

Kin Support Program

Haa Yatx'u Saani ("Our Precious Children")

Serving Southeast Alaska

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CUSTODY OPTIONS FOR CHILDREN IN RELATIVE CARE

Many children living with relatives in Southeast don't have formal custody orders or paperwork. Formalizing custody through a signed document or court order can benefit children by setting clear expectations for them, making sure they can get health care when parents are unavailable, and helping caregivers interact with schools, child care, and other agencies that serve families.

This sheet provides basic information about options for custody. This overview is not legal advice and does not create an attorney-client relationship with the Program.

POWER OF ATTORNEY *aka* DELEGATION OF PARENTAL RIGHTS

This fill-in-the-blank form can be signed by a parent to entrust another adult with the ability to exercise most parental rights for a child. A parent can use this form when there are circumstances that make them temporarily unavailable or unable to take care of their child. Giving this delegation ensures that the child will be able to get medical care, enroll in school, and apply for important benefits like Medicaid and Food Stamps. It must be notarized. The form does not include the authority to consent to adoption or marriage.

Limitations:

1. The form is revocable at any time.
2. The form is only effective up to one year, and can be limited in the document to even shorter periods
3. If there are conflicting Delegation forms, neither may be honored
4. The forms are not filed with the Court System
5. If a parent wants to revoke a Delegation, the parent must provide a written revocation notice to all agencies that have a copy of the Delegation.

The form is available on the Alaska Court System website:

[PG-700 Delegation of Powers By Parent or Guardian \(alaska.gov\)](http://www.alaska.gov/courts/PG-700-Delegation-of-Powers-By-Parent-or-Guardian)

Guardianship

Any adult may apply to become a temporary or long-term guardian of a child. Relatives are preferred over non-relatives. A guardianship may be done with the consent of the child's living parents. Alternatively, a guardianship may be done without the parents' consent if there is evidence that the parents are unable to care for the child, and they have a chance to be heard at a guardianship hearing.

Usually, the court will require a home study before it issues a guardianship order. Guardianship orders require parents to pay child support, but the amount may be reduced or waived altogether if there is a compelling reason.

In Southeast, guardianship orders may be issued by the Sitka Tribal Court (for children who are Sitka Tribal Citizens), the Tlingit & Haida Tribal Court (for children who are eligible or enrolled Tlingit & Haida Tribal Citizens), or the Alaska State Court. Attorneys are allowed but not required. In state court, the Indian Child Welfare Act applies to guardianship cases for Alaska Native/American Indian children, ICWA requires especially strong evidence of parental unfitness (including an expert witness) before it can order a guardianship over a parent's objection.

For all three courts, guardians must file a yearly report explaining how the child is doing and how their finances are being handled.

A guardianship is considered a permanent placement, meant to last until a child's 18th birthday. However, the guardian, child, or other interested parties can always ask the court to review and change the guardianship order. A parent can petition the court to re-assume custody but must first prove to the judge that they are in a better place and that ending the guardianship is in the child's best interests.

Third Party Custody

A person other than a parent can petition for custody of a child. The process is similar to a guardianship, except that there is no report. Alaska Supreme Court cases have recognized that a parent is entitled to a preference over non-parents in custody cases. A court can only override this preference if the parent is unfit or unable to care for their child.

Foster Care

When child protective services has evidence that a child has been abused or neglected, the State has the authority (with court oversight) to remove the child from home, assume legal custody, decide on placement, and reunite the family, or not. Relatives are always preferred, but foster homes must pass background checks and other safety requirements. Licensed foster homes can get a monthly stipend. Relative homes that meet safety standards but are not formally licensed can get a smaller amount of monthly funds from ATAP (Alaska Temporary Assistance Program) or TANF (Temporary Assistance to Needy Families). Foster care may end with a child returning home, guardianship, adoption, or other ways to "age out." OCS operates under federal guidelines that encourage terminating parental rights if reunification has not happened after a case has been open for 15 months.

Adoption

All state court adoptions, and some tribal court adoptions, legally terminate the child's existing parent-child relationships (and extended family relationships) and recognize a new mother and/or father. Some adoptions allow biological parents to maintain contact. Adoptions may be done with parents' consent (aka relinquishment) or ordered over the objection of the parent if the parent has been shown to be unfit or unavailable.

Alaska recognizes Tribal Customary Adoption, which may or may not terminate parental rights depending on Tribal Law. Forms to get a new birth certificate after a cultural adoption are here: <https://health.alaska.gov/en/services/cultural-adoption/>

Adoption is permanent. No annual reports are required. New birth certificates are issued. The adoptive parents assume all responsibility for the child, and any child support responsibility of the biological parents ends.