

INTERIM STUDY PROPOSAL 2009-186

REQUESTING THE HOUSE COMMITTEE ON AGING, CHILDREN AND YOUTH,
LEGISLATIVE & MILITARY AFFAIRS AND THE SENATE INTERIM COMMITTEE
ON CHILDREN AND YOUTH TO COMPREHENSIVELY STUDY THE GOALS, POLICY
INITIATIVES, PROGRAMS, PROCEDURES, AND RULES OF THE DEPARTMENT OF
HUMAN SERVICES THAT IMPACT ADULT GRANDPARENTS AND OTHER ADULT
NONPARENTAL RELATIVES OF CHILDREN REMOVED FROM THE CUSTODY OF
THEIR PARENTS AND PLACED IN THE CUSTODY OF THE DEPARTMENT.

WHEREAS, in Arkansas, more than thirty-three thousand six hundred
(33,600) grandparents are responsible for grandchildren living with them
because the parents of the children are unable or unwilling to care for the
children; and

WHEREAS, there are a number of children who are removed from the home
of their parents and placed in the custody of the Department of Human
Services without providing notice of the removal and an opportunity to
request custody of or visitation with the child to adult grandparents and
other adult nonparental relatives; and

WHEREAS, it has been reported by adult grandparents, other adult
nonparental relatives, and child advocates that the department exhibits
behavior which may demonstrate a bias against adult grandparents and other
adult nonparental relatives and that the relatives may be treated unfairly by
caseworkers in determining placement and visitation, a bias and unfairness
that can negatively impact the child if essential attachments that the child
has to the relatives are reduced or eliminated; and

WHEREAS, Act 1311 of 2009 requires notice to all adult grandparents and
other adult nonparental relatives of the child transferred to the custody of
the Department of Human Services, and this law was enacted to improve the
outcomes of children who are placed in the custody of the department by
giving adult grandparents and other adult nonparental relatives the
opportunity to obtain custody or be awarded visitation instead of placing the
child with strangers or isolating the child from his or her family; and

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2 WHEREAS, Act 325 of 2009 amended the Arkansas Subsidized Guardianship
3 Act, 9-8-201 et seq., in an effort to ensure that Arkansas is eligible for
4 federal funding for the guardianship subsidy, should such funding become
5 available; and

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7 WHEREAS, because permanency placement is a goal for children in foster
8 care, the department often seeks termination of parental rights so that the
9 child can be adopted; and

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11 WHEREAS, when parental rights are terminated, the adult grandparent and
12 other adult nonparental relatives of the child are declared for all legal
13 purposes as not related to the child and all rights to the child are
14 terminated regardless of any attachments the child may have to the relatives,
15 a legality of which most of the adult grandparents and other adult
16 nonparental relatives are unaware; and

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18 WHEREAS, after parental rights are terminated, some children in the
19 custody of the department are never adopted; the children "age out" of the
20 foster care system upon reaching eighteen (18) years of age and enter
21 adulthood with no remaining ties to their biological family; and

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23 WHEREAS, Act 391 of 2009, codified at Arkansas Code § 9-27-363, created
24 the Arkansas Foster Youth Transitional Plan that was enacted to address this
25 issue by requiring the department to develop a transitional plan for every
26 child in foster care not later than the child's seventeenth birthday or
27 within ninety (90) days of entering a foster care program; and

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29 WHEREAS, the procedures of termination of parental rights are
30 statutorily created procedures, and the General Assembly has the
31 constitutional authority to amend these procedures as times change to ensure
32 the best interests of children are served; and

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34 WHEREAS, due to dramatic changes in society in the last twenty (20)
35 years and the increase in the number of children whose relationships with
36 their parents are legally terminated, a procedure is necessary to allow the

1 continuation of relationships between the child and his or her adult
2 grandparents and other adult nonparental relatives after termination of
3 parental rights if the continuation of the relationship is in the best
4 interest of the child,

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6 NOW THEREFORE,

7 BE IT PROPOSED BY THE HOUSE COMMITTEE ON AGING, CHILDREN AND YOUTH,
8 LEGISLATIVE & MILITARY AFFAIRS AND THE SENATE INTERIM COMMITTEE ON CHILDREN
9 AND YOUTH OF THE EIGHTY-SEVENTH GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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11 THAT the House Interim Committee on Aging, Children and Youth,
12 Legislative & Military Affairs and the Senate Interim Committee on Children
13 and Youth comprehensively study the goals, policy initiatives, programs,
14 procedures, and rules of the Department of Human Services that impact adult
15 grandparents and other adult nonparental relatives of children removed from
16 the custody of their parents and placed in the department's custody.

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18 BE IT FURTHER PROPOSED, that the Department of Human Services provide a
19 response in writing to this proposal to the committee chairs within sixty
20 (60) days of adoption of this proposal, be available to provide additional
21 information as needed, and be available for testimony to explain the written
22 submission at later committee meetings on the following:

23 1. An explanation on the goals, policy initiatives, programs,
24 procedures, and rules for ensuring that the department complies with Act 1311
25 of 2009;

26 2. Data on the number of children Act 1311 of 2009 will affect
27 each year;

28 3. An explanation of and citations to legal authority for
29 penalties available under state and federal law for the failure of the
30 department to notify adult grandparents and other adult nonparental
31 relatives;

32 4. Information on training that caseworkers and staff receive on
33 notifying and working with:

34 a. Adult grandparents and other adult nonparental
35 relatives; and

36 b. Aging adult grandparents and other aging nonparental

1 relatives who are seeking custody or visitation;

2 5. An explanation on the goals, policy initiatives, programs,
3 procedures, and rules that the department is implementing or considering to
4 implement to address the issue of children in the custody of the department
5 with three (3) or more foster care placements in a one-year period within
6 agency foster homes or agency provider locations or both, including a change
7 in placement with a contracted provider that moves a child to a different
8 provider location, to determine if placement or visitation with an adult
9 grandparent or other adult nonparental relative could improve the outcome for
10 the child, regardless of whether parental rights have been terminated;

11 6. Data from the most recent twelve-month period for which
12 complete data are available on the number of children in the custody of the
13 department, regardless of age, that have had three (3) or more foster care
14 placements in a one-year period within agency foster homes or agency provider
15 locations or both, including a change in placement with a contracted provider
16 that moves a child to a different provider location;

17 7. Data from the most recent twelve-month period for which
18 complete data are available on the total number of children in foster care,
19 regardless of age, with goals other than return home to parent, including
20 data on the number of children with each category of different types of goals
21 other than return home to parent;

22 8. Data from the most recent twelve-month period for which
23 complete data are available on sibling groups identified with different goals
24 other than return home to parent, including specific data on the types of
25 different goals that sibling groups are assigned;

26 9. An explanation on the goals, policy initiatives, programs,
27 procedures, and rules that the department is implementing or considering to
28 implement to address the issue of children in the custody of the department
29 whose parents have had parental rights terminated but who have not yet been
30 placed in an adoptive home and who have adult grandparents and other adult
31 nonparental relatives who wish to seek custody or visitation with the child;

32 10. A summary of the goals, policy initiatives, programs,
33 procedures, and rules that the department has for improving the outcomes of
34 children in its custody by pursuing placement or visitation with adult
35 grandparents and other adult nonparental relatives;

36 11. An explanation on the goals, policy initiatives, programs,

1 procedures, and rules that the department is implementing or considering to
2 implement regarding the changes made by Act 325 of 2009, which amended the
3 Arkansas Subsidized Guardianship Act, 9-8-201 et seq., and the availability
4 of federal funding for guardianship subsidies; and

5 12. An explanation on the goals, policy initiatives, programs,
6 procedures, and rules that the department is implementing or considering to
7 implement regarding the changes made by Act 391 of 2009, codified at Arkansas
8 Code § 9-27-363, that created the Arkansas Foster Youth Transitional Plan.

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10 BE IT FURTHER PROPOSED, that other stakeholders, including without
11 limitation, the Administrative Office of the Courts, attorney ad litem,
12 parent counsel, any member of the court system, or any organization or
13 individual that has relevant information for the committees to consider
14 related to this proposal, are invited to provide a response to this interim
15 study proposal, a response to the Department of Human Services' response, or
16 a response to both.

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18 BE IT FURTHER PROPOSED, that the House Committee on Aging, Children and
19 Youth, Legislative & Military Affairs and the Senate Committee on Children
20 and Youth seek expert testimony on the practices, policies, programs,
21 procedures, and rules that other states are using to improve outcomes for
22 children removed from the custody of their parents by placing the child with
23 adult grandparents and other adult nonparental relatives.

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25 BE IT FURTHER PROPOSED, that the House Committee on Aging, Children and
26 Youth, Legislative & Military Affairs and the Senate Committee on Children
27 and Youth seek expert testimony on the psychological effects, including
28 reactive attachment disorder, that reducing or eliminating contact with adult
29 grandparents and other adult nonparental relatives may have on the child.

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31 Respectfully submitted,

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35 Representative Johnnie Roebuck
36 District 20

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Representative Mike Burris
District 26

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