

Differences between adoption, guardianship, and third party custody

	Permanent	Must be handled by a Court	Availability of Funds to assist in raising the child	Other duties and obligations
Adoption	Yes	Yes	Possibly AAP or SAS if the child is eligible	None
Guardianship	No, can be dissolved by an order of the Court	Yes, if the Guardianship is intended to last longer than 1 month	Possibly GAP if the child and the prospective guardian are eligible/child support	If the child possesses real property or has financial income (like social security) a bond and accounting must be filed with the Court on a regular basis
Third Party Custody	No, custody can be returned to parent by Court order	Yes	Child support	None

In an adoption, once a child is adopted, the child is a child of the adopted parent just the same as a biological child is; there are no differences. Once the adoption decree is signed by the court, the court no longer has jurisdiction over the parent-child relationship any more or less than it does between biological parents and children. The adoption statute also details what a proposed adoptive parent has to prove in order to adopt a child over a bio-parent's objection, IC 31-19-9 *et. seq.* Finally of course, once a child is adopted, all parental rights, including parenting time, of the bio-parent is terminated, whereas in custody and guardianship cases, parents can always petition to regain custody and still have a presumption of parenting time.

In the Indiana Code, there appear to be some very finely nuanced differences between guardianship and third party custody, but according to Indiana case law, there is no practical difference between the two.

In both cases the guardianship/custody (in a non-parent) will only be granted if it is "in the child's best interest". The prospective guardian or custodian has to allege that the parents are unfit in some way and overcome the presumption that parents have custody of their own children. A court can grant parenting time to parents in guardianship cases and in third party custody cases and the guardian or third party custodian would likely have to show a court why it's not in the child's best interest to do so.

Both Guardians and Custodians have the responsibility and authority of a parent, though subject to court oversight more than a "normal" parent. In both types of cases, if a parent petitions to end the guardianship/custody, the burden of proof lies with the non-parent to prove the guardianship/custody should continue, by clear and convincing evidence. The factors are the same, i.e. best interest of child and fitness of parent. Of course, in both types of cases, the

courts can put in any limitations, restrictions, obligations or conditions it wants in the order of guardianship/custody. Of course parents and 3d parties can come to agreements in both, and, IF approved by the Court, those can become part of the court order.

While adoption cases close when the adoption is finalized, guardianship and custody cases remain open until the child reaches adulthood.