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DOMESTIC RELATIONS Child Custody Proceedings: Amend Chapter 9 of the Title 19 of the Official Code of Georgia Annotated, Relating to Child Custody Proceedings, so as to Provide for the Creation, Authorization, Procedure, Revocation, and Termination of a Power of Attorney from a Parent to a Grandparent for the Care of a Grandchild; Provide for Short Titles; Provide Definitions; Provide for the Creation of a Program to Provide a Subsidy to Certain Grandparents Raising Grandchildren under Certain Circumstances; Provide for an Assessment and Evaluation of Certain Aspects of the Program;

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DOMESTIC RELATIONS

Child Custody Proceedings: Amend Chapter 9 of Title 19 of the Official Code of Georgia Annotated, Relating to Child Custody Proceedings, so as to Provide for the Creation, Authorization, Procedure, Revocation, and Termination of a Power of Attorney from a Parent to a Grandparent for the Care of a Grandchild; Provide for Short Titles; Provide Definitions; Provide for the Creation of a Program to Provide a Subsidy to Certain Grandparents Raising Grandchildren under Certain Circumstances; Provide for an Assessment and Evaluation of Certain Aspects of the Program; Provide for Other Related Matters; Provide Effective Dates; Repeal Conflicting Laws; and for Other Purposes

CODE SECTIONS:	O.C.G.A. §§ 19-9-120 to -129 (new), -140 to -142 (new)
BILL NUMBER:	SB 88
SUMMARY:	The bill would have allowed parents under hardship to delegate care-giving authority to grandparents for the care of their minor children. The authority would be delegated by creating a power of attorney, which would not require the approval of a court. The power of attorney would allow grandparents to perform several functions on behalf of their grandchildren, including enrolling the grandchildren in school, consenting to medical care, and providing food, lodging, housing, and recreation. The bill would have established a subsidy program that would allow grandparents who are below a certain poverty level to receive funds equivalent to 80% of the average state-wide foster care subsidy rate.
EFFECTIVE DATE:	N/A

History

Nothing could have prepared Harriet Walker of Walton County, Georgia, for what happened.¹ After dire circumstances befell her grandchildren's parents, her young grandchildren, ages three and six, were suddenly thrust into her care.² The oldest had Attention Deficit Hyperactivity Disorder (ADHD), which was difficult enough, but the youngest suffered from a rare metabolic disorder that required constant monitoring of medicine and food intake.³ Too much protein could force little Jeremiah into a coma.⁴ Ms. Walker had to quit her job to care for him.⁵ Without income, she could not afford the medications necessary for her grandchildren.⁶ Fortunately, Ms. Walker was able to obtain help from a non-profit group.⁷ Others in Georgia have not been so fortunate.⁸

There are more than 92,000 grandparent caregivers in Georgia.⁹ Typically, if parents experience a tragedy or unforeseen circumstances, their children are placed in the foster care program where a family, usually unknown to the children, receives funds to alleviate their cost of childrearing.¹⁰ However, in most states, if a grandparent gets custody of the child, then these same foster care funds are unavailable to the grandparent, who very often lives on a fixed income.¹¹ For example, under current law, a grandparent cannot get his or her grandchild a flu shot without parental consent, much

1. See Stephen Milligan, *Group Reaches Out to Grandparents in Need*, WALTON TRIB., Feb. 28, 2007, at A1.

2. *Id.*

3. *Id.*

4. *Id.*

5. *Id.*

6. *Id.*

7. Milligan, *supra* note 1.

8. See Dena Levitz, *Second Time Around: Number of Grandparents Caring for Grandchildren is Increasing*, AUGUSTA CHRON., Nov. 7, 2003, at A1, available at 2003 WLNR 2000388; see also Sherri Ackerman, *Loving Care: But No Support*, TAMPA TRIB., Sept. 23, 2006, Nation/World Section at 1, available at 2006 WLNR 16596803 (discussing difficulties faced by grandparent caregivers in Florida).

9. Levitz, *supra* note 8.

10. See Ackerman, *supra* note 8.

11. See NATIONAL CONFERENCE OF STATE LEGISLATURES, SELECTED STATE KINSHIP CARE LEGISLATIVE ENACTMENTS 1997-2005 (2007), <http://www.ncsl.org/programs/cyf/kinshipenact.htm> (listing the Kinship Care Laws of thirty-three states).

less enroll the grandchild in school.¹² A grandparent must obtain a court order to receive the necessary authority to properly care for their grandchildren.¹³ This can require considerable time and expense and is especially daunting to those with very limited means.¹⁴ Furthermore, grandparents must also face the children's immediate needs, such as medical care and consent to extracurricular activities.¹⁵ The time involved in a court proceeding can disrupt the continuing care of the children.¹⁶

According to Senator Steve Thompson (D-33rd), the Georgia General Assembly has been tackling these issues for about seventeen years, but time after time has been unable to come up with a solution.¹⁷ In 2006, Senator Renee Unterman (R-45th) decided to take up the cause of grandparents across Georgia, which was brought to her attention during her service on the Senate Health and Human Services Committee.¹⁸ With assistance from Kinship Care in Clayton County, Senator Unterman filed Senate Bill 420, which she intended as a first step in solving these problems.¹⁹ Senator Unterman, along with Senators Nancy Schaefer (R-50th), Eric Johnson (R-1st), Regina Thomas (D-2nd), Seth Harp (R-29th), and David Shafer (R-48th) sponsored the bill.²⁰ During the 2006 legislative session, the Senate passed SB 420 by a vote of 56 to 0.²¹ The House Judiciary Committee favorably reported the bill. However, due to political considerations, SB 420 died on the fortieth and final day of the 2006 legislative session, never receiving a final vote in the House.²²

12. Video Recording of Senate Proceedings, Mar. 1, 2007 at 2 hr., 58 min., 01 sec. (remarks by Sen. Steve Thompson (D-33rd)), http://www.georgia.gov/00/article/0,2086,4802_6107103_72682316,00.html [hereinafter Senate Video].

13. Interview with Melanie McNeil, Executive Director, Georgia Council on Aging (Apr. 20, 2007) [hereinafter McNeil Interview].

14. *Id.*

15. *Id.*

16. *Id.*; see also SB 88, as introduced, 2007 Ga. Gen. Assem.

17. See Senate Video, *supra* note 12, at 2 hr., 59 min., 30 sec. (remarks by Sen. Steve Thompson (D-33rd)).

18. Interview with Sen. Renee Unterman (R-45th) (Apr. 9, 2007) [hereinafter Unterman Interview].

19. *Id.* Sen. Unterman stated that the bill was not modeled on any previous legislation, nor was it modeled on any other state statutes, but was written completely from scratch with the help of Kinship Care in Clayton County, Georgia. *Id.*

20. SB 420, as introduced, 2006 Ga. Gen. Assem.

21. State of Georgia Final Composite Sheet, SB 420, March 30, 2006.

22. *Id.*; see also Unterman Interview, *supra* note 18.

Grandparents did not give up.²³ They staged rallies and pressured lawmakers to provide a solution to the problems they faced in caring and providing for their grandchildren.²⁴ A modified version of SB 420 was introduced in the Senate during the 2007 legislative session in the form of Senate Bill 88, titled Care of a Grandchild Act.²⁵

Bill Tracking

Consideration and Passage by the Senate

Senators Renee Unterman (R-45th), Valencia Seay (D-34th), Tommie Williams (R-19th), Nancy Schaefer (R-50th), and Eric Johnson (R-1st) sponsored the bill.²⁶ On January 31, 2007, the Senate first read SB 88, which was assigned to the Senate Judiciary Committee.²⁷

The Senate Judiciary Committee favorably reported the bill, without any major changes, on February 27, 2007.²⁸ It was read a second time on February 28, 2007.²⁹ On March 1, 2007, SB 88 was introduced on the Senate floor for a vote.³⁰

On the floor of the Senate, Senator Unterman offered a floor amendment to clarify the language of the bill and to ensure that grandparents with power of attorney would have access to the subsidy if necessary.³¹

23. See Senate Video, *supra* note 12, at 3 hr., 00 min., 15 sec. (remarks by Sen. Renee Unterman (R-45th)).

24. See *id.*

25. See SB 88, as introduced, 2007 Ga. Gen. Assem.

26. *Id.*

27. State of Georgia Final Composite Sheet, SB 88, June 5, 2007.

28. *Id.* The Senate Judiciary Committee amended the bill by striking language stating the subsidy would be provided on behalf of a minor child who is in the legal custody or under the guardianship of "a grandparent or great-grandparent who resides in Georgia and shall not include a minor child in the physical custody of a grandparent under a power of attorney." SB 88 (SCS), 2007 Ga. Gen. Assem. The committee substitute shortened this provision to allow the subsidy to be given on behalf of a minor child who is in the legal custody or under the guardianship of "a grandparent or great-grandparent who resides in Georgia." *Id.* This clarification would give grandparents who care for grandchildren via a power of attorney the ability to apply for the subsidy. *Id.*

29. State of Georgia Final Composite Sheet, SB 88, June 5, 2007.

30. *Id.*

31. Compare SB 88, as introduced, 2007 Ga. Gen. Assem., with SB 88, as passed the Senate, 2007 Ga. Gen. Assem. Senator Renee Unterman's floor amendment struck language on line 28, page 11, changing "and shall not include" to "include." SB 88 (SFA), 2007 Ga. Gen. Assem. This further

After speaking about the bill, Senator Unterman entertained questions from her colleagues. Many expressed strong support for the measure. However, Senator Bill Heath (R-31st) had some important concerns.³² First, he asked if there was any concern that the bill would reward failure, since the grandparents could only take possession of the children due to a severe hardship that had befallen the parents such as death, drug abuse, incarceration, or extreme youth and immaturity.³³ Senator Heath stated that grandparents who had failed to properly raise their own children, who later chose a path of crime or drugs, could also fail at raising their grandchildren.³⁴ In this regard, the bill could be perceived as rewarding failure and condemning a third generation to the same failure of the second generation.³⁵

Senator Unterman attempted to assuage this concern by responding, first, that parents cannot control all of the choices their children make.³⁶ Second, she stated that people who were parents when they were in their twenties or thirties may have made mistakes, but could have learned from those mistakes and could do an excellent job of raising their grandchildren.³⁷ Third, she asserted that children generally do better living with their own family than with strangers, and that her bill was a pro-family bill, dedicated to keeping families together rather than breaking them up.³⁸ Finally, she discussed the bill's enforcement mechanism, which requires that grandparents receiving the subsidy be monitored by the local Area Agency on Aging.³⁹ If the grandparents are perceived as neglecting their parenting duties, then the children could be taken away from them.⁴⁰

clarified the legislative intent by ensuring that the subsidy would be available to grandparents with a power of attorney. See Unterman Interview, *supra* note 18. Senator Unterman also added a paragraph 3 under § 142(b) and renumbered paragraph 3 to 4, which further clarified that those applying for the subsidy must have the grandchildren in their care due to hardship, not simply because the parents do not want the children anymore. See Senate Video, *supra* note 12, at 2 hr., 47 min., 20 sec. (remarks by Sen. Renee Unterman (R-45th)).

32. See Senate Video, *supra* note 12, at 2 hr., 47 min., 23 sec. (remarks by Sen. Bill Heath (R-31st)).

33. *Id.*

34. *Id.*

35. *Id.*

36. Senate Video, *supra* note 12, at 2 hr., 49 min., 35 sec. (remarks by Sen. Renee Unterman (R-45th)).

37. *Id.*

38. *Id.*

39. *Id.*

40. *Id.*

Senator Heath expressed a separate concern for military families because the bill had a hardship provision for military families which allowed, under certain circumstances, a grandparent to take care of the child with a power of attorney.⁴¹ Senator Heath did not believe that grandparents should receive the subsidy before the parents' salaries are exhausted.⁴² Senator Unterman responded that the military families would probably not qualify under the subsidy, as their salaries would be above the income level set by the statute.⁴³

After Senator Heath's comments, several other lawmakers expressed their support for the bill.⁴⁴ Senator Regina Thomas (D-2nd) stated that, as a grandmother raising grandchildren, she supported the bill.⁴⁵ Senator Nancy Schaefer (R-50th) gave an opinion that children are always better off with their blood relatives, rather than strangers, and can better maintain their heritage and identity.⁴⁶ Senator Emanuel Jones (D-10th) gave an impassioned account about a young boy with five siblings who lost his parents in a tragic car accident and was being raised by his grandmother; that young boy was Senator Jones.⁴⁷ Finally, Senator Valencia Seay (D-34th) gave a speech in support of the bill.⁴⁸

Senator Unterman and others speaking on behalf of the bill were ultimately unable to persuade Senator Heath to support the bill.⁴⁹ However, the bill still passed with the support of every other senator present for the vote.⁵⁰

The Senate adopted the committee amendment with a vote of 31 to 1.⁵¹ The Senate adopted Senator Unterman's floor amendment with a

41. Senate Video, *supra* note 12, at 2 hr., 54 min., 24 sec. (remarks by Sen. Bill Heath (R-31st)).

42. *Id.*

43. Senate Video, *supra* note 12, at 2 hr., 55 min., 41 sec. (remarks by Sen. Renee Unterman (R-45th)). While actual dollar amounts depend on the size of the family, 200% of the Federal Poverty Level for a family of three is roughly \$35,000. See U.S. Dep't of Health & Human Servs., Poverty Guidelines, Research, and Measurement, <http://aspe.hhs.gov/poverty/index.shtml#latest> (last visited Dec. 12, 2007) [hereinafter Poverty Guidelines].

44. See Senate Video, *supra* note 12, at 2 hr., 56 min., 45 sec.

45. *Id.* at 2 hr., 57 min., 44 sec. (remarks by Sen. Regina Thomas (D-2nd)).

46. *Id.* at 3 hr., 0 min., 40 sec. (remarks by Sen. Nancy Schaefer (R-50th)).

47. *Id.* at 3 hr., 2 min., 30 sec. (remarks by Sen. Emanuel Jones (D-10th)).

48. *Id.* at 3 hr., 4 min., 54 sec. (remarks by Sen. Valencia Seay (D-34th)).

49. Georgia Senate Voting Record, SB 88 (Mar. 1, 2007); State of Georgia Final Composite Sheet, SB 88, June 5, 2007.

50. Georgia Senate Voting Record, SB 88 (Mar. 1, 2007).

51. See Senate Video, *supra* note 12, at 3 hr., 9 min., 0 sec.

vote of 41 to 0.⁵² Finally, the bill passed the Senate with a vote of 55 to 1.⁵³

Consideration and Passage by the House

The House read the bill for the first time on March 19, 2007.⁵⁴ It was read for a second time on March 20, 2007, and assigned to the House Judiciary Committee.⁵⁵

The House Judiciary Committee offered a substitute to SB 88, which was favorably reported on April 11, 2007.⁵⁶ The substitute strengthened and clarified the bill by adding language in the two parts of Section 3 of the Act.⁵⁷ Part 1 further authorizes the grandparents to “[e]nroll the child in any health insurance program offered to the grandparent” in Code section 19-9-123(2).⁵⁸ In Section 3, Part 2, the House Judiciary Committee stated in Code section 19-9-142(b)(3) that the “grandchild caregiver subsidy shall be provided on behalf of any minor child [to any individual] [w]hose grandchild or great grandchild receiving care has experienced hardship as defined in subsection (b) of Code section 19-9-122.”⁵⁹ The House Judiciary Committee further added a subsection to Section 3, Part 2, in the form of Code section 19-9-142(i), which requires the Department of Human Resources to pursue child support from both parents when the grandparent is receiving a subsidy.⁶⁰ On April 20, 2007, the last day of the 2007 session, the SB 88 was recommitted to the House Judiciary Committee.⁶¹

52. *Id.* at 3 hr., 9 min., 35 sec.

53. Georgia Senate Voting Record, SB 88 (Mar. 1, 2007); State of Georgia Final Composite Sheet, SB 88, June 5, 2007.

54. State of Georgia Final Composite Sheet, SB 88, June 5, 2007.

55. *Id.*

56. *Id.*

57. Compare SB 88, as introduced, 2007 Ga. Gen. Assem. with SB 88 (HCS), 2007 Ga. Gen. Assem. Senator Unterman stated that the House and Senate Judiciary Committees “usually amend[s] all bills coming thru their committees as a matter of principle and diligence since they are all attorneys.” See Electronic Mail Interview with Sen. Renee Unterman (R-45th) (Apr. 13, 2007) (on file with the Georgia State University Law Review).

58. SB 88 (HCS), 2007 Ga. Gen. Assem.

59. *Id.*

60. State of Georgia Final Composite Sheet, SB 88, June 5, 2007.

61. *Id.*

The Bill

The bill would amend Georgia law by adding an Act entitled the “Care of a Grandchild Act.”⁶² The Act would encompass two parts, the “Power of Attorney for the Care of a Minor Child Act” and the “Grandchildren’s Caregiver Subsidy Act,” creating O.C.G.A. § 19-9-120 et seq. and O.C.G.A. § 19-9-140 et seq., respectively.⁶³ The first part of the Act would create a power of attorney that would enable grandparents to receive the necessary authority to raise their grandchildren.⁶⁴ The second part would create a subsidy that would allow grandparents who meet certain guidelines to receive 80% of the Georgia foster care allowance rate.⁶⁵

Section 1 of the bill explained that the legislation is called the “Care of a Grandchild Act.”⁶⁶ Section 2 discussed the reasons behind the enactment of the law, recognizing that large numbers of grandparents and great-grandparents are raising children in Georgia.⁶⁷ It also recognized the need to confer responsibility to these grandparents without the time and expense required for a court proceeding.⁶⁸ Finally, it discussed the increased stability for children that results when they are placed with their grandparents rather than with unrelated people.⁶⁹

Section 3 covered the actual law that would be added, which consisted of a new Article 4 separated into Parts 1 and 2. Part 1 encompassed the “Power of Attorney for the Care of a Minor Child Act,” and Part 2 encompassed the “Grandchildren’s Caregiver Subsidy Act.”⁷⁰

62. SB 88, as introduced, 2007 Ga. Gen. Assem.

63. *Id.*

64. *See id.*

65. *Id.* Georgia foster care rates vary with the age and health of the child, but average around \$400 per month. *See* GA. DEP’T OF HUMAN RES., FOSTER CARE IN GEORGIA (2003), available at http://dfcs.dhr.georgia.gov/DHR-DFCS/DHR-DFCS_CommonFiles/5008343Foster_Care_in_Georgia.pdf

66. SB 88, as introduced, 2007 Ga. Gen. Assem.

67. *Id.*

68. *Id.*

69. *Id.*

70. *Id.*

Part 1: Power of Attorney for the Care of a Minor Child Act

Part 1 of the bill permitted a parent or parents to delegate care-giving authority to any grandparent or grandparents in Georgia when the parent has a hardship preventing him or her from effectively rearing her child.⁷¹ The bill limited possible hardships to a parent's death, serious illness, physical or mental disability, incarceration, loss of home due to natural disaster, or activation of military service exceeding twenty-four months.⁷² The bill allowed parents to grant this care-giving authority without court approval.⁷³

The bill specified the actions the grandparents would be authorized to take on behalf of the child when armed with a newly created power of attorney.⁷⁴ These included the ability to (1) enroll the child in a public school where the grandparent resides or in another form of schooling; (2) enroll the child in a health insurance program under which the grandparent is covered; (3) access school records and provide access to others; (4) access medical and dental records; (5) supply the child with food, lodging, recreation, and travel; (6) arrange for medical, dental and mental health services; and (7) exercise any additional power specified by the parent.⁷⁵

Next, the bill described the grandparent's duties and the duties of others with whom the grandparent must interact.⁷⁶ The grandparent would not be held liable for any decisions made on behalf of the child as long as it was made in good faith, though the grandparent must have acted in the best interests of the child at all times.⁷⁷ Schools were also required to allow grandparents with a power of attorney to enroll their grandchildren, though the school could request proof of hardship.⁷⁸ The bill also provided that no one relying in good faith on a power of attorney would be held criminally or civilly liable for their reliance.⁷⁹

71. *Id.*

72. *See* SB 88, as introduced, 2007 Ga. Gen. Assem.

73. *Id.*

74. *Id.*

75. *See id.*

76. *See id.*

77. *Id.*

78. SB 88, as introduced, 2007 Ga. Gen. Assem.

79. *Id.*

Next, the bill required that the custodial grandparent specify that the enrollment of a minor child in a school was not for any unlawful purpose, such as to take advantage of a better sports program.⁸⁰

The bill then discussed the requirements to maintain or terminate a power of attorney.⁸¹ Both parents, if they had custody, were required to execute the power of attorney before a notary public.⁸² If a parent did not have custody, the bill required that parent be notified of the transfer of authority by certified mail, even though his or her signature was not required.⁸³ In order to revoke the power of attorney, either the custodial parent or both parents, if there is joint custody, could execute the revocation.⁸⁴ Upon revocation, the bill required the parent to notify the entities relying on the power of attorney.⁸⁵ Additionally, the agent grandparent could resign by notifying the parent by certified mail.⁸⁶ The bill did not state what would happen to the child if the original custodial parent dies except that the power of attorney would continue “for up to six months” if the surviving parent gives consent or cannot be located.⁸⁷ Senator Unterman stated that in such a circumstance a judge would likely decide the child’s fate.⁸⁸

The statute also provided a sample power of attorney.⁸⁹ The bill required that any substitute power of attorney be “substantially” similar to the sample power of attorney provided by the statute.⁹⁰ The power of attorney informed all parties of their duties under the law, and also informed all potential providers of their requirement under Georgia law to accept the power of attorney.⁹¹

80. *Id.*

81. *See id.*

82. *Id.*

83. *Id.*

84. *See* SB 88, as introduced, 2007 Ga. Gen. Assem.

85. *Id.*

86. *Id.*

87. *See id.*

88. Unterman Interview, *supra* note 18.

89. *See* SB 88, as introduced, 2007 Ga. Gen. Assem.

90. *Id.*

91. *Id.*

Part 2: Grandchildren's Caregiver Subsidy Act

Part 2 of the bill was to be known as the "Grandchildren's Caregiver Subsidy Act."⁹² The bill provided that the Division of Aging Services of the Department of Human Resources would govern this program, which would provide a subsidy to eligible caregivers.⁹³

The bill specified that the subsidy would be provided on behalf of any minor child as long as the following requirements were met: (1) the child was required to be under the temporary or permanent custody of a grandparent or great-grandparent authorized to care for the child (via guardianship, power of attorney or other legal authority); (2) the grandparent was required to have an annual income less than 200% of the Federal Poverty Level, which would depend also on the number of dependents in the house; (3) the grandchild or great-grandchild must have experienced hardship as defined in the Code; and (4) the grandparent must have participated in a support program provided by the Area Agency on Aging.⁹⁴

The subsidy would have equaled 80% of the foster care rate,⁹⁵ and would have been distributed through an electronic funds transfer (EFT) card given to the grandparents by the Area Agency on Aging.⁹⁶ This EFT card was intended to be used similarly to the ones the state has given to teachers in the past.⁹⁷

The bill then specified the monitoring agency's duties under the law.⁹⁸ The Department of Human Resources was required to ensure that no more than 1500 families participate in the program, and the Area Agency on Aging was required to confirm that the grandparents were participating in the support program.⁹⁹

The bill specified how funds distributed through this program could be spent, restricting their use to the purchase of goods such as clothing, food, toiletries, school supplies, prescription drugs, and

92. *Id.*

93. *Id.*

94. *Id.*

95. SB 88, as introduced, 2007 Ga. Gen. Assem.

96. *Id.*

97. *See id.*; *see also* Unterman Interview, *supra* note 18.

98. *See* SB 88, as introduced, 2007 Ga. Gen. Assem.

99. *Id.*

medical expenses.¹⁰⁰ Rent or housing related expenses and transportation costs could be acceptable.¹⁰¹ However, this subsidy could not be used to buy tobacco products, beer, wine, lottery tickets, firearms, or any substance that is illegal for a minor to purchase or consume.¹⁰²

Analysis

The main reason for introducing this bill was recognition that there are a growing number of children in Georgia who are being raised by their grandparents.¹⁰³ Current numbers were not offered during the debate, but the 2000 census estimated that approximately 92,260 grandparent caregivers existed in Georgia.¹⁰⁴ The power of attorney provision could greatly expedite the process by which grandparents can begin to make decisions for minor children in their care and virtually eliminate the expense associated with a court order, greatly aiding those most in need of funds.¹⁰⁵

There seemed to be little controversy surrounding Part 1 of the bill, the power of attorney provision.¹⁰⁶ Other provisions of the bill specifically attempted to minimize any possibility of abuse; for example, the bill specified that grandparent agents may not utilize the law to get their grandchild into a better school district.¹⁰⁷ Senator Unterman (R-45th), the main sponsor, did not anticipate significant abuse arising from the power of attorney because the Division of Family and Children Services (DFCS) would refer most of the children, implying that many children would already be pre-screened for known parental hardships.¹⁰⁸ She was primarily concerned with Part 2 of the bill because of the limit on the number of grandparents who can receive the subsidy.¹⁰⁹

100. *Id.*

101. *Id.*

102. *Id.*

103. See SB 88, as introduced, 2007 Ga. Gen. Assem.

104. See Levitz, *supra* note 8.

105. McNeil Interview, *supra* note 13.

106. See generally Senate Video, *supra* note 12.

107. SB 88, as introduced, 2007 Ga. Gen. Assem.

108. See Senate Video, *supra* note 12, at 2 hr., 51 min., 30 sec. (remarks by Sen. Renee Unterman (R-45th)).

109. Unterman Interview, *supra* note 18.

Part 2 of the bill was controversial.¹¹⁰ Senator Bill Heath (R-31st) expressed concern that giving grandparents a subsidy would encourage failure, since some of the same grandparents who failed to keep their children from using drugs or going to prison would be raising their grandchildren.¹¹¹ It was mentioned, to assuage Senator Heath's concerns, that keeping children with a relative would provide more stability and that parents can change over time and learn from their mistakes.¹¹² Additionally, it was argued that parents cannot be held accountable for every bad choice their child makes.¹¹³

Senator Unterman was concerned that the limit on the number of families who can participate in the subsidy program might be too low.¹¹⁴ She feared that many grandparents who need the subsidy might not be able to obtain it.¹¹⁵ To qualify for the subsidy, a grandparent must meet several criteria, including a requirement that the household have income less than 200% of the Federal Poverty Level.¹¹⁶ In 2007, this was about \$35,000 for a family of three, which could encompass a lot of grandparent led families in Georgia.¹¹⁷ The subsidy had no requirement for degree of hardship.¹¹⁸ Consequently, those applying earlier would receive priority over those applying later, even if the later applicants had a more severe degree of hardship, such as a smaller income or more children for which to provide.¹¹⁹ Also, only \$1.2 million is currently allocated for the subsidy from the Temporary Assistance and Needy Families funds, which is only \$800 per family.¹²⁰ To cure this defect, the legislature would have to allocate more funding to this program.

Regardless, many grandparents would no doubt benefit from this proposed law.¹²¹ Grandparents across Georgia have rallied for help in caring for their grandchildren. If this bill is passed, such grandparents

110. See Senate Video, *supra* note 12, at 2 hr., 47 min., 23 sec.

111. Senate Video, *supra* note 12, at 2 hr., 48 min., 41 sec. (remarks by Sen. Bill Heath (R-31st)).

112. See *id.*

113. See *id.*

114. Unterman Interview, *supra* note 18.

115. *Id.*

116. SB 88, as introduced, 2007 Ga. Gen. Assem.

117. See Poverty Guidelines, *supra* note 43.

118. SB 88, as introduced, 2007 Ga. Gen. Assem.

119. See *id.*

120. See Unterman Interview, *supra* note 18.

121. McNeil Interview, *supra* note 13.

would have the authority to make important decisions on behalf of their minor grandchildren in a more efficient and inexpensive manner.¹²²

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122. *Id.*