

INFORMAL CAREGIVERS FAQs

Who are legal caregivers and/or family members caregivers?

Caregivers who are providing care to children **outside** of the [foster care system](#). This could include both those who have had court involvement or legal recognition of their caregiving relationship or those who have not formally gone to court. [Kinship](#) care refers to the care of children by relatives or close family friends (often referred to as fictive kin). This arrangement does not require formal foster care licensure. Relatives with custody consent decrees or custody orders from family court are not informal caregivers as they are legally recognized as the child's caregiver.

Additional information on [Kinship Caregiver Resources](#)

Do I have the right to exchange medical information on a child to doctor/dentist/therapist?

Yes, if you have a signed [DOPA \(designation of parental authority\)](#), a Release of Information from the parent, custody, or it is an emergency. If you are informally caring for someone else's child, you don't have a legal relationship to that child and places like schools, doctors and therapists legally cannot provide medical information to you. If you are unable to reach the child's parent and don't have a legal relationship to the child, try to connect with a school, or clinic social worker, or family law attorney to see if there are any other options. If it is an emergency, there can be exceptions made.

Additional information:

- [Child & Teen Checkups](#) can help you with accessing medical/dental care.
- Options for teens and medical care: [Can I go to the Doctor on my Own? \(Youth Law Center\)](#)

Do I have the right to enroll the child in school?



In Minnesota, children have the right to attend school in the school district that they reside in, even if that is with an informal kinship caregiver. If you can get a Delegation of Parental Authority signed by the parent, that is helpful, but not necessary. If you find that you are having difficulty enrolling a child in your school district, contact the school district Homeless Liaison and they will assist you in enrolling. If the child receives special education, and you do not have a legal relationship to the child, you can be appointed as a surrogate parent. If you have legal custody of a child, then you have the full legal responsibility of enrolling the child in school.

Additional information:

- [McKinney-Vento Homeless Liaisons /Minnesota Department of Education.](#)
- [Surrogate Parents – Special Education – PACER Center](#)

Can the child I care for qualify for Medical Assistance?

Health care coverage is available to children with limited or no income, who are not living with their parents. You can request free help from an assister to apply for health coverage. Most kinship children are eligible based on no/low income and not living with parents. Seek tax advice from a tax professional regarding dependent status when applying for Medical Assistance.

Additional information:

- [Child and Teen Check Ups](#) can help you know if a child has current Medical Assistance.
- [Portico Health Net](#) can help you apply for Medical Assistance.
- [MNsured Assisters](#) can help you apply for Medical Assistance.

Can the child I care for receive county financial benefits?

It depends on the relationship you have with the child. To be eligible for Minnesota Family Investment Program (MFIP) you must be a grandmother/grandfather, sister/brother, half-brother/half-sister, legal custodian, aunt/uncle, niece/nephew, stepbrother/stepsister, first cousin, first cousin once removed, or great relative (aunt, grandfather, etc.). You may also qualify for Supplemental Nutrition Assistance Programs (SNAP) by this eligibility. In addition, the child(ren) must reside with you more than 50% of the month. You must apply for the children to be eligible for benefits by completing the Combined Application Form and send to



the county where the child resides. When you apply for county financial benefits, you will need to supply the parent's names and contact information, this is for the county to pursue child support from the parents. There are exceptions to this requirement if you qualify for a family violence waiver.

Additional information:

- [Combined Application Form for county benefits](#)
- [MFIP for Family Violence Victims](#)
- [MFIP Child Only Grants](#)
- [Child Support in Minnesota](#)

I am afraid the parent may have negative behavior. At my house, what are my rights?

If you have legal custody of a child you have the right to remove the child from the situation. If you can, and it is safe to, try to talk with the parent about boundaries, rules and expectations at your home. Decide and discuss how to have safe visits with the child and parent. Develop a safety plan for yourself and the children you care for. A safety plan is an individualized plan addressing "what to do" if a parent may be unsafe around you or the child you are caring for. Teach your children what to do in an emergency, where to go for help, identify safe places in the home. It may be helpful for children to have a cell phone and know who to call in an emergency and how and when to contact community safety officers. Some families choose to have a code word to indicate a child feels uncomfortable/unsafe.

If you fear for your safety, due to the parent physically harming you or the child, threatening you with harm, sexual violence, terroristic threats, interference with a 911 call, you may file for an order of protection (OFP) or a harassment order. There needs to be information to show what happened, such as a police report, injuries, texts, etc. An order of protection is used if you are related or a family member. A harassment order is used if you are not related to the other person. If you are providing informal care to a child and you fear for your safety or the safety of the child, consider contacting Child Protective Services to report these concerns. Refer to a Family's Guide to Child Protection for information about services provided when a child protection report is accepted by an agency. This may allow you to become a formal caregiver who has legally recognized rights and protections. If CPS is not involved and you have no other legal relationship to the child, the biological parent may demand that you return their child at any point.



To get a court order for protection:

Use [Minnesota Guide & File](#) to create the forms, you need to *Ask for a MN Restraining Order* – either an Order for Protection or Harassment Restraining Order. You can file the forms electronically (eFile) through Guide & File, or print your completed forms. For more information, visit our [Guide & File Help Topic](#).

If you don't have legal rights of the child, while you still need to protect the child, you do not have legal authority to not allow the child to leave or have contact with their parents.

Additional information:

- [Family Safety Planning Tool \(partneringforsafety.com\)](#).
- [Orders for Protection and Harassment Orders \(lawhelpmn.org\)](#)
- [A Family's Guide to Child Protection](#)
- [Minnesota's County and Tribal Protection Agencies](#)

For the child in my home, the biological parents are not married, can the dad come and take the child out of my home?

In Minnesota, if a child is born to unmarried parents or a single mother, the child is legally in custody of the biological mother. The father would need to go to court to legally gain parenting time (visitation), or custody of the child. If the father has done this, then he may have the legal ability to take the child out of your home. If the father has not gone to court, he has no legal ability to remove the child from your care. If there is no informal agreement on parenting time (between the parents), and if the child is living with you, it is up to you to make a decision based on the safety of the child. Should this apply to your situation, please consult an attorney familiar with family law.

Additional information:

- [Parenting Time \(Visitation\) and Parenting Plans \(lawhelpmn.org\)](#)
- [Rights and Responsibilities of Unmarried Parents \(lawhelpmn.org\)](#)

What if the parent(s) agree to have the child in my home? What documents/court process can I use to prove this?

A signed delegation of parental authority (DOPA), a court order for third party custody or a finalized adoption.

Additional information:

- [Delegation of Parental Authority \(DOPA\) \(lawhelpmn.org\)](http://lawhelpmn.org)
- [Third-Party Custody Fact Sheet \(lawhelpmn.org\)](http://lawhelpmn.org)
- [Adoption in Minnesota \(mncourts.gov\)](http://mncourts.gov)

The parent wants to visit their child, but the parents have substance use challenges. How can I keep the child safe?

If the parent still has legal rights over the child they do still have the authority to make decisions for the child including moving them from the home. Consulting with an attorney may be helpful in this situation. If you have legal rights of the child then you can decide what contact may look like.

If the parent is actively using substances, it may be best to supervise visits between the parent and their child. Children benefit greatly from regularly visiting with their parents, even if the parent is not in a position to safely care for them full-time. It is a great gift to a child to support visits with their parents, even if you have concerns about the parent's substance use. When making that decision you can ask yourself, how does the substance use affect the parent's ability to make decisions regarding the safety of the child? Has this caused a decrease in providing a safe home environment, access to multiple visitors/caregivers, discipline and realistic expectations of child? A kinship caregiver can provide safety by limiting visits if the parent is using, providing supervision, setting up boundaries/expectations of parents.

Additional information:

[Child-Focused Parenting Time Guide \(mncourts.gov\)](http://mncourts.gov).

I would like to see my grandkids, what rights do I have?

“Parenting time,” also commonly referred to as “visitation,” refers to the time the non-custodial parent or grandparent spends with a child, regardless of the labels used in the custody arrangement. Visitation is not a guaranteed right of a grandparent but there are steps you can take. Consultation with an attorney might be helpful in this situation. If you can, try to work out visits with the parents directly informally. You can also try using a mediator to work out a plan if the parents are willing. If this is not an option, you can ask the court to give you visitation time. The following situations provides you “standing” to request visitation:

- If your child is one of the parents and your child has died.
- In a family court proceeding like divorce, custody, legal separation, annulment or paternity.
- If the child lived with you for a year or more and then the parents removed the child.
- If your child is adopted by a stepparent, and your child is one of the parents and your child has died, or your child’s parental rights were terminated because your grandchild was adopted.

Additional information:

- [Grandparents and Visitation Fact Sheet \(lawhelpmn.org\)](http://lawhelpmn.org)
- [Mediation Services in Minnesota \(crcminnesota.org\)](http://crcminnesota.org)

Can I get legal custody of the child?

Maybe. If the child is involved in the child protection system please see ‘[Information for Formal Caregiver\(s\) and Relative Foster Parents](#)’. If the child is not involved in the child protection system, an caregiver would need to bring a petition for custody in family court. Informal caregivers could ask the family court for a [custody consent decree](#) (permanent or temporary) or [third-party custody](#) (permanent or temporary). A custody consent decree is a mutual agreement to transfer custody from the parent to another provider. A third-party custody requires proof that the parent is unable to provide safety and supervision for the child(ren) therefore, requesting custody of the child(ren) until they are 18. Parents can petition the court in the future to potentially regain custody of the child(ren) if the custody change was done only in family court (and there was no termination of parental rights). Please seek legal counsel from an attorney familiar with custody consent decrees and third-party custody.

Additional information:

- [Third Party Custody Fact Sheet \(lawhelpmn.org\)](http://lawhelpmn.org)

I'm worried about my relative's child's safety. What can I do?

There are many things you can do to help a child become safe. Talking with the parent(s) is a start, coming up with a safety plan and encouraging an informal family arrangement to assist in providing care for the kids. Intervening on behalf of a child is very important, as a child needs safety and a stable caregiver. Often kinship caregivers don't want to overstep parenting, but it's helpful to remember who is the most vulnerable at this time and requires safety.

If you have witnessed evidence of abuse or neglect, you should report to child protection in the county that the child resides. If you are unsure if the situation warrants a report, you can contact child protection and consult on the situation. If it is an emergency, call 911.

Additional information:

- [Child Protection Agencies in Minnesota \(mn.gov\)](http://mn.gov)
- [Fact Sheet on Child Protection \(lawhelpmn.org\)](http://lawhelpmn.org)

How do I become a party or participant for child protection court hearings of my family members?

It is much easier to be a participant to an open child protection case than it is to become a party. If you are a participant, you have a right to get notice of all the hearings and a right to ask to speak at the hearings. If you are a party, you have the right to submit paperwork to the court, call witnesses and make arguments.

Some people are already determined to be participants:

- A parent of the child who is not a legal custodian.
- Alleged fathers, or those whom the Court has previously determined to be the father.
- Relatives providing care for the child.



- Non-relatives providing care for the child.
- Relatives who have not provided care for the child, but who request to be a participant.

These people just need to notify the court of their relationship to the case and ask to be recognized as a participant. Anyone who is not on this list, can still ask the court to be made a participant. They just need to explain their interest in the case and the court will decide if they can participate.

Becoming a party to an open child protection case is more difficult. Only a few people have a right to be a party:

- The child's legal guardian.
- The child's court-appointed guardian ad-litem.
- Grandparents with whom the child has lived within the past two years before the petition was filed.

Anyone else will need to file a motion with the court asking to be made a party. The court will likely not grant this motion unless the person makes a strong argument that they need to be able to call witnesses and present evidence to the court, not just be able to attend hearings and address the court.

Call the court administration in the county where the case is being heard to request to be a participant. You can also attend a hearing that you know about and ask the judge to make you a participant. If you want to be a party to the case, you will need to file a Motion to Intervene.

Additional information:

- [Motion to Intervene \(mncourts.gov\)](https://mncourts.gov)
- [Advisory of Party and Participant Rights – CHIPS \(mncourts.gov\)](https://mncourts.gov).

Can I claim the child I'm caring for as a dependent on my taxes?

Please refer to the guides below based on your situation and contact either your tax preparer or Prepare + Prosper for additional information.

Additional resources:



- [Prepare and Prosper \(tax help\)](#), 651.287.0187
- [Tax Rules for Adoption, Foster Care and Relatives Raising Kids \(lawhelpmn.org\)](#).

This tool is not considered legal advice.