Comparing Options For Legal Relationships

Custodial Relationship	*Authority*	*Length*	*Is Financial Assistance Available?*	*Do Birth Parents Keep Parental Rights and Responsibilities?*	*What If The Caretaker Dies?*	*Is Parental Consent Required?*	*Do I Need A Lawyer?*	*Issues To Think About*
Grandparent or other non-parent relative who is not a court-appointed guardian	Biological or Adoptive Parents	Indefinite until parent wants child returned to his or her care.	Parents retain financial responsibility. MaineCare and TANF may be available for child, but not childcare vouchers.	Parents have full rights and responsibilities.	Child will be returned to parents unless others arrangements are made.	Required	Not necessary.	Does not provide legal stability. May not allow for some services because parents must consent or service requires guardianship. May be difficult to enroll child in school.
Power of Attorney	Notary Public or Attorney and Parents	Until parent wants to end it or up to 6 months. Another should be signed if beyond 6 months.	Parents retain financial responsibility. MaineCare and TANF may be available for child, but not childcare vouchers.	Parents have full rights and responsibilities.	Nothing. Child already lives with parents or will be returned home.	Required.	Not necessary though it may be useful to ensure it is written properly.	Does not provide legal stability, may not allow for some services that require guardianship. May be difficult to enroll child in school.
Adoption	Probate Court	Permanent and irrevocable.	TANF, MaineCare etc. based on eligibility of family unit. If adoption through DHHS, there may be adoption assistance.	Birth parents have no rights or responsibilities. Child may or may not retain inheritance rights to the parents' estates.	The same as for any parent who dies.	Yes, by both birth parents or without consent if jeopardy is established and parental rights are terminated	Necessary, since process is complicated. Non-consenting indigent parents are entitled to court-appointed lawyers	Provides the best legal stability for child. Access to services and financial eligibility determined by family's income.

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Legal Guardian (Full or Limited)	Probate Court	Up to 6 months with temporary guardianship. Permanent guardianship lasts until the child is 18 years old, marries as a minor, the guardian resigns or dies before the child is 18, *or* the guardianship is terminated by the Court.	Parents retain financial responsibility and may be required to pay child support. MaineCare, childcare vouchers and TANF are available based on child's income. Relatives can apply for TANF as a caretaker relative and be included in the TANF household.	*Full Guardianships* Parental rights are suspended; however, parents may have financial responsibility. *Limited Guardianship* Parents keep rights as ordered by the Court.	If there is only one guardian, the child returns to the parents' custody.	Yes, by both parents or without consent if intolerable living situation is established or prospective guardian proves that he/ she is de facto guardian.	Not necessary, but helpful. It is difficult to succeed in a contested guardianship without one. Non-consenting indigent parents are entitled to court-appointed lawyers. Indigent guardians may request a court-appointed attorney.	Provides substantial legal stability for the child. Seeking agreement with parents before court proceedings may be very helpful.
DHHS	District Court	Child should have permanent plan within 15-18 months after placement in DHHS custody. Permanency plan can lead to reunification, emancipation, adoption or permanency guardianship.	Adults who have children placed with them are eligible for foster care payment. Payments are reduced if adult does not have a foster home license. In permanency guardianship or adoption, there may be continued assistance after child leaves DHHS custody	DHHS becomes the legal guardian and has a duty to work towards reunification with parents. If DHHS feels this is not working, they can petition the Court to cease reunification efforts and terminate birth parents' rights.	DHHS can place the child in another home. For permanency guardianship the case would return to Court. For adoption, it is the same as for any parent who dies.	No. DHHS must prove jeopardy if parents do not agree to jeopardy finding. Parents have a right to advocate for their position in Curt and be represented by an attorney. Ultimately, the Court will decide.	Not usually necessary. Relatives who petition the Court for intervenor status may need a lawyer. Relatives working toward permanency guardianship may want to seek legal counsel regarding visitation and other issues.	DHHS acts as the child's guardian and makes decisions. Child will also have a guardian ad litem to help the Court and DHHS determine what is in the child's best interests. Until a court order for permanency, there is no legal stability for the child.