

Guardianship Assistance Program Information for Family Services Workers

Overview

The Guardianship Assistance Program (GAP) creates an alternate tool to provide permanency for children in DCF custody who cannot be reunified with their parents when adoption is not in their best interest. Guardianship assistance agreements provide financial resources to assist relative foster parents in providing permanency for a youth in DCF custody. Guardianship assistance is not available to caregivers who are not relative foster parents, or to children who are not in DCF custody.

A permanent guardianship is intended to last until a child reaches the age of 18. Should the guardian not be capable of fulfilling their obligation for any reason, custody of the child reverts back to DCF. The biological parent(s) retain residual parental rights. These are the right to visitation, knowledge of where the child lives, information on the child's wellbeing, in some cases a level of decision making authority in the child's life, and the right to pay child support. DCF will become re-involved if the biological parent petitions the court for custody or if any party petitions to end the guardianship. Plans for parent child contact are set by the court. A permanent guardianship initiates in the Family Division of the Superior Court and is reviewed annually and modified in the Probate Division.

Important note: For the purpose of guardianship assistance, a relative is defined as an adult who is biologically or legally related to the youth or as a person who had a significant relationship with a child before that child entered DCF custody.

Eligibility for the Guardianship Assistance Program

To be eligible for GAP, DCF must have determined all of the following:

- The child or youth is in the care and custody of DCF;
- The child or youth has been living with the relative, who is a licensed foster parent, for at least 6 consecutive months;
- It is not possible or appropriate for the child to return home or be adopted;
- The child or youth has a strong attachment to the relative;
- The relative has a strong commitment to caring permanently for the youth;
- If the youth has reached age 14, he or she is willing to consent in writing to the guardianship arrangement.

For children who have been previously TPRed, GAP is generally not appropriate, as it leaves DCF holding residual parental rights. If you have a child in this situation, do not proceed with a plan for permanent guardianships without consulting with your AAG and the Permanency Planning Manager.

Permanent guardianship is typically not appropriate for children under 12. If you are considering permanent guardianship for a child under 12, you must consult with the permanency planning manager. Waivers can be granted in cases where the TPR process would be traumatic for the child, when the permanent guardian is already serving as a guardian for the child's sibling, or for a rationale based on the child's best interests.

Agreements Must Be Signed Before a Permanent Guardianship is Created

All parties must complete and sign the Guardianship Assistance documents before the establishment of a guardianship order. If the court prematurely transfers guardianship to a relative the youth will not be eligible for Permanent Guardianship Assistance.

Support for Permanent Guardians

A GAP agreement includes:

- A monthly payment similar to foster care payments;
- Vermont Medicaid (only Title IV-E eligible children are automatically eligible for Medicaid in other states);
- Up to \$2000 reimbursement of non-recurring expenses related to the establishment of the guardianship;
- Post permanency services and supports through agencies affiliated with the Vermont Consortium for Adoption & Guardianship

Title IV-E eligible children who leave foster care at age 16 or older for kinship guardianship are also eligible under the John H. Chafee Foster Care Independence Program to receive independent living services, educational and training vouchers.

Youth who turn 18 in the guardianship of someone other than their parents are also eligible to be considered independent students for federal financial aid.

Flow of a permanent guardianship case:

1. Consult with permanency planning manager if child under 12.
2. Once goal supported through consultation (with supervisor, permanency planning manager, or both), establish goal in case plan.
3. Have proposed guardian(s) complete guardianship intent and FSW completes and submits intent and GAP referral to your district's adoption assistant.
 - a. **DO NOT ALLOW FOR GUARDIANSHIP TO OCCUR UNTIL YOU HEAR THAT THE GAP AGREEMENT IS IN PLACE.**
4. State's Attorney, AAG, child or parent's attorney files motion for permanent guardianship. Proposed parent-child contact may be included with motion.
 - a. If parents contest permanent guardianship, evidence will be taken by the Court and the Court will order permanent guardianship and terms of parent/child contact.
 - b. If parents consent to permanent guardianship the Family Court orders permanent guardianship. There may be terms of parent/child contact included.
5. Probate Court will review permanent guardianship annually. DCF will be notified if a motion has been filed to dissolve the guardianship. DCF will be reinvolved if this occurs. Important note: child returns to DCF custody if guardianship dissolves.

Getting Started

Contact the Project Family permanency counselor for your area, or seek consultation during your district permanency meeting.

Permanency planning guides child welfare practice from the first contact with a family. It is the process of developing and implementing strategies to achieve legal permanence. Permanency is achieved when a child or youth is living in a nurturing family setting which offers legal commitment and continuity of relationships. For additional information and guidance on permanency for children and youth see [Family Services Policy 125](#) and [Family Services Permanency Position Paper](#) (available online to DCF employees only at this time).

Permanency Outcome	Reunification with either parent:	Adoption	Transfer Guardianship To		Another Planned Permanent Living Arrangement (APPLA)* ¹	Reinstatement of Parental Rights
		Adoption of child in DCF Custody and Adoption of child subject to a CCO	Permanent Guardianship	Permanent Subsidized Guardianship (GAP) with a licensed relative	Voluntary Services Agreements Completion of Secondary Education (Category A) Adult Living Program (Category B) Housing Support Program (Category C)	
Legal Status & DCF/ other agency involvement	After Family Court case is closed, parent/ guardian resumes all rights and responsibilities. No former placement or custodial agency has any role. If custody is discharged to the noncustodial parent, other court orders may need to be revised (ie parent/child contact, visitation, child support). Mandated DCF involvement ends. Family may continue with voluntary DCF services.	Parental rights are terminated. Post Adoption Contact Agreement (PACA) available with voluntary relinquishment. Parent who adopts has full rights and responsibilities to child. Child is legal heir of parent who adopted and equal to all other children of family. If 14 or up, the child must consent. DCF involvement ends at adoption. Post-permanency services are available.	Parental rights of parents remain. Visitation or contact with parents may be included in order. Reviewed annually but ongoing DCF involvement ends when guardianship established. Parent may request modifications at any time. DCF will become involved if reunification is being considered. Guardian is liable for child's actions. All legal ties between guardian and child dissolve once the child turns 18. Legal familial relationship resumes with parents listed on birth certificate at age 18. If 14 or up, the child must consent. Post-permanency services are available.		Youth is their own legal guardian at 18. Legal familial relationship resumes with parents listed on birth certificate at age 18. Category A: Youth must turn 18 in custody. Youth's case remains open with DCF until completion of secondary education. Category B & C: Youth must turn 16 in custody but be at least 18 for service eligibility. Youth's case remains open with the Youth Development Program. Category B: No legal relationship with adult living provider. The Adult Living Provider commits to providing long-term support, care, and life skills	Any prior adoption must be dissolved prior to filing for reinstatement. If reinstatement is granted, TPR remains but new orders issued reinstating rights and custody. Legal familial relationship resumes with former parent. DCF case ends with closure of Family Court case.

¹ * APPLA is only a permanency outcome available for youth age 16 and up and requires consultation with DCF central office staff prior to establishment

					instruction via non-legally-binding processes.	
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Financial Support	If needed, parent/guardian must apply for benefits via routine processes.	Rate ranges from \$0 to what DCF can pay for each child in foster care based on the age and needs of the child. If a former parent died prior to adoption and child receives death benefit from SSA, that will continue, but any other former family benefits discontinue and family who adopts' resources will apply in determining other benefits. Subsidy may be available for childcare if child resides in and attends childcare in Vermont. Eligibility for child care subsidy established by the Child Development Division.	Child can receive TANF grant (\$400-\$500 per month); additional children in home receive significantly less. This ends at age 18, or when the child graduates high school. Parent will be subject to paying child support if guardian receives benefits, and guardian can apply to be payee for any SSA benefits.	Child in custody placed with licensed relative can receive a rate similar to adoption subsidy.	Category A: Financial supports are continued at up to the same rate for licensed providers. Youth must turn 18 in custody, be under 22 years old, and be a full-time high school student. An extension of this level of support may be available for up to six months following high school graduation. Category B: Financial support is reimbursed to the Adult Living Partner. Category C: Independent Living financial support is based on youth's budget (typically \$150-\$400/month). Youth must be 18-22 years old. Financial support is short term and requires frequent review of compliance with Voluntary Services Agreement.	If needed, parent/guardian must apply for benefits via routine processes.

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Medical	Parent/guardian must apply for benefits via routine consumer processes.	Child will be eligible for Medicaid if the Adoption Assistance Agreement is in effect and the child resides in Vermont.	Guardian must apply for benefits via routine consumer processes.	Child is eligible for Medicaid if the Guardianship Assistance Agreement is in effect and the child resides in Vermont.	Child will have Medicaid until 18. Must apply and comply with Medicaid reviews after reaching age of majority and will be categorically eligible until age 26.	Parent/guardian must apply for benefits via routine consumer processes.
Primary and Secondary Education	Parent has all educational rights.	Parent who adopted has all educational rights and responsibilities.	Parent and guardian share educational rights and responsibilities as outlined in order.	Parent and guardian share educational rights and responsibilities as outlined in order.	Can apply for Chafee scholarships, small grants thru VFAPA and Emily Lester Scholarship; additional scholarships specific to youth who have been in foster care may exist.	Parent has all educational rights.
Post-Secondary Education	If child was in DCF custody (“ward of the court”), experienced homelessness (verified) at any time after age 13, or turned 18 in the legal guardianship (not custody) of someone other than a parent or stepparent, the parents’ income will not be counted for Federal Financial Aid application (FAFSA). If child in custody of another person after age 13, or was reunified or adopted prior to turning 13, legal parents’ income used to determine Federal Financial Aid (FAFSA).					
YDP/ Over 18 supports	If ever in custody, youth is eligible for case management. If child was in custody for 5+ years after age 10 or if they exit custody after age 16 they are eligible for extended care supports via VSA (Category B or C) or Youth Investment Grants. Youth Investment Grants provide funds for normalcy and enrichment activities, training, education needs, transportation, identification, tools for employment, and a host of other things a youth may need.					
Other Considerations	Permanency’s impact on existing bonds with family of origin and substitute care providers, youth’s preference, engagement/eligibility for other services if applicable (i.e.: Department on Aging and Independent Living, Department of Mental Health, SSA, Economic Services Division, Department of Corrections).					

Definitions (for the purposes of this document) and Helpful links:

Adoption Assistance: Vermont Adoption Assistance Program offering medical, financial, and non-recurring expense supports to families who adopt a child involved with DCF: <http://dcf.vermont.gov/sites/dcf/files/Adoption/Adoption-Assistance.pdf>

CCO: Conditional Custody Order giving someone physical custody of a child who is subject to a child protection or delinquency proceeding, typically with conditions required to maintain custody.

Information for Relative Caregivers (CCO and DCF custody, guardianship and adoption): <http://dcf.vermont.gov/sites/dcf/files/Adoption/Kinship-Guide.pdf>

DCF: Vermont Department for Children and Families, Family Services Division: <http://dcf.vermont.gov/fsd>

Family Court: Family Division of the Vermont Superior Court, where all child protection and delinquency hearings are heard: <https://www.vermontjudiciary.org/GTC/Family/default-old.aspx>

Post Adoption Contact Agreement (PACA): Legally binding agreement for continuing contact between child and birth parent: <http://dcf.vermont.gov/sites/dcf/files/Adoption/Post-Adoption-Contact.pdf>

Social Security Administration (SSA): Federal agency providing benefits based on disability, retirement of working people, and their dependents in the case of death: <https://www.ssa.gov/>

Temporary Aid to Needy Families (TANF): Vermont Child-Only Reach Up providing financial support to people caring for kin or fictive kin children: <http://dcf.vermont.gov/benefits/reachup/child-only>

Vermont Consortium for Adoption and Guardianship: Organization providing support and education for families formed through adoption and guardianship: <http://www.vtadoption.org/>

Vermont Foster and Adoptive Family Association (VFAPA): Vermont-wide organization providing support and community for families formed through foster care and adoption.

Voluntary Services Agreement (VSA): Voluntary agreement for services/support for young adults who were in DCF custody

Youth Development Program (YDP): Vermont Youth Development Program providing supports to youth who have been in DCF custody from ages 14-22: <https://www.vtyouthdevelopmentprogram.org/>

Permanency for CCO Kinship Care Providers

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It is important for FSD staff and caregivers to have clear information about what benefits may be available to them when providing permanency to a child they have had conditional custody of. Throughout the CCO, they are eligible for child-only benefits (Reach Up and Medicaid) through the Economic Services Division. Those benefits can be evaluated annually and the birth parents will be required to pay child support, as they are able and as determined by the Office of Child Support, throughout the time those benefits are received. The Family Services Division has no control over the availability or structure of those benefits, and they cannot continue in the event that a conditional custodian adopts the child. Children who are subject to CCOs are eligible for adoption assistance so long as their caregiver meets certain requirements. CCO cases are not eligible for the Guardianship Assistance Program.

Family services workers should let their district permanency team know when CCO cases are concluding in guardianship or adoption, and **before** TPR is filed in any CCO case. It is important to note that a family who plans to adopt a child must meet requirements regarding their criminal and child abuse background to adopt, and there are additional criteria that must be met to be eligible for adoption assistance. **Families who do not meet criteria for a foster care license may not be able to adopt.**

Permanency Outcomes when reunification doesn't occur:

	Adoption	Transfer Guardianship To
	Adoption of child in DCF Custody And Adoption of child subject to a CCO	Permanent Guardianship
Legal Status & DCF/ other agency involvement	Parental rights are terminated. Post Adoption Contact Agreement (PACA) available with voluntary relinquishment. Parent who adopts has full rights and responsibilities to child. Child is legal heir of parent who adopted and equal to all other children of family. If 14 or up, the child must consent. DCF involvement ends at adoption. Post-permanency services are available.	Parental rights of parents remain. Visitation or contact with parents may be included in order and can be modified. Reviewed annually but ongoing DCF involvement ends when guardianship established. Parent may request modifications at any time. DCF will become involved if reunification is being considered. Guardian is liable for child's actions. All legal ties between guardian and child dissolve once the child turns 18. Legal familial relationship resumes with parents listed on birth certificate at age 18. If 14 or up, the child must consent. Post-permanency services are available.

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Financial Support	Rate ranges from \$0 to what DCF can pay for each child in foster care based on the age and needs of the child. If a former parent died prior to adoption and child receives death benefit from SSA, that will continue, but any other former family benefits discontinue and family who adopts' resources will apply in determining other benefits. Subsidy may be available for childcare if child resides in and attends childcare in Vermont. Eligibility for child care subsidy established by the Child Development Division.	Child can receive TANF grant (\$400-\$500 per month); additional children in home receive significantly less. This ends at age 18, or when the child graduates high school. Parent will be subject to paying child support if guardian receives benefits, and guardian can apply to be payee for any SSA benefits.
Medical Support	Child will be eligible for Medicaid if the Adoption Assistance Agreement is in effect and the child resides in Vermont.	Guardian must apply for benefits via routine consumer processes.
Primary and Secondary Education	Parent who adopted has all educational rights and responsibilities.	Parent and guardian share educational rights and responsibilities as outlined in order.
Post-Secondary Education	If child was in DCF custody ("ward of the court"), experienced homelessness (verified) at any time after age 13 or turned 18 in the legal guardianship (not custody) of someone other than a parent or stepparent, the parents' income will not be counted for Federal Financial Aid application (FAFSA). If child in custody of another person after age 13, or was reunified or adopted prior to turning 13, legal parents' income used to determine Federal Financial Aid (FAFSA).	
YDP/ Over 18 supports	If ever in custody, youth is eligible for case management. If child was in custody for 5+ years after age 10 or if they exit custody after age 16 they are eligible for extended care supports via VSA (Category B or C) or Youth Investment Grants. Youth Investment Grants provide funds for normalcy and enrichment activities, training, education needs, transportation, identification, tools for employment, and a host of other things a youth may need.	

Other Considerations:

Will the parent(s) pose ongoing risk (physical, emotional, financial) to the child or caregiver if parental rights remain intact?

If so, adoption is likely preferred.

Is it appropriate, and is the guardian willing, to manage parent-child contact without DCF involvement after the guardianship is established?

If not, adoption is likely preferred.

Is the child likely to continue to rely on the guardian for support in adulthood?

If so, adoption may be preferred.

Does the family have the ability and is it in their best interest to manage the legal implication of a guardianship in adulthood (ie create advanced directive for young adult and ensure wills are in place)?

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Would the guardians need additional financial support (SSA benefits) to raise the child in the event that one of them dies or becomes disabled?

If so, adoption is likely preferred.

Would an adoption cause irreparable damage to family relationships?

If so, permanent guardianship may be preferred.

If over 14, what does the child want? What are their bonds to both their parents and the caregiver?

What other benefits is the child eligible (ie a birth parent had SSI and the child is eligible for a derivative benefit)?

What are the child's special needs? How will different permanency outcomes impact their access to supports and services?

Resources

Vermont Kinship Caregiver's Guide: <http://dcf.vermont.gov/sites/dcf/files/Adoption/Kinship-Guide.pdf>

Adoption Assistance Brochure: <http://dcf.vermont.gov/sites/dcf/files/Adoption/Adoption-Assistance.pdf>

Post-Adoption Contact Agreement Brochure: <http://dcf.vermont.gov/sites/dcf/files/Adoption/Post-Adoption-Contact.pdf>

Vermont Consortium on Adoption and Guardianship: <https://www.vtadoption.org/>

DCF Permanency Planning Policy: <http://dcf.vermont.gov/sites/dcf/files/FSD/Policies/125.pdf>

DCF Guardianship Assistance Policy: <http://dcf.vermont.gov/sites/dcf/files/FSD/Policies/195.pdf>

DCF Adoption Assistance Policy: <http://dcf.vermont.gov/sites/dcf/files/FSD/Policies/193.pdf>



Intro to DCF Involved Permanency Options

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Vermont Foster and Adoptive Parent Association

Annual Conference April 2018

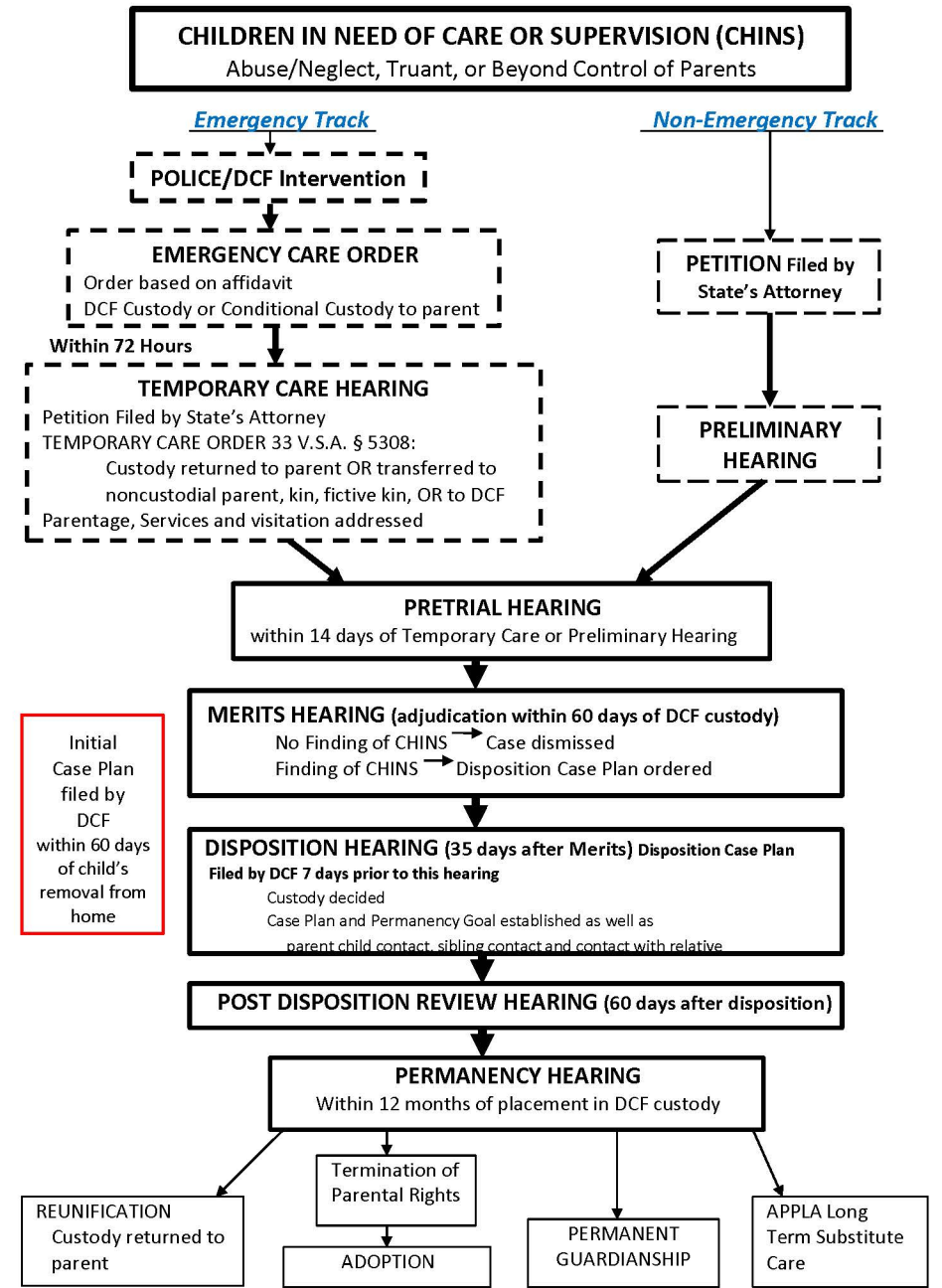


<https://www.youtube.com/watch?v=dn3IWob9u7I>

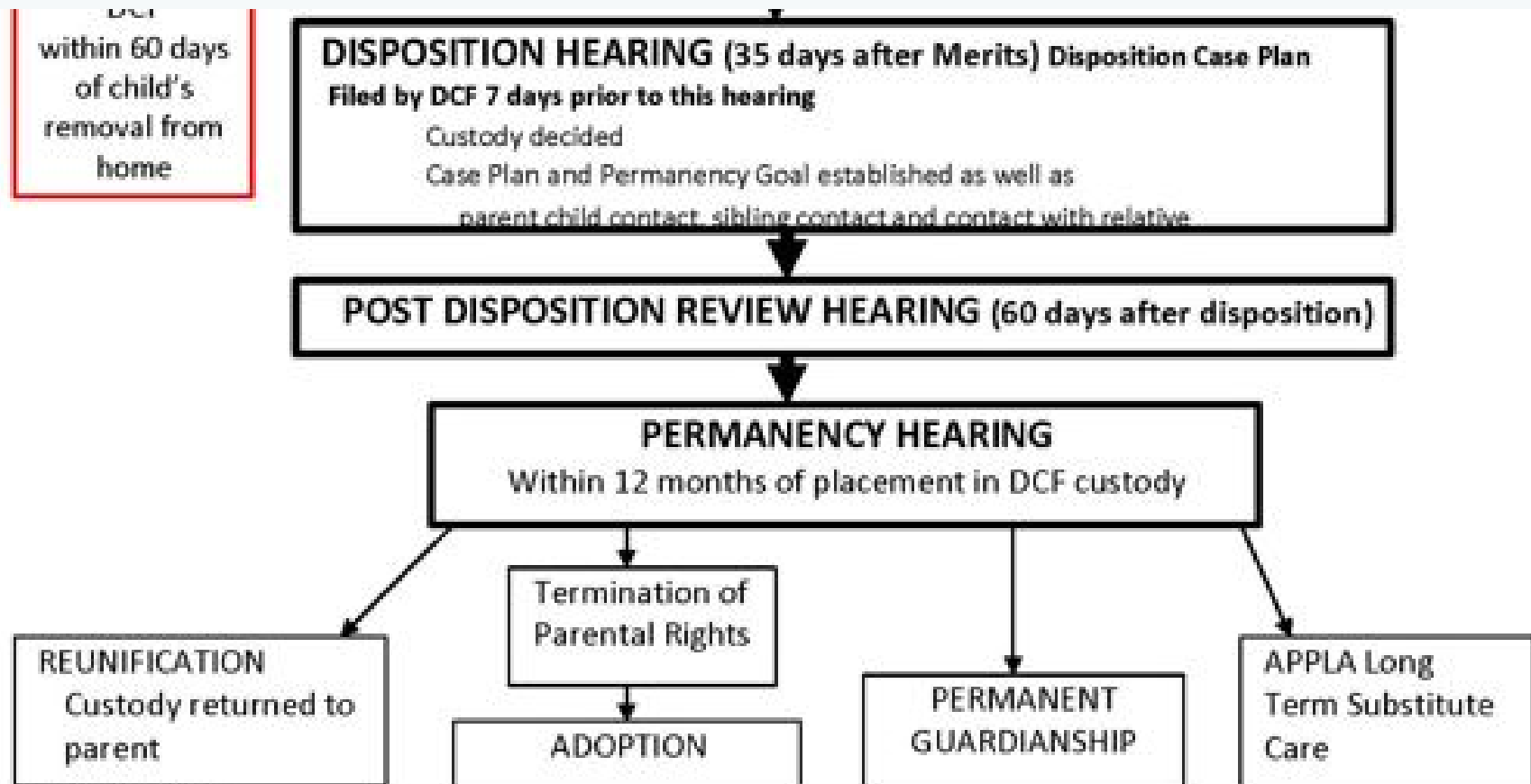
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Why does permanency matter?

How do we get to permanency?



The Permanency Process



Permanency Outcomes

Reunification

- Over 50% of cases result in reunification after successful completion of case plan goals.
- After the case is closed, it is as though it never happened. The parent has full rights and responsibilities.
 - There may be orders for parent/child contact if a child returns to one of two parents.
- A former placement has no legal role or right.
- If a child reunifies after age 13 they can be considered an independent student for Federal Financial Aid. Their parents' income will not count in determining what aid they are eligible for.
- Youth are eligible for some Youth Development Program services.

Permanency Outcomes

Adoption

- ▶ Parental rights of previous parent are terminated and new durable legal relationship established. Parent who adopts has full rights and responsibilities to child.
 - ▶ If previous (birth) parent(s) relinquish, a post-adoption contact agreement (PACA) may be an option. This is not required and is not available with non-voluntary terminations. PACAs are legally binding. There needs to be a separate agreement for each child with each prior parent.
- ▶ If a child is 14 or up, they must consent to their adoption.
- ▶ DCF involvement ends at the adoption.
- ▶ Post permanency services are available.

Permanency Outcomes Adoption

- DCF partners with Lund to finalize adoptions via Project Family.
 - Adoption assistance will likely be offered.
 - Financial assistance,
 - Medical assistance in the form of Medicaid,
 - Costs associated with finalizing the adoption,
 - Child care assistance in some circumstances.
- If the child is adopted after the age of 13 they will be considered an independent student for Federal Financial Aid.
- The child will be eligible for some services from the Youth Development Program.

Permanency Outcomes

Permanent Guardianship

- ▶ Parental rights of the parents remain intact. Visitation and/or information sharing may be ordered by the Court. The guardian has custody of and responsibility for the child.
 - ▶ The order comes out of Family Court and is monitored annually in Probate Court.
 - ▶ If reunification is being considered or the guardian no longer wishes to serve in this role the child comes (back) into DCF custody.
- ▶ All legal ties between the guardian and child dissolve at 18.
 - ▶ Child cannot inherit from guardian.
 - ▶ Parent is next of kin in adulthood.
- ▶ If the child is 14 or older they must consent to the guardianship.
- ▶ DCF involvement ends when the guardianship is established.
- ▶ Post-permanency supports are available.

Permanency Outcomes

Permanent Guardianship

- ▶ If the proposed guardian is a **relative** AND a **licensed foster parent**, guardianship assistance may be available.
 - ▶ Lund via Project Family helps to apply for guardianship assistance.
 - ▶ Benefits are similar to adoption assistance.
 - ▶ If the proposed guardian is not a relative and/or not a licensed foster parent, supports may be available via the Economic Services Division in the form of a Child Only Reach Up Grant.
 - ▶ The parent is usually required to pay child support if the guardian is receiving Reach Up.
- ▶ If the child is in guardianship after the age of 13 they will be considered an independent student for Federal Financial Aid.
- ▶ The child will be eligible for some services from the Youth Development Program.

Permanency Outcomes

Another Planned Living Arrangement (APPLA)

- ▶ Child must be 16 or older for DCF to propose this plan.
- ▶ Youth remains in DCF custody until age 18. Parental relationship continues as is at time of 18th birthday into adulthood.
- ▶ 3 options for after 18 Voluntary Services Agreements:
 - ▶ Youth has to maintain 40 hours a week of “productive time” for financial assistance to continue and comply with terms of agreement. Agreements must end by age 22.
 - ▶ Category A
 - ▶ Youth lives with licensed adult while completing high school. Foster care reimbursement continues until high school graduation. An extension of 6 months may be granted.
 - ▶ Category B
 - ▶ Youth lives with an adult living partner (not a parent) who receives small financial payment to provide housing and support to youth.
 - ▶ Category C
 - ▶ Youth receives financial support based on their budget for expenses. Typically \$150-\$400 a month with frequent reviews.

Permanency Outcomes

Another Planned Living Arrangement (APPLA)

- ▶ Youth must apply for Medicaid at 18 and at any review. Categorically eligible to age 26 under Affordable Care Act.
- ▶ Some scholarships and grants may be available specific to this population of youth.
- ▶ If the child is in DCF custody after the age of 13 they will be considered an independent student for Federal Financial Aid.
- ▶ Youth is eligible for many supports from the Youth Development Program. These are all voluntary.

Permanency Outcomes

Reinstatement of Parental Rights

- ▶ Child must be legally freed for reinstatement to occur.
 - ▶ Available for children who have been legally freed and not adopted, or
 - ▶ Children who have been adopted and the adoption is subsequently dissolved.
- ▶ Case plan must be filed addressing what has changed with the parent to indicate they are now able to parent.
- ▶ Child placed in conditional custody of parent prior to reinstatement.
- ▶ Reinstatement gives parents legal rights and responsibilities to child but the original TPR remains in Court Record.
- ▶ Child receives no automatic benefit from DCF or ESD.
- ▶ If the child is in DCF custody after the age of 13 they will be considered an independent student for Federal Financial Aid.
- ▶ Youth is eligible for some supports from the Youth Development Program.

Resources

- ▶ DCF-FSD publications: <http://dcf.vermont.gov/fsd/publications>
- ▶ DCF-FSD policies: <http://dcf.vermont.gov/fsd/policies>
- ▶ Child Welfare Information Gateway:
<https://www.childwelfare.gov/catalog/topiclist/?CWIGFunctionsaction=publicationCatalog:main.dspTopicsDetail&topicID=7>
- ▶ Vermont Kin as Parents: <http://vermontkinasparents.org/>
- ▶ North American Council on Adoptable Children: <https://www.nacac.org/>
- ▶ VT Consortium for Adoption and Guardianship:
<https://www.vtadoption.org/>