

Permanency *&* the Foster Parent
What You Need To Know



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What every Foster Parent Needs to Know about Permanency

Preamble:

Over the last few years we have observed Bill C210 and the Transformation agenda significantly change Child Welfare.

This document has been prepared in response to some of the recent changes to the Permanence Policies. Our goal is to equip the Foster Parents of Ontario with some important information.

Formerly; if a child was in a foster home for more than six months, the Foster Parent had the right to present their opinions in court, as legislation declared they had a vested interest. This clause was changed in 2005, removing the Foster Parents rights to have their say in court regarding the future of the child after only six months. Changes to legislation in 2005 now grant Foster Parents, after two years of caring for a child may be named as a Party for court purposes. This meant that after two years the foster parent would be able along with the other “parties” in the child’s life (Bio Parents, Extended family, close community members) to be allowed to put in a plan for the child’s future to be considered by the courts.

On the surface, this is a positive step however the recent changes in legislation impair the foster families rights, The Ministries “permanency legislation” is designed to have a permanency decision made within one year for all foster children under 5 years of age, with this change it became less likely that Foster Parents would be in a legal position to advocate to adopt a young foster child living in their home , as the crown ward ship decision would most likely be arrived at prior to the two year time frame that allows a Foster Parent to be named as a party. The legislation did dictate that a child who was over five years of age when they came into care could wait until they had been in care for over two years before a

permanency decision had to be made, this change has enabled Foster Parents a greater opportunity to adopt older foster children.

Many of the legislative changes support agencies in determining ways to increase permanency options for the children within the foster care system. A number of permanency options have become available for children.

The various options for permanence are for children are:

- to remain with or return to their biological family
- to be placed with kin
- custody or guardianship contracts
- adoption

Permanent Foster care has been removed as an option. Most agencies will only consider this if all other possibilities have been exhausted.

The Balance of *Responsibility and Authority*

Parenting by its intrinsic nature is a constant balance of ***responsibility and authority***. As Parents we take on the ***responsibility*** of day-to-day caring for our child's every need, guiding them to adulthood with loving care. As their parents we also take on the ***authority*** in their lives to make decisions about what we believe is in their best interest. Gradually as our children mature they embrace the authority and responsibility of their own lives, and become adults themselves.

The parenting dynamic of ***responsibility*** and ***authority*** with children in the Child Welfare system has been altered.

Foster care:

The Foster Parent is the primary caregiver of the foster child, having the bulk of the day to day *responsibility* for the child. The placing agency and biological parents will have limited child care responsibility as required for visitation time, etc. The *authority* to make decisions for a child's short and long term goals is that of the placing agency as documented in the child's Plans of Care. The Foster Parent, biological parent, as well as the child, may have input in the decisions made by the agency sharing a balance of authority. All this depends on the legal status of the child in care who may be in:

- a temporary care agreement granting the natural parent a greater share of authority
- a society ward ship with less input with decisions
- Crown ward ship with access and the least amount of the shared authority.

The agency on behalf of the ministry is the strongest *authority* in the child's life. The Foster Parent has the greatest *responsibility* for the child's life

Kinship-In-Care

This is very similar to regular foster care, but the kinship parent will likely share a slightly larger portion of the *authority* in a Child's life.

Adoption

Adoption is identical to parenting biological children, the adoptive parent has the full *responsibility* and full *authority* for the child's life.

Custody

A Custodial parent who has *Sole Custody*, will have the full ***responsibility*** of the day to day care for the child. They will hold a great deal of the ***authority*** to make decisions for the child's life, but there can be circumstances that would require a parent with sole custody to contact the natural parent(s) of the child, or the placing agency of the child. There is also a continuous possibility that the custody order can be challenged for a review of custody by the biological parent or family member.

Guardianship

A Parent who has a guardianship contract to care for a child, will have the full ***responsibility*** of caring for the child. They will have a great deal of the ***authority*** to make decisions for the child, but there will be some limitations on decision making, as choosing this option does not fully exclude the parenting rights of the biological parents, or the placing agency in cases with a child who is a crown ward without access.

Foster Parents and Permanence.

Historically, 58% of all adoptive families in Ontario were Foster Parents. Many adoptions came about with children coming into the foster home for temporary care and ending up staying for months or years. It was only natural for these families to adopt the children they loved, providing a permanent home for them.

Prior to the new legislation in 2005, despite many adoptions, there were many children who remained in the child welfare system, in foster care as Crown Wards with Access (still able to visit their natural parents at the agencies discretion); or Crown Wards without access (no access to their natural parents).

With the recent legislative changes, Foster Parents are now being thrust into situations they may not have anticipated when they became Foster Parents.

The Ministry recognized that a lifetime spent in foster care may not be in the best interest of a child. Positive outcomes for children are optimized by permanence. Children have a basic need and desire to belong. They need to know who they are and where they fit in. The fluctuation of the foster care system has often not been able to meet these needs.

The Ministry's recognition of the need for children to have permanence has codified the permanency options of custody and guardianship as well as adoption. This is being promoted by agencies across the province.

A great deal of work is being done in Ontario to move children and youth out of the foster care system and into permanent situations.

What are Foster Parents talking about regarding Permanence?
(True and False answers plus explanation)

My Foster Child is a Crown Ward with Access; I don't think they are going anywhere.

False

Many agencies are reviewing all of their Crown Ward with Access files to evaluate which children's cases can be taken back to court for a status review, some of these reviews may change the children's status allowing the possibilities for adoption, others will not have a status change, those that remain Crown Ward with access, may still be set up in a custody or guardianship option. Other options for them may be to return home, or be moved to kinship-out-of-care.

I have had my foster daughter for two and a half years, I am sure I will be able to adopt her if the court makes her a Crown Ward.

False

Although you as a Foster Parent have a legal right to be named as a party after two years, you can't assume you are the only party, all parties can put forward a plan for the child, and all viable plans can be considered by the court.

If your child has siblings that are already adopted, many agencies will give the adoptive parents of the other sib(s) first rights of refusal.

Furthermore some agencies feel a responsibility to ensure that those members of our society who are not Foster Parents and are instead prospective adoptive parents have opportunity to adopt children from the Children's Aid Society.

I have decided to adopt one of my foster children the agency has agreed to give me a subsidy.

I am going to apply for custody of my foster child the agency is going to give me a subsidy.

I am willing to be the guardian of my foster child till they are 18. I will be receiving a subsidy.

I am financially secure

False

When the Ministry recognized that lack of funding was interfering with some adoptions they were committed to release funding for subsidies. Unfortunately the legislation changed, but the funding did not follow.

Agencies are however granting adoption subsidies, pulling the funds from elsewhere. There are three different kinds of subsidies:

- The first kind of subsidy is a monthly allotment that would be ongoing, it would likely be lower than the regular foster home per diem.
- The second kind of subsidy would be an amount of funding for a set time frame, or a specific purpose, for example:
 - private school for two years
 - daycare till the child begins school
 - specific activities like sports or music.
- The third kind of subsidy is episodic funding. Episodic funding would be when there is no general subsidy monies, the agency will commit to some monies for something, if a significant expense comes up in the future, an adoptive parent could approach the placing

agency to seek the funds to cover the expense. For example;

- Braces
- Medication
- medical equipment
- glasses
- special needs camp.

The challenge with subsidies is that there are no guarantees:

- The funding may not be equal to the per Diem
- The funding has to be reviewed every year and can be discontinued
- The funding may be agreed based on the child's needs, but the families finances will have to be submitted each year to reapply for the subsidy.
- The approval of subsidies will always depend on the individuals responsible for making the decisions, if the people change so may the decision.
- The annual approval of funding will always depend on the funding availability of the agency.
- A Subsidy contract is only good for one year, a verbal commitment to continue a subsidy till a child is eighteen years old, is well intentioned, but can't be guaranteed.

I have custody of My Foster Children, they are now mine.

False

Custody agreements in Ontario are one year contracts, every year they have to be renewed. Most often this is a simple process, but it does have to be done annually.

At any time one of the original parties involved in the child's life can appeal the court for review of the custody agreement, this would require attendance to court for all involved.

If I have to go to court in the future to fight to maintain Sole Custody of my Foster Child, the agencies lawyers would handle the case for me.

False

If you are the custodial parent, and another “parent” in the child’s life is asking the court to change the custody orders, you will need to have your own lawyer, and the legal expenses will be yours.

My children are adults, they won’t be affected if I decide to be the legal guardian of my special needs preteen foster child.

False

If you decide to be the legal guardian of your preteen foster child, and something happens to you, your estate will be frozen until the youth you were guardian for is assessed for short and long term financial needs. This is based on the cost of living, medical intervention and quality of life and for the entirety of the child’s life. If the youth has special needs, the determination of the estate allotment will be effected by the costs of the youths future care need. The court costs could consume a great deal of your estate. Your estate may also be required to cover the costs of the youths care prior to their 21st birthday.

I want to be the guardian of my 8 year old foster child, she has a lot of challenges, but I love her so much. I am worried that when she becomes a teen her behaviours may worsen. My worker said if I have too much trouble she can always come back into care. I could still be a foster parent I will still be working with the agency.

False

It is possible for any family to have a teen whose behaviours cause too much stress on the family, and they need to come into care. If however the child that needs to come into care is the legal child of a Foster Parent, this is not as simple as requesting a foster child be moved to another foster home.

If the child has been adopted, is under a custody agreement, or a guardianship contract, they would come back into care as either a temporary care agreement, or an apprehension, either way the parents of the child would become clients of the agency, a protection file would be opened on the parents. In many agencies Foster Parents are not allowed to have open protection files. There is a possibility that if any of the permanency options breakdown and the child returns to care, the foster family may no longer be able to foster, depending on the circumstances.

I have been an active Foster Parent for years, I have three placements currently, I am about to adopt my oldest placement, he has some behaviours, and some mental health challenges. I think the permanence of him knowing he is adopted will be really good for him. I love fostering, and am looking forward to being an adoptive parent the agency is so supportive. Nothing can go wrong.

False

There are no guarantees with parenting. Even the most supportive agency will not be able to offer continued support for an adopted child, some have support groups, and many are willing to be called from time to time, but once you adopt a child and the adoption probation is over the child is yours, the agency will leave you to parent your child.

There is also a possibility that if the child's behavior issues escalate after you have adopted them it can negatively impact you receiving other foster care placements, especially if the child is viewed to have behaviours that could be damaging or dangerous to vulnerable foster children.

My worker is telling me if I decide to become guardian of my foster child it will be the same as fostering.

False

There are legal responsibilities to a guardian parent that do not exist for the Foster Parent. A guardian assumes all responsibility, a Foster Parent functions under the support umbrella of the agency.

I think I want to be a guardian of my foster child, but I may decide to go with custody, I think I will ask my resource worker, I don't need a lawyer.

False

Both Guardianship, and Custody are legally binding agreements, with specific terms and requirements. Our resource workers are to support us in our role as Foster Parents, not to provide legal advice. Anyone looking into any legal agreement or contract would be wise to seek legal counsel.

I am going to use one of the agencies lawyers to help me become guardian of my foster child.

False

The agency lawyers can not represent Foster Parents interested in pursuing any of the permanency options available. It would be a conflict of interest. The agencies lawyers are hired to represent the agency and the agencies position and interests, if a Foster Parent is seeking a permanency option, they need their own lawyer to represent their position, and interests.

Conclusion

Adults the world over have consistently chosen to allow themselves to be put in harm's way in order to parent a child. Parenting is a unique opportunity to be taken for granted, hassled, and emotionally damaged, it's like nothing else on earth. It is also the most rewarding, fulfilling and difficult challenge a person could ever take on. Quality caregivers are a blessing to any and every child, but if we as caregivers do not take care of ourselves, there will be no one to care for the children.

Foster Parents need to understand that their interests in making permanency decisions for their foster child(ren) may not be the same as the CAS.

Knowledge is power, power is protection, protect yourself.

Do not sign anything until you:

- Ask every question you have
- Get answers to every question
- Have frank discussions with all the adults involved
- Know what you are doing, and why you are doing it
- Seek Legal Counsel

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