

Kin, Care, and the Law: Reforming Georgia's Guardianship Framework to Recognise Black Matriarchal Caregiving through Legislative and Feminist Reconstruction

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ABSTRACT

The prevailing legal conception of the family in the United States has long been anchored to the image of the biological nuclear unit, a construct that bears diminishing resemblance to the lived realities of a significant portion of the American population. For centuries, and indeed long before the formal abolition of slavery, African American grandmothers, aunts, and other female matriarchal figures have assumed primary caregiving responsibilities for successive generations of children whose biological parents were unable to fulfil that role. These women have formed the quiet but indispensable foundation of countless African American family units, yet the universalist legal order has historically overlooked their contributions, privileging instead the formal rights of biological parents and the theoretical ideal of the nuclear family above the social realities of kinship care. Whilst legal mechanisms nominally exist through which kinship caregivers might obtain rights comparable to those of a biological parent, including temporary and permanent guardianship, the procedural complexity, adjudicative unpredictability, and practical inaccessibility of these avenues render them unworkable for a great many non-traditional caregiving families. This Note examines Georgia's existing guardianship framework and the manner in which its demanding consent requirements and capricious adjudicative processes operate to restrict kinship caregivers' access to the financial and social resources they urgently need. Two legislative remedies are proposed. The first is the adoption of a statute modelled upon New Jersey's Kinship Guardianship Notification Act, which would ensure that kinship caregivers are made aware of the state support mechanisms available to them. The second is the reintroduction of de facto parenthood legislation, previously advanced before the Georgia legislature as House Bill 321, which would remove the extensive petitioning requirements and procedural obstacles that presently impede recognition of de facto custodians. Beyond these specific proposals, this Note advocates for the integration of Black feminist theory within family law's analytical framework, urging a fundamental reorientation of the legal narrative of family away from the abstract Anglo-American nuclear ideal and toward a conception that is genuinely responsive to the diversity of family formation across all ethnic and social communities.

Keywords: Kinship, Guardianship, Matriarchy, Recognition, Pluralism

I. INTRODUCTION

"Grandmothers confront the paradox of fulfilling the social and legal functions of motherhood without the legal rights of the role."¹

Kinship caregivers, a group overwhelmingly comprised of grandmothers, aunts, and other matriarchal

figures from communities of colour, have long assumed parental responsibilities traditionally¹ associated with a child's biological mother or father.² Scholarly literature has previously examined the particular circumstances that compel Black matriarchal figures to "serve as kinship care providers and the consequences, sacrifices, and rewards of their decisions."³ That body of scholarship reveals that Black grandmothers frequently take on this caregiving function out of a deep sense of familial obligation, a commitment to preserving family continuity, and an urgent desire to shield children from the harm occasioned by parental abuse or neglect.⁴

The demands of this role are considerable and, in many respects, exceptional.⁵ A substantial proportion of kinship caregivers and the children in their care subsist at or beneath the poverty threshold, residing in overcrowded domestic arrangements, with many of these caregivers themselves being elderly, unpartnered, or without advanced formal education.⁶ Black kinship caregivers in particular bear heightened temporal pressures, financial strain, and stress arising from complex family dynamics.⁷ Whilst certain governmental provisions exist that might, in principle, address some of these hardships, including respite care, access to legal assistance, and welfare entitlements,⁸ a significant proportion of these caregivers remain unaware of how to avail themselves of such support, or lack the requisite legal standing to do so.⁹ Furthermore, even where awareness exists, kinship caregivers are frequently excluded from the same financial support mechanisms that are extended to biological, adoptive, and foster parents.¹⁰ A number of state legislatures have moved to address this disparity, yet the matter has attracted no meaningful federal legislative response.¹¹ This Note examines how the Georgia legislature might afford long-overdue recognition to the largely uncompensated and formally unacknowledged Black women caregivers within the state.

Part II traces the historical entrenchment of Black matriarchal figures within caregiving arrangements, situating their role within the sociohistorical context of the post-emancipation era of the late 1860s. That historical inquiry then leads to an examination of Georgia's existing legal guardianship framework and the quiet but formidable procedural barriers it erects against non-traditional kinship caregivers.

Part III evaluates two legislative pathways available to the Georgia legislature. It argues that the legislature ought either to adopt a statute modelled on New Jersey's Kinship Guardianship Notification Act or to restore the doctrine of de facto custodianship, sometimes described as de facto parenthood. Part III further introduces a novel legislative framework grounded in an appreciation of how the lived experiences of Black women and other historically marginalised communities resist assimilation into conventional legal

¹Merriam-Webster, *Nuclear Family*, available at: <https://www.merriam-webster.com/dictionary/nuclear%20family#medicalDictionary> (last visited on June 19, 2026).

² Sacha M. Coupet, "Ain't I a Parent?: The Exclusion of Kinship Caregivers from the Debate over Expansions of Parenthood" 34 New York University Review of Law and Social Change 595, 597, 605-606 (2010).

³ Jeffrey C. Goelitz, "Answering the Call to Support Elderly Kinship Caregivers" 15 Elder Law Journal 233, 234 (2007).

⁴ Regina Davis-Sowers, "It Just Kind of Like Falls in Your Hands: Factors that Influence Black Aunts' Decisions to Parent Their Nieces and Nephews" 43 Journal of Black Studies 231, 232 (2012).

⁵ Regina Davis-Sowers, *supra* note 4 at 232.

⁶ S. Yvette Murphy, Andrea G. Hunter and Deborah J. Johnson, "Transforming Caregiving: African American Custodial Grandmothers and the Child Welfare System" 35 Journal of Sociology and Social Welfare 67, 76 (2008).

⁷ Jeffrey C. Goelitz, *supra* note 3 at 234.

⁸ *Id.*

⁹ Regina Louise Davis-Sowers, *Salvaging Children's Lives: Understanding the Experiences of Black Aunts Who Serve as Kinship Care Providers Within Black Families* (2006) (Unpublished Ph.D. dissertation, Georgia State University), available at: https://scholarworks.gsu.edu/sociology_diss/29 (last visited on June 19, 2026).

¹⁰ Jeffrey C. Goelitz, *supra* note 3 at 234.

¹¹ *Id.*

definitions of family. It concludes by urging the Georgia legislature to recognise that these familial configurations represent not a deviation requiring correction, but a distinct social reality demanding statutory accommodation. To that end, Part III proposes a legislative approach that integrates established kinship law principles with emic theories of Black feminism, so as to widen access to legal recognition and financial support for Black kinship caregivers.

II. BACKGROUND

A. MATRIARCHS, MAMMIES, AND OTHER MEANS OF MOTHERHOOD: THE EVOLUTION OF NON-PARENTAL BLACK WOMEN CARETAKERS

"The role of the extended family in providing care and support for members within African American families is well documented."¹² By 2001, approximately 2,400,000 grandparents across the United States were engaged in raising grandchildren,¹³ a phenomenon that, whilst not confined to any single racial group, is "particularly prevalent among African Americans."¹⁴ Some nine per cent of African American children below the age of eighteen resided in grandparent-headed households at that time, compared with six per cent of Hispanic children and four per cent of non-Hispanic White children.¹⁵ These grandparents are, moreover, disproportionately female.¹⁶

When one examines the historical arc of informal kinship care within African American communities, these figures carry no element of surprise. Kinship care constitutes a centuries-old tradition of protection and mutual sustenance within Black family life, one that proved especially vital during the period of American slavery and the turbulent years that followed emancipation.¹⁷ African American grandparents have occupied a historically anchored caregiving role, persistently furnishing the emotional and financial foundations necessary to sustain the welfare of grandchildren when parents are either absent or otherwise unable to fulfil that function.¹⁸ These kinship networks "continue to exist within the Black community, and before the 1980s many Black children were cared for by kin outside of the child welfare system."¹⁹

Author and memoirist Nefertiti Austin offers a compelling account of these social conditions:

"In the 20th century, Black families were shaped by post-slavery systems of peonage, like sharecropping. Itinerant farmers owned no land and had minimal, if any, political protections. Black labourers worked under constant threat of incarceration and physical abuse by white landowners. This was no way to raise a family, and many Black men and women ran north, east or west in search of work in factories and fair payment, leaving children and spouses behind. Relatives and neighbours stepped in to help raise those children. They provided community and became kin. The village, with or without blood ties, became family."²⁰

¹² Id. at 234-235.

¹³ Id. at 235.

¹⁴ S. Yvette Murphy, Andrea G. Hunter and Deborah J. Johnson, *supra* note 6 at 68.

¹⁵ Karen J. Foli, *Nursing Care of Adoption and Kinship Families: A Clinical Guide for Advanced Practice Nurses* 44 (Springer Publishing Company, New York, 2017).

¹⁶ Meredith Minkler and Esme Fuller-Thomson, "African American Grandparents Raising Grandchildren: A National Study Using the Census 2000 American Community Survey" 60B *Journal of Gerontology: Social Sciences* S82 (2005).

¹⁷ Id.

¹⁸ Id.

¹⁹ Id. at S84.

²⁰ Generations United, *African American Grandfamilies: Helping Children Thrive Through Connection to Family and Culture* 4 (2020), available at: <https://www.gu.org/app/uploads/2020/07/AA-Toolkit-WEB-2.pdf> (last visited on June 19, 2026).

Tradition alone does not account for the persistence of this caregiving responsibility among Black women. A 2008 empirical study of African American caregiving grandmothers²¹ found that one participant understood her assumption of the caregiving role through the lens of ancestral connection, regarding it as "a fulfillment of family obligation."²² One grandmother, speaking of her decision to raise her grandchild, stated plainly:

"I did this, [became a kinship caregiver] because . . . the blood that runs through [my grandchild's] veins also runs through mine, too."²³ Another expressed the imperative in similarly direct terms, describing the decision as the right thing to do in order "to keep [her] family together."²⁴

When questioned about the prospect of financial remuneration, one grandmother responded with characteristic candour:

"Maybe grandmothers won't ever be compensated like foster parents and I don't even think it is the thing about being compensated but trying to help us and holding up their end. We need help, we are women that are crying out. We are going under and we need help. We are doing it [caring for grandchild] because this is something that[,] if we don't do [it,] something bad will happen to the baby"²⁵

These testimonies illuminate both the internal cultural logic of these non-traditional family arrangements and the extraordinary selflessness that sustains them.

B. GEORGIA'S LEGAL GUARDIANSHIP STATUTE AND WHO IT LEAVES OUT

Georgia's Guardian and Ward statute recognises five categories of legal guardian: natural guardians, testamentary guardians, temporary guardians, standby guardians, and permanent guardians.²⁶ This Note is principally concerned with the natural, temporary, and permanent guardianship provisions. As a matter of law, each biological parent is automatically constituted as the natural guardian of their minor child, save where the parents are divorced and sole custody has been vested in one parent, in which case that parent alone holds the status of natural guardian.²⁷

The difficulties with Georgia's existing legal guardianship framework are not primarily definitional in nature; they are procedural. The process by which an individual may petition for appointment as a temporary or permanent guardian is beset by unpredictable adjudicative outcomes and by requirements that many petitioners will find practically impossible to satisfy.²⁸ The complexity of this multi-step process presents a formidable obstacle to those unfamiliar with legal procedure,²⁹ and operates as a disproportionate burden upon non-parental caregivers who are often prevented, by circumstances beyond their control, including the incarceration, voluntary or involuntary abandonment, relocation, or prior neglect of the biological parents, from engaging meaningfully with those parents at all.³⁰ Notwithstanding these statutory deficiencies, the legislative framework does possess the capacity for reform, as evidenced by the approach adopted in New Jersey and by the content of bills that have previously been introduced,

²¹ S. Yvette Murphy, Andrea G. Hunter and Deborah J. Johnson, *supra* note 6 at 72

²² *Id.* at 76.

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.* at 79.

²⁶ Official Code of Georgia Annotated, § 29-2-1 (2022).

²⁷ Official Code of Georgia Annotated, § 29-2-3(b) (2022).

²⁸ Official Code of Georgia Annotated, § 29-2-5(c)(1)-(7) (2022).

²⁹ Gerard W. Wallace, "A Family Right to Care: Charting the Legal Obstacles" 3 *GrandFamilies: Contemporary Journal of Research, Practice and Policy* 122, 129 (2016).

³⁰ Jill Nolin, "New Law Eases Way for Kinship Caregivers" *The Tifton Gazette*, May 6, 2017, available at: https://www.tiftongazette.com/news/new-law-eases-way-for-kinship-caregivers/article_dd8344ea-3272-11e7-965a-fbc75014278a.html (last visited on June 19, 2026).

and subsequently abandoned, within the Georgia House of Representatives.³¹ The central challenge that any reform effort must navigate is kinship law's ingrained deference to the rights of biological parents.

C. OVERCOMING BIOLOGICAL FAVOURITISM IN THE REALM OF KINSHIP LAW

Georgia law safeguards the rights of biological parents to the care and custody of their children through a range of overlapping legal mechanisms. A constitutional presumption operates in favour of preserving parental custody.³² Statutory provisions similarly protect parental custody rights, whilst requiring the courts to balance those rights against the imperative of securing the child's welfare.³³ The threshold for any transfer of parental rights is deliberately high, ordinarily requiring proof of parental neglect to the standard of clear and convincing evidence,³⁴ alongside a careful calibration of the due process entitlements of biological parents against the best interests of the child concerned.³⁵

The strength of this judicial disposition is well illustrated by a 2021 decision of the Georgia Court of Appeals, in which a biological mother was awarded temporary custody in preference to the maternal grandmother. The court reaffirmed that both the Georgia Constitution and federal constitutional doctrine confer upon parents a fundamental right to the care and custody of their children,³⁶ and that clear and convincing evidence of parental unfitness must be established before that right may be displaced in favour of a non-parental figure.³⁷ A comparable judicial commitment to the preservation of parental rights was evident in a 2016 appellate decision concerning the termination of a Georgian mother's parental rights. In that case, the court's reasoning was anchored by the principle that termination of parental rights constitutes "a remedy of last resort which can be sustained only when there is clear and convincing evidence that the cause of the deprivation is likely to continue."³⁸ and Whilst these precedential constraints are undeniably significant, they are not insurmountable, provided that the legislature acts with sufficient deliberateness and care.³⁹

III. ANALYSIS

A. LEGAL ACKNOWLEDGMENT AND COMPENSATION METHODS

Two distinct and practically realisable legislative pathways present themselves to the Georgia legislature as means of formally recognising non-traditional Black family structures. The first involves the adoption of legislation modelled upon a 2005 New Jersey enactment known as the Kinship Guardianship Notification Act.⁴⁰ That Act operates by placing non-traditional, relative-led family arrangements, and grandparent-headed households in particular, on formal notice of the legal resources available to assist them in the care of the children they are raising.⁴¹ The second pathway involves the reintroduction of de

³¹ *Infra* Section III.A

³² *Wallace v. Chandler*, 859 S.E.2d 100, 102 (Ga. Ct. App. 2021).

³³ *Morgan v. Morgan*, 827 S.E.2d 73, 75 (Ga. Ct. App. 2019).

³⁴ *Wallace v. Chandler*, 859 S.E.2d 100, 102 (Ga. Ct. App. 2021).

³⁵ Pamela Laufer-Ukeles, "Money, Caregiving, and Kinship: Should Paid Caregivers Be Allowed to Obtain De Facto Parental Status?" 74 *Missouri Law Review* 25, 32 (2009).

³⁶ *Supra* note 28.

³⁷ *Morgan v. Morgan*, 827 S.E.2d 73, 75 (Ga. Ct. App. 2019).

³⁸ *Beasley v. Jones*, 254 S.E.2d 472, 473 (Ga. Ct. App. 1979).

³⁹ *Morgan v. Morgan*, 827 S.E.2d 73, 74-75 (Ga. Ct. App. 2019).

⁴⁰ *Ortega v. Temple*, 856 S.E.2d 471, 474 (Ga. Ct. App. 2021), cert. denied (Sept. 8, 2021).

⁴¹ New Jersey Statutes Annotated, § 30:4C-91(a)(1)-(2); New Jersey Statutes Annotated, § 30:4C-90(a).

facto parenthood and custodianship legislation, previously advanced before the Georgia legislature in the form of House Bill 321.⁴²

1. New Jersey's Kinship Guardianship Notification Act

The New Jersey State Legislature gave effect to the Kinship Guardianship Notification Act in December 2005.⁴³ The legislative rationale underpinning the Act corresponds directly with the documented rise in grandparent-led family formations examined in the preceding section of this Note.⁴⁴ The legislature was explicit in its acknowledgment of the "increasing number of relatives in the State, including grandparents, [who] find themselves providing care on a long-term basis to children who cannot reside with their parents due to the parent's incapacity or inability to perform the regular and expected functions of care and support of the child."⁴⁵ In practical terms, the Act establishes a mechanism for the appointment of a kinship legal guardian,⁴⁶ a status that confers upon the appointee the same rights, responsibilities, and parental authority as those held by a birth parent, save for the power to consent to adoption, while preserving the birth parent's obligation to pay child support and their entitlement to court-sanctioned visitation or parenting time.⁴⁷

Complementing the statutory framework, New Jersey's Department of Children and Families established the Kinship Navigator programme, a referral service designed to assist kinship caregivers in coordinating the range of governmental and community resources to which they may be entitled.⁴⁸ Through this initiative, the legislature gave concrete expression to its recognition of the importance of ensuring that those who may be eligible for kinship legal guardianship are made aware of the applicable eligibility criteria, the responsibilities that guardianship entails, and the full spectrum of services available to them within the state.⁴⁹ Were Georgia to enact comparable legislation, the effect would be twofold: it would substantially reduce the legal inaccessibility that presently characterises Georgia's kinship framework, and it would position non-traditional caregivers to access the same entitlements and privileges as biological parents.

2. Reintroducing De Facto Custodial Parenthood

Georgia House Bill 321 furnishes a second legislative avenue through which the state might formally acknowledge non-traditional Black family structures.⁵⁰ Co-drafted on a bipartisan basis by current Representatives Chuck Efstration and Brian Prince, together with former Representatives Beth Beskin, Stacey Abrams, and Michael Caldwell,⁵¹ HB 321 defined a de facto custodian as:

"[A]n individual who has shown by clear and convincing evidence to have accepted full and permanent responsibilities of a child as if he or she were a parent of the child without expectation of financial compensation for the child and where the child: (A) Has resided with such individual for a period of six months or more, if the child is under three years of age; or (B) Has resided with such individual for a period of one year or more, if the child is three years of age or older; and (C) Has developed a bonded and

⁴² H.B. 321, 154th General Assembly, Regular Session (Georgia, 2017), available at: <https://www.legis.ga.gov/api/legislation/document/20172018/164906> (last visited on June 19, 2026).

⁴³ New Jersey Statutes Annotated, § 30:4C-89.

⁴⁴ Supra Section II.A.

⁴⁵ New Jersey Statutes Annotated, § 30:4C-90.

⁴⁶ Id.

⁴⁷ Id.

⁴⁸ Id.

⁴⁹ Id.

⁵⁰ H.B. 321, 154th General Assembly, Regular Session (Georgia, 2017), available at: <https://www.legis.ga.gov/api/legislation/document/20172018/164906> (last visited on June 19, 2026).

⁵¹ Id. at 1.

dependent relationship with such individual where such relationship has been fostered or supported by either parent of the child"⁵²

The Bill would have conferred a meaningful suite of legal entitlements upon qualifying de facto custodians.⁵³ These included the right to initiate original proceedings for visitation with a minor child; the right to intervene in custody proceedings to seek visitation; the right to intervene in divorce proceedings involving a parent of the child; the right to participate in proceedings concerning the termination of parental or visitation rights; and the right to enforce specified minimum visitation periods.

Of particular doctrinal significance is HB 321's express provision for judicial consideration of the emotional bonds existing between the child and any non-parental caregiver.⁵⁴ Courts adjudicating de facto custodianship applications would have been entitled to weigh the "love, affection, bonding, and emotional ties existing between each party and the child,"⁵⁵ as well as "the capacity and disposition of each party to give the child love, affection, and guidance and to continue the education and rearing of the child."⁵⁶ These provisions represent a welcome departure from the purely formal, status-based criteria that presently govern such determinations.

Given that HB 321 was originally drafted across party lines,⁵⁷ its reintroduction, or the introduction of a bill of comparable scope, is a legislatively credible step toward achieving legal parity for Georgia's neglected caregiving population. It bears emphasis that HB 321 and New Jersey's Kinship Guardianship Notification Act are not mutually exclusive instruments. Whilst the Notification Act is directed at awareness and accessibility, HB 321 is concerned with the codification of substantive rights. Were Georgia to pursue both avenues, whether simultaneously or through a sequenced legislative programme, the cumulative benefit to kinship caregiving families would be considerable.⁵⁸

B. WHERE LAW AND BLACK FEMINIST THEORY INTERTWINE: THE COMPLEXITIES AND SOCIAL REALITIES OF BLACK MOTHERHOOD

Black feminist theory offers a vital analytical lens through which to understand the decision-making of Black maternal caregivers. Central to this theoretical tradition is the recognition that Black women inhabit social realities that are qualitatively distinct from those of other racial and ethnic communities, and that those realities are characteristically oriented around the needs and welfare of the family collective rather than the individual concerns of the Black women who sustain it.⁵⁹ Black feminist theory is explicitly committed to deploying research as an instrument for improving the lived conditions of Black women, and it accords those women status as co-producers of knowledge and as authoritative interpreters of their own experience.⁶⁰ It privileges the experiential over the merely theoretical, grounding its findings in the testimonies and realities of Black women's lives rather than abstract formulation.⁶¹

⁵² Georgia House of Representatives, House Member Directory, available at: https://www.legis.ga.gov/api/document/docs/default-source/house-document-library/house-member-directory.pdf?sfvrsn=1f476975_52 (last visited on June 19, 2026).

⁵³ H.B. 321, *supra* note 50 at 2.

⁵⁴ *Id.* at 3-4.

⁵⁵ *Id.* at 6.

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ H.B. 321, *supra* note 50 at 1.

⁵⁹ Regina Davis-Sowers, *supra* note 4 at 233.

⁶⁰ *Id.*

⁶¹ *Id.* at 234.

The incorporation of Black feminist theory into family law would give genuine substance to that field's stated embrace of a pluralistic conception of the family.⁶² This pluralistic aspiration is already partially expressed through the deployment of flexible normative standards such as the functional parent doctrine⁶³ and the best interests of the child principle,⁶⁴ both of which resist rigidly prescriptive definitions of family composition in favour of context-sensitive analysis.⁶⁵ Nevertheless, the persistent marriage-centredness of legal parenthood continues to undermine this pluralist ideal in practice.⁶⁶ To give it fuller expression, courts ought to adopt an emic⁶⁷ approach to the assessment of parental claims, one that evaluates those claims by reference to the internal norms and values of the relevant community⁶⁸ and, in the present context, through a Black feminist analytical lens. An emic approach of this kind would support the extension of legal parental rights to non-conjugal kinship caregivers, particularly in communities where such family configurations are the prevailing social norm.⁶⁹ Embracing this perspective would, in turn, require the courts and legislature alike to engage with a broader and more inclusive range of family forms than those conventionally recognised within mainstream legal and political discourse.⁷⁰

The marriage-centredness of legal parenthood reveals, with considerable clarity, the degree to which prevailing cultural assumptions shape the contours of family law.⁷¹ Since parenthood as a legal status is always, in some measure, a constructed category,⁷² it is inevitable that the choices embedded in its legal definition will be deeply influenced by culture. Conceptions of parenting, parenthood, and the family carry an inherent cultural history that ought not to be disaggregated without careful attention to its human and social dimensions.⁷³ These embedded cultural biases constrain the range of family forms that courts are capable of recognising in law, and in doing so, they deny many caregivers the equal opportunity to exercise meaningful choices about their own family lives.⁷⁴

The law's continued alignment with Anglo-American cultural values in its treatment of parentage and family structure is increasingly difficult to justify in a rapidly diversifying society.⁷⁵ The concept of legal parenthood must, accordingly, be freed from its dependence upon a single dominant cultural expression. The American Law Institute has already acknowledged the pressing need to broaden the legal conception of the family,⁷⁶ and Georgia possesses both the legislative capacity and the moral imperative to translate that acknowledgment into binding statutory reform. Kinship caregiving relationships are, taken as a whole,

⁶² Id.

⁶³ Sacha M. Coupet, *supra* note 2 at 636; Susan Frelich Appleton, "Parents by the Numbers" 37 Hofstra Law Review 11, 16-17 (2008).

⁶⁴ Lynne Marie Kohm, "Tracing the Foundations of the Best Interests of the Child Standard in American Jurisprudence" 10 Journal of Law and Family Studies 337 (2008).

⁶⁵ Sacha M. Coupet, *supra* note 2 at 647.

⁶⁶ Id.

⁶⁷ Id. at 649.

⁶⁸ Id.

⁶⁹ Id. at 648.

⁷⁰ Id. at 649.

⁷¹ *Supra* note 66.

⁷² Sacha M. Coupet, *supra* note 2 at 648; Angela Campbell, "Conceiving Parents Through Law" 21 International Journal of Law, Policy and the Family 242, 243-244 (2007).

⁷³ Sacha M. Coupet, *supra* note 2 at 648; *Troxel v. Granville*, 530 U.S. 57, 98 (2000).

⁷⁴ Sacha M. Coupet, *supra* note 2 at 648; Twila L. Perry, "Race Matters: Change, Choice, and Family Law at the Millennium" 33 Family Law Quarterly 461 (1999).

⁷⁵ Id.

⁷⁶ American Law Institute, *Principles of the Law of Family Dissolution: Analysis and Recommendations* 11 (American Law Institute, Philadelphia, 2003).

demonstrably beneficial to the children and families involved, and they are increasingly representative of the social reality of American family life as minority populations and grandparent-led family formations continue to grow in number and significance.⁷⁷

IV. CONCLUSION

The composition of the American family is in a state of continuous and irreversible transformation. Whilst biological parenthood remains a central feature of many family units, it no longer defines the landscape of primary caregiving in any comprehensive sense. A substantial and growing proportion of non-traditional family arrangements are sustained by Black female relatives, grandmothers, aunts, and other matriarchal figures, who assume responsibility for the care of nieces, nephews, and grandchildren when the children's biological parents are unable, for whatever reason, to fulfil that primary function.⁷⁸ The legal system has, across its history, accorded these Black caregivers neither the recognition nor the material support that their contributions plainly warrant, and this institutional neglect persists in meaningful measure to the present day.

Georgia's existing guardianship statutory framework compounds this injustice. Its procedural demands are burdensome in the extreme, requiring extensive adjudication and the disclosure of information that many kinship caregivers are practically incapable of furnishing, not through any deficiency of their own, but because the externalities that have brought them into the caregiving role in the first place, whether parental incarceration, abandonment, relocation, or neglect, render such compliance effectively impossible.⁷⁹ The path toward legislative remedy is neither obscure nor unreachable. Georgia can materially improve the position of these caregivers by enacting legislation modelled upon New Jersey's Kinship Legal Guardianship Act, thereby ensuring that those who may qualify for kinship legal guardianship are made aware of their eligibility and the resources available to them. Simultaneously, the reintroduction of de facto parenthood legislation in the form of HB 321, or a bill of equivalent scope, would codify substantive rights for caregivers whose relationships with the children in their care are characterised by permanence, emotional depth, and unconditional commitment, qualities that the law has for too long been content to ignore. The pursuit of these two legislative avenues, taken together, would mark a genuinely significant reorientation of Georgia's approach to kinship law. It would signal a deliberate and overdue departure from the universalist conception of the family, one constructed around the image of the biological nuclear unit, toward a more contextually sensitive, culturally informed, and emic understanding of caregiving. Such an understanding takes experience, rather than formal legal status, as its primary measure of parental worth. It recognises, in terms that are both legally coherent and humanly honest, that the family has never been a single, uniform institution, and that the law's insistence on treating it as such has come at a profound and disproportionate cost to some of the most dedicated caregivers within Georgia's communities.

⁷⁷ U.S. Census Bureau, "U.S. Census Bureau Projections Show a Slower Growing, Older, More Diverse Nation a Half Century from Now" (Dec. 12, 2012), available at: <https://www.census.gov/newsroom/releases/archives/population/cb12-243.html> (last visited on June 19, 2026).

⁷⁸ Supra Section II.A.

⁷⁹ Mychal D. Smith, "The Dangerous Myth of the 'Missing Black Father'" The Washington Post, Jan. 10, 2017, available at: <https://www.washingtonpost.com/posteverything/wp/2017/01/10/the-dangerous-myth-of-the-missing-black-father/> (last visited on June 19, 2026).