



## **This holiday season, more than 2.4 million children won't be traveling to grandma's house - they already live there - or with another relative or close family friend**

*For relatives looking to protect minor children beyond guardianship, WWRP family law attorney says third-party custody is an overlooked option*

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Birmingham, Mich.---December 17, 2024 –This holiday season, many grandparents, aunts and uncles will celebrate with children in their full-time care. According to statistics from the Annie E. Casey Foundation Kids Count Data Center, as of September 2024, there [were more than 2.4 million children in the U.S. being raised in kinship/grandparent families](#). Donna Medina, a partner at business law firm Williams Williams Rattner & Plunkett (WWRP) whose practice is devoted to family law, says when these caregiving relationships continue, it's not unusual for the nonparental caregiver to seek a more permanent legal relationship – but with varying options, which is best for the child?

“Guardianships are generally the fastest and easiest way to solve the problem. Letters of Guardianship can be used to register children in school, seek healthcare services and prove the authority of the caregiver. However, guardianships are designed to be temporary, and they can be terminated when a parent says they want their child back,” Medina said. “In Michigan, state-approved forms are available for most petitions, including one to terminate a guardianship. Guardianships also require annual reporting of the child's health and progress and are independently reviewed—usually by a court-appointed attorney, every three years.”

Medina gets frequent inquiries about the adoption process and how a guardian can become a permanent parent to the child. However, when a child's natural parents are unwilling to consent to adoption, this endeavor is complex and involves an involuntary termination of one or both parents' fundamental constitutional rights. Given the seriousness of the situation, guardians have an uphill battle getting through the process and the potential for failure is high. She says third-party custody can be a more enduring and permanent solution.

“Guardians who contact us do not know they have standing to seek custody of a child they are raising without terminating parental rights,” explained Medina. “When a guardian establishes legal and physical custody of a child, parents retain the right to seek parenting time and future modification of the custody order.”

Medina adds that parents are far more likely to admit their present inability to care for their child when they retain the right to contest custody or seek parenting time in the future. Adoption does not provide parents with these options. To adopt a child, a guardian must seek and be granted complete termination of parental rights of both parents.

“Perhaps surprisingly, guardianship adoptions are often not the best approach to providing permanency for children—regardless of the length of the parents’ absence. The lesser used option of third-party custody is often overlooked, largely because both attorneys and even probate courts are unfamiliar with it,” Medina said.

Medina’s legal practice is unusual in that she practices all aspects of family law including divorce and its aftermath, particularly as it relates to children. She has extensive experience in agency and private adoptions as well as state adoptions of children whose parental rights have been terminated. In those situations, the dispute is often between the child’s relatives or “fictive kin” and foster parents.

“Most cases we accept involve children caught in the middle of complex relationships and loyalties,” Medina said. “Sometimes even more important than retaining the right lawyer is arranging for therapy and counseling for these kids.”

### **Holidays and Family Law**

It’s often during the holidays when grandparents or other adult family members see up close the challenges a parent may have caring for their child, prompting action in the new year.

“In the post-holiday season, family law lawyers generally see an increase in both divorce and guardianship filings. Married couples recognize they cannot bear another year with their abusive or simply disengaged spouse. Likewise, concerned family members often become determined to ensure the health, safety and well-being of the extended family’s children. Of the factors courts consider when determining the best interests of the child, stability and permanency are among the most important,” Medina said.

While probate judges presiding over guardianships focus on the overall welfare of the child, issues of child support and parenting time are often not addressed as they would be under the Child Custody Act. To seek custody of a child, however, a petitioner must have standing, which is limited to certain individuals in particular situations. Those with legal standing include court-appointed guardians of minors who can petition the family court for legal and physical custody of a child in their care, according to Medina.

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