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## KINSHIP CARE: RIGHTS and RESPONSIBILITIES

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Over 10 percent of children and youth in Virginia live in a household headed by a grandparent or other relative who is not a birth parent. 61,500 Virginians are responsible for caring for their grandchildren under age 18 (US Census, 2022, 5 year est.).



The Code of Virginia 63.2-100 defines Kinship Care as the full time care, nurturing and protection of a child by a relative. Simply put, kinship care involves a grandparent or other family member raising a child whose parents are unable to do so. Children in kinship care are three to four times more likely to experience learning and behavioral challenges.

Kinship care may be arranged informally or formally. The type of legal arrangement impacts the role a caregiver has in making educational<sup>i</sup> and other decisions for the child. As in all families, involvement by caregivers is critical to educational success.

- **Informal kinship care** is when relatives raise children who are not in the custody of the local department of social services and there is no or minimal involvement by departments of social services or the courts. Caregivers do not go through the custody process. Regardless of why a child is living with relatives, the child's birth parents are legal guardians and have rights as educational decisionmakers.
- **Formal arrangements** often involve relatives are raising children who are in the custody of a department of social services (DSS). Formal arrangements include:
  - Care provider has legal custody of child. This involves a court order. Legal guardianship is one type of legal custody. Custody arrangements vary and birthparents may retain some rights including education decision making.
  - Child is in legal custody of DSS; the care provider serves as foster parent.
  - Adoption by relative; the relative is then a parent under special education law.
  - Birth parent places child with kin; after 3 years, caregiver can petition to adopt.
  - Standby guardianship, appointed by birth parent via court petition. Birth parent typically retains education decision making.
  - Power of Attorney can be established for some specific duties.

Kinship caregivers can receive some resources when caring for children and youth<sup>ii</sup>. The type of care arrangement impacts eligibility for some programs. Temporary Assistance to Needy Families (TANF) provides cash assistance for basic needs to some families. Medicaid health coverage may be also available. If the kin caregiver is a foster parent, maintenance payments are offered. Virginians can apply for public benefits through CommonHelp - <https://commonhelp.virginia.gov/>

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<sup>i</sup> The definition of "Parent" for special education purposes is in Virginia regulations at 8 VAC 20-81-10.

<sup>ii</sup> Fairfax County's *Kinship Quick Guide* of public agency resources- <http://www.fairfaxcounty.gov/dfs/kinship/>