

DEPENDENCY COURT (FOSTER CARE)

Example 1: Thurston's first grade teacher noticed bruises on both of his legs. As a teacher, Ms. Kay is required by law to report suspected abuse. An emergency social worker investigated the report and removed Thurston from his father's home. The social worker contacted Thurston's grandmother who lived in the same neighborhood to see if she would care for Thurston.

Example 2: Jonathan's 20-year-old son, Robert, is a cocaine user. Sometimes, Robert and his girlfriend, Sherrie, will leave their 2-year-old daughter, Erin, with their babysitter for extended periods of time. The babysitter contacted Jonathan and asked him to pick up Erin because Robert and Sherrie left Erin with her for two days and had not called. Jonathan is considering contacting DCFS regarding his granddaughter.

HOW KIDS GET PLACED INTO THE FOSTER CARE SYSTEM

In Los Angeles County, the child protective service agency is called the Department of Children and Family Services (DCFS). DCFS is responsible for providing temporary care (usually called foster care) for children who have been abused or neglected.

CHILD ABUSE REFERRAL

Any person who suspects that a child is abused, neglected, or abandoned by his or her parents can make a referral to the Child Abuse Hotline. Some professionals, such as teachers, health care workers, and police officers, are mandated reporters and are required to make a report if they suspect child abuse. For example, a referral may be made at birth if the baby is born with drugs in her system. Once a call is made, a social worker from DCFS is sent to child's residence to investigate. Social workers are available 24 hours a day, 7 days a week, to protect children in dangerous situations.

DCFS may decide one of three things: (1) no action is needed, (2) to work with the family outside of the court system and provide **family preservation** services (with or without a Voluntary Placement Agreement), or (3) to remove the child from the parents and place the child in protective custody. If DCFS removes a child from the home, DCFS places the child in a foster home while the parent or guardian is given time to attempt to reunite with the children.

To reach the DCFS Child Abuse Hotline, call toll free 800-540-4000.

Possible Outcome # 1: DCFS Decides Child is not at Risk

Example:

Daniel's parents were arrested for robbery. His parents asked the police to take Daniel to his great-aunt Nelda's house. The police called DCFS. A social worker then called Nelda to see if she would be able to care for Daniel. The social worker informed Nelda that she could get probate guardianship of Daniel.

DCFS may determine, after investigating, that there is no need to take any action. This may be because they were not able to find any evidence of abuse, abandonment, or neglect by the parent or legal guardian. Or, DCFS may find that although the parent is unable to adequately care for the child, the parent has made adequate provisions for a child's care—for example, by asking a responsible relative or friend to care for their child.

If you believe that the child is at risk and should be in DCFS's care, but DCFS does not take the child into protective custody, you can file a petition with the Juvenile Court requesting that the court take jurisdiction. The petition is called "Application to Commence Proceeding by Affidavit and Decision by Social Worker (JV-210)." This form is available online at <http://www.courtinfo.ca.gov>.

TIP!

Sometimes, a social worker will contact a child's relatives to take care of a child and tell them they need to get probate guardianship.

If a child is placed in your home by a social worker, you are strongly encouraged to contact an attorney to discuss whether it would be appropriate to request that the child be placed with you through the foster care system instead. If you are considering this option, please carefully review this section as well as the section on probate guardianship.

While the concept of foster care sometimes carries with it negative associations, certain benefits and services are available through the foster care system that are not available to informal caregivers, probate court legal guardians or parents who adopt a child who is not in foster care.

The decision to request that the child be placed with you through the foster care system is a difficult one to make as there is always the possibility that the Department of Children and Family Services (DCFS) will determine that the current caregiver is not suited to care for the child and place the child elsewhere. However, if the child in your care is disabled (or has special health or mental health needs), an older teen, or undocumented, you may want to consider this option because more financial benefits and supports may be available to you, the caregiver, and to the child, through the foster care system.

Possible Outcome #2: DCFS Provides Family Preservation Services

If DCFS, after investigating a child abuse report, has concerns about the child's well-being DCFS must first determine whether they can protect the child's safety by providing the family with resources and social work support (opening up a family preservation case) without opening up a dependency or foster care **court case**. For example, the social worker can assist the parent in obtaining appropriate medical or mental health services for the child, or can refer the parent to classes that educate the parent as to appropriate discipline techniques. During the time, the parent continues to have legal custody of the child.

The social worker can provide these services while keeping the child in the parent's care. However, if the social worker believes that it would not be safe for the child to stay with the parent, the social worker can ask the parent to voluntarily place the child in the home of a relative or foster parent temporarily while the parent completes necessary programs or classes. These conditions can be made part of a Voluntary Placement Agreement (VPA), which the parent must agree to and sign.

If the parent does not agree and sign to the VPA and DCFS still thinks the child should not be with the parent, then DCFS must open up a case in dependency court to legally remove the child from the parent's custody. See Possible Outcome #3 below.

If the parent and social worker agree to a VPA, the parent is given up to six months to complete the necessary steps to create a safe environment for the child in the parent's home. If at the end of this time, the DCFS social worker determines that the parent complied with the plan, the social worker will close the family preservation case. If the parent does not comply, the social worker must begin the legal process to open up a dependency court case and remove the child from the parent's custody.

TIP!

The relative or foster parent caring for a child under a voluntary VPA is entitled to receive CalWORKs or foster care benefits. If you are a caretaker through a VPA, it is very important that the VPA not last more than six months, or the child will lose eligibility for federal foster care funding.

Possible Outcome #3: DCFS Opens Up a Dependency Court Case

If, after investigating a child abuse report, DCFS determines that the child's welfare is at risk, and the only way to protect the child is to immediately remove the child from the parent's custody, DCFS will file a dependency court case. Once the dependency court takes jurisdiction of a child, any other custody proceedings

involving the child are stopped. You cannot get guardianship of the child in probate court. Nor can a parent get a custody order through the family court. All custody decisions regarding the child must be made by the dependency court.

The section below provides information on the dependency court process.

WHAT IS THE JUVENILE COURT DEPENDENCY PROCESS?

When a child is removed from the parents' custody for abuse or neglect, DCFS must file a petition with the Juvenile Court Dependency Division within 48 hours stating the allegations of abuse or neglect. Once the petition is filed, a series of court hearings are held. The first hearing must occur within one court day after the petition is filed. The court must determine whether the child is "at risk" and needs to be removed from the parent's home.

In most cases, the child's parents or legal guardians will receive Family Reunification Services. This includes referrals to programs, such as parenting classes, drug rehabilitation, anger management, and counseling, to assist the parent in dealing with the issues that led to the child abuse referral. It also includes a schedule of visitation with the child, if the social worker believes it to be appropriate. In some severe cases, the court may waive reunification services and decide right away on a permanent placement for the child outside the parent or guardian's home. Examples of such severe cases include: (1) a finding that the parent's or guardian's whereabouts are unknown despite diligent efforts; (2) that the child is being removed as a result of physical or sexual abuse, and the child or child's sibling has been in foster care in the past as a result of physical or sexual abuse; and (3) the parent or guardian has been convicted of a certain type of violent felony. Parents who are incarcerated or institutionalized receive reunification services unless the court finds that such services would be detrimental to the child.

In dependency hearings, separate attorneys represent the mother, the father, the child and DCFS. Children in foster care also have a Children's Social Worker (CSW) and may have a Court Appointed Special Advocate (CASA volunteer). The social worker must visit the child at least once every month and write a court report regarding the child's condition and the parent's efforts at reunification before every court hearing.

The court will give the parent or guardian a certain period of time to complete the reunification requirements. The case is reviewed at least every six months. At each review hearing, DCFS must prove that conditions still exist that make it necessary for the court case to remain open. Otherwise, the court will close the case and return the child to the parent or legal guardian. This can take six, twelve, or eighteen months, depending on the age of the child and the efforts that the parent is taking to reunify with the child. If the parent or guardian does not complete the reunification requirements, the court will decide on one of the following permanent plans for the child: (1) adoption; (2) legal guardianship; or (3) long-term foster care.

BECOMING A CAREGIVER THROUGH DEPENDENCY COURT

After removing a child from the care of a parent or guardian, DCFS needs to consider what the most appropriate placement is for the child. Under the law, if a child cannot be placed with a parent, a child's grandparents, aunts, uncles, and adult siblings are given first preference to care for the child. Other relatives and close family friends are given secondary preference to care for the child.

A "relative" is considered to be any relation by blood, marriage or adoption who is within the 5th degree of kinship to the child. A close family friend, or "Non-Related Extended Family Member—(NREFM)" is an adult caregiver who has established a familial or mentoring relationship with the child or the parent. Relative and close family friend's homes must be approved by DCFS, but they do not need to obtain a foster care license.

TIP!

Under a recent law, within 30 days of a child being removed from the care of a parent, social workers (and probation officers) must conduct an investigation to locate relatives of the child and inform them that the child has been removed from the parents' custody. The social worker must provide these relatives with written information about how the child can be placed in the relative's home, how the relative can visit with the child, and the types of services and benefits available to relative caregivers. If you receive a letter from a social worker regarding a child, you will be able to contact the social worker to request that the child be placed with you or to provide information about the child.

If you are aware of a child who has been removed from his or her home and you want to care for this child but have not been contacted by a social worker, you should immediately call the DCFS Public Information Line. Tell them you want to care for the child and you need the name and phone number of the child's emergency social worker. Be prepared to provide the names, addresses and ages of the child, and the child's mother and father.

DCFS Public Information Line: (213) 351-5602 or (213) 351-5603

How DCFS APPROVES CAREGIVERS

Relative caregivers and close family friends must have their homes "approved" by DCFS before a child can be placed with them.

The requirements for "approval" consist of three major areas: criminal records clearance, caregiver qualifications and safety of the home environment.

- A criminal records check, which includes a child abuse records check, is required for all applicants and adults living in the home;

- Exemptions may be granted for certain criminal convictions at DCFS discretion;
- Caregiver qualifications require an ability to provide supervision for the child, and an ability to meet the child's needs; and
- A clean safe environment that provides for the storage of weapons, poisons, medications, and provides safe, healthy and comfortable accommodations.

Note that although DCFS must investigate all adults in the home of a prospective caregiver, and complete criminal background and child abuse checks, exemptions are only needed for convictions, as opposed to arrests or child abuse reports. Consider the following example:

John entered foster care. DCFS is determining whether John can be placed with his uncle Jack. Thirty years ago, Jack was arrested for burglary but was never charged or convicted. Twenty years ago, Jack was convicted of driving under the influence. Although DCFS must look at all aspects of Jack's past when determining whether placement is appropriate, DCFS only needs an exemption for the conviction of DUI.

TIP!

DCFS must make every effort to place the child with a relative or close family friend. If you are a relative or close family friend and your home is not approved because of something that can be fixed—for example, a broken lock, or the need for additional beds or smoke detectors—DCFS should help you fix those problems or assist you with purchasing necessary items.

If your home is not approved, DCFS is required to notify you of this decision in writing. This notification must include information regarding the grievance review procedure and your right to challenge the decision, a copy of the grievance review document and procedural regulations. The grievance or complaint must be submitted within five working days from the time you became aware of the decision not to

approve your home. You can obtain a copy of the grievance or complaint procedure and of the requirements for foster care caregivers on the DCFS website.

Click on the “Child Welfare Services Handbook” link, then to Section 0100-000 Out-of-Home Care.

<http://dcfs.co.la.ca.us/aboutus/policy.html>.

Look for: Procedural Guide 0100-520.10 “Evaluating a Prospective Caregiver”

In addition, the Kinship Resource Center assists relative caregivers:

DCFS Kinship Resource Center Toll-Free Number 888-694-7263

A foster parent who is not related to or is not a close family friend of a child is required to be “licensed” in the State of California. These individuals, in addition to undergoing the same home approval process required for relatives and close family friends, are required to attend a 36 hour class called Model Approaches to Partnerships in Parenting (MAPP).

Relatives or close family friends who already have a foster care license can have the child be placed in their care under their foster care license. They do not need to go through an additional home approval process.

MAPP classes are not required for relatives or close family friends but many caretakers have found it helpful to take a parenting course called Foster/Kinship Care Education Program. This class is offered at various community colleges in Los Angeles County. The curriculum at each college may be different.

TIP!

To locate the closest community college in your area that offers this program:

Go to www.dcfcs.co.la.ca.us/kinshippublic/default.html

Click on KEPS Program, then on Foster/ Kinship Care Education (FKCE) Program Director

FOSTER PARENTS AND DEPENDENCY COURT PROCEEDINGS

As a child’s foster parent, you will not automatically have a lawyer appointed to represent you. Because it is important for the judge and the other attorneys to know how you are caring for the child, you may want to attend the court hearings. The social worker is required to send you written notice of future hearings and copies of reports on parents’ progress or lack of progress toward reunification.

A foster care caregiver can submit a De Facto Parent Application to the court. The application requires the caregiver to detail the relationship, nature and frequency of contact with the child. Usually the court will grant De Facto Parent status only after it has terminated reunification efforts with the parents. If granted by the court, you will be afforded the same rights as the child’s parents and be allowed to be represented by an attorney and participate in the court hearings. The form is a simple one-page document.

Even if you are not appointed a De Facto Parent, prior to each dependency review hearing, or when necessary, you should complete a document called the Caregiver Information Form. This document allows you to submit written information to the court regarding the child’s physical health, education, adjustment to living arrangement or other helpful information. For example, the form asks the caregiver to keep the court informed of any special education needs of the child. The form should be signed by the foster care relative caregiver and submitted to the court well in advance of the hearing date. The form is a simple two-page document.

To obtain any of these forms, contact the Children’s Court Clerk’s office to get a copy of the application or print them from www.courtinfo.ca.gov/forms

JV-299 (De Facto Parent Pamphlet)

JV-295 (De Facto Parent Request)

JV-296 (De Facto Parent Statement)

JV-297 (De Facto Parent Order)

JV-290 (Caregiver Information Form)

TIP!

As a foster care caregiver, you should also make sure you keep all court forms in an organized folder. Throughout the process, you may be asked to provide copies of the child's birth certificate, Social Security card, medical appointments, education records, and various other papers.

We recommend that you get a spiral notebook with pockets so you can keep track of various activities and contact numbers. It is also a good idea to keep a record of all conversations with the child's social worker, minor's attorney, and parent(s).

DCFS RESOURCES

There are a variety of resources that are available to foster care relative and non-relative caregivers. These resources are designed to assist both the children and their caretakers. These resources are not available to informal caregivers or guardians appointed through probate court.

These resources may include:

- *Child care programs for foster care caregivers who are working or in school;*
- *Respite care in times of crisis or when temporary relief from the responsibilities of foster parenting is needed, such as the death of an immediate family member, and hospitalization of the caregiver;*
- *Clothing allowance for children who are receiving foster care (as opposed to CalWORKs) benefits;*
- *Kinship Resource Center Support Groups for relative caregivers;*
- *Independent Living Program (ILP). Starting at the age of 16, all foster children are eligible, on request, to participate in the program which provides resources and training to assist them in transitioning to living on their own. These benefits can include:*
 - *Money to pay for books and other education expenses*

- *Money to pay for car insurance*
- *Rental assistance, and eligibility to live in transitional living housing*
- *Classes that help children prepare to live on their own*
- *There are many other benefits available through ILP, see the "Other Benefits" section in the back of this booklet for more information and Public Counsel's A,B,C's of Transition and the Independent Living Program Manual, which can be downloaded from our website at www.publiccounsel.org.*

BENEFITS FOR INDIVIDUALS CARING FOR CHILDREN IN FOSTER CARE

All foster care caregivers are entitled to receive some kind of financial assistance. The type of financial assistance that you receive depends on several factors, including your relationship to the child (related or unrelated), the age of the child and whether the child has any special needs, the child's immigration status, and the number of children you are caring for.

TIP!

Related and unrelated foster care caregivers of undocumented children in foster care receive a foster care payment from the state or the County of Los Angeles (sometimes called non-federal funds).

Note that legal guardians through probate court, whether related or unrelated, are not eligible to receive financial assistance for undocumented children. However, refer to the "Special Cases" and "Undocumented Children" sections in the back of this booklet for information on whether the child might be eligible to apply for an immigration benefit.

Foster Care Benefits

Foster care benefits are monthly payments given to individuals who are caring for a child in the foster care system. All unrelated caregivers (including NRFMs- close family friends) receive

foster care benefits. However, related caregivers can only receive foster care benefits in certain circumstances. For this reason, being correctly identified as a relative or non-relative (NREFM) is important. Some common examples of individuals who are considered non-relatives are second cousins, and certain step-relatives (only step-siblings and step-parents are considered relatives). For purposes of funding, a relative can be considered a non-relative once parental rights are terminated.

For related caregivers, foster care benefits are also sometimes called “Youakim” benefits. In order to qualify, the child must have been eligible for a certain kind of welfare benefit when DCFS or the Probation Department removed the child from the parents’ home. The determination of whether a relative caregiver qualifies for federal foster care benefits is very technical, but the child must have come from a low-income household. The amount of the foster care monthly payment for a child is based on the child’s age and whether the child has emotional, behavioral, medical or developmental problems.

If the child has special medical needs, he or she may qualify for additional assistance above the basic foster care rate. In Los Angeles County, the “D” rate covers children with serious emotional or behavioral. The “F” rate covers children with serious medical conditions, physical disabilities or developmental delays. In addition, children with developmental delays who are Regional Center clients are eligible to receive a specialized “dual agency” rate, and supplement (for children 3 and older with extraordinary care or supervision needs). In order to obtain these specialized rates, additional documentation and/or evaluations are required. To receive a “D” or “F” rate, the caretaker will also need to undergo additional training and certification.

If you live outside of Los Angeles County, you will receive the specialized care rate that is given by the county in which you live.

Generally, foster care benefits continue until the child is 18, or to age 19 if the child has a disability that impairs his or her ability to graduate or can prove that he/she will graduate by age 19. In

Los Angeles County, county funds will be used to provide financial assistance to foster children with an open dependency court case until the age of 21.

Example:

DCFS recently placed seven-year old twins Sarah and Julie with Mary. Both girls have special needs, so Mary took D-rate and F-rate classes prior to the placement. Sarah has severe asthma which requires daily inhaler treatments and Julie has Reactive Attachment Disorder that severely impacts her functioning in school and home. Instead of getting the basic rate for each of the girls, Mary receives the F-2 rate for Sarah and D-rate for Julie.

TIP!!

If you believe that you were inappropriately denied foster care benefits, or are not getting the appropriate rate, contact the child’s attorney or a legal service provider as soon as possible. If you were denied benefits, you must file your appeal within 90 days to obtain benefits back to the time that the child was placed with you. If you request the hearing after 90 days, you will only obtain benefits from the time that you request the hearing.

CALWORKS

As discussed above, many foster care relative caregivers do not qualify for foster care benefits because they do not meet the federal standards.

However, just like informal relative caregivers, foster care relative caregivers qualify for CalWORKs if the child is a legal permanent resident, U.S. citizen, or other qualified immigrant. Unfortunately, the monthly cash assistance from CalWORKs is less than the monthly cash assistance from foster care benefits and does not provide for the extra money for children with special medical or health needs. Remember that informal relative caregivers can obtain CalWORKs without having to open up a foster care or probate guardianship case.

The child will continue to receive cash assistance until 18 years of age, or up to age 19 if the child will graduate by age 19 or has a disability, health condition, or other situation (such as a school disruption due to domestic violence) that impairs his or her ability to graduate by age 19. Contact the Children's Social Worker (CSW) assigned to your child or the local Department of Public Social Services (DPSS) to complete a CalWORKs application. You may be eligible to receive CalWORKs benefits beginning the date the dependency court placed the child in your home even if you wait to apply for CalWORKs.

TIP!

If your application for CalWORKs was denied, contact a legal service provider or the Appeals and State Hearing Toll-Free number 800-952-5253 after you receive the Notice of Action.

HEALTH CARE: MEDI-CAL

Children in foster care receiving Cal-WORKs, foster care benefits, and SSI are eligible to receive full medical coverage through Medi-Cal. Undocumented children are not eligible for full-scope Medi-Cal, however, they can receive emergency Medi-Cal and some other health benefits (see the section on Special Cases/Undocumented Children starting on page 29). DCFS is responsible for taking care of medical needs of foster children not otherwise covered.

TIP!

If the child has special needs that are not being met through Medi-Cal, additional financial resources are available from DCFS. Please contact the child's attorney, social worker, or the DCFS Kinship Resource Center.

OTHER BENEFITS

In addition to the benefits discussed above, the child in your care may be eligible for additional benefits which are identified in the section entitled Other Benefits on page 31.

DEPENDENCY COURT OUTCOMES

DCFS's primary goal is the safety of the child. DCFS attempts reunification of the child with the parent(s) whenever possible. If the child cannot be returned home, federal and state law require that a permanent plan be made for the child.

The following three permanent plan options are considered by the court, in order of preference:

- *Dependency Court Agency Adoption ;*
- *Dependency Court Legal Guardianship;*
- *Long-Term Foster Care*

DEPENDENCY COURT AGENCY ADOPTION

Adoption is the preferred permanent option in dependency court. Adoption establishes a permanent, life-long relationship of parent and child, creating rights and responsibilities equal to biological parents, including rights of inheritance. It is a legal process initiated after parental rights are terminated by a court or relinquished by a parent. Once parental rights are terminated, all rights and responsibilities of the birth parents cease to exist and a child is legally placed in the care, custody, and control of child protection services or licensed adoption agency while still remaining in the physical care of the prospective adoptive parent(s).

At a minimum, a child must be in the home of the prospective adoptive parent for six months under the supervision of a social worker before the adoption could go forward. A caregiver who is approved to adopt after passing a criminal clearance and home-study by a social worker may then go before a judge to grant the adoption. This home study is different, and much more comprehensive, than the home study that was completed to initially place the child in your home. When the adoption is granted by the court, the child is adopted by a caregiver who then becomes the child's legal parent.

Although by law adoption is the preferred permanent plan for a foster child, a court can allow a child to remain in the home of a relative caretaker under a legal guardianship if the caretaker is willing to accept legal or financial

responsibility for the child, but does not want to adopt, and it is in the child's best interest not to be removed from the caretaker. This can apply to non-relative caretakers as well as long as the child is not under six years of age or has a sibling that is under six and the court believes the siblings should be placed together permanently.

TIP!!

In California, a single person or a non-married couple may adopt – even a biological grandmother and aunt may adopt together (or other combinations of relatives).

But, if you were married, you must show proof that your spouse died, or that you either divorced your spouse or obtained his/her written permission to adopt, with some very narrow exceptions. Therefore, if you are still legally married (even though you may be physically separated) you should consider obtaining a divorce or written permission of your spouse prior initiating the adoption home-study process with a social worker.

BENEFITS FOR CAREGIVERS UNDER AGENCY ADOPTION

Cash Assistance from Adoption Assistance Program (AAP): The Adoption Assistance Program (AAP) was designed to enable caretakers to adopt children from the foster care system without having to alter their standard of living. Under AAP, an adopted child can continue to receive financial benefits.

The AAP payment will replace the foster care payment. The AAP payment is a negotiated amount based on the child's age and needs and the ability of the family to meet those needs. Children receiving AAP are eligible for the same higher specialized rates as children receiving foster care benefits, including the "D" rate for children with certain medical needs, the "F" rate for children with emotional or behavioral needs, and "dual agency" rate and supplement for children who are developmentally disabled

and a client of the Regional Center. Adoptive parents can receive these specialized rates even if they were previously receiving only the basic foster care rate or Cal-WORKs. In addition, AAP benefits for children who are under Los Angeles county court jurisdiction will continue even if the adoptive parents move (or currently live) outside of the county, state, or country.

The AAP agreement must be reviewed and any specialized rate recertified every two years. The AAP rate will never go below the basic foster care rate, but adoptive parents will not receive increases in the rate as the child gets older. The adoptive parents will continue to receive AAP payments until the child turns 18, or in some instances, if an adopted child has a severe mental or physical need, until the youth turns 21.

Health Care-Medi-Cal: When a foster child is adopted, he will continue to be eligible for Medi-Cal as long as the child is eligible for AAP. If an adoptive parent has private insurance, the child should be placed on the insurance plan as a dependent and still have Medi-Cal available as a secondary insurer.

DCFS Resources: Shortly after an adoption is finalized, the court case and the case with DCFS close. However, if adoptive parents have questions, concerns, or require referrals or assistance, they may contact their last adoption social worker within 6 months after the case is closed. In addition, if the child is at least 16 years old when adopted, the child is eligible for Independent Living Program (ILP) services.

In addition, the Post-Adoption Services (PAS) Unit is available for all adoptive families. PAS social workers provide support, information about community resources and recent literature about adoption to adoptees, adoptive families and birth families.

The PAS Unit can:

- *Help adoptive families with Adoption Assistance Program (AAP) reassessments for an increase in their AAP benefits.*
- *Provide emotional support through monthly*

adoptive parent support groups and individual discussions with social workers.

- Provide referrals to community resources that deal specifically with adoption issues.

The PAS Unit can be reached at (800) 735-4984.

DEPENDENCY COURT LEGAL GUARDIANSHIP

If the court finds that adoption is not in a child's best interest, legal guardianship is the preferred permanent plan for a child. Legal guardianship gives the caregiver custody of the child. If the court orders legal guardianship, usually parental rights are not terminated. Thus, the parents can attempt to regain custody of their child by filing a petition in dependency court. The parents must show that there is a change in circumstances that warrant a change in the custody order, and that such a change would be in the child's best interest. The court will usually close its case after the guardianship is granted, but in some cases it may be beneficial to request that the court case remain open.

TIP!

If you were awarded legal guardianship of a child through the foster care system, you must return to dependency court to change the order (for example, to add a co-guardian, transfer the guardianship to another person, or to return the child to the parent's custody). You must show that this change in placement is in the child's best interest. Use form JV-180 (request to change court order).

BENEFITS FOR DEPENDENCY COURT LEGAL GUARDIANSHIP

KIN-GAP

In California, a program called the Kinship Guardianship Assistance Program (Kin-GAP) is available to foster care relative caregivers.

Under the Kin-GAP program, the relative caregiver becomes the child's legal guardian and the dependency court terminates its jurisdiction over the child. The program allows the relative caregiver to continue to receive monthly cash assistance for the child. DCFS will close its social services case, and the child will no longer be visited by a social worker. However, the legal guardian and child can receive services, such as support groups, training and conferences, education and financial assistance, counseling, mental health and health assessment referrals through the Kinship Resource Center (see the Services Directory on page 46 in the back of this booklet for further information). Caregivers who become legal guardians can begin receiving Kin-GAP payments after the child has been in their care for at least 12 consecutive months. Before the 12 months have passed, the relative legal guardian will continue to receive the type of financial assistance he or she was receiving as a foster caregiver.

Before you become a legal guardian through the Kin-GAP program, it is also a good idea to attend a Kin-GAP orientation offered through the Los Angeles community colleges. The child's social worker can give you information on times and locations.

Kin-GAP Cash Assistance: The Kin-GAP payment will be equal to the foster care rate that the child was receiving prior to the Court terminating jurisdiction. If the child was receiving D or F rate foster care benefits prior to the Court terminating jurisdiction, the child will receive Kin-GAP at the same rate. In addition, children who are developmentally disabled and a client of the Regional Center can also receive a higher "dual agency" rate and "supplement" through Kin-GAP.

Benefits can continue up to age 18, and up to age 19 if the youth is still in high school, attending certain vocational programs, or completing a GED and expected to complete the program by their 19th birthday. In order to receive Kin-GAP, the youth must be living with the caretaker.

Note that caretakers living outside of Los Angeles County will receive the Kin-GAP rate for Los Angeles County. A legal guardian must obtain court approval before moving out of state. Kin-GAP cannot be paid to children living out-of-state.

TIP!

If you are caring for a child under the age of three who is receiving Early Start services through Regional Center, it is very important that you talk to the child's attorney or a legal service provider before closing the court case under Kin-GAP. The child must be assessed prior to his or her enrollment in Kin-GAP in order to determine whether the child will qualify for the dual agency rate. If the child becomes a Regional Center consumer, the Kin-GAP rate will be the dual agency rate.

Also, if you are caring for a child age three or older who has a developmental disability, the child should be assessed by the Regional Center and the dual agency rate BEFORE being referred to Kin-GAP.

Health Care–Medi-Cal: A child will continue to be eligible for Medi-Cal as long as the child is eligible for Kin-GAP. Eligibility for Medi-Cal can continue past the child's 18th birthday and until age 21 if the child is in school, but additional action will be required prior to the child's 18th birthday. If the child has special needs that are not being met through Medi-Cal, NO additional medical resources will be available from DCFS.

DCFS Resources: Under the Kin-GAP program, no further child welfare services or follow-up will be provided. However, beginning at age 16, the child can begin receiving Independent Living Program (ILP) services. ILP services and the clothing allowance are available to Kin-GAP youth regardless of when their dependency court case was closed. However, youth will not be eligible for the Chafee grant, which provides

up to \$5,000 a year for career and technical training or college unless their court case was closed after the age of 16.

TIP!

A related legal guardian can receive Kin-GAP even if he or she was only receiving Cal-WORKS, SSA, or any other source of funding besides foster care (or even no funding at all) as a foster caretaker. In these cases, the Kin-GAP rate will be equal to the basic foster care rate. The caregiver cannot receive any specialized "D", "F" or dual agency rates.

FOSTER CARE BENEFITS

Non-relatives do not qualify for Kin-GAP. Non-relative legal guardians will continue to receive the foster care rate they were receiving as foster caregivers.

Foster Care Benefits: Legal guardians through dependency court will continue to receive foster care benefits, including specialized "D", "F", and "dual agency" rates and supplements for children who qualify. Benefits continue to age 18, but can continue up to age 19 if the youth is in high school, attending some vocational programs, or pursuing a GED, and expected to complete the program by their 19th birthday.

Health Care–Medi-Cal: A child will continue to be eligible for Medi-Cal as long as the child is eligible for foster care benefits. Eligibility for Medi-Cal can continue until age 21 if the child is in school, but additional action will be required prior to the child's 18th birthday. If the child has special needs that are not being met through Medi-Cal, NO additional medical resources will be available from DCFS unless the dependency court case remains open.

DCFS Resources: DCFS will keep a social services case open and visit the family at least once every six months. Youth will be eligible for Independent Living Program (ILP) services and the Chafee grant only if the guardianship was granted after their 16th birthday or the court case closed after their 16th birthday.

LONG-TERM FOSTER CARE

Long term-foster care is the least desirable permanent plan because it offers the least amount of stability for a child. But youth who remain in foster care after the age of 16 are eligible to receive ILP (including Chafee grants). Please refer to the ILP section on page 35. If the permanent plan for the child is long-term foster care, it means the child is expected to remain in the custody of DCFS until he or she reaches at least 18 years of age.

If the court orders long-term foster care with you as the foster caregiver, you will continue to receive the same benefits, including cash assistance from either foster care or CalWORKs, medical coverage through Medi-Cal, and access to DCFS services and resources.

DELINQUENCY COURT CUSTODY (FOSTER CARE OR LEGAL GUARDIANSHIP)

Example:

Marcel, who is 15 years old, was cited for an altercation at school and is on probation. Marcel's probation officer believes that Marcel's mother's boyfriend is using drugs in the home and recommends that Marcel be placed in foster care during his probation.

A child who is cited for committing delinquent acts may be placed on probation and placed into the foster care system. Foster care through the delinquency court is usually referred to as “suitable placement”. If a child is placed into foster care by the Probation Department, the probation officer will attempt to locate a suitable home for the child. Just as with DCFS, a probation officer is required to make reasonable efforts to prevent or eliminate the need for removal of the minor from his or her home. Reasonable efforts include case management, counseling, parenting training, mentoring programs, vocational training, educational services, substance abuse treatment, transportation, and therapeutic day services.

As with DCFS, the law requires the Probation Department to look for relatives and close family members (called Non-Relative Extended Family Members –NREFM’s) to care for the child. If a relative or close family member is located, the individual will need to be “approved” before the child is placed in the caregiver’s home. The approval process is the same as for caregivers through foster care, which includes a home inspection and background check of all individuals living in the home. If no relative or close family member can be located, the child is placed in a licensed group or foster home.

Parents of children who are placed in “suitable placement” are given family reunification services, or services which would assist them in regaining custody of their child. These services are similar to the services that are given through foster care. The parent has up to 12 months to comply with the case plan so that their child can be returned to their care. If this does not happen, the delinquency court, like the dependency court, can grant a legal guardianship or terminate parental rights so that the child can be adopted.

FINANCIAL ASSISTANCE

The same benefits—Cal-WORKs and foster care benefits-- are provided to caretakers of children who are placed in their care by the Probation Department through a suitable placement order as children who are placed with caretakers through foster care. Likewise, legal guardians or adoptive parents through delinquency court are provided the same benefits as guardians or adoptive parents through dependency court—including foster care, Kin-GAP, and AAP benefits (including specialized and dual agency rates). Please review the dependency court section starting on page 16 for additional information.