



## Enabling New York State's Non-Parent Caregivers to Perform the Task of Childrearing

LEGAL STATUS		PERFORMANCE NEEDS				
		A	B	C	D	E
		RECOGNITION	AUTHORITY	SECURITY	FINANCIAL ASSISTANCE	RESOURCES
1	INFORMAL CUSTODY	F	C	F	F	F
2	LEGAL CUSTODY	C	C	C	F	F
3	LEGAL GUARDIANSHIP	A	A	C	F	F
4	FOSTER CARE	C	F	F	A	C
5	ADOPTION	A	A	A	F	C

**A = ADEQUATE**

**F = INADEQUATE**

**C = MAY OR MAY NOT BE ADEQUATE**



## Enabling Non-Parent Caregivers: Potential Issues

**A1. Legal definitions and phrases differ, may not include all non-parent caregivers, particularly caregivers who live with parents or if parents are in community. Grandparents and/or other relatives may have more recognition than non-relatives.**

**A2, A3. Custody and guardianship may be similar in practice but differ in statutory powers.**

**A4. Opportunity to be a foster parent must be offered to grandparents DRL 72; kin can seek to become foster parents FCA 1028-a. But still barriers to full use of relatives as foster parents.**

**A5. Adoption provides full parental authority; very little chance of reversal by natural parents.**

**B1. May have school authority, no medical authority, school enrollment in some circumstances. Can name standby guardian unless parent's whereabouts are unknown. Can be authorized by parental designation, Gen. Oblig. L. Art. 5.**

**B2. Have school authority and can enroll in school, cannot make medical decisions, can name standby guardian.**

**B3. School, medical, and enrollment authority; can name standby guardian, may have marriage and adoption authority.**

**B4. State retains power to make decisions for child.**

**B5. Same authority as biological parent.**

**C1. Little or no protection from parent reclaiming child.**

**C2. Parents must go to court to reclaim custody, but courts emphasize parental reunification over best interests of child; except for grandparents residing with child for 2 plus years.**

**C3. Same as C2.**

**C4. Custody remains with state.**

**C5. Parent can visit or communicate with child, if agreement for "open adoption". Only DSS surrender agreements are legally enforceable.**

**D1. TANF "child only" grant (officially a "non-parent" grant) is insufficient. No subsidized guardianship.**

**D2, D3. Same as D1.**

**D4. Foster care rates may be available via subsidized adoption.**

**D5. Could lose "non-parent" grant. Subject to work rules.**

**E1. Need respite, legal services, transportation, support groups, parent training, counseling, etc.**

**E2, E3, E4, E5. Same as E1.**

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