
Chapter 4

The Rise of Federal Influence and State Administration

The Depression hit Missouri hard and spared no section of the state, rural or urban. In his March 4, 1933 inaugural address, Franklin D. Roosevelt praised the American spirit and reassured the stricken nation that “the only thing we have to fear is fear itself.” The President meant his words to invigorate a people who had much to fear. In Missouri, average per capita income stood at only \$307, farm values and agricultural prices had plummeted and many banks, particularly in rural areas, had failed. Some farmers had lost their farms. Other farmers had been evicted or forced into tenancy because they were heavily mortgaged and unable to pay interest and taxes. Value added by manufacture had fallen 51% from 1929, from \$777 million to \$383 million.¹

Missouri’s unemployment rate had skyrocketed from 16% to 38% since 1930, well above the national average each year, and would not return to pre-Depression levels until the wartime economic boom in 1943. On the Mississippi River’s west bank on Inauguration Day 1933, St. Louis had what was reportedly the nation’s largest “Hooverville,” a makeshift collection of shanties and shacks housing families displaced from menial employment and eking out a bare existence one step above homelessness. Six months later, 50,000 Missouri families—about 200,000 men, women and children—were on the federal and state relief rolls. In late 1933, a somber Governor Guy B. Park reminded Missourians that “[a] public calamity exists throughout the Nation.” Private charity, stretched to the limit, helped keep the state’s misery from growing even worse.²

Ever since the turn of the century, child advocates had criticized the absence of a meaningful federal role in child protection. In 1907, for example, Jane Addams chastised Washington for “spend[ing] time and money to establish and maintain departments relating to the breeding, to the raising, to the distribution and to the exportation of cattle, sheep and hogs,” while doing “nothing to see to it that the children are properly protected.” When Congress did tiptoe into the child welfare arena, the Supreme Court usually thwarted the effort.³

In 1912, Congress heeded the recommendation of the 1909 White House Conference and created the U.S. Children’s Bureau to “investigate and report . . . upon all matters pertaining to the welfare of children and child life among all classes of our people.” The broad investigatory mandate was backed by only a small budget, but the Bureau was the first federal agency with an explicit child protective mandate. The Bureau held little direct management authority, but its meticulous reports helped sustain federal influence on state child protection policies. When Congress began providing grants-in-aid for vocational education, agricultural experiments, protection against forest fires and road construction, the Bureau itself led calls for federal child protection grants.⁴

Congress entered the child welfare field in 1921 with the Sheppard-Towner Act, which authorized annual appropriations of one million dollars to aid state programs promoting the welfare and health of mothers and infants. By 1927, nearly all states were receiving funds under the act, which reached hundreds of thousands of women through child health and prenatal conferences and mothers’ classes. Critics quickly attacked the law as federal interference in state affairs, and Congress let it lapse in 1929, a few months before the stock market crash produced renewed calls for strong federal children’s programs.⁵

Even in the depths of the Depression, the Hoover administration rejected most direct federal aid to overcome economic distress, preferring instead to rely on private charity. Not until 1932 did Congress, perhaps wary of facing desperate voters, pass the Emergency Relief and Reconstruction Act, which provided loans to the states for work relief to the needy, distressed and unemployed. Most states, including Missouri, borrowed from the \$300 million the Act made available, and the loans indirectly helped children when it helped their parents.

The Social Security Act of 1935

Washington did an about-face once Franklin D. Roosevelt took office. In its first two years, the New Deal focused primarily on rejuvenating the national economy and regulating business and industry. As the President and Congress

attacked systemic dysfunction with a flurry of legislation, direct assistance to poor children remained a lower priority. Then came the Social Security Act, which Congress passed on August 14, 1935 and the President signed the same day. The Act triggered a chain of events that ended the direct role of Missouri's juvenile courts in dispensing financial assistance to poor children and transferred that role to newly created state agencies.

The Social Security Act's child welfare provisions had a dual focus. On the one hand, they sought to bolster local initiatives because, as President Roosevelt told delegates to the 1939 White House Conference on Children in a Democracy, "[c]hildren receive benefits not in Washington but in the places where they live." On the other hand, the federal provisions presumed the need for minimum national standards because, as the President's wife told the delegates the next day, "our future lies in the hands of the children throughout the United States."⁶

Titles IV and V of the Social Security Act advanced the philosophy of the 1909 White House Conference by creating cooperative federal-state programs to aid needy children in their own homes. Title IV provided matching grants to the states for aid to dependent children (ADC) similar to mothers' allowance legislation, which was still on the books in most states but had virtually collapsed once the Depression hit. To qualify for matching ADC grants, Congress required states to submit to Washington a plan that met the Act's minimum standards. As the first major federal child welfare program to condition funding on state acceptance of congressional standards, ADC set an important precedent for later federal juvenile justice mandates that continue today.

Title V of the omnibus act provided grants to states to establish, extend and improve maternal and child-health services, services for disabled children, and child-welfare services. The title revived parts of the Sheppard-Towner Act and created entirely new initiatives. Improvements in these services were expected to help keep many children in their own homes and out of institutions. The federal grants assisted Missouri's Crippled Children's Service, which was created by the General Assembly in 1927 and administered by the University of Missouri at Columbia with state general revenue funds.

After the United States Supreme Court upheld the Social Security Act in 1937, basic policy choices affected administration of the act's child welfare provisions. With federal funds limited, for example, Washington did not permit ADC matching funds to maintain children in foster care or institutions, or to assist state care of delinquent children. Because Congress found that states had generally provided greater services to dependent urban children and their families, the act emphasized improvement of services in rural areas and areas suffering the severest economic distress.⁷

In 1938, Katharine F. Lenroot, Chief of the U.S. Children's Bureau, called ini-

tial congressional appropriations under the Act “only a drop in the bucket in comparison to social needs,” but she spoke at a time when many Americans’ buckets had been empty altogether for nearly a decade. A year later, the White House Conference On Children In a Democracy acknowledged that federal ADC grants, which might “[a]llow only a few cents a day per child and nothing for the rest of the family,” were frequently “far from adequate to permit a normal standard of living for the children.” Nevertheless the Act’s initial effect on dependent children could not be denied. By the summer of 1940, state agencies from coast to coast were granting ADC payments to more than 350,000 families with more than 800,000 children, nearly three times the number of families and children who had received mothers’ allowances or similar state assistance before the Social Security Act.

The federal act made an immediate difference for Missouri’s poor children. In March of 1936, the U.S. Children’s Bureau approved Missouri’s plan which, according to Governor Park, then served as a blueprint for other states. The Bureau then approved the state for federal grants-in-aid after the General Assembly created the state Social Security Commission in 1937. Washington began matching one-third of every ADC dollar the state appropriated, and later increased the match to 50-50. The federal Act permitted ADC coverage for children until age eighteen if they remained in school, but the General Assembly lowered Missouri’s age to sixteen.⁸

In stark contrast to the statewide resistance that had left mothers’ allowance programs virtual dead letters almost from the start, all Missouri counties had children receiving ADC assistance by July of 1939. The numbers ranged from seven families in Warren County to 1444 in St. Louis City. In all, assistance was reaching 10,065 Missouri families with 23,754 children, an average of 2.4 children per family. About 85% of the recipients were white, and 15% were black.⁹

The story of southeast Missouri’s Washington County, one of the state’s most economically depressed areas in 1939, helps tell the human side of the bulk numbers. Amid a severe depression in the local mining industry, about a quarter of the county’s population that year received general relief, old age assistance, surplus commodities or child welfare services. Poverty became so severe that in one school district, children asked to have school during Christmas vacation so they could have a hot lunch every day. The county had not previously provided mothers’ allowances, but ADC provided an average of forty-one of the county’s needy families \$18.92 a month to care for their children. The money enabled many families to persevere and many children to finish high school.¹⁰

By 1938, Congress raised the maximum authorized ADC payment to \$18 for one child and \$12 for each additional child, caps that left the 1939 White House Conference still dissatisfied: “There are few places in the United States, if any,

where an adult and one child can live decently on \$18 a month, an adult and two children on \$30." The Conference recommended raising the national maximum for the first child to \$40, but recognized that inadequate grants were "probably due less to stinginess and indifference than to the genuine financial difficulty of many States and localities in providing appropriations."¹¹

Federal grants under Title V of the Social Security Act also made an immediate difference in Missouri. For the five months ending June 30, 1936, the state received \$20,875 for maternal and child health services, \$16,268.05 for disabled children, and \$13,512.20 for child-welfare services. Annual federal appropriations continued to increase, and in fiscal year 1941, Missouri received \$125,479 for maternal and child health services, \$78,343 for services to disabled children, and \$41,773 for child welfare services.¹²

The nation had just weathered a recession when the 1939 White House Conference convened, with eight Missouri delegates participating. The Conference concluded that while "progress has been made toward restoring economic health . . . , and new measures for economic security . . . have been put into effect, there are still great areas of distress among our people." With war clouds on the horizon, efforts by Missouri's newly created administrative agencies to alleviate this distress would soon take a backseat to more immediate national needs.¹³

The Growth of State Child Welfare Administration

Before the mid-1930s, Missouri's juvenile courts played a leading role in administering public aid to needy children and their families, whether from mothers' allowance programs or other sources. The role seemed like an ideal fit because the court had been conceived as a quasi-social welfare agency, equipped with a probation department to do fact determination and follow-up. The federal Social Security Act removed the juvenile courts from direct administration of relief for poor children and quickly led to creation of the modern network of state child welfare agencies.

Title IV of the federal act provided matching funds only to states that maintained a statewide ADC program administered by a "single agency" that would make payments to all qualifying needy children. Because Missouri's constitution established the juvenile court in the judicial branch, it was not an "agency" within the meaning of Title IV. To assure compliance with the federal mandate, the General Assembly passed the state Social Security Act of 1937, which created the state Social Security Commission and charged it with administering ADC and all other state child welfare activities. These other activities included importation of children, licensing and supervising non-religious child care agencies and institutions; paying part of the cost of county and other local

child welfare services; operating state institutions for children; and supervising juvenile probation under the juvenile court's direction.¹⁴

Missouri's administrative agencies date from the earliest years of statehood. A handful of agencies touching on juvenile justice, such as the State Board of Charities and Corrections, predated the juvenile courts and accompanied their early growth and consolidation. Local agencies had also dotted the horizon. The Kansas City Board of Public Welfare, a municipal agency created in 1910 with members appointed by the mayor, was the nation's first agency to coordinate local philanthropic efforts. The St. Louis Central Council of Social Agencies followed in 1911. The St. Joseph Public Welfare Board, with members appointed by both the mayor and the county court, was the first agency in the United States to unify the social work of a county and city.¹⁵

The prodigious mandate of the new state Social Security Commission, however, was unprecedented. Like never before, Missouri's state administrative agencies were now in the child protection business. The Commission held direct management authority that the General Assembly had denied the old State Board of Charities and Corrections. The new agency sought immediately to avoid wasteful duplication by coordinating state efforts with existing county and other local efforts, some of which ADC now made obsolete. The Commission also sought to assure that the new coordinated efforts would reach rural areas whose children, according to the 1939 Children's Code Commission, had not been served as well as children in the large metropolitan areas such as St. Louis and Kansas City.¹⁶

To manage its mandate, the state Social Security Commission created a Division of Child Welfare with five departments: the Division of Child Welfare Services, the Department of Foster Care, the State Receiving Home, the Department to License and Inspect Child Caring Agencies and Institutions, and the Department to Give Advisory Service to Juvenile Courts. In 1944, the Division of Child Welfare and the Division of Public Assistance were integrated into a single Division, the Welfare Services Division, which made the county welfare office the unit of administration for all welfare programs so that some child welfare service would be available in all counties. The state Constitution of 1945 and legislation later that year changed the agency's name from the State Social Security Commission to the State Division of Welfare of the new State Department of Public Health and Welfare. In 1950, child welfare functions were placed in the Bureau of Local Welfare Services.¹⁷

The blueprint of these agencies would remain largely unchanged until the Omnibus Reorganization Act of 1974 created the Division of Family Services (DFS) within the Department of Social Services. DFS now has a local office in each county to work directly with the county's families and children. The agency's areas of administrative responsibility include income maintenance

and children's social services. "Income maintenance" means providing assistance to low income families, including food stamps, Medicaid, and Temporary Assistance For Needy Families (TANF), which replaced the Aid to Families With Dependent Children (AFDC) program in 1996. "Children's Social Services" means providing protective services to help and treat abused, neglected or exploited children, including maintenance of the state's Child Abuse Hot Line and investigation of all hot line reports and referral of reports to juvenile court or law enforcement officials where appropriate. DFS also licenses foster family homes, foster group homes and residential treatment facilities, and provides subsidies to parents who adopt special-needs children.¹⁸

The Children's Code Commission of 1945

By the end of World War II, most Missouri laws concerning children had been enacted before 1922 and left largely unchanged ever since. No thorough review of these laws had been undertaken since the three gubernatorial commissions convened between 1915 and 1921.

In 1938, Governor Lloyd C. Stark responded to public calls by the Missouri Association For Social Welfare (MASW) and appointed a Children's Code Commission to review state laws relating to children. The Governor was gearing up for his unsuccessful challenge to Senator Harry S Truman in the 1940 Democratic primary, but any hopes he had for helpful publicity from comprehensive commission deliberations were quickly dashed. The commission met, submitted a short but thoughtful report in 1939 stating the needs of Missouri's children, and urged future study. The commission adjourned without formulating careful recommendations because it received no appropriation to support its work. Private funding, the sole support for the three earlier gubernatorial commissions, was thought inappropriate this time.

After this false start, the war effort put sustained law revision efforts on hold. In 1940, the MASW tried unsuccessfully to have the Stark Commission revived or another commission appointed. In 1942, the MASW's persistent calls for legislation to create a new children's code commission won support from the American Legion and the Missouri Judicial Council. Also endorsing the legislation were a few dozen state and local civic, labor and social welfare organizations. With the war in Europe won and the war in the Pacific near victory in July of 1945, the long effort paid off when the General Assembly authorized Governor Phil M. Donnelly (a member of the 1938 Stark commission as a senator from Lebanon) to appoint a commission to study the state's laws concerning dependent and delinquent children and recommend improvements.¹⁹

Funded by a \$12,000 state appropriation and chaired by state Supreme Court judge Albert M. Clark, the Missouri Children's Code Commission met for more than a year and prefaced its comprehensive December, 1946 report to the Governor and legislature with a call to action. "If the children of Missouri in their advancement toward adulthood with each successive generation have been called upon to give their best in an emergency of national importance," the report concluded, "they are entitled to receive the best protection and security which good laws could afford them and this they have not had."²⁰

The Donnelly Commission's comprehensive report found that the state's laws relating to children "contain[ed] many sound principles," but were "antiquated and . . . in need of revision." The commissioners found these laws scattered throughout the statute books after decades of piecemeal enactments. The laws did not always clearly delineate the respective roles of the juvenile courts and executive agencies in administering child protective programs. Administration frequently overlooked children in the state's less populous counties, and effectiveness was frequently compromised by inadequate state funding.²¹

The Commission recommended coordinating all children's statutes into a single coherent Children's Code, eliminating duplicative and inconsistent laws, repealing or amending antiquated statutes, enacting new laws to meet the needs of the state's children, increasing salaries to attract qualified child welfare personnel, and providing sufficient appropriations to enable the law to serve the state's children. "These activities are costly to the state now," the Commission cautioned, "but much more costly will be the 'uncared for' child."²²

Challenges in Peacetime

When President Harry S Truman summoned the Mid-Century White House Conference on Children and Youth in 1950, Governor Forrest Smith appointed a committee to report on child welfare in Missouri and then attend the conference. With forty-six delegates, this was the first decennial White House Conference that Missouri attended officially as a state. The Smith committee found a number of systemic shortcomings. The Division of Welfare, for example, had formulated excellent standards that stressed thorough, careful study of prospective foster homes, but the agency was unable to implement the standards for lack of qualified personnel. The Division was responsible for most foster children in rural areas, but its workers had no professional training and carried "exorbitantly high caseloads," with low salaries that hindered recruitment of trained personnel.²³

From 1945 to 1950, local foster care expenditures increased from \$14,875 to \$108,271, and state expenditures from \$22,759 to \$89,182. The Smith com-

mittee called state appropriations still inadequate to meet the needs of all children needing foster care, and to attract more and better foster parents, because the state stipend did “not even meet the subsistence costs of keeping a child.” The committee found that the state had difficulty attracting a sufficient number of good foster homes, particularly for children with physical or medical disabilities or other special needs.²⁴

In 1951, the Child Welfare League of America found that the tax-supported foster care program operated by the St. Louis Board of Children’s Guardians “need[ed] an overhaul from top to bottom.” The low stipends paid to foster parents had created a persistent shortage of foster homes and reliance on poor quality foster homes. Inadequate funding left the board unable to recruit quality homes, or to supervise placements once made. The agency served both white and black children, but the CWLA found a “serious lack of institutional resources” for black children.²⁵

Missouri made some headway in the 1950s, though Cold War international tensions did not encourage the nation’s policymakers to pay close attention to the needs of children. The state committee appointed by Governor James T. Blair, Jr. to attend President John F. Kennedy’s 1961 White House Conference on Children and Youth found lingering racial and demographic disparities in social services. The committee recommended “equalizing opportunities” for African Americans. The committee also examined conditions in the major metropolitan areas (St. Louis and Kansas City), the middle-sized cities (St. Joseph and Springfield), and the 105 counties with rural areas: “As a general rule, the larger the population, the more complex the organization of services.”²⁶

Developments in Adoption Law

The Growth of Adoption in Missouri After 1917

By the middle of World War II, Americans were adopting children in record numbers. The U.S. Children’s Bureau estimated that adoption petitions were filed for more than 50,000 children nationwide in 1944, compared with only an estimated 16,000 in 1936. The war itself was a major reason for the steady nationwide increase. Step-parents adopted step-children to qualify for dependency and public insurance benefits, and war industries raised household earnings and led some couples to feel they could afford adoption for the first time since the Depression. Young wives with husbands fighting overseas adopted children to cure loneliness and assure a family if their husbands were killed in action.²⁷

With the judicial adoption procedure firmly in place since 1917, Missouri shared in the dramatic national increase:

<i>Year</i>	<i>Missouri adoptions</i>
1937	954
1938	748
1939	859
1940	[figure unavailable]
1941	891
1942	855
1943	1,347
1944	1,445
1945	1,623 ²⁸

As the numbers grew, Missouri courts gave strength and character to the 1917 adoption act, which had entrusted application of the “best interests of the child” touchstone to case-by-case decisionmaking. Like most other states, Missouri permitted juvenile courts to approve both adoptions arranged by public and private agencies and so-called “private placements.” In the latter, birth parents and adoptive parents arrange the adoption themselves or through a non-agency intermediary such as a lawyer or a member of the clergy. Because best interests and family wealth sometimes clash, the state Supreme Court stressed that adoption may be in the child’s best interests even where the prospective adoptive parents have relatively modest means. Adoption, the Court said in 1944, seeks “to provide the *best* home that is available. By that is not meant the wealthiest home, but the home which . . . the court deems will best promote the welfare of the particular child.” Lower courts said the same thing because, as the St. Louis Court of Appeals put it, the adoption act “does not require affluence. If it did, few homes would be available for unfortunate children.”²⁹

Missouri courts also took seriously the 1917 adoption act’s requirement that children generally may be adopted only with their natural parents’ consent. As it would in highly publicized cases later in the century, consent sometimes became a contentious issue when an adult resorted to deception, leaving the court with the prospect of ordering the child removed from an apparently settled adoptive home.

In *Rochford v. Bailey*, for example, the state Supreme Court vacated the adoption of a child whose mother found a Kansas City nurse to care for him when he was two weeks old. The mother then left for Oklahoma to care for a seriously ill relative. While she remained in Oklahoma for more than two years, she corresponded regularly with the child’s father but did not write the nurse.