

Comparison of NYS Child Welfare “Relative” Placements
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“Relative” is a person related by blood, marriage or adoption but who is not claiming to be a parent and as used here includes “suitable persons” who are non related persons with significant connection to the child and/or family unless otherwise stated

Art. 6 Custody –

Relative must file petition themselves

Can be done by non relative

Court can grant temp Art. 6 while Art. 10 pending or perm Art. 6 at time of dispo or PH

Relative not entitled to free lawyer unless they have physical/legal custody

Court **NOT allowed** to order DSS/ACS to “supervise” or “provide services”

No perm hearings

May or may not be eligible for preventive services – court can’t “order”

DSS/ACS to provide preventive services – could order party to apply

Relative must support child or seek support on their own – would be eligible for public assistance and may be eligible for other various types of assistance such as food stamps

Could order that child cannot be returned to parent without court review and notice and/or party status to DSS/ACS and AFC

Also can “load” Art. 6 up with other orders such as an o/p

There is no statutory authority to “revoke” a custody order

Can sign a voluntary but no IV-E money

Cannot move to an adoption without consent, abandonment, mental illness or or mental illness or retardation – no “private” perm neglect grounds

Art. 10 custody aka N docket Custody aka 1017 Custody aka direct placement aka “parole to”

Must be an abuse or neglect petition filed

Can be done by non-relative

Art. 10 custodian is “under the jurisdiction” of the court

Ongoing court reviews – custody from perm hearing to perm hearing

Services and supervision by DSS

Permanency planning by DSS and court

Relative must support child – would be eligible for PA, might be eligible for other things like food stamps etc

Could seek child support from parent

Can do a Dale P. TPR but not obligated to do so

Can still move to foster care but no IVE money if after 6 months

“Regular” Guardianship

Relative must file papers, no free lawyer unless had custody

Relative must support – would be eligible for PA, might be eligible for other

- things like food stamps
- Could seek child support from parent
- Can be done by non-relative
- No statutory provision for DSS/ACS to offer supervision or services
- May be eligible for preventive services but court cannot order DSS/ACS to
- No ongoing court review
- Could order require return to court for any changes
- Could move to a voluntary if DSS/ACS in agreement and would get IV-E money
- Guardianship can continue from 18 to 21 if youth consents

Foster parents

- Must be abuse, neglect or a voluntary placement
- Will be supervision, services and money from DSS/ACS
- Can be done by non-relative
- DSS/ACS has legal custody and decision making power
- Option for emergency certification
- Process requires training and investigation
- Must do ongoing perm hearings
- DSS/ACS and court must do perm planning
- TPR possible but if relative then not mandated

“Subsidized” Guardians

- Relative must file petition themselves and only after local district approves
- Relative must fully certified or approved foster parent of child
- Relative gets a subsidy similar in amount to foster care and adoption
- Must** be related to the child by blood, marriage or adoption
- Can be resolution after Art. 10 finding or done at a perm hearing
- Both FF and 1st perm hearing must be completed
- Child must have been in home over 6 months
- Relative entitled up to \$2,000 for expenses – like attorney fee
- Court NOT be allowed to order DSS/ACS to “supervise” or “provide services”
- No perm hearings
- May be eligible for preventive services – court can’t “order” DSS/ACS to provide
- Could order that child cannot be returned to parent without court review
- Could “load” up with other orders such as an o/p
- Can appoint a substitute guardian who will get the subsidy if guardian dies or is incapacitated

“Permanent Guardian”

- Child must be freed for adoption or orphaned
- As alternative to adoption
- Youth can consent to continue between 18 and 21
- Custodian can handle school, medical and insurance, even adoption
- Can combine with subsidized guardian otherwise funding can be PA

Designation of a Person in Parental Relation – GOL § 5-1551 to 5-1555

Parent can sign a 'designation" for a person to act like a parent for a child

No court action needed

Can't be for more than 6 months at a time

Helps for school and health issues – but does not change school district

No foster care funding

Parent can revoke