

American Bar Association Center on Children and the Law

New York Kinship Options: New York Kin GAP vs Adoption

RESPONSIBILITIES/ RIGHTS	KINSHIP GUARDIANSHIP ASSISTANCE	ADOPTION
Legal	<p>Relative guardian has right to physical custody and control of the child until age 18 or until age 21, if the child consents. They are responsible for day-to-day care, supervision and daily decision-making.</p> <p>DSS and Family Court are no longer actively involved in the case.</p> <p>Birth parents may petition the Court for return of child if prove change in circumstances that allow for proper care of the child.</p>	<p>Adoptive parents have full legal, parental & financial responsibilities for the child. All decisions made by adoptive parents.</p> <p>DSS and Family Court are no longer actively involved in the case.</p> <p>Adoption cannot be overturned based on a change in birth parents' circumstances. An order of adoption may be opened, vacated or set aside for fraud, newly discovered evidence or other sufficient cause.</p>
Birth Parents	<p>Suspends the birth parents decision-making responsibility. Birth parents' rights may or may not be terminated, but not necessary.</p> <p>Certain rights and responsibilities i.e. child support, consent to adoption, visitation may be retained by birth parents.</p>	<p>Terminates the child's legal relationship with the birth parents. However, contacts may continue with the agreement of all parties (conditional adoption) and approval of the court.</p>
Daycare	<p>Daycare eligibility based on <u>family's</u> income however, KinGAP subsidy not included when assessing income.</p>	<p>Daycare eligibility based on adoptive <u>parent's</u> employment, family size and income. May be available as a preventive service.</p>

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Legal Fees	May receive a one-time payment for legal fees related to receiving guardianship up to \$2,000 per child.	Adoption finalization costs may be covered under subsidy agreement up to \$2,000 per child.
Independent Living Services and Education and Training Vouchers	If child age 16 or older when enter guardianship, eligible for independent living services such as vocational training and may apply for the ETV for up to \$5,000 toward post-secondary education or vocational training. Now up to age 26.	If child age 16 or older when adopted, eligible for some independent living services such as vocational training and may apply for the ETV for up to \$5,000 toward post-secondary education or vocational training. Now up to age 26.
Financial Assistance	Child is eligible for a Kinship Guardianship subsidy unless the guardianship ends, or child reaches the age 18 or 21 if the child consents, the relative guardian is no longer legally responsible for the support of the child or the child is no longer receiving any support from the relative guardian.	Child may be eligible for an adoption subsidy if certain criteria are met until age 21, unless the adoptive parent is no longer legally responsible for the support of the child (for example, child becomes married or enters the military) or is no longer providing any support for the child.
Tax Credits	No tax credit available specifically for guardianships. May be eligible for other child tax credits, such as earned income tax credit and dependent care credit.	Adoptive parent(s) can claim child as a dependent for tax purposes. A substantial lump sum federal tax credit may be available for expenses related to the adoption.