

KINSHIP CARE IN MISSISSIPPI

There are 83,593 children (10.8%) in Mississippi living in grandparent-headed households; another 17,963 (2.3%) live in households headed by relatives other than grandparents.¹ Of these children living in households headed by grandparents or other relatives, 46,693 live there without either parent present.² 64% of these "grand-families" are African-American; 1% is Hispanic/Latino; and 34% are Caucasian.³

How Does Mississippi Define "Kin?"

A state's definition of kin is important because all states treat kin differently than non-kin for purposes of licensing, payment, and other programs that may benefit families providing formal or informal kinship care. Despite the fact that it has the third highest percentage of children living in grandparent-headed households,⁴ Mississippi has yet to enact a state law specific to kinship caregivers. However, the provision dealing with public welfare includes a definition of "relative caretaker" that governs the state's distribution of Temporary Assistance to Needy Families (TANF) funds. According to the statute, "caretaker relative" means:

"A person who is providing care to a child qualified for and receiving assistance and who is the child's father, mother, grandfather, grandmother, brother, sister, uncle, aunt or any blood relative, including those of half-blood, and including first cousins or first cousins once removed, nephews, or nieces, and persons of preceding generations as denoted by the prefix of grand, great, or great-great, including great-great-great-grandparents, stepfather, stepmother, stepbrother and stepsister, persons who legally adopt a child or his parent, as well as the natural and other legally adopted children of such persons, and spouses of any persons named in the above groups...all such relatives shall qualify (for TANF) as such whether the relationship be acquired by birth or adoption, and neither divorce nor death shall terminate any such relationship."⁵ (emphasis added).

Though broad enough to include relatives connected to the child by birth and adoption, it is notable that the statute is not set up to provide support for informal kinship caregivers who might otherwise be bonded to the child (such as godparents and close family friends).⁶

Preferences for Placement of Children With Kin

The passage of the Personal Responsibility and Work Opportunities Reconciliation Act of 1996 (PRWORA) required states to consider relative placement first when determining placement for children in out-of-home care.⁷ As such, Mississippi currently gives preference to kinship caregivers when it is determined that a child cannot remain at home. According to the statute, the Department of Human Services ("the Department") must give first priority to placing the child in the home of one of the child's "relatives within the third

degree, as computed by the civil rule."⁸ Once the child is placed in the care of a relative, pursuant to court order, the Department may not change the placement unless it has determined that another placement would be in the child's best interest.⁹

Additionally, Mississippi follows the recommendation made by the Adoption and Safe Families Act (ASFA) regarding the automatic filing for termination of parental rights after a child has been in foster care for fifteen months out of a twenty-two month period. Also noteworthy, as recommended by ASFA, the Department can choose not to file a termination of parental rights petition after twenty-two months if the child is being cared for by a relative and/or it has documented a compelling reason why termination of parental rights would not be in the best interests of the child.¹⁰

Licensure of Kinship Caregivers

Similar to states' definition of kin, licensing policies are critical in determining whether kinship caregivers will receive financial support for their services. Mississippi does not have a separate licensing program set up for kinship foster parents. Thus, kin must meet the same licensing standards and requirements and will receive the same foster care payments as non-kin foster parents. However, a special provision does provide that the Department may waive "any rule, regulation or policy applicable to placement in foster care that would otherwise require the child to have a separate bed or bedroom or have a bedroom of a certain size, if placing the child in a relative's home would be in the best interest of the child and such requirements cannot be met in the relative's home."¹¹ This waiver is important because it allows more children to remain with kin instead of being placed in formal foster care with strangers. Further, it may enable larger sibling groups to remain together because bunk beds or twin beds that wouldn't otherwise be acceptable might be allowed in a kinship situation.

Financial Assistance for Kin Raising Children

While thirty-five states and the District of Columbia have established subsidized guardianship programs to support kinship families who may be resistant to the idea of legal guardianship, Mississippi has yet to do so. Thus, the primary source of

funding for kin caregivers is a cash grant available through Mississippi's Temporary Assistance for Needy Families (TANF) program. A TANF "child-only grant" is for the child and based only on the child's income, but an adult caregiver may be included in the TANF grant (based on their income and subject to work requirements and time limits).¹²

Other benefits that may be available to relative caregivers include food stamps, health insurance (through Medicaid and/or Mississippi's Children's Health

Insurance Program), child care subsidies, disability benefits, and special education services.¹³

Medical Consent

Mississippi is one of twenty-nine states (including the District of Columbia) that have enacted legislation that enables grandparents and other relatives to consent to a child's medical care. Mississippi enumerates by statute a priority list of individuals that are "authorized and empowered" to consent to surgical or medical treatment or procedures on behalf of a minor child. The following persons in descending order of priority may proffer consent: the minor's guardian or custodian; the minor's parent; the minor's adult brother or sister; or the minor's grandparent.¹⁴ If these individuals are not "reasonably available," an adult who has exhibited "special care and concern" for the child may also provide consent.¹⁵ In this situation, however, the consenting individual must communicate his or her assumption of authority as soon as possible to the enumerated individuals (guardian/custodian, parent, sibling, and grandparent). While some states require a written medical consent form or affidavit, Mississippi allows for oral as well as written consent and does not require any such affidavit.¹⁶

School Enrollment

Though twenty-one states currently allow relative caregivers to enroll children in schools,¹⁷ Mississippi has yet to enact such a law. Consequently, relative caregivers in Mississippi may face insurmountable barriers to enrolling their child in school or in school-related activities. The passage of school enrollment laws for the state of Mississippi is increasingly important in the wake of Hurricane Katrina. Experts estimate that some children have attended as many as nine schools since August 2005; those who have returned to their home town often do not attend the same schools with the same students or teachers.¹⁸ Thus, children who were living in kinship care prior to the storm may be experiencing increased difficulty moving on with their lives as a result of the absence of a school enrollment law in Mississippi.

¹ Mississippi: A State Fact Sheet for Grandparents and Other Relatives Raising Children (2005), [hereinafter "State Fact Sheet"] (Based on data taken from the U.S. Census Bureau, fact sheets for all fifty states and the District of Columbia were compiled by AARP, the Brookdale Foundation, the Children's Defense Fund, Casey Family Programs, the Child Welfare League of America, and Generations United. Taken together or viewed separately, the fact sheets are an excellent resource for legislators, kinship caregivers, and others interested in kinship care).² Id.

³ ⁴[States Ranked by Percentage Change from 1990 to 2000 Children Under 18 Living in Grandparent-headed Households](#), (citing the U.S. Census Bureau 1990 and 2000 Census and identifying Hawaii (at 12.9%) and Washington, D.C. (at 14.5%) as the only entities with greater percentages of children living in grandparent-headed households than Mississippi).⁵ MISS. CODE ANN. § 43-17-3 (d) (2006). See e.g., LA. CHILD. CODE ANN. ART. 603 (2006) (defining "relative" as an "individual with whom the child has established a significant relationship by blood, adoption, or affinity") (emphasis added).

⁷ Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Pub. L.

No. 104-193, Tit. V, Sec. 505, 110 Stat. 2105 (1996) (amending the Social Security Act to instruct that the State “shall consider giving preference to an adult relative over a non-related caregiver when determining a placement for a child, provided that the relative caregiver meets all relevant State child protection standards”).⁸ MISS. CODE ANN. § 43-15-13 (2006).⁹ Id. (clarifying that relative caretakers will be given an opportunity to contest the specific reasons documented by the Department at least seventy-two hours prior to any order to remove the child from the home).¹⁰ Id.¹¹ Id.¹² State Fact Sheet at 2. See also Mississippi Department of Human Services [TANF](#), (explaining Mississippi TANF eligibility, work requirements, time limits, and other pertinent information for relative caregivers).

See e.g., MD. CODE ANN. [EDUC.] § 7-101 (2006) (allowing all Maryland county superintendents to enable a child living in informal kinship care to attend public school so long as the relative verifies the informal kinship care relationship through a sworn affidavit). Julia Cass, , WASH. POST, June 13, 2006, at A01, (suggesting that children continue to experience emotional trauma related to Hurricane Katrina one year after the storm). Id.¹³ Id. at 3. See also [Mississippi Department of Human Services](#), (serving as a springboard to Mississippi state offices closely connected to the Department of Human Services, such as the Office for Children and Youth Reports and the Office of Child Support Enforcement).¹⁴ MISS. CODE ANN. § 41-41-3 (1) (2006).¹⁵ Id.¹⁶ Id.¹⁷ [For Many of Katrina's Young Victims, the Scars are More than Skin Deep](#)²²