

American Bar Association Center on Children and the Law

New York Kinship Placement Options: Custody vs. Foster Care

RESPONSIBILITIES/ RIGHTS	1017/DIRECT CUSTODY or ARTICLE 6 CUSTODY	FOSTER CARE APPROVAL
Legal	<p>1017 Custody: Considered short term, although may be in effect up to 12 months or more. Custodian has right to physical custody and control of the child. They are responsible for day-to-day care and supervision of the child. Custodian is responsible for daily decision-making, <i>except</i> major decisions such as surgery, marriage and adoption.</p> <p>Article 6 Custody: Length of custody long term, possibly until child reaches majority. Birth parents may petition the Court for return of child if prove change in circumstances that allow for proper care of the child. The custodian has the authority to enroll the child in the applicable school district.</p>	<p>The foster parents share some parenting rights with DSS; however, DSS retains care and custody of the child. Foster parents may apply reasonable and prudent parenting for the child in foster care. Foster parents may not consent to medical care, educational decisions, and other major life decisions for the foster child and must obtain DSS permission for certain other activities such as out of state travel with the child.</p> <p>DSS can remove the child from the foster parents' home with prior notice (or without prior notice, if the health or safety of the child requires immediate removal).</p>
Birth Parents	<p>1017 Custody: Limits the birth parents decision-making responsibility (see block above) for length of court order.</p> <p>Certain rights and responsibilities i.e. child support, visitation, medical consent are retained by birth parents.</p> <p>Article 6 Custody: Limits parents' decision-making responsibility indefinitely.</p>	<p>Suspends the birth parents decision-making responsibility although they are usually consulted with major decision-making.</p> <p>Certain rights and responsibilities i.e. child support, visitation are retained by birth parents. The foster parent may be asked to assist with visitation and cannot change visitation plans without the expressed consent of the DSS caseworker.</p>
Daycare	<p>1017 Custody: Daycare benefits available. Eligibility determined by child's income, if any.</p> <p>Article 6 Custody: Benefits are determined by caretaker's employment, family size and income.</p>	Eligible if foster parents are employed.
Legal Fees	<p>1017 Custody: All legal fees are the responsibility of the custodian. Article 6 Custody: All legal fees are the responsibility of the custodian.</p>	All legal fees are the responsibility of the foster parent.

American Bar Association Center on Children and the Law

New York Kinship Placement Options: Custody vs. Foster Care

RESPONSIBILITIES/ RIGHTS	1017/DIRECT CUSTODY or ARTICLE 6 CUSTODY	FOSTER CARE APPROVAL
Health Care Coverage	<p>1017 Custody: Child may be eligible for Medicaid. If birth parent has 3rd party medical insurance, child continues to be covered under that policy.</p> <p>Article 6 Custody: Child may be eligible for Medicaid. The custodian has the right to enroll and receive coverage for the child in the custodian’s employer health insurance, depending on the insurance provider. .</p>	All children in foster care are automatically eligible for Medical Assistance (Medicaid) or DSS pays for their medical care.
Independent Living Services and Education and Training Vouchers	<p>1017 Custody: Child does not qualify for independent living services. Child ineligible for Education & Training Vouchers (ETV) unless previously placed in foster care for at least one year while child was 14 years old or older.</p> <p>Article 6 Custody: Same as 1017 custody, listed above.</p>	Children in foster care age 14 or older are eligible for Independent Living Services and may apply for the ETV, which provides up to \$5,000 towards attending post-secondary education or a vocational training. At age 16 or older, most youth in foster care are eligible for independent living stipends, small monthly payments to assist the youth in the development of independent living skills.