be held within 12 months of your child being removed and at least every six months after. These time frames for permanency hearings are mandatory.

Permanency hearings can occur earlier than six months, but not later, and in most cases, this hearing will happen more quickly than that. The priority is reunification, but DCFS will be planning for alternative options in the meantime, so it's vital to make sure you understand and rank your options early in case reunification is not viable. Think of it as choosing the second-best option to reunification. You have the right to know the details of all your options and make your preference heard in court.

The KIND Act has instituted new requirements that must occur at permanency hearings.

Here are the things that DCFS MUST do when considering permanency options for your child:

- The case worker must discuss the permanency options and subsidies available for guardianship and adoption with you and your child's caregiver(s).
- The case worker must explain to you the differences between guardianship and adoption, such as the fact that guardianship does not require termination of parental rights or parental consent.
- The case worker must make a report of the stated preferences and concerns you, your child, and your relative have expressed about the options of guardianship and adoption, as well as the reasons for those preferences.

Below are the basic differences between guardianship and adoption; however, your case worker should explain the process to you in more detail and answer any questions you may have.

GUARDIANSHIP

- Establishes an individual as a child's legal guardian and ensures their right to make important decisions for the child, including: the right to consent to major medical care and treatment, marriage, and enlistment in the armed services
- Can occur with the birth parents' consent (without their rights being terminated) or can occur after termination of birth parents' rights (either voluntarily or by an order of the court)
- Gives the child the opportunity to live in a stable environment with family or others they already know and to maintain supportive familial bonds
- A guardian's legal powers and responsibilities end once the child reaches the age of 18, but guardians frequently remain closely connected to the child into their adulthood
- Services available: financial assistance, health insurance, etc.

ADOPTION

- Establishes an individual as a child's legal parent and ensures their right to make important decisions for the child, including: the right to consent to major medical care and treatment, marriage, and enlistment in the armed services
- Occurs only after birth parents' rights are terminated (either voluntarily or by an order of the court)
- Available to family members as well as adults without a prior relationship to the child
- Confirms a legal arrangement extending after the child reaches adulthood, unless the adoption is ended by court order
- Services available: financial assistance, health insurance, etc.

Tips for discussing these options with your relative:

- Talk to your relative before they meet with DCFS so they have a basic understanding of their options ahead of time and can be prepared with follow-up questions. This will also help you think about your preferences in advance.
- Highlight the benefits of guardianship compared to adoption, like the ability to maintain a close family structure during the time you are unable to care for your child.
- As with every stage of this guide, discuss this process and its options with your lawyer beforehand.

IN REVIEW: KEY PARENTAL RIGHTS

The following chart demonstrates the key takeaways about your rights as a parent with a child in foster care under the KIND Act.

NOTICE

The court **must**:

- Provide you with notice of any legal proceedings

RELATIVE ENGAGEMENT

DCFS **must**:

- Attempt to locate and interview each person* that you and/or your child have identified as a potential relative caregiver **within 5 days** of your child's removal
- Continue to search for and engage with relatives that may be potential caregivers or support resources for your child

*NOTE: This does not apply to any relative for whom there is a known family violence or domestic violence related criminal conviction, indicated finding, or court finding of family or domestic violence.

PERMANENCY

DCFS **must**:

- Discuss with you the permanency options and subsidies available for guardianship and adoption
- Explain the differences between guardianship and adoption
- Report your stated preferences and concerns about the options of guardianship and adoption and your reasons for those preferences and concerns



FREQUENTLY ASKED QUESTIONS: PARENTS' RIGHTS

Q: What if a relative is being considered who I don't get along with?

A: If you don't get along with that relative but you think they would be a good placement resource, you may want to practice how you're going to approach them and what you're going to say. You can confront the situation by highlighting the importance of setting aside any differences you may have for the safety and well-being of your child. Alternatively, if you think they would be an inappropriate caregiver for your child, you should make that known to your lawyer, DCFS, and the court.

Q: Does placement with relatives typically result in less obstacles to visitation for parents?

A: Placement with relatives can result in more regular visitation with parents, as well as provide a more personal visitation environment, due to the preexisting relationship with that relative.

Q: If a relative lives out of state, can my child still be placed with them?

A: Your child can be placed with a relative who lives out of state, so long as they meet all of the requirements for placement.

Q: If my child is taken into DCFS custody and not placed with a relative, will my communication with them be cut off?

A: No. If your child is in the custody of DCFS, whether or not they're placed with a relative, DCFS must file with the court and serve on the parties a parent-child visiting plan, within 10 days, excluding weekends and holidays, after DCFS is appointed as temporary executive custodian. The plan must include: the time and places of visits, the frequency of visits, who shall be present at the visits, and, where appropriate, your child's opportunities to have telephone and mail communication with you.

Q: If I'm incarcerated, can I still provide input about relative caregivers and case planning for my child?

A: Yes. DCFS must ensure that incarcerated parents are able to participate in case plan reviews via teleconference or video conference, including input regarding relative caregivers.

RESOURCES

For more information about relative and parental rights, access additional resources at www.aclu-il.org/KIND. If you have questions or want to share any of your experiences and/or concerns, please contact us at kind@aclu-il.org.



You can find additional support & information at:

- **For questions about relative involvement & foster caregiving:** DCFS Advocacy Office, 800-232-3798 or Foster Parent Helpline, 866-368-5204
- **All applicants, certified relative caregivers, and the residents of certified relative caregiver homes can file complaints via email at:** dcfs.advocacy@illinois.gov
- **For general information:** [@ilchildrenandfamilyservices](https://www.instagram.com/ilchildrenandfamilyservices) (Instagram)
- **For relative caregiver support organizations in Illinois:** www.cfsil.org/resources/family-support-networks/

GLOSSARY

- **Temporary guardianship:** A legal arrangement made by DCFS which places a child with a certified relative caregiver, relative caregiver, or foster parent, giving them a temporary ability to make some legal decisions for that child.
- **Permanent guardianship:** A long-term legal arrangement that grants an adult custody over a child and continues indefinitely after DCFS case closure until a court orders otherwise, which includes significant, sustained decision-making power regarding a child's life.
- **Relative:** A person who is related to a child by blood, marriage, tribal custom, adoption, civil union, or to a child's sibling even though the person is not related to the child, when the child and the child's sibling are placed together with that person, or fictive kin.
- **Fictive kin:** A person who is unrelated to a child by birth, marriage, tribal custom, or adoption who is shown to have significant and close personal or emotional ties with the child or the child's family.
- **Relative caregiver:** A person responsible for the care and supervision of a child in DCFS custody, other than the parent, who is a relative.
- **Certified relative caregiver:** A person responsible for the care and supervision of a child in DCFS custody, other than the parent, who is a relative, meets all the certification requirements, and has been approved by DCFS.
- **Decision Review Process:** A required process by DCFS when a relative is denied placement, certification, or visitation, which requires DCFS to provide reasoning for its denial and an opportunity for reconsideration.