



*Lynn Fitch*  
**ATTORNEY GENERAL**  
OPINIONS

May 13, 2020

Willie Griffin, Esq.  
Attorney for the Washington County Board of Supervisors  
Post Office Box 189  
Greenville, Mississippi 38702

Re: Nepotism

Dear Mr. Griffin:

The Office of the Attorney General is in receipt of your request for the issuance of an official opinion.

### **Questions Presented**

May the son of the Washington County Sheriff serve as a volunteer or auxiliary deputy with the Washington County Sheriff's Department?

If yes, may the Sheriff's Department sponsor the sheriff's son to attend the law enforcement training academy?

May the Sheriff's Department provide a uniform, weapon, and vehicle for the sheriff's son to use in the performance of his duties?

May the Sheriff's Department pay the cost of the bond for the sheriff's son as a volunteer or auxiliary deputy?

### **Brief Response**

The sheriff's son may serve as an unpaid auxiliary deputy without violating the Nepotism Statute, Miss. Code Ann. Section 25-1-53.

As an auxiliary deputy, he may use county equipment such as a vehicle, uniform, and weapon, in the performance of his duties.

Willie Griffin, Esq.

May 13, 2020

Page 2

The Sheriff's Department would be in violation of Section 25-1-53 if it sponsored the sheriff's son to attend the law enforcement training academy or paid the cost of his bond, as both would constitute a monetary benefit obtained through public funds.

### **Applicable Law and Discussion**

It is unlawful for an elected official to employ a relative within the third degree of kinship as a deputy who is to be paid out of the public funds. MS AG Op., *Harper* (June 28, 1995).

Section 25-1-53, provides, in pertinent part:

It shall be unlawful for any person elected, appointed or selected in any manner whatsoever to any state, county, district or municipal office, or for any board of trustees of any state institution, to appoint or employ, as an officer, clerk, stenographer, deputy or assistant who is to be paid out of the public funds, any person related by blood or marriage within the third degree, computed by the rule of the civil law, to the person or any member of the board of trustees having the authority to make such appointment or contract such employment as employer.

The employment by the Sheriff of his son as a deputy would violate the Nepotism Statute if he were to be compensated in any way through public funds. *See*, MS AG Op., *Holcomb* (April 27, 2018)(our nepotism statute, prohibits a sheriff from hiring a relative by blood or marriage within the third degree according to the rule of civil law to one of five positions, i.e., officer, clerk, stenographer, deputy and assistant). Here, however, the Sheriff's son shall serve as an unpaid volunteer. It is, therefore, the opinion of this office that the hiring of the Sheriff's son as an unpaid volunteer to serve as an auxiliary deputy in the Washington County Sheriff's Department does not violate Section 25-1-53.

With that said, a violation of the nepotism statute may only be avoided by ensuring the Sheriff's son receives no monetary benefit from county funds related to or resulting from his service as an auxiliary deputy. Thus, it is the opinion of this office that the Washington County Sheriff's Department could not sponsor the sheriff's son to the law enforcement training academy, as such payment to a third party from public funds on behalf of the sheriff's son would violate the nepotism statute. *See*, MS AG Op., *Ball* (December 7, 2007)([t]he direct payment of registration fees and lodging expenses to a third party from public funds on behalf of the chairman of the municipal housing authority would violate the general nepotism statute prohibiting payment out of public funds).

For the same reason, it is likewise the opinion of this office that the payment of the bond for the benefit of the sheriff's son by the Washington County Sheriff's Department would constitute a violation of the nepotism statute.

The Sheriff's Department may permit the sheriff's use of uniforms, a weapon and vehicle in the performance of his duties as an auxiliary deputy.

Willie Griffin, Esq.

May 13, 2020

Page 3

An Auxiliary Deputy Sheriff's Department established and operated pursuant to the provisions of this section would be a part of the Sheriff's Office of the County and, of course, within statutory limitations, would be authorized under the direction of the sheriff to use such county equipment as might be made available.

MS AG Op., *Ready* (April 5, 1979)(emphasis added). It is the opinion of this office that the son's use of the county equipment in the performance of his duties would not constitute a violation of the nepotism statute.

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: */s/ Emiko Hemleben*

Emiko Hemleben  
Special Assistant Attorney General

OFFICIAL OPINION