

Kinship Caregiving Options

Considerations for Caregivers

December 2021



Purpose

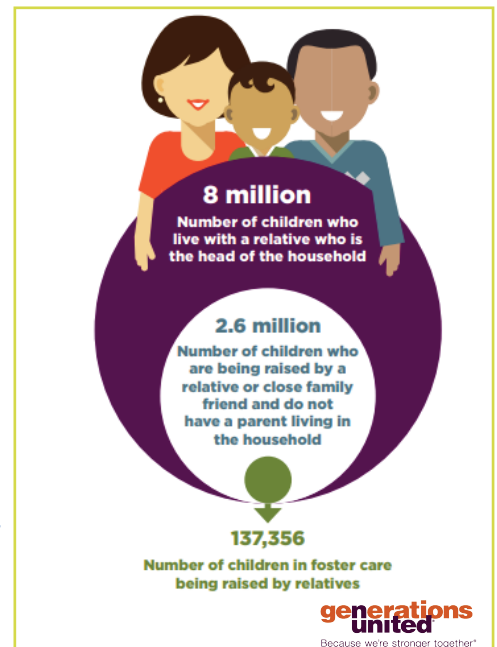
This publication—

- ▶ helps kinship families and the professionals who assist them compare caregiving options.
- ▶ provides a broad, national overview about the choices and considerations to help caregivers make informed decisions about the pathways to pursue.

How caregiving options look at the state, tribal, territorial, and local levels differ. Kin caregivers should consider this an informational resource and consult local kinship navigator programs, attorneys or legal professionals, caseworkers, and other available professionals. Ultimately, kin caregivers and their families must choose the caregiving option that best meets their needs.

For information on programs and state and national data on children in kinship families, see www.grandfamilies.org/State-Fact-Sheets.

About 2.6 million children are being cared for by kin—both blood relatives and people with a significant connection to the family (sometimes referred to as “fictive kin”)—without parents present in the home. Of these children, approximately 137,000 are being cared for by kin in the legal custody of the child welfare system. Although this number represents almost one-third (34%) of all children in foster care, most children cared for by kin are not in child welfare system custody and therefore do not get the same level of support as those inside the system.



Family and close family friends stepping up to raise children is not new. Kinship care is a traditional practice among families in most cultures and has evolved into a leading form of foster care.

Kinship Care Benefits

Research repeatedly shows that, compared to placement in non-kin settings, placement with kin:

- ▶ reduces a child’s trauma of removal from their parents, and
- ▶ reduces their chance of being moved to other homes.

Children with kin are more likely to:

- ▶ have better behavioral health outcomes,
- ▶ stay connected to siblings,
- ▶ keep their cultural identity and community connections, and
- ▶ exit foster care to a permanent family if they cannot return to their parents.



Considerations for Kin: Caregiving Inside vs. Outside the Child Welfare System

While it is important that kinship families have all relevant information to decide which caregiving option is best for them, the fundamental choice of whether to care for children inside or outside the child welfare system is not always a choice the family can make. Child welfare system involvement may depend on several factors, such as:

- ▶ the need for services,
- ▶ the ability to care for the child safely, and
- ▶ the preference of the parents.

For kin who are potential caregivers of children in the custody of child welfare agencies to make important placement and permanency decisions, caseworkers must engage them and provide all relevant information as early in the process as possible. Making an informed, well-thought-out decision early often minimizes difficulty and placement instability later. There are many factors to consider when making these complex decisions, including the perspectives, rights, and responsibilities of all involved—kin, parents, children, child welfare agencies, and courts.



How Kinship Families are Formed

Kinship families are formed in various ways, both inside and outside the child welfare system. Examples of paths to kinship caregiving arrangements include:

Inside

- ✓ As a result of a child protective services investigation, the child welfare agency may take legal custody of the child and ask the kin to care for the child within the child welfare system.



Inside/Licensed = the child welfare agency has legal custody of the child, and the kin is a licensed foster parent.



Inside/Not Licensed = the child welfare agency has legal custody of the child, but the kin is not licensed.

Outside



- ✓ The parents may ask the kin to care for the child.
- ✓ The kin may ask the courts to award them legal custody/guardianship of the child, either with or without parental consent.
- ✓ As a result of a child protective services investigation, the child welfare agency may become involved and ask kin to care for the child outside the child welfare system. This is often referred to as “kinship diversion.”



There are many factors to consider when making these complex decisions, including the perspectives, rights, and responsibilities of all involved—kin, parents, children, child welfare agencies, and courts.

Considerations by Type of Kinship Placement

Help with decision making about caregiving options



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- ▶ Caseworkers must provide caregiver, youth, and family help in the decision-making process, which should include written materials.
- ▶ Family Group Decision Making may be available.
- ▶ Kinship navigators may be available and able to assist.



INSIDE/ NOT LICENSED

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OUTSIDE

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Legal assistance



INSIDE/LICENSED

- ▶ Child and parents are typically provided attorneys.
- ▶ Kin caregivers typically do not get an attorney, unless pursuing kinship guardianship or adoption.



INSIDE/ NOT LICENSED

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OUTSIDE

- ▶ Kin caregivers may hire a private attorney whom they must pay, unless they qualify for and have access to free legal aid based on their income.

Legal relationships and authority



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- ▶ The state has legal custody of the child.



INSIDE/ NOT LICENSED

- ▶ The state has legal custody of the child.



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- ▶ Legal custody is either with the parent or with the kin caregiver. For the kin caregiver to get a legal relationship, such as legal custody, guardianship, or adoption, they will need to file a petition with the court either with or without the assistance of an attorney.

Parental rights and responsibilities



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- ▶ Parents retain certain rights, including the right to visit and maintain contact with the child.
- ▶ Parents are not typically allowed to live in the home with the kin caregiver and the child.
- ▶ Parents also retain responsibilities, including the obligation to financially support the child through child support payments.



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OUTSIDE

- ▶ Parental rights and responsibilities will depend on the court-ordered legal relationship the kin caregiver obtains.
- ▶ If the kin caregiver has a court-ordered legal relationship, the order will include which rights the parents retain, if any, including ongoing visitation and contact with the child.
- ▶ In general, parents retain rights, including the right to visit and maintain contact with the child.
- ▶ Parents also retain responsibilities, including the obligation to financially support the child through child support payments.

Relationship with the birth parents



INSIDE/LICENSED

- ▶ The system will try to reunify the child with their parents as the first permanency option.
- ▶ The agency may help the kin caregiver manage boundaries with the parents.
- ▶ The kin caregiver may have to supervise parental visits with the child.



INSIDE/ NOT LICENSED

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OUTSIDE

- ▶ The kin caregiver and their family manage the relationship with the birth parents.
- ▶ Unless the kin caregiver obtains a legal relationship with the child and has a court order restricting or prescribing visits with the parents, determining those visits and contact with the child is up to the kin caregiver and their family.

Children's health care consent authority and insurance



INSIDE/LICENSED

- ▶ The agency has legal authority for obtaining health care for the child.
- ▶ The agency provides the child with automatic Medicaid coverage.



INSIDE/ NOT LICENSED

- ▶ The agency has legal authority for obtaining health care for the child.
- ▶ The child may not receive automatic Medicaid coverage.



OUTSIDE

- ▶ Health care providers may challenge the kin caregiver's authority to consent to the child's health care unless the caregiver has a court-ordered legal relationship, a [health care consent affidavit](#), or a power of attorney or similar legal document signed by the parents.
- ▶ The kin caregiver may be able to obtain Medicaid or other public health insurance coverage for the child or include them on their private insurance coverage, depending on that company's policies.

Children's education



INSIDE/LICENSED

- ▶ The child welfare agency is required to help enroll the child in school, provide protections and supports to stay in the same school, or facilitate immediate enrollment in a new school with transfer of school records. The choice will depend on the child's best interest. The agency will also help access early intervention and special education services for the child.



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OUTSIDE

- ▶ School districts or other education providers may challenge the kin caregiver's authority to enroll the child in school unless they have a court-ordered legal relationship, an [educational consent affidavit](#), or a power of attorney or similar legal document signed by the parents.
- ▶ Federal law provides that kin caregivers should be able to access special education without a court-ordered legal relationship to the child.

Oversight from the child welfare agency and the courts



INSIDE/LICENSED

- ▶ The kin caregiver has routine caseworker visits to their home and the caseworker's office.
- ▶ Kin caregivers are expected to attend, and may be asked to testify at, frequent court dates.



INSIDE/ NOT LICENSED

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OUTSIDE

- ▶ There are no caseworker visits.
- ▶ There is no involvement of or oversight from the child welfare system.
- ▶ There is no judicial involvement unless pursuing a private legal relationship, such as legal custody, guardianship, or adoption. Once the court hearing ends, there will be no further court involvement without a petition.

Foster home licensing process



INSIDE/LICENSED

- ▶ Kin caregivers must meet state or tribal licensing standards, which include a background check and a home study.
- ▶ Waivers and variances for non-safety licensing standards should be available for relatives.
- ▶ In some jurisdictions, provisional/emergency licensing provisions may allow kin to be put on the path to full licensure while having the children immediately placed in their homes.



INSIDE/ NOT LICENSED

- ▶ Kin caregivers typically do not have to meet any licensing standards, although they may be required to go through an approval process with a modified home study and background check.



OUTSIDE

- ▶ Kin caregivers are not eligible to be licensed foster parents for the child unless the child welfare agency has removed the child from the parents' home, or the parent has voluntarily placed the child with the child welfare agency. Otherwise, kin caregivers are not eligible to be licensed foster parents for the child.

Monthly financial support



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- ▶ Each foster child in the home will receive a monthly payment (referred to as a “foster care maintenance payment”) and automatic Medicaid coverage to meet their needs.
- ▶ This payment is typically bigger than TANF child-only assistance, especially if the kin caregiver is caring for more than one child.
- ▶ Monthly dollar amounts of both foster care maintenance payments and TANF child-only assistance vary greatly by the kin caregiver’s location.



INSIDE/ NOT LICENSED

- ▶ The child will not receive a monthly foster care maintenance payment and may not receive automatic Medicaid coverage.
- ▶ The child may receive a smaller monthly payment to help meet their needs or be referred for TANF child-only assistance.



OUTSIDE

- ▶ The child will not receive a monthly foster care maintenance payment and will not receive automatic Medicaid coverage.
- ▶ The child may receive TANF child-only assistance to help meet their needs. This assistance is typically less than a foster care maintenance payment and only increases by a smaller amount for each additional child.

Child welfare agency supports and services



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- ▶ A caseworker may facilitate supports and services for the kin caregiver, the child, and the parents. Various services and supports are available including behavioral health or substance use treatment and/or assistance with managing the relationship with the parent.



INSIDE/ NOT LICENSED

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OUTSIDE

- ▶ Prevention services may be available from the child welfare system for the kin caregiver, the child, and the parents (if the child is at imminent risk of entering or re-entering the child welfare system or at risk of adoption or guardianship disruption).

Community-based supports and services



INSIDE/LICENSED

- ▶ Supports from the local Area Agency on Aging, community-based organizations, and faith-based organizations may be available. See www.grandfactsheets.org



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Chafee Independent Living Program



INSIDE/LICENSED

- ▶ Current and former foster youth are eligible for activities and programs under the John H. Chafee Foster Care Program for Successful Transition to Adulthood (Chafee) to help them transition from foster care to independent living. Supports under Chafee include help with education, employment, financial management, mentoring, preventive health activities, housing, and other services.
- ▶ Chafee eligibility:
 - youth in foster care between ages 14-21
 - youth who left foster care at age 16 for kinship guardianship or adoption, until they reach 21 (or up to age 23 in states that have extended foster care to age 21)
 - youth who aged out of foster care between ages 18-21 (or up to age 23 in states that have extended foster care to age 21)



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OUTSIDE

- ▶ Youth who are not in foster care are not eligible for these services.

Chafee Education and Training Vouchers



INSIDE/LICENSED

- ▶ Current and former foster youth may be eligible under Chafee for an Education and Training Voucher (ETV), worth up to \$5,000 each year or the cost of attendance (whichever is less) to attend an institution of higher education.



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OUTSIDE

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Chafee Education and Training Vouchers (continued)



INSIDE/LICENSED

- ▶ Cost of attendance includes tuition, fees, books, supplies, and an allowance for transportation and childcare. Institutions of higher education include traditional higher education institutions (e.g., public or private nonprofit colleges and universities) and post-secondary institutions (e.g., technical training programs and post-secondary vocational schools).
- ▶ Youth are eligible for ETVs for as many as five years (up to age 26) and must be making satisfactory progress toward completing their program, regardless of whether they attend in consecutive years or if they go full- or part-time.



INSIDE/ NOT LICENSED

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Kinship Navigator Programs



INSIDE/LICENSED

- ▶ Kinship navigator programs should be available within the state or tribe but may not be available in the kin caregiver's local community. Many programs are in the development stage. To learn if the community has a program that can link the kin caregiver with services, consult www.grandfactsheets.org or email grandfamilies@gu.org.



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- ▶ Kinship navigator programs should be available within the state or tribe but may not be available in the kin caregiver's local community. Many programs are in the development stage and some are limited to those with child welfare involvement. To learn if the community has a program that can link the kin caregiver with services, consult www.grandfactsheets.org or email grandfamilies@gu.org.

Federal and state child tax credits



INSIDE/LICENSED

- ▶ Typically for children age 17 and younger, the kin caregiver can claim the child as a dependent if they have been caring for the child for more than half the tax year.
- ▶ A federal adoption tax credit allows those who have adopted children to claim an extra tax credit. If adopting from foster care, caregivers can claim the full deduction without showing expenses.
- ▶ A state adoption tax credit may be available.
- ▶ Unlike with adoption, there are no federal or state tax credits for those who obtain guardianship or legal custody of children.



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- ▶ For the federal adoption tax credit, kin caregivers must show legal and other adoption expenses and can only deduct actual expenses up to the full deduction amount.
- ▶ A state adoption tax credit may be available.
- ▶ Unlike with adoption, there are no federal or state tax credits for those who obtain guardianship or legal custody of children.

Long-term permanency options: possible related financial assistance



INSIDE/LICENSED

- ▶ **Guardianship/Legal Custody:** Guardianship assistance may be available, along with Medicaid, attorney/court fees, and possible services (for list of jurisdictions, see: www.grandfamilies.org/Topics/Subsidized-Guardianship/Subsidized-Guardianship-Summary-Analysis).
- ▶ **Adoption:** Adoption assistance may be available, along with Medicaid and possible services.



INSIDE/ NOT LICENSED

- ▶ **Guardianship/Legal Custody:** Limited guardianship assistance may be available, along with Medicaid, attorney/court fees, and possible services.
- ▶ **Adoption:** Adoption assistance may be available, along with Medicaid and possible services.



OUTSIDE

- ▶ **Guardianship and Legal Custody:** TANF child-only assistance may be available.
- ▶ **Private Adoption:** Separate ongoing financial support or services are typically not provided.

Long-term permanency options: legal support and post-permanency services



INSIDE/LICENSED

- ▶ Legal expenses and nonrecurring expenses reimbursement up to \$2,000 for adoption or guardianship are available.
- ▶ Post-permanency supports, such as family counseling and respite care, may be available.



INSIDE/ NOT LICENSED

- ▶ Legal expenses and nonrecurring expenses reimbursement up to \$2,000 for adoption and may be available for guardianship.
- ▶ Post-permanency supports, such as family counseling and respite care, may be available.



OUTSIDE

- ▶ Typically, no help with legal expenses or nonrecurring expenses.
- ▶ Post-permanency supports, such as family counseling and respite care, may be available.

Tips for Kin Caregivers

- ▶ **Refer to your state [GrandFacts fact sheet](#) and connect with community-based resources and your kinship navigator program if it exists.** Among the professionals you consult with about your options, ensure you talk with an attorney or other legal professional.
- ▶ **Know that in many instances you will not be able to choose whether you raise the kin child inside or outside the child welfare system.** The child must generally be removed from the parents by child protective services (CPS) for the child to go “inside” the system.
- ▶ **Ask your local child welfare agency and/or trusted community-based service providers for help accessing preventive services.** Even if the child is not removed by CPS, you, the child’s parents, and the child may be able to get “preventive” services through the child welfare agency.
- ▶ **Develop good working relationships with any social workers or other service providers who help you.** Communicate what you and the child need and respond to requests for more information promptly. If you do not have a good working relationship, ask to change the staff who helps you.
- ▶ **Keep clear records showing your family or kin relationship to the child,** including birth certificates, divorce decrees, other legal documents, and religious records, such as an official church document that shows you as the child’s godparent.
- ▶ **Keep records that show you are raising the child,** including:
 - School documents with your name as the point of contact
 - Health care records that mention you as the primary caregiver
 - Any court orders or legal documents, such as a power of attorney, showing that you have legal authority over the children
 - Any public benefits you receive for the child
 - Your tax returns or other tax documents showing you are claiming the child as a dependent

You do not need all these records; they are just examples. Try to collect and save all documents you can showing you are the child’s primary caregiver.

- ▶ **Safeguard the child’s social security card and number for them.**



Tips for Professionals Working with Kin

- ▶ **Help kin make informed decisions about how best to care for the child and what is best for the family by providing guidance and support.** Use written materials and charts to help them understand their role and the available options. If possible, refer kin to local kinship navigator programs or knowledgeable attorneys for assistance.
- ▶ **Remember kin often feel powerless,** as they do not have complete autonomy to make placement and permanency decisions, especially if they are caring for a child in the custody of the child welfare agency. Acknowledge these feelings and support them while they make these important decisions about how to best care for the child.
- ▶ **When possible, involve all parties in decision making,** including the parents, child, and kin caregivers. Use tools to engage the family, such as [genograms, eco maps, and family circles](#). Conduct facilitated Team Decision Making or Family Group Decision Making Meetings.
- ▶ **When working with families, focus on their strengths and get full “buy-in” from the parents** to encourage them to actively participate in planning for their child’s future.
- ▶ **Use the principle of full disclosure,** which encourages professionals to always be truthful and upfront with the family about the plan for the child.
- ▶ **Explain all terms,** using appropriate language without speaking down to the family.
- ▶ **Always respect the parent and kin’s opinion about their own family,** as well as their culture and diversity. Show respect and empathy for all family members by taking the time to learn and understand the family’s past experiences, current situation, and concerns.
- ▶ **Check your own feelings, biases, and prejudices** toward the family as well as potential punitive attitudes towards the parents. Remain nonjudgmental and genuine in your approach to families. Above all, acknowledge and respect the child’s attachment to their parents and their family.
- ▶ **Remember you may encounter reluctance by some kin to become involved** due to complex family dynamics and mistrust of systems but recognize the value of kin placements and the supportive role kin can play in assisting families in need.
- ▶ **Understand that kin caregivers often have unique needs** that differ from traditional foster parents. Offer tailored support to kin who step up to care for children, including concrete items such as cribs, baby formula, and clothing.
- ▶ **Explain the kinship foster home approval process and public benefits.** Develop strong relationships and referral processes with community organizations that can provide tailored, culturally appropriate, and relevant services to children, parents, kin caregivers, and other kin interested in supporting the child.
- ▶ **Guide and support kin through the approval process to become foster parents.**
- ▶ **Cultivate kinship champions** or specialized staff who are sensitive to the needs of kin caregivers and who help them navigate the various complex systems.



Chafee Independent Living Program

The John H. Chafee Foster Care Program for Successful Transition to Adulthood (“Chafee”) aids current and former foster youth in achieving self-sufficiency. States and tribes can use Chafee grants for financial, housing, counseling, employment, education, and other appropriate supports, including secure connections with caring adults. The program serves children ages 14 to 21 (or 23 in states that have extended foster care to age 21) who are likely to age out of foster care, who have left foster care to kinship guardianship or adoption, or who have aged out of foster care.

Chafee Education and Training Vouchers

The Education and Training Voucher (ETV) program provides funding to pursue post-secondary education or training for youth eligible for the Chafee program. The program provides vouchers of up to \$5,000 per year, which can be used for cost of attendance, including tuition, fees, books, room and board, supplies, and other items, at higher education institutions. States and tribes can provide vouchers for up to five years or until a child reaches age 26.

Foster care maintenance payments

Monthly payments to meet the needs of children in the licensed care of relative or nonrelative foster parents vary based on jurisdiction. These payments are typically twice as high as TANF child-only grants for the first child and are the same amount per child, unlike TANF child-only. The caregiver must assign child support collection to the state or get a good cause exemption for not doing so.

Licensing standards

Each jurisdiction has its own requirements for kin to become licensed foster parents for their related child. These standards include background checks, training requirements, home safety standards, and other safety-related standards. Some of these standards may be waived; see the definition of non-safety licensing standards.

Long-term permanency options

Legal options vary based on jurisdiction and typically include legal custody, guardianship, and adoption. These options provide a permanent home for children in the care of relatives whether exiting foster care or not. The level of permanency varies, as adoption is typically the only option that comes with termination of parental rights and responsibilities.



Non-safety licensing standards

Which standards are considered non-safety are defined by each jurisdiction, and each jurisdiction has the federal authority to waive those licensing standards for relatives on a case-by-case basis. The only standards that cannot be waived under federal law are known as Adam Walsh barrier crimes, which prohibit a foster parent applicant who has been convicted of a violent felony or a drug-related felony within the last five years from being licensed as a foster parent.

Post-permanency supports

Services and assistance, such as respite care, childcare, and mental health services, depending on the jurisdiction may be available to the family after the caregiver adopts or obtains guardianship or legal custody of their kin child.

TANF child-only grants

Monthly payments to help meet the needs of children in the care of relatives based on the income of each child vary based on jurisdiction. Caregiver income is not a factor in most states, and these grants are typically not time-limited like TANF family grants. Unlike foster care maintenance payments, the support only rises incrementally for each additional kin child in the home. The caregiver must assign child support collection to the state or get a good cause exemption for not doing so.

Resources

- ✓ [Brief](#) and related [chart](#) to compare adoption and guardianship for children in kinship foster care, so that these children can exit foster care into permanent families (2018 & 2021).
- ✓ [GrandFacts fact sheets](#) for each state and the District of Columbia provide caregivers resource information, including available kinship navigator programs and legal providers. The fact sheets are available in English and Spanish (2021).
- ✓ [State charts](#) for New Mexico, New York, Pennsylvania, Virginia, and Washington, based on the national chart, comparing adoption and guardianship for children in kinship foster care (2021).



- ✓ [Grandfamilies.org](#) serves as a national resource in support of grandfamilies within and outside the child welfare system.

Features:

- ▶ easy-to-use searchable database of laws and legislation impacting kinship families
- ▶ analysis and comparison of laws on many kinship topics
- ▶ resources and publications for professionals who work with grandfamilies
- ▶ timely resources tied to new developments in the field
- ▶ technical assistance and training opportunities



This resource was developed in partnership with the ABA Center on Children and the Law, Children's Defense Fund, and Generations United, with support from Casey Family Programs. Visit www.grandfamilies.org for more resources. Images by Pixabay and freemages.com.