THE #FKLM FAMILY BLUEPRINT

Guardianship, Custody, and Power of Attorney

Legal & Policy Literacy · Know the Language

What these three terms generally mean and why the difference matters for caregivers.

IN THIS GUIDE

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- Effect on parental rights
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A free guide from My Fairy GodParents — for youth impacted by parental incarceration, justice-impacted youth, and the caregivers and families who support them.
myfairygodparents.org/resources/family-blueprint

Print, write on it, and share it with the people helping your family.

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THE DIFFERENCE THIS MAKES

Families often reach a point where they have to choose a formal legal path, and the choice usually narrows to guardianship or custody. Both give an adult legal authority over a child, and both are decided by a court, which is part of why they get confused — from the outside, a household with either arrangement looks the same.

The two paths differ in who is typically involved, what they generally do to a parent's rights, how permanent they tend to be, and which court usually handles them. None of these differences are universal — every point below can vary by state — which is exactly why this comparison is meant to prepare you for a conversation with a knowledgeable source, not to replace one.

This lesson does not tell you which path your family should take. That decision depends on your state's law, your specific facts, whether the parents agree or object, and what outcome your family is trying to achieve — questions for a family court self-help center, legal aid, or an attorney licensed in your state.

WHO IS TYPICALLY INVOLVED

Custody cases most often arise between parents, or occasionally between a parent and another relative, and are typically handled in family court. A relative seeking custody of a child, rather than a parent doing so, is possible in many states but is generally a less common and sometimes more difficult path than guardianship, because custody statutes are often written primarily with parents in mind.

Guardianship is the more commonly used path for relatives — grandparents, aunts, uncles, adult siblings, or close family friends — raising a child who is not legally theirs. It is typically handled in probate court or a similar court set up for these cases, and the process is generally built around a non-parent seeking authority.

Because the intended path is different, the paperwork, filing fees, and required notices differ too. Asking a self-help center "is this a custody case or a guardianship case" is often the fastest way to be pointed to the right forms.

EFFECT ON PARENTAL RIGHTS

Custody orders typically reallocate decision-making and physical care between parents, or in some cases

between a parent and a relative, but generally do not terminate anyone's status as a legal parent. A parent without custody generally still has a legal relationship with the child, unless that is separately addressed.

Guardianship typically does not terminate parental rights either — a guardian holds authority to act for the child, but the parent generally remains the child's legal parent underneath that arrangement, and many guardianships can end when a parent is able to resume care. This is different from adoption, which does end parental rights, and different from a permanent custody or termination proceeding, which is a much more significant legal step.

The exact effect on a parent's rights — including whether the parent must be notified of the case, whether they can object, and what happens to their rights if the arrangement becomes permanent — depends entirely on your state's law and the specifics of the case.

+ PERMANENCE AND HOW EACH ENDS

Custody arrangements between parents are generally modifiable — either parent can typically ask the court to revisit the order later if circumstances change, though the standard for changing an existing order is often higher than the standard for the first order.

Guardianship is often designed with more built-in temporariness in mind: many states allow guardianships to be reviewed periodically and can end them when a parent demonstrates they are able to resume care, though this again depends on the state and how the guardianship was set up.

Neither arrangement is automatically permanent, and neither is automatically temporary. Ask directly, when the arrangement is created, what the process is to end or change it later — that answer belongs in the same conversation as setting it up, not discovered years later.

+ HOW TO DECIDE WHICH CONVERSATION TO START WITH

If your family's situation is primarily about a relative stepping in because a parent cannot currently care for a child, guardianship is generally the path most families in that position pursue — but confirm this locally rather than assuming.

If your family's situation involves two parents, or a parent and a relative who has an existing parental-type relationship with the child, disputing who should have decision-making authority or where the child lives, that is more likely to be framed as a custody matter.

In either case, a court self-help center or legal aid intake can generally tell you, based on a short description of your situation, which type of case fits and which court handles it — that is often the single most useful phone call to make before filing anything.

+ TWO FAMILIES, TWO DIFFERENT COURTS

An uncle raising his sister's children while she was incarcerated went to his county courthouse asking about "custody" and was redirected to probate court, where guardianship cases were filed. The clerk explained that in his state, a non-parent relative seeking authority over a child generally filed for guardianship, not custody,

and handed him a self-help guide built for exactly his situation.

In a different family, two parents disagreed about where their child should live while one of them was on probation with travel restrictions. Their case stayed in family court as a custody matter between two parents, a completely different process from the uncle's, even though both families were dealing with the justice system touching their household.

Both families ended up with the legal authority they needed, but they got there by asking the same first question — "which kind of case is mine?" — before filing anything, which saved both of them a wasted trip to the wrong courthouse.

+ WORDS YOU CAN USE

Asking a self-help center which path fits

“I'm [describe relationship] raising a child because [brief, factual reason]. Based on that, would our situation generally be handled as a custody case or a guardianship case here, and which court handles that?”

Asking about effect on the parent's rights

“If we pursue [guardianship/custody], can you explain in general terms what that would and would not do to the parent's legal rights, and whether the parent would need to be notified or could object?”

Asking how an arrangement can later be ended or changed

“Before we start this process, can you tell us in general terms how this type of order is typically modified or ended later, if circumstances change?”

+ PREPARE FOR THE GUARDIANSHIP-VS-CUSTODY CONVERSATION

- [ ] Write one sentence describing who is involved and why the family needs a formal arrangement.
- [ ] Call a court self-help center or legal aid intake and ask which type of case fits your situation.
- [ ] Ask which specific court handles that type of case in your county.
- [ ] Ask what the process does, and does not do, to the parent's legal rights.
- [ ] Ask whether the parent must be notified and whether they can object.
- [ ] Ask how the arrangement can later be changed or ended.
- [ ] Ask about filing fees and whether any fee waiver is available.
- [ ] Keep notes on what you're told, including the name of who told you, for your records.

REFLECT AND WRITE

Based on what I now know, does our situation sound more like a custody matter or a guardianship matter?

Have I confirmed this with a knowledgeable local source, or am I still guessing?

What do I understand about what this process would do to the parent's legal rights?

What is the one call I will make this week to get a straight answer?

YOUR NEXT STEP

Write down which decisions you are currently unable to make, and take that list to legal aid.

WHERE THIS COMES FROM

Written by My Fairy GodParents — reviewed August 2026.
Official reference: USA.gov — Legal Aid — linked for the official rules and forms, which MFGP does not set.
https://www.usa.gov/legal-aid
This is general information and practice guidance — not legal advice, mental-health treatment, or a statement of any court, agency, or facility's rules. Policies differ by state, county, facility, school, and program, so always confirm details with the office involved.
For decisions with legal, medical, financial, or clinical consequences, work with a licensed professional or the organizations listed with each resource.
The information provided through The #FKLM Family Blueprint is for general educational purposes and is not legal advice. Laws and policies differ by jurisdiction and may change. Families needing advice about their individual circumstances should consult an appropriately qualified attorney or legal-services organization.

You do not have to do this alone.

More free guides, scripts, and checklists:
myfairygodparents.org/resources/family-blueprint