

**FIFTH DIVISION
BROWN, C. J.,
MERCIER, P. J., and EPPS, J.**

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September 9, 2026

In the Court of Appeals of Georgia

A26A1102. IN THE INTEREST OF C. S., a minor child.

EPPS, Judge.

In this dependency proceeding, the guardian ad litem (“GAL”) of minor child C. S. appeals the juvenile court’s order approving a change of placement of the child from the care of foster parents to the care of fictive kin, and denying the GAL’s objection to the placement change. As more fully explained below, we reverse and remand for further proceedings consistent with this opinion.

When C. S. was born in April 2025, she tested positive for cocaine, fentanyl, and THC and had to be placed in the Neonatal Intensive Care Unit at the hospital. The parents left C. S. at the hospital and were thereafter unreachable. A month later, the Department of Family and Children Services (“DFCS”) sought protective

custody of C. S. At the same time, DFCS also sought protective custody of C. S.'s three older half-siblings. The mother left these children in the care of their maternal grandmother in February 2025 and had not been in contact with them since.

The juvenile court found all four children dependent in August 2025 and placed them in DFCS's temporary legal custody. The older children remained with their maternal grandmother. The grandmother was unable to care for C. S. due to the child's medical needs, however, so DFCS placed C. S. with a foster family after she left the hospital.

Subsequently, C.S.'s paternal grandmother contacted a longtime friend of hers, Petrina Harris, and her husband, Franklin Harris, about C. S. and asked if they were interested in caring for the child. In November 2025, DFCS notified the parties of its intent to move C. S. from her foster placement to placement with the Harrises.¹ DFCS treated the Harrises, who are not an approved foster home, as a fictive kin placement. C. S.'s GAL filed an objection to the placement change, contending the Harrises do not qualify as fictive kin because they had no relationship with C. S. or her half-

¹ DFCS had first considered placing the child with a cousin in Ohio, but decided against it because of concern over the difficulties of maintaining C. S.'s relationship with her half-siblings.

siblings and had not seen the father in over ten years. The GAL further contended that the change in placement would not be in C. S.'s best interests as she had bonded with the foster parents, who were experienced in handling her medical conditions. The juvenile court held a hearing on the objection to the placement change, at which it heard testimony from the Harrises, the foster mother, the maternal grandmother, and the DFCS caseworker.

At the hearing the Harrises testified that Mrs. Harris knew the paternal grandmother for approximately fifty years, and the father referred to Mr. Harris as "uncle" growing up. The Harrises had not seen the father for over 10 years and never met any of his children or their mothers. The father requested that the Harrises serve as a placement for the child. After agreeing to serve as a placement, the Harrises met C. S. for the first time at court.

After the hearing, the juvenile court entered an order approving the change in placement. The court concluded that the Harrises qualified as fictive kin under OCGA § 15-11-2(33), noting their longstanding relationship with the father's family and the fact that the father referred to Mr. Harris as "uncle." Additionally, the juvenile court noted that "the intent of the Juvenile Code is to give preference to placement with

those who are either family or stand in the stead of family,” citing OCGA § 15-11-135(e)(1),² and that “[a]s with one’s blood-relatives, the fact that one may not have seen the other for many years does not dissolve the ties that underpin the relationship.” The juvenile court further found that placement with the Harrises was in the best interests of C. S. because it would support C. S.’s connection to her family, half-siblings, community, and cultural background and could facilitate reunification if the father were eventually able to care for the child. We subsequently granted the GAL’s application for interlocutory appeal,³ and this appeal ensued.

The GAL asserts that the trial court erred in finding the Harrises met the requirements of fictive kin, where they had no “substantial and positive relationship with” C. S. We agree.

OCGA § 15-11-2(33) defines “fictive kin” as “a person who is not related to the child by blood, marriage, or adoption but who prior to his or her placement in foster

² OCGA § 15-11-135(e)(1) provides that “[i]n any case in which a child is taken into protective custody of DFCS ... DFCS shall give preference for placement to an adult who is a relative or fictive kin over a nonrelated caregiver, provided that such relative or fictive kin has met all requirements for a DFCS relative or fictive kin placement and such placement is in the best interests of the child.

³ See *In the Interest of C. S., a minor child*, Case No. A26I0093 (Dec. 23, 2025).

care is known to the family, has a substantial and positive relationship with the child, and is willing and able to provide a suitable home for the child.” Here, the parties dispute how the phrase “has a substantial and positive relationship with the child” should be interpreted. The juvenile court acknowledged that C. S. had no relationship with the Harrises, but reasoned that the child had no relationship with anyone prior to her placement with the foster parents. The court further noted that neither the statute nor case law specifically defines the qualities or parameters of what a substantial and positive relationship is with respect to a child. Given this fact, and because infants have not yet had an opportunity to develop relationships, the juvenile court concluded that in cases involving infants, the statute should be read as requiring only a substantial and positive relationship between the fictive kin and the child’s family, rather than with the child herself. As a result, the court found that, in light of their long-standing relationship with C. S.’s paternal grandparents and their past relationship with the child’s father, the Harrises qualified as fictive kin.

DFCS contends that the juvenile court’s interpretation of the statutory language at issue is the correct one, arguing that the plain statutory language does not require a person to have a pre-existing substantial relationship with the child to qualify

as fictive kin. Rather, the statute requires only that fictive kin have a relationship with the child's family that pre-dates the child's placement in DFCS custody. Conversely, the GAL argues that the juvenile court's interpretation of the statute constitutes legal error, as it ignores unambiguous statutory language.

“When we consider the meaning of a statute, we must presume that the General Assembly meant what it said and said what it meant.” *Deal v. Coleman*, 294 Ga. 170, 172–73(1)(a) (751 SE2d 337) (2013). Consequently, “we must afford the statutory text its plain and ordinary meaning, we must view the statutory text in the context in which it appears, and we must read the statutory text in its most natural and reasonable way, as an ordinary speaker of the English language would.” *Ware County Bd. of Educ. v. Taft*, 350 Ga. App. 848, 850 (830 SE2d 326) (2019). And “if the language of the statute is plain and unambiguous, we simply apply the statute as written.” *CPF Investments, LLLP v. Fulton County Bd. of Assessors*, 330 Ga. App. 744, 746 (769 SE2d 159) (2015). See also *Deal*, 294 Ga. at 173(1)(a) (“[I]f the statutory text is ‘clear and unambiguous,’ we attribute to the statute its plain meaning, and our search for statutory meaning is at an end.”).

Under the plain language of the statute, a person may qualify as fictive kin only if: (1) the person is known to the family; (2) the person has “a substantial and positive relationship with *the child*”; and (3) the person “is willing and able to provide a suitable home for the child.” OCGA § 15-11-29(33) (emphasis added). Thus, despite the juvenile court’s conclusion to the contrary, the unambiguous statutory language defines fictive kin as a person who has a substantial and positive relationship with the child at issue, and not merely with the child’s family. Moreover, the requirement that fictive kin have a relationship with the child applies regardless of the child’s age – i.e., the statute makes no distinction between a child and an infant. Had the legislature wanted to make such a distinction, it could have done so,⁴ and we must assume that the absence of such a distinction was intentional, rather than inadvertent. See *Deal*, 294 Ga. at 172–73(1)(a). In any event, neither the juvenile court nor this Court is at

⁴ Other jurisdictions have written their statutes to indicate that when the child is an infant, the relationship can be with that child’s family. Arkansas, for example, requires that fictive kin “has a strong, positive, and emotional tie or role in the (i) Child’s life; or (ii) Child’s parent’s life if the child is an infant.” Ark. Code Ann. §9-28-108. See also S. C. Code Ann. §63-7-2320(A)(3) (in South Carolina fictive kin is an individual “who has an emotionally significant relationship with the child or the child’s family”); Iowa Code Ann. §232.2(24) (in Iowa fictive kin means a person who “has an emotionally positive significant relationship with the child or the child’s family”).

liberty to amend the plain statutory language at issue by drawing a distinction between infants and children. See *Frazier v. Southern R. Co.*, 200 Ga. 590, 593(2) (37 SE2d 774) (1946) (appellate courts “must frequently construe the language of a statute, but such courts may not substitute by judicial interpretation language of their own for the clear, unambiguous language of the statute, so as to change the meaning”); *In the Interest of J. M. A.*, 340 Ga. App. 155, 160 (796 SE2d 773) (2017) (same). See also *In the Interest of T. F. N., Jr.*, 341 Ga. App. 247, 253(1) (799 SE2d 591) (2017) (appellate courts “cannot amend a statute by interpreting its language so as to change the otherwise plain and unambiguous provisions”) (punctuation omitted).

Moreover, requiring a substantial and positive relationship between fictive kin and infants who might be placed in their care does not lead to an absurd result. Instead, applying the statute as written furthers one of the primary purposes of Georgia’s dependency statute – i.e., it serves “[t]o ensure that the health, safety, and best interests of a child [is] the paramount concern in all dependency proceedings.” OCGA § 15-11-100(4). See also *In the Interest of M. J. H.*, 366 Ga. App. 872, 874-75 (884 SE2d 559) (2023) (“we emphasize that Georgia’s juvenile code must be ... construed to reflect that the paramount child welfare policy of this state is to

determine and ensure the best interests of its children”) (punctuation omitted). This is because under Georgia law, fictive kin stand in the same stead as blood relatives, and therefore fictive kin placements involve far less oversight and less stringent assessments than placements in licensed foster homes.⁵ Consequently, the requirement that fictive kin have a substantial and positive relationship with an infant child serves to further the best interests of the child – i.e., it helps to ensure the child is being placed in a safe and caring environment.

Applying the statutory language to the current case, the undisputed evidence showed that the Harrises had no relationship with C. S. at the time the juvenile court made its decision to place her in their care.⁶ Nor did they have a relationship with any

⁵ See Georgia DHS, “Waiver of Non-Safety Approval Standards for Kinship Foster Homes” Policy, Number 22.6, <https://pamms.dhs.ga.gov/dfcs/cws/22-06/#codes-references> accessed August 9, 2026; Georgia DHS, “Kinship Assessment,” Policy Number 22.3, <https://pamms.dhs.ga.gov/dfcs/cws/22-03/> accessed August 9, 2026.

⁶ Because it is undisputed the Harrises never had a relationship with C. S. at the time of the juvenile court’s order, we need not decide whether, as DFCS contends, the phrase “prior to his or her placement in foster care” modifies only the “known family” requirement and not the remaining two criteria in OCGA § 15-11-29(33) concerning “a substantial and positive relationship with the child,” and willingness and ability to provide a suitable home.

of C. S.'s half-siblings or her mother. Indeed, the Harrises admitted that they had never even met the mother. Moreover, the Harrises had not seen C. S.'s father in more than ten years, and had no present relationship with him. Given these circumstances, the juvenile court erred in ignoring the plain language of OCGA § 15-11-2(33) and finding the Harrises qualified as fictive kin under that statute. We therefore reverse the juvenile court's order, and remand the case for further proceedings consistent with this opinion.

Judgment reversed, and case remanded. Brown, C. J., and Mercier, P. J., concur.