



Virginia Department of Social Services

people helping people

Proposed Guardianship Model

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June 15, 2020

Types of Guardianship in VA

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- Standby Guardianship
- Title IVE Kinship Guardianship Assistance Program



- **Uniform Adult Guardianship and Protection Proceedings (64.2-2100)**
For child under 18: Where a parent or guardian for a respondent under age 18, or any other person brings the petition and there is no living parent or guardian of respondent under 18. The petition may be filed no earlier than six months prior to the respondents 18th birthday.
- **Testamentary Guardians:**
Every parent may by last will and testament appoint (i) a guardian of the person of his minor child and (ii) a guardian for the estate bequeathed by the parent to his minor child for such time during the child's infancy as the parent shall direct.



Findings of the Final Report of the Virginia Commission on Youth: Barriers to Kinship Care in Virginia (September 2011):

- “As outlined by the Virginia Children’s Services Transformation, there are a number of challenges facing kinship care families. First, there are frequently problems accessing accurate information regarding kinship care and available services. Often, without specific knowledge on the subject, kinship care families struggle to understand all their legal options, cannot access legal services or advice, and face difficulties enrolling children in schools or accessing medical care.”
- **Recommendation 2 Stated:** Request the Department of Social Services clarify policies and provide training to ensure kinship care, both formal and informal kinship care, is identified as a goal for permanency.



Proposed Guardian Analysis

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Informal Kinship

(no government involvement)

Kinship Diversion

- CPS referral (no petition filed)
- FPM meeting

Formal Kinship

- CPS referral (no petition filed)
- FPM meeting prior to 5 day hearing
- Court holds 5 day hearing



- **Temporary Guardianship:**

The guardianship is exactly what it states: it is temporary. If necessary to protect the child, the court may appoint a temporary guardian for six months. A temporary guardian is appointed only in the course of proceeding for a general guardianship.

- **General Guardianship:** (Also known as permanent, regular or ordinary)

Does not require parental consent for the filing of the petition but notice and a hearing must be given. A person interested in the welfare of a minor, or the minor if 14 years of age or older may petition the court.

- **Limited Guardianship:**

Requires voluntary consent of the parent or parents with legal custody of the child. It is a court-sanctioned consent arrangement. There are four circumstances when this can be done. In addition to finding parental consent, the court must approved a limited guardianship placement plan agreed to by the parties.



- Relative guardianship is not permanent enough and should not be considered as a permanency option;
- If children move from foster care to guardianship with relatives they will likely re-enter care;
- If a child is placed in guardianship with a relative, the child will never be able to be adopted.





