

Helping Relatives Raise Children: Relative Placement and Kinship Care

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by

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RELATIVE PREFERENCE IN PLACEMENT – DFCS Policy

- ❖ Exploration of all possible relative placement resources is critical and must be expedited in order to maintain and promote family continuity. The child's extended family may, also, offer permanency to a child.
- ❖ http://www.odis.dhr.state.ga.us/3000_fam/3060_fostericare/MAN3060.doc
- ❖ Section 1004

Relative Placement - Why Relative Placement is Preferred

- ❖ Such a placement plan honors and preserves the child's right to maintain ties with his/her family, provided that the safety and general well-being of the child is not jeopardized. Further, in preserving the integrity of the child's family ties, the agency is supporting and promoting his/her need to feel and experience a sense of belonging.

First Placement – Best Placement

- ❖ Having a good understanding of the child's individual needs and the strengths of the placement resource is critical to a decision toward making the first placement the best for the child. Ideally, placements should be in close proximity to the parents to promote parent/child visitation.

DFCS Regulations – Relative Placement

1004. 1.1 - Requirement

- ❖ Preference is given 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.
- ❖ http://www.odis.dhr.state.ga.us/3000_fam/3060_fostercare/Chapters/Foster%20Care%201004.doc

State Law - Relative Placement?

- ❖ OCGA § 15-11-103 sets forth a level of priorities when placing a child
- ❖ OCGA § 15-11-103(a)(1) governs the placement of a child with relatives after the termination of parental rights.

OCGA § 15-11-103(a)(1)

If, upon the entering of an order terminating the parental rights of a parent, there is no parent having parental rights, the court shall first attempt to place the child with a person related to the child by blood or marriage or with a member of the child's extended family if such a person is willing and, after study by the probation officer or other person or agency designated by the court, is found by the court to be qualified to receive and care for the child, if the court determines such placement is the most appropriate for and in the best interest of the child. . . .

In the Interest of J. M. T.,
275 Ga. App. 526; 621 S.E.2d 535 (2005)

- ❖ Under OCGA § 15-11-103 (a) (1), it is incumbent upon the court to attempt to place the child first with a person related to her by blood or marriage or with a member of her extended family.

Why “Kinship Care”?

- ❖ 2.4 Million: Grandparents in the United States provide primary care to their grandchildren
- ❖ 164,423: Children in Georgia households headed by grandparents

3 out of 5 of those households without a parent

Statistics from Marlon Manuel, “Fountain of Youth,” The Atlanta Journal Constitution, Wednesday, September 20, 2006, Section P1.

Why are relatives raising their minor kin?

- ❖ Death of the Children's Parents
- ❖ HIV/AIDS or Other Tragic Illness
- ❖ Drug or Alcohol Abuse
- ❖ Domestic Violence
- ❖ Teenage Pregnancy
- ❖ Lack of Parental Responsibility
- ❖ Economic Problems

*John Bouman, "Is Welfare Reform Right for Grandparents?
Structure Welfare Reform to Accommodate the Needs of Older Adults in Families with Children,"
Journal of Poverty Law and Policy, September-October 2000.*

Goals:

- ❖ **Create Stable Legal Relationships:** Kinship care creates different types of legal relationships between the caregiver and the child.
- ❖ **Economic Security:** Kinship care includes—but is not limited to—education, housing, medical services, and public benefits.

GLSP Kinship Care Project

- ❖ Currently, only three (3) GLSP Offices are covered under the Kinship Care Project: Augusta, Savannah and Piedmont.



GLSP Kinship Care Project: Counties Served

- ❖ **Augusta:** Richmond, Burke, Columbia, Glascock, Jefferson, Jenkins, Lincoln, McDuffie, Screven, Taliaferro, Warren, Washington, and Wilkes
- ❖ **Savannah:** Chatham, Bryan, Bulloch, Candler, Effingham, Emanuel, Evans, Liberty, Long, Tattnall, and Toombs
- ❖ **Piedmont:** Bartow, Carroll, Coweta, Douglas, Fayette, Floyd, Gordon, Greene, Haralson, Heard, Henry, Morgan, Newton, Paulding, Polk, Rockdale, Spalding, and Walton

Program Sponsor:

Georgia Department of Human Resources,
Division of Aging Services

Georgia Legal Services Program

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What is Kinship Care?

- ❖ Kinship care involves the care and the support to a child by a relative other than the child's parents.

Concerns for Relatives Raising Children

- ❖ **Legal Stability:**
Create stable **legal relationships**
- ❖ **Economic Security:**
Maximize the **financial and medical resources.**

*Why are the legal relationships
between the child and the relative
caregiver important?*

- ❖ The different legal relationships directly determine access to services and to public benefits.

LEGAL RELATIONSHIPS

- ❖ **Adoption**
- ❖ **Legal Custody**
- ❖ **Temporary Guardianship**
- ❖ **Foster Care**



ADOPTION

- ❖ Greatest legal stability;
- ❖ Severs the legal relationship between child and biological parents;
- ❖ Creates relationship of parent and child between relative and child;
- ❖ Parents must voluntarily surrender parental rights; OR
- ❖ If parents are not willing, relative must get court order terminating rights of parents.

LEGAL CUSTODY

- ❖ **Grandparent, great-grandparent, aunt, uncle, great aunt, great uncle, sibling, or adoptive parent, can get custody. . .**
- ❖ **If the court hearing the issue of custody, in the exercise of its sound discretion. . ., determines that an award of custody to such third party is for the best interest of the child. . . .** OCGA § 19-7-1(b)(1)



WHAT DOES THE COURT CONSIDER?

❖ **The Best Interest of the Child:**

The third party must prove by clear and convincing evidence that the child would suffer physical or emotional harm if custody were awarded to the biological parent.

Wade v. Clark, 273 Ga. 587 (2001)



TEMPORARY GUARDIANSHIP

- ❖ Petition filed in Probate Court in county where child lives
- ❖ If either parent objects, Court must deny the petition.
- ❖ After Court grants temporary guardianship, child's parents may later object to guardianship.
- ❖ Petition is transferred and Juvenile court looks at "best interests."

Guardianship (continued)

- ❖ Available in Juvenile Court
- ❖ Consider if no relative placement or custody with Department of Human Resources or licensed child-placing agency
- ❖ See OCGA 15-11-103(a)(3) and OCGA 15-11-30.1

FOSTER CARE

- ❖ **Juvenile Court must determine that the child is abused, neglected, or somehow deprived.**
- ❖ **Foster parents—including relatives—must take training classes, submit to a home study, and pass a criminal background check.**
- ❖ **In foster care, DFCS has legal custody and the right to make all legal decisions concerning the child, including removal.**
- ❖ **No real legal stability to relationship, but higher monthly income than Temporary Assistance to Needy Families (TANF).**

FINANCIAL ASSISTANCE

- ❖ **Adoption Assistance:** GeorgiaAdvocates.org
- ❖ **Social Security or SSI (Supplemental Security Income):** www.ssa.gov
- ❖ **Child Support:** OCGA § 19-6-15
- ❖ **Medicaid or Peachcare:** www.odis.dhr.state.ga.us
- ❖ **TANF (Temporary Assistance to Needy Families):**
www.odis.dhr.state.ga.us
- ❖ **Relative Care Subsidy:**
www.odis.dhr.state.ga.us



ADOPTION ASSISTANCE

Adoption Assistance is available to some relatives who adopt special needs children.

Adoption Assistance includes:

- (1) monthly payment per child;**
- (2) Medicaid coverage; and**
- (3) payment of legal fees and costs associated with adoption.**

Adoption Assistance Eligibility Criteria

- * Application through DFCS must be made before the final adoption decree entered
- * Child must be eligible for AFDC (Aid to Families with Dependent Children) in the family from which the child was removed or receiving SSI;
- * The child must be placed with the relative within six months of removal by DFCS.

Adoption Assistance: Current Basic Monthly Amounts

- ❖ \$387 for a child 5 years old or younger,
- ❖ \$410 for a child 11 years old or younger, and
- ❖ \$433 for a child 12 years old or older, up to 18.
- ❖ The child may qualify for a higher amount if the child has severe needs. If the child has serious needs, the caseworker may do a “level of care determination.”

Definition of Special Needs

❖ Georgia defines “special needs”

- (1) any child eight years of age or older;**
- (2) any child of black heritage one year or older;**
- (3) members of a sibling group of three or more to be placed together;**
- (4) members of a sibling group of two where one is over the age of eight or has another special need; or**
- (5) any child with a documented physical, emotional, or mental problem or limitation.**



SOCIAL SECURITY BENEFITS

- ❖ **At adoption child may be eligible to draw Social Security benefits off the grandparent's account if the grandparent is receiving Social Security benefits;**
- ❖ **Generally, an adopted grandchild is entitled to a monthly benefit equal to one-half of the grandparent's benefit;**
- ❖ **A grandchild (whether or not adopted) also may be entitled to draw benefits off a deceased parent's Social Security account.**
- ❖ **www.ssa.gov**



CHILD SUPPORT

- ❖ If Court awards legal custody of the child to the relative, the relative should be entitled to child support from either or both parents.
- ❖ The amount of child support depends on the parents' income.



A child must be supported by both parents until the child. . .

- ❖ reaches the age of 18 (if in high school up to age 20);
- ❖ marries; or
- ❖ becomes emancipated.



Child Support is established by. . .

- ❖ **Divorce**
- ❖ **Separate Maintenance**
- ❖ **Paternity**
- ❖ **Legitimation**
- ❖ **Action for Support**
- ❖ **Family Violence Act TPO**
- ❖ **Criminal Abandonment Warrant**



Child Support is enforced by. . .

- ❖ **Contempt**
- ❖ **Garnishment for Continuing Support**
- ❖ **Income Deduction Order**
- ❖ **Liens**
- ❖ **License suspension**
- ❖ **Criminal Abandonment**

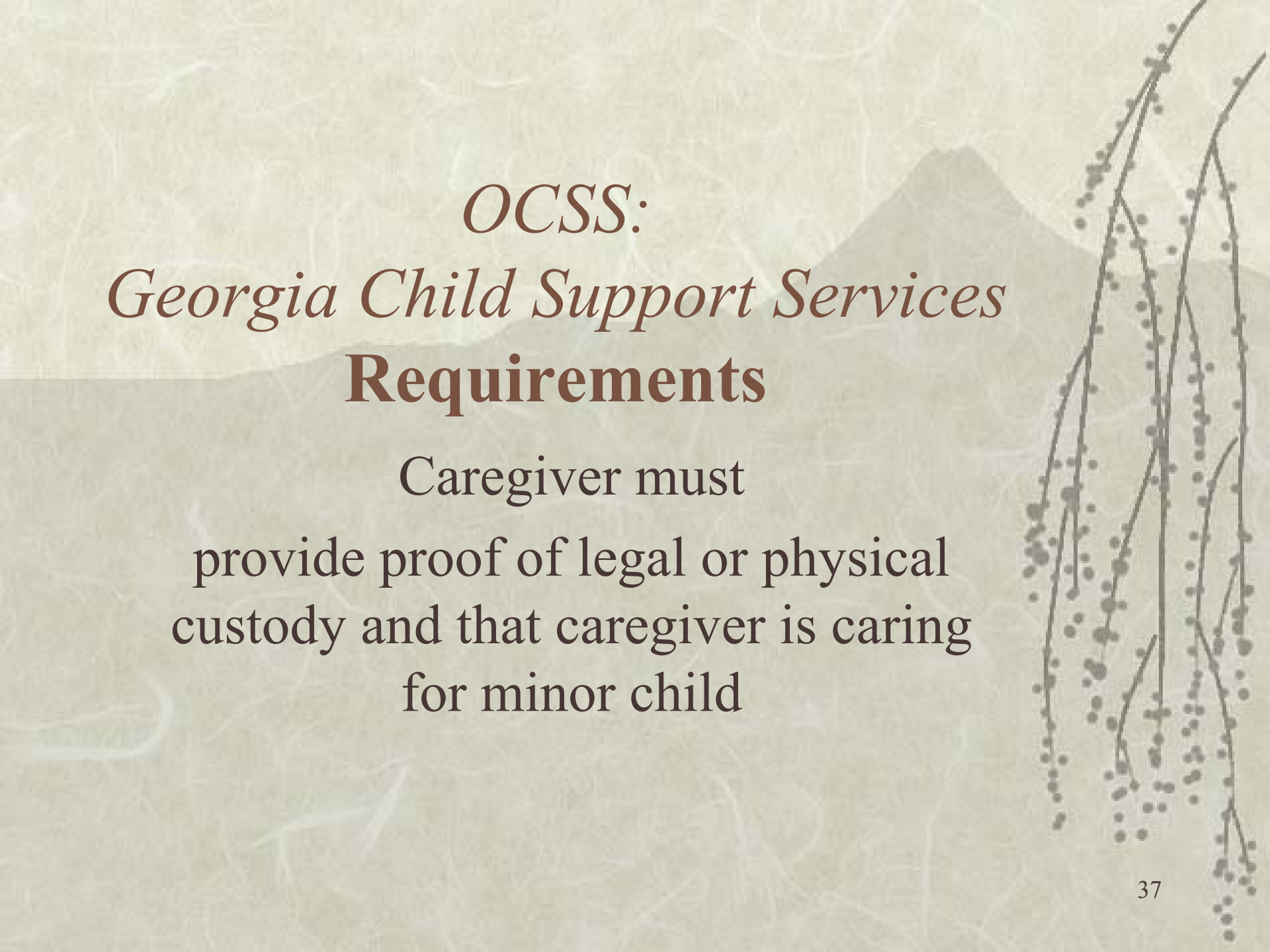


New Child Support Law

- ❖ **Effective January 2007**
- ❖ **Changes how the Court determines child support**
- ❖ **Based on a formula using worksheets or electronic calculators**
- ❖ **Creates an amount – but, can be increased or decreased depending on the circumstances**

*New OCSS Child Support Initiative:
Child Support
for
Grandparents and Other Caregivers*

- ❖ As of 8/1/06
- ❖ Office of Child Support Services
- ❖ Priority for grandparents and nonparent custodians to get child support

The background features a soft-focus landscape with a mountain range in the distance and a willow tree with drooping branches on the right side. The overall color palette is muted and naturalistic.

OCSS:
Georgia Child Support Services
Requirements

Caregiver must
provide proof of legal or physical
custody and that caregiver is caring
for minor child

Proof of Legal Custody

- ❖ Juvenile Court Custody Order
- ❖ Superior Court Custody Order
- ❖ Probate Court Guardianship Orders
- ❖ Any other applicable order

Proof of Physical Custody

- ❖ Power of attorney
- ❖ Recent registration forms
- ❖ Notarized letter from the non-custodial parent stating that the child is with the new custodian

Referral may be made by:

Relative Caregiver

Division of Family and Children's
Services' (DFCS) Foster Care
Program

Division of Aging Services (DAS)

Juvenile Court

MEDICAID or Peachcare

- ❖ Low or moderate-income grandchildren being raised by their grandparents should be able to receive Medicaid or Peachcare;
- ❖ Medicaid and Peachcare cover physician, hospital, drugs, well-baby care, nursing home, institutional care;
- ❖ Like most insurance, you must pay for Peachcare.
- ❖ Medicaid has no cost.
- ❖ Apply at DFCS.



PeachCare Income Eligibility - 2006

Family Size	Annual Income
❖ 1	\$23,040
❖ 2	\$31,020
❖ 3	\$39,024
❖ 4	\$47,004

State employees are not eligible for PeachCare for Kids due to federal restrictions.

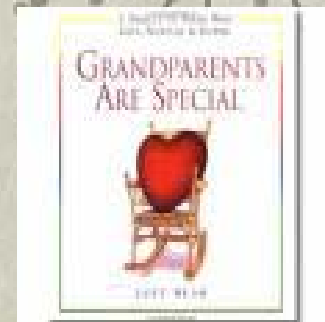
www.odis.dhr.state.ga.us/3000_fam/3480_medicaid/manuals/2194.doc

Temporary Assistance to Needy Families (TANF)

- ❖ **Several types of TANF**
- ❖ **TANF for Grandparents Raising Grandchildren**
- ❖ **TANF with work requirements and time restrictions (unless child only)**
- ❖ **Apply for TANF at DFCS office**

TANF

- ❖ **Grandparents may choose to be included in the grant group for TANF (to receive benefits for themselves) or to opt out of the grant group.**



Grandparent may want to opt out of the grant group for 2 reasons

- ❖ **If grandparent has too much income, the entire family will be ineligible for assistance;**
- ❖ **If grandparent is included in the grant group, the grandparent may be required to follow TANF rules, inc: work requirements and time limits.**



RELATIVE CARE SUBSIDY

- ❖ \$10 per child per day;
- ❖ Juvenile Court must find child deprived and reunification with parent not in child's best interests;
- ❖ Child must have income of less than \$400 per month and must have been transferred from legal custody of DFCS to permanent custody of relative;
- ❖ DFCS must visit the relative's home once every three years.
- ❖ May apply for TANF or Relative Care Subsidy, but not both

*Georgia Relative Caregiver
Hotline*

1 (888) 257-9519

QUESTIONS?

Georgia Legal Services Program

(404) 206-5175

1 (888) 257 - 9519