

A Guide to Child Protective Services for Relatives



State of Alaska
Department of Health & Social Services
Office of Children's Services

A Guide to Child Protective Services for Relatives

Caring for children is one of the most important jobs of every community.

Relatives play an essential role in helping to meet the needs of children who are unable to live with their parents.

The connection to family, relatives and community is very important to a growing child because:

- children can live with people they already know and trust;
- children can maintain their personal and cultural identity;
- families learn to rely on their own resources and strengths;
- relatives participate as responsible and integral members of the child and family's support team.

This booklet will help you to understand the reasons children come into the care of the Office of Children's Services (OCS), the responsibility of the state, the role of the court, the importance of relatives and the options available to relatives.

Reasons children come into state care

Children come into the care of the Office of Children's Services for reasons such as:

- Abandonment.
- A custodian is unwilling or unable to care for the child.
- Child needs medical treatment and parent has failed to provide the treatment.
- Child is absent from home and at risk of harm.
- One parent in jail and no other parent or caretaker is available to care for the child.
- Physical harm or risk of physical harm.
- Sexual abuse.
- Domestic Violence.

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- Neglect.
 - Substance abuse.
 - Mental illness.
 - Parent caused child to commit illegal act.

Preference for care with relatives

The Office of Children’s Services recognizes the importance of the family unit, the extended family, and culture as resources for the well-being of children.

When a child is removed from a parent’s home, every effort is made to place the child in the least restrictive setting that most closely approximates a family and that meets the child’s special needs. Alaska state law identifies an order-of-placement preference.

The following order of preference applies to out-of-home placements of children in Office of Children’s Services custody:

1. an adult family member;
2. a family friend who meets the foster care licensing requirements established by the department;
3. a licensed foster home that is not an adult family member or family friend;
4. or, an institution for children that has a program suitable to meet the child’s needs.

An “adult family member” means a person who is 18 years of age or older and who is (1) related to the child as the child’s grandparent, uncle, aunt or adult sibling, or (2) the child’s sibling’s legal guardian or parent.

The relative placement must be able to offer a safe, suitable place to live. The relative must pass a criminal and child protective services background check. Any person age 16 or older living in the household must also pass the background checks. A family member with a felony conviction of a violent crime or crime against children will not be able to have a child placed in the home. Family members with other types of convictions may be able to care for a child. The relative needs to discuss any criminal record

with the child's social worker.

The worker will check the relative's home for health and safety hazards and review the family's living and sleeping accommodations. The relative must also agree to cooperate with the case plan for the family. If everything appears suitable, the child can be placed with the relative while the parent addresses parenting concerns.

Placement preferences for Alaska Native children

Placement of Alaska Native, American or Canadian Indian children must follow the preference of the Federal Indian Child Welfare Act (ICWA) and any ICWA State-Tribal Agreement, unless there is good cause to the contrary or the child's tribe issues a resolution re-ordering the placement preferences.

The ICWA order of preference supersedes the order of preference specified in Alaska law. The following are the placement preferences specified under the Indian Child Welfare Act (P. L. 95-607):

1. A member of the child's extended family. An extended family member will be as defined by the law or custom of the Indian child's tribe. Indian tribes have a broad definition of family, in some cases extending to the entire clan or tribe. In the absence of such law or custom, it will be a person who has reached the age of 18 and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin or stepparents. Extended family is not defined as Indian extended family exclusively; therefore, it also includes non-Indian relatives.
2. A foster home licensed, approved or specified by the child's tribe.
3. An Indian foster home licensed by the state.
4. An institution for children approved by an Indian tribe or operated by an Indian organization, which has a program suitable, to meet the Indian child's needs.

An "adult family member" means a person who is 18 years of age or older and who is (1) related to the child as the child's grandparent, uncle, or adult sibling, or (2) the child's sibling's legal guardian or parent.

Responsibilities of relatives

Relatives caring for dependent children are expected to:

- provide a safe home for the child;
- see that the child is cared for and loved;
- see that school age children attend school, preferably the same school they attended when home;
- provide adequate supervision of the child;
- cooperate with the goals of the case plan;
- cooperate with the visitation plan between child and parent;
- cooperate with court-ordered services;
- make sure the child keeps all appointments;
- keep the worker and court informed of the child's progress; and
- explain to the child in a positive way why the parent is not able to provide care right now.

Financial help for relatives

A relative may be able to receive one of two types of government financial assistance while the child is placed in the home of a relative:

1. TANF (Temporary Assistance for Needy Families), or
2. Foster care payments

The relative may not receive both types of assistance at the same time.

Planning for the child

When the child's health or safety is at risk, an Office of Children's Services worker develops a plan to reduce the risk and improve the skills of the parent. Information from relatives is critical for developing the best plan for the child and family.

Legal status of the child

Whenever a child is found to need state care, a Temporary Custody court hearing must happen (this meeting may also be referred to as the Probable

Cause Court Hearing, depending upon your location.)

If OCS removes a child to provide protection in an emergency, it has 24 hours to decide whether a petition needs to be filed. If a petition is filed, the Temporary Custody Court Hearing will be held within 48 hours.

At the Temporary Custody hearing, the judge will decide if there is cause for the child to remain in the custody of the state. If the judge finds cause for the child to remain in custody, the social worker will work with the family to develop a case plan for reunification that will meet the safety needs of the child.

Rights of visitation (AS 47.10.080 (p))

If a child is removed from the parental home, the Office of Children's Services is required to provide reasonable visitation between the child and the child's parents, guardian, and family.

When determining what constitutes reasonable visitation with a family member, the nature and quality of the relationship that existed between the child and the family member before the child was committed to the custody of the state will be considered.

Visitation with the parents, guardian, or family members may be denied if there is clear and convincing evidence that the visits are not in the child's best interests.

If, as a family member, you request visitation and you are denied, you must be informed as to the reason for the denial. You have the right to request a court review hearing of that denial. If you are not a legal party to the case, you will have to obtain your own attorney.

Information for grandparents

If you are a grandparent, you have the right of advance written notice of all court hearings in the child's case if you have:

- contacted the Office of Children's Services;
- provided evidence acceptable to the division of being the child's grandparent;

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- requested notice of hearings in your grandchild’s case; and
 - provided the division with a current mailing address.

How do I prove that I am a grandparent?

If the child’s parent(s) confirms that you are, this constitutes acceptable evidence of the relationship. If a parent of the child is not available to confirm the claim, or if the child’s parent(s) denies the relationship, you will be required to provide evidence in the form of birth certificates.

How do I get notified?

If notice is required, your grandchild’s caseworker will be responsible to make sure that OCS provides you with notice.

Will I be able to speak at the court hearing?

You are entitled to be heard at the hearing, but the judge may limit your presence if he/she feels:

- A. it is in the best interest of the child; or
- B. it is necessary to protect the parties’ privacy interests, and it will not be detrimental to the child to do so.

Are there circumstances where I am NOT allowed to receive notice of a hearing?

Yes. The Office of Children’s Services is not required to give notice of hearings if you:

- A. have been convicted of a crime in which the child was the victim;
or
- B. are prohibited by court order to have contact with the child.

Adoption and Guardianship

If the child is not able to return home, the OCS caseworker will often develop concurrent or dual plans for the child. This means that both a primary and an alternate goal for a permanent home are developed.

The primary goal is usually for the child to go home to the parents.

The alternate goal is a backup plan in case parents do not make the changes needed for the child to be returned home safely within a reasonable amount of time. The worker will often ask a family member to consider being an alternate permanent resource for a child.

Termination of Parental Rights

When a child is unable to be reunited with his or her birth parents the OCS caseworker is required to concurrently identify, recruit, process, and approve a qualified person or family for an adoption whenever a petition to terminate a parent's rights to a child is filed.

Placement Search

1. Before identifying a placement for a child in an adoptive home, OCS will attempt to locate all living adult family members of the child, and provide to all adult family members who have been located written notice of the adult family member's rights and of the procedures necessary to pursue custody of the child.
2. If an adult family member expresses an interest in adopting a child, OCS will investigate the adult family member's ability to care for the child and will approve the request unless there is good cause not to approve.

For the purpose of determining whether the home of a relative meets the requirements for placement of a child, the Office of Children's Services shall conduct a criminal background check from state and national criminal justice information available under AS 12.62.

A fingerprint background check will be conducted on any member of the adult family member's household who is 16 years of age or older when the relative requests placement of the child.

An individual decision must be made regarding each child. These needs must be evaluated along with the child's other needs, such as: the child's developmental, educational, medical, and psychological needs; the child's attachment to current caretakers; and the child's interests, personality, and abilities.

When it has been determined that placement with an adult family member

— or when not available, a family friend — is not in the best interests of the child, the relevant facts must be documented in a relative/placement search activity note. If an adult family member or family friend had requested the placement, then OCS must inform the family member or family friend of the basis for denial and the right to request a hearing to review the decision.

Contacting your OCS worker and other OCS staff

In order to serve the children in care and their families, several people must work together. The child's worker will play a major role in this effort. Relatives should feel free to express their feelings, needs and beliefs about what they feel would be best for the child and the family.

Workers have responsibility for maintaining communication with relatives who have children placed in their homes. If a relative is unable to contact the child's worker, the relative can call the worker's supervisor. The local OCS office has the phone numbers for all staff. The receptionist can tell you the name of the worker's supervisor.

What to do if there are problems?

Relatives who are unhappy with a worker's actions or decisions should first talk to the worker. If the relative continues to be unhappy after talking with the worker, the relative can contact the worker's supervisor. If a conversation with the supervisor does not help, the relative can contact the Regional Children's Services manager for that office.

There is also a formal complaint process that may be used by relatives. The formal complaint process (also known as a grievance procedure) requires that the relative initiate the complaint with the local unit supervisor before involving the Regional Children's Services manager. The supervisor will provide a form to the relative and then set up an informal meeting between the relative, supervisor and worker. Each individual will be permitted to talk about the facts that are in the complaint and suggestions for resolution of the problem. For more information on the grievance procedure please go to the OCS Web site, <http://hss.state.ak.us/ocs/>.

Ombudsman Office

The term “ombudsman” refers to a public official who serves as an independent voice for citizens who believe they have been treated unfairly by their government. The Ombudsman’s Office was established to ensure that government agencies follow state law, regulations, policies and procedures, and respond to the public appropriately. You may decide to file a complaint with the Ombudsman’s Office. At its discretion it may decide to investigate your complaint. Contact the office at <http://www.state.ak.us/local/akpages/LEGISLATURE/ombud/home.htm>

Conclusion

We hope this information has answered many of the questions relatives may have. If you still have unanswered questions, you can contact an OCS worker, supervisor or local OCS office. Relatives should feel free to ask for additional information or clarification.

Relatives play an essential and important role in helping to meet the needs of children who are unable to live with their parents. Thank you for your willingness to provide care for children in your family. Each of you is very important to the community, OCS, and most importantly, the child placed in your care.

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