Child Protection & Advocacy

Child Protection and Advocacy Section of the State Bar of Georgia – Winter 2013

Improving Placement Stability for Children in Foster Care

Inside This Issue

If you would like to contribute articles to Newsletter or have any ideas or content suggestions for future issues, please contact

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Commonly-Used Acronyms in Child Welfare Cases

Georgia Supreme Court Committee on Justice for Children

A&D	Adjudicatory and Dispositional Hearing
AFCARS	Adoption and Foster Care Analysis & Reporting System
APPLA	Another Planned Permanent Living Arrangement
ASFA	Adoption and Safe Families Act
CAPTA	Child Abuse Prevention and Treatment Act
CASA	Court Appointed Special Advocate
CCFA	Comprehensive Child and Family Assessment
CFSR	Child and Family Services Review
CPS	Child Protective Services – a department within DFCS
DFCS	(Georgia) Division of Family and Children Services, a division of the Department of Human Services
DHS	Department of Human Services
DJJ	Department of Juvenile Justice
DSM-IV	Diagnostic and Statistical Manual of Mental Disorders (used in psychological and psychiatric evaluations)
EPSDT	Early and Periodic Screening, Diagnosis, and Treatment
FPS	Family Preservation Services
FTM	Family Team Meeting
GAF	Global Assessment of Functioning (used in psychological evaluations)
GAL	Guardian ad Litem
ICPC	Interstate Compact on the Placement of Children
IEP	Individualized Educational Program
ILP	Independent Living Program
J4C	Georgia Supreme Court Committee on Justice for Children
NCANDS	National Child Abuse and Neglect Data System
SAAG	Special Assistant Attorney General – represents DFCS
SSI	Supplemental Security Income
TANF	Temporary Assistance for Needy Families
TPR	Termination of Parental Rights
WTLP	Written Transitional Living Plan

From the Chair

By Nicki Noel Vaughan

WE NEED YOUR HELP AND INPUT

I am pleased to announce that we now have 232 members of the Child Protection and Advocacy Section – thirty new members since our last newsletter was published! You may notice that we still have not named the newsletter. I know that there are a lot of creative minds out there – you have to be creative in order to practice the kind of law we do. So please give some thought to this matter and send in your suggestions. We're offering a prize for the winning entry!

This quarter has been busy. The mixer with the Family Law Section in Atlanta in October was an excellent opportunity to spread the word about our section's work. On the same day, I participated in a pre-legislative discussion with the Military and Veterans Law Section and the Family Law Section regarding proposed legislation regarding custody related to deployment issues.

Also in October, our section co-sponsored CLE programs offered by the Supreme Court of Georgia Committee on Justice for Children (basic skills) and the Atlanta Bar Association (the Kenny A. case). We are also participating in planning for the Georgia Youth Law Conference which will be held in March. Please see the notice elsewhere in this newsletter about the deadline for submission of abstracts.

The Legislative Session begins Jan. 14, 2013. We will be providing regular updates and will likely be requesting your help through letters and emails to your legislators. Be sure you have their email addresses handy for quick reference.

SAVE THE DATE

The Education/CLE Committee, chaired by Rick Horder, has finalized plans for our first CLE program to be held January 31, 2013. "Show Me the Money," is a full-day ICLE-approved program that will focus on discovering and utilizing resources available for children in need of services regarding education, medical needs, disabilities, and other areas. The program will be at the Bar Center and will be simulcast to the Bar Centers in Savannah and Tifton for statewide availability. You should receive the brochure soon. Also, even if you don't care to attend the seminar, please join us at 4:00 for a Social Mixer at a bar/restaurant near the State Bar Center, the exact location to be announced later. One final way to participate in the CLE is through sponsorship. We are offering people the opportunity to become a sponsor for the CLE. Sponsorship dollars will be used to award scholarships to the CLE. Diane Woods has pledged $500 and urges others to join her. Please contact us if you would like to match her pledge or contribute in some other amount.

SHARE INFORMATION

Please share this newsletter and tell others about the CLE, as well as about the section. Section membership for January-June is half-price ($10.00).

Thank you all for your interest and support of the section. Please give us feedback about the newsletter and the web page, join a committee and let us know how we can better respond to the needs and interests of all our members. Thanks again to Tonya Boga, editor of the newsletter, and to the contributors for their efforts in making our newsletter informative and beneficial to the practice of law in the Juvenile Courts of our state.

Home in Time for the Holidays

By Michelle Barclay and Patricia Buonodono

Ian appeared on the Cold Case list in 2010. He had been in foster care for over five years and was a legal orphan (parental rights had been terminated by a court). A two-pronged plan for permanency was put in place for Ian. First, DFCS began adoption recruitment for Ian (see Ian's adoption video: http://www.redlasso.com/entertainment/wednesdays-child-ian-2/).

The second prong was an intensive relative search led by a private investigator on the Cold Case team, who learned that Ian's paternal grandparents had been searching for him. Once the paternal grandparents were found, they immediately wanted to see Ian. The grandparents were living on a fixed income, so travel expenses were covered by both a combination of DFCS funding and a private grant from the Waterfall Foundation. Ian's grandparents flew to Georgia twice to spend time with Ian, and they began talking on the phone regularly. While sitting across from Ian at Goshen Valley Boys Ranch, his grandmother remarked that he looked just like her son who was now deceased. Ian's grandmother had always assumed Ian had been adopted by a family, but his case had taken many turns leading him away from permanency.

On September 11, after some trouble with ICPC which the Massachusetts social service agency made extraordinary efforts to resolve quickly, Ian left Goshen Valley for Atlanta Hartsfield Jackson Airport (his first airplane ride) and flew to Massachusetts. He was met by his grandparents at the airport and he enrolled in high school the following day. He was adopted by his grandparents a week before his 18th birthday, thus he did not age out without permanency. This child is truly home for the holidays.

We all know children in the child welfare system today who are still at great risk of aging out without permanency and who will have no visitors at Christmas. But stories like Ian's help us reenergize ourselves to try harder for those children. We can't give up.

The Cold Case Project (an expert review process for children in foster care for many years) has existed for three years, run by the Committee on Justice for Children in full partnership and transparency with the Division of Family and Children Services (DFCS). The project is made possible by the Casey Family Program funds.

Name our Newsletter!

The executive committee of the Child Protection and Advocacy Section is soliciting names for our newsletter. If you have suggestions, please forward them to Derrick Stanley at derricks@gabar.org.

The committee will select a name and give you credit in our next newsletter.

Improving Placement Stability for Children in Foster Care

By Karlise Yvette Grier

Hefty: The Official Luggage of Foster Care was the title of the slide, as I watched a presentation given by youth who had aged out of foster care. I listened as these young adults described the trauma they experienced each time they were told that their foster care placement was changing – again.

Children who are in the child welfare services system and experience multiple moves are at increased risks for poor outcomes in academic achievement, socio-emotional health, developing insecure attachments, and distress due to the instability and uncertainty that comes with not having a stable family environment.[1] Some researchers have also concluded that multiple child welfare placements can also increase a child's risk of delinquency.[2] Conversely, research indicates that a child in foster care is more likely to graduate from college when the child has had fewer foster care placement moves.[3]

It is now the express written policy of the state of Georgia that "children in the custody of the Division of Family and Children Services should have stable placements."[4] In Georgia, the Department of Human Services Division of Family and Children Services (Department) has also acknowledged that "every move compounds the child's sense of loss."[5] The Department's policy manual also notes that "[a]ll moves experienced by a child will revive earlier feelings associated with past separations and entry into care."[6] To increase placement stability for children in foster care, the Georgia General Assembly, in 2007, passed House Bill 153 to provide guidelines when the Department decides to change a child's placement. The need for this legislation is clear based on the data about Georgia. For example, based on the most recently available data from *Child and Family Services Review Measures For April 2011 through March 2012,* in Georgia less than 30 percent of all children in foster care for more than 24 months had 2 or fewer placements.[7] Professionals working with the Supreme Court of Georgia's Committee on Justice for Children reported that they reviewed at least one case of a child in foster care that had experienced 41 moves in a 3 ½ year period of time.[8]

Georgia law requires that "[n]ot less than five days in advance of any placement change, the [Department] shall notify the court, a child who is 14 years of age or older, the child's parents, guardian, or other custodian and any attorney of record of such change in the location of the child's placement while the child is in the division's custody. . . ."[9] "If the child's health or welfare may be endangered by any delay in changing the child's placement, only the court and any attorney of record shall be notified of such placement change **within 24 hours** of such change."[10] A child who is 14 years of age or older, the child's parents, guardian, or other custodian, and any attorney of record may request a hearing with regard to the child's case plan or the permanency plan in order for the court to consider the change in the location of the child's placement and any changes to the case plan or permanency plan resulting from the child's change in placement location.[11] The court is required to hold the hearing within five days of receiving notice of a change in the location of the child's placement. The Department is prohibited from changing the child's placement prior to the hearing, unless the child's health or welfare may be endangered by any delay in changing the child's placement.[12] At the hearing, the court may consider the recommendation to change the child's placement, but the court has the authority to reject or accept the Department's recommendation regarding a change in the child's placement.[13] If the court rejects the recommendations of the Department, the court may order the Department to devise a new case plan and permanency plan recommendation, including a new recommendation as to the location of the child within the resources of the Department, or make any other order relative to placement or custody outside the Department as the court finds to be in the best interest of the child.[14] If the court places the child outside of a resource of the Department or changes the legal custody of the child, then such placement or a change of legal custody by the court outside the Department shall relieve the department of further responsibility for the child.[15] The court shall make findings of fact upon which the court relied in determining to reject or accept the Departments recommendation to change the child's placement.[16] A hearing is not required if all parties agree that a change in placement is in a child's best interest. For example, if a child is moving from a non-relative foster home placement into a relative guardianship, the court may not need to conduct a hearing about that placement change.

To ensure that children in Georgia have the stable placements that they deserve and that is required by state law, child welfare attorneys should ensure that it is the practice in their county for the Department to provide the notice required by law. Ideally, the notice should contain at least three critical pieces of information as follows: the child's current placement, the proposed new placement, and

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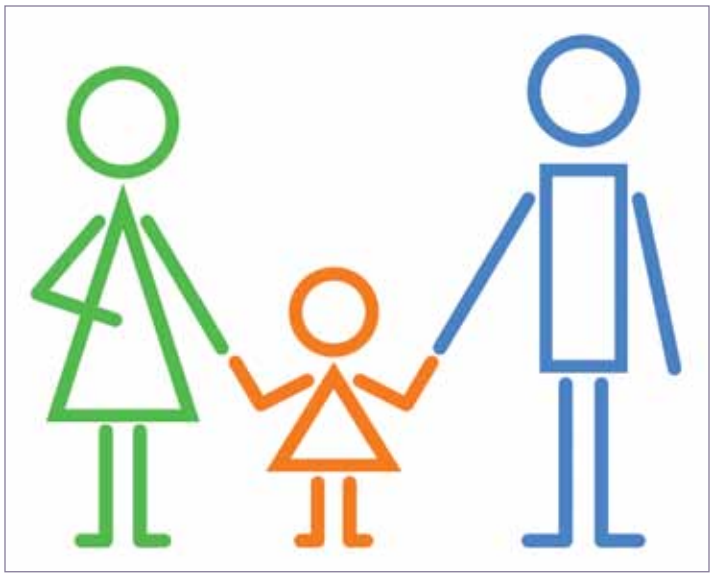
How much of your life could you stuff in this bag?

Faded Pictures of other people... only one of me
Unmatched stained socks with holes in them
A tattered book from my first case worker
A torn birthday card from my birth mom
An old GI Joe from my foster brother
Dimestore tennis shoes
High water pants
A stuffed animal
Some t-shirts
My pride
Hope



the reason for the change in placement. If a child welfare attorney requests a hearing in a case, the attorney should ask questions of the Department to determine if the Department has made **reasonable efforts** to complete whatever steps are necessary to finalize the permanent placement of the child as required by O.C.G.A. § 15-11-58(a)(3). The Department has a duty to use reasonable efforts to secure a safe and stable placement for a child in foster care for as long as that child is in the legal custody of the Department.[17] At a hearing, the court and attorneys should also examine several other issues. For instance, the child welfare attorney may want to explore the rationale for the change in placement, especially if the placement change is because of the "child's behavior." Attorneys and judges should ensure that a move is not being used to "discipline" a child but that the move is in fact in the child's best interests consistent with the child's permanency plan and case plan. In addition, if a foster parent is requesting a move, the attorneys and the court should explore if the Department has offered other options to the foster parent, such as respite care for example, which might help stabilize the current placement. At times, a child's caseworker may not be familiar with all of the resources of the Department or the caseworker may not be familiar with how to obtain additional resources for a child. The child welfare attorney should also ask whether the caseworker has taken steps to contact one of the Department's regional Master Practitioners to assist the caseworker in locating additional resources that might help in stabilizing the child's current placement. The attorney should also demand detailed information from the Department on how the placement change will impact the child's case plan. The attorney should obtain and ask the court to consider detailed information on how the proposed placement change will impact the child's educational stability, ability to visit with parents or siblings, and ability to receive continuity of care for medical, mental health or other health-care related services. Finally, if the court decides that a placement change is in the child's best interest, the Department's policy requirement states: "[A]ll possible efforts must be taken to prevent an **abrupt** or unnecessary replacement of the child."[18] Therefore, even if a placement change is necessary, the Department should consider if a gradual transition is possible under the facts and circumstances of a particular case.

As child welfare professionals plan for the next legislative session, attorneys and judges should consider proposing clarifications to the current statute that might assist in implementing Georgia's policy on placement stability. For example, adding language specifying the method for giving notice could ensure that affected parties receive more timely notice. The statute could be amended to require the Department provide notice of a move by electronic or facsimile means to ensure that the notice is received as soon as possible. Legislation that required the Department to provide information about the child's current placement and proposed placement change would also help all parties determine if an attorney should request a hearing in a particular case. Finally, because many courts rely on Court Appointed Special Advocates (CASA) or lay Guardian Ad Litems (GAL) instead of attorneys to advocate for children, child welfare professionals should consider proposing an amendment to the statute that requires the Department to notify CASA and GAL of a proposed placement change and allows a CASA and GAL to request a hearing about the placement change.

Child welfare professionals may find resources on placement stability and permanency planning at the Supreme Court of Georgia's Committee on Justice for Children web site located at http://w2.georgiacourts.org/cj4c/index.php?option=com_content&view=article&id=60&Itemid=66. A copy of the Department's Social Services Manual may be found in the Department's Online Directives Information System. A copy of the Department's Online Directives Information System is available on the web site of the Barton Child Law and Policy Center web site located at http://bartoncenter.net/http://bartoncenter.net/resources/fcindex.html.

(Endnotes)

1 Gauthier, Yvon; Fortin, Gilles; Jéliu, Gloria, *Clinical Application of Attachment Theory in Permanency Planning for Children in Foster Care: The Importance of Continuity of Care*, 25 Infant Mental Health J. 379, 394 (2004).
2 *See* Bilchik, Shay and Nash, Michael, *Child Welfare and Juvenile Justice: Two Sides of the Same Coin* (Juvenile and Family Justice Today, Fall 2008).
3 National Working Group on Foster Care and Education, *Education is the Lifeline for Youth in Foster Care* (Research Highlights on Education and Foster Care, October 2011).
4 O.C.G.A. § 15-11-55 (d).
5 Social Services Manual, *Foster Care Services: Placement of a Child* § 1009.11 (December 2007).
6 Id. at § 1009.16.
7 *See* http://fosteringcourtimprovement.org/ga/JudicialDistrict/cfsr2_summary.html (Viewed on Dec. 4, 2012).
8 Barclay, Michelle and Church, Christopher, *Placement Stability: A Data Driven Priority* (2011 Court Improvement Program Meeting, May 9, 2011).
9 O.C.G.A. § 15-11-55 (d).
10 Id. (Emphasis supplied.)
11 *See* Id.
12 *See* Id.
13 *See* Id.
14 *See* Id.
15 *See* Id.
16 *See* Id.
17 *See* O.C.G.A. § 15-11-58(a)(3).
18 Social Services Manual, *Foster Care Services: Placement of a Child* § 1009.11. (December 2007)(Emphasis supplied.)

What's Important in a Reunification Case Plan?

By Hon. Lisa C. Rambo

So, what's a reunification case plan? This question is the one most parents immediately ask after I have just placed their child in foster care with reunification being the goal. After foster placement, a reunification case plan is the next step in the judicial process to prepare families to address issues that have made necessary the legal separation of parents from their child(ren).

A reunification case plan should be an instruction guide for the family to be placed back together again. Many times that parent has already failed a "safety plan" with the Georgia Department of Human Services Division of Family and Children Services (hereinafter referred to as the "Department"). A safety plan is a voluntary agreement with the Department to ensure the child(ren)'s safety. A failure to abide by a safety plan often results in a Petition for Custody being filed by the Department. It is a good practice for the Court to instruct the parent(s) that the reunification case plan becomes an Order of the Court once it is signed by the Judge most often as a "Supplemental Order Incorporating Case Plan". I also often instruct the parent(s) that judicial intervention is the last resort for the Department so that the parent(s) appreciate the seriousness of the situation. The Department is obligated to first search for a relative "placement", and many times the child is often "placed" with a relative while in the Department's "custody". The parents must understand the child is in State custody and the serious implications thereof. Usually the Department has a history with the family and has been working diligently to try to solve the family's problems without judicial intervention. Unfortunately these efforts to avoid bringing the child into State custody sometimes give the parents the impression they have many "chances". The Court and/or the parent's attorney should advise the parent that the ultimate goal for the child is permanency and that the law provides stringent time frames for achieving permanency.

If I had to choose three key phrases throughout this code section to include in my model "instruction guide" for placing a family back together again, in order of importance, they would read as follows: "at least", "specific" and "reasonable."

So how is a reunification case plan developed? Department personnel meet with the parent(s) shortly after the child is placed in State custody and often have a "Family Team Meeting" during which the reunification plan is discussed. The plan should address the deprivation at hand. O.C.G.A. 15-11-58 provides:

"...The plan shall address each reason requiring removal and shall contain at least the following:

1. The purpose for which the child was placed in foster care, including a statement of the reasons why the child cannot be adequately protected at home and the harm which may occur if the child remains in the home, and shall also include a description of the services offered and the services provided to prevent removal of the child from the home;
2. A discussion of how the plan is designed to achieve a placement in a safe setting that is the least restrictive, most family-like, and most appropriate setting available and in close proximity to the home of the parents, consistent with the best interests and special needs of the child;
3. A clear description of the specific actions to be taken by the parents and the specific services to be provided by the Division of Family and Children Services of the Department of Human Services or other appropriate agencies in order to bring about the identified changes that must be made in order for the child to be safely returned home; provided, however, that all services and actions required of the parents which are not directly related to the circumstances necessitating separation cannot be made conditions of the return of the child without court review;
4. Specific time frames in which the goals of the plan are to be accomplished to fulfill the purpose of the reunification plan;
5. The person within the Division of Family and Children Services of the Department of Human Services or other agency who is directly responsible for ensuring that the plan is implemented;
6. Consideration of the advisability of a reasonable visitation schedule which allows the parents to maintain meaningful contact with their children through personal visits, telephone calls and letters;
7. A statement that reasonable efforts have been made and a requirement that reasonable efforts shall be made for so long as the child remains in the custody of the department; ...."

If I had to choose three key phrases throughout this code section to include in my model "instruction guide" for placing a family back together again, in order of importance, they would read as follows: "**at least**", "**specific**" and "**reasonable**."

In my opinion, each of these phrases is included in the law for very important reasons: so that the parties do not lose sight of the actual issues that need to be addressed, so that there is no question as to what action is required of each party and so that "common sense" is not lost in the process.

This code section is a guide as to the **minimum** requirements of a reunification plan as indicated "...The plan shall address each reason requiring removal and shall contain at least...." Detail included in a plan ensures better instruction for the parents. For example, recently I included language in a dispositional order stating the following goals for a parent: completion of a psychological evaluation to rule out emotional and/or environmental stressors and to gain insight into underlying family dynamics; compliance with psychological evaluation treatment recommendations; continue individual/play therapy for child;...individual therapy/parent training to address risk issues identified by the Adult-Adolescent Parenting Inventory (empathy, reversal of family roles);...development and implementation of realistic and age-appropriate expectations for child;...anger management therapy to enhance coping skills and ability to respond to stressors in an appropriate calm manner;... domestic violence assessment to determine past and current issues with domestic violence and to determine the need for domestic violence education and therapy and compliance with recommendations of said assessment; domestic violence treatment and education to further knowledge regarding domestic violence and the impact it has and to address past abusive issues, and ways to ensure the cycle of violence does not continue. If language such as this is included in the reunification plan, the parent(s) and all parties or providers will better understand why certain requirements are necessary. A goal simply being stated as "completion of psychological evaluation and any recommendations thereof" does not give enough detail for a full understanding by the parent(s), caseworker or the mental health evaluator.

Specificity is of utmost importance in the development of a reunification case plan. For example, many times the completion date of a certain goal is stated as six months from the development of the plan because case plans are often created on a six-month time frame. I recently had a parent who truly believed she would be discharged from her residential treatment center and have her children back with her on a certain date six months from the creation of the plan because the "to be completed date" on the case plan for the goal "completion of residential drug treatment" was a date that was a certain date six months from the development of the plan rather than being correctly stated as "upon successful completion and recommendation by the treatment provider". Only when it was explained to her by the Court did she understand. Such a seemingly small error and lack of specificity created a huge disappointment for this woman and her children. This case also reiterates the importance of parent attorneys in the development and implementation of the reunification case plan. Many parents greatly benefit and achieve their goals quickly if counsel is involved in the initial stages of the development of the case plan as they have a better understanding of the requirements thereof.

Lastly, the word "**reasonable**" appears throughout O.C.G.A. 15-11-58. So what does "reasonable" mean? The Department is required to make reasonable efforts so long as the child remains in the custody of the Department. Many times the Department's personnel make efforts far beyond what I consider reasonable. For example, I have had caseworkers testify that, in trying to make contact with a parent, he or she has gone by the parent's

home at all hours of the day or night leaving notes on the door for days at a time after having sent numerous letters and leaving numerous unanswered phone messages. I greatly appreciate these efforts and am amazed by them. I recently had a parent ask "So why won't the Department buy me a car? They got me a place to live and everything else...." Once again, I am amazed. These are not reasonable expectations in my opinion.

Consideration of a reasonable visitation schedule is a requirement of a reunification case plan. What is reasonable visitation? It certainly depends on the situation. Many factors come into play. Where is the child placed? Is he or she with a relative or foster parent who lives nearby or in a specialized treatment setting which is far away? Is there public transportation available or does the parent have sufficient transportation? Is the parent in a residential treatment setting? If so, what are the constraints placed on the parent by the treatment facility? Is the parent working? If so, what is the parent's work schedule? What is recommended as in the child's "best interest" as far as contact with the parent is concerned? Practically speaking, these issues are often more difficult to address in more rural circuits such as mine where there is a lack of public transportation, and facilities and specialized placements are often many miles away.

Determining what is "reasonable" requires good, old-fashioned "common sense". Doing something a certain way because "we've always done it that way" or because "that's what the form had on it" is simply not acceptable if that certain way is not in the child's best interest.

We must all do our absolute best to keep our State's families who are at risk in tact. A good reunification case plan is the first step toward putting those families back together again. The plan must contain all the essential elements, be specific and be reasonable. If any of these requirements are not met, the result may be the crushing of a family's hopes, dreams and potential.

Education Workshops Focus on School Dropout Prevention

By Ira L. Foster

Georgia Legal Services Program, Georgia Appleseed Center for Law and Justice, The Southern Center for Human Rights and the fraternal organization Alpha Phi Alpha Fraternity, Inc. have formed a partnership to present education workshops focusing on preventing youths from dropping out of high school. Workshops conducted by Ira L. Foster, an attorney with the Macon Office of Georgia Legal Services Program, and Rob Rhodes, an attorney with Georgia Appleseed Center for Law and Justice and Melanie Valez an attorney with The Southern Center For Human Rights make communities aware of the drastic dropout rate for inner city black males and the correlations between the large number of black males in jails and prisons that did not graduate from high school. The workshops also aim to encourage local communities to develop strategies and solutions to keep youth from dropping out of school. Foster is also a member of the State Bar's Child Protection And Advocacy Section and represents students in school disciplinary suspension and expulsion hearings. Rhodes is the project director for Georgia Appleseed Center For Law and Justice.

Georgia Appleseed Center for Law and Justice recently completely an eighteen month study of student disciplinary policies and practices for the State of Georgia related to Georgia's K-12 Public School System. The study includes an analysis of disciplinary data for many school districts throughout Georgia. Most research and data collected regarding Georgia metropolitan and urban cities, including Augusta, Albany, Macon, Savannah, Columbus and Atlanta indicate that the public school dropout rate for African American male students in those cities is almost fifty (50) percent. National research further indicates that almost seventy-five (75) percent of African American male students nationwide that drop out of high school later become incarcerated in jail or prison.

The first in the series of statewide dropout prevention workshops were held in Waycross on Nov. 10, 2012 and Augusta on Dec. 15, 2012. Additional workshops are planned for Albany, Columbus, Savannah, Valdosta and Atlanta.

2012 Brings New Faces to the Juvenile Courts Around the State.

The section welcomes the new judges to the bench.

Hon. Pam James Doumar
Augusta Circuit

Hon. Lisa Goldwire Colbert
Eastern Circuit

Hon. Vann Parrott
Southern Circuit (Quitman)

Hon. James Council
Southern Circuit (Valdosta)

Hon. Joe Wyant
Coweta Circuit

Hon. Render Heard
Tifton Circuit

Hon. Greg Price
Rome Circuit

Hon. Jeff Hamby
Cobb Circuit

Hon. Samuel Hilbun
Dublin Circuit

Information Courtesy of
Eric John, Executive Director
Council of Juvenile Court Judges of Georgia
230 Peachtree Street NW Suite 1625
Atlanta, Ga. 30303 - 404-657-5020

Save the Date!!

The Georgia Youth Law Conference will be held March 18 (Mon.) through March 20 (Wed.), 2013 in metro Atlanta! We will be requesting at least 12 hours CLE credit, (including at least 3 hours trial, 1 hour ethics and 1 hour professionalism) for attendees. (CLE Credit for the YLC may be used to meet 2012 CLE requirements, without payment of a late fee to the Bar.) Abstracts are requested for workshop presentations on topics of interest to attorneys who represent Georgia children and their families. We are particularly interested in submissions related to representing children and parents with disabilities, sexual exploitation of children, trauma-informed services, trial skills, and best practices.

A submission form is found below. We look forward to seeing you at the 2013 Georgia Youth Law Conference.

For additional information please contact Jane Okrasinski, Attorney Executive Director Georgia Assn. of Counsel for Children 145 Three Oaks Drive Athens, GA 30607; jane.okrasinski@gmail.com; (706) 546-8902; (404) 281-6511(mobile); (866) 610-6233 (fax)

Submissions must be received **no later than Jan. 20, 2013.**

2013 GEORGIA YOUTH LAW CONFERENCE CALL FOR ABSTRACTS

Submission Deadline is Jan. 20, 2013.

GACC is soliciting abstracts for presentations to be offered at the 2013 Georgia Youth Law Conference, to be held March 18-20, 2013 in Atlanta. Submissions are requested on all topics of interest to attorneys who represent Georgia children and their families in Juvenile Court, and other proceedings.

We are particularly interested in presentations related to children and parents with disabilities, sexual exploitation of children, trauma-informed services and trial skills.

Complete this form and return it to Jane Okrasinski, by email to jane.okrasinski@gmail.com **no later than Jan. 20, 2013**

Please print or type

Name(s) of Presenter(s): _____

Please attach a short biography for each presenter

Topic of Presentation: _____

Suggested Title: _____

Have you previously presented at a GA YLC? _____ **What year?** _____

Have / do you intend to submit the same /similar abstract for this NACC Conference? _____

Please summarize your presentation: _____

_____

_____

_____

Presenters whose abstracts are selected will be notified by Jan. 30, 2013, and will be asked to submit copies of their handouts no later than March 1.

Please e-mail any questions to Jane Okrasinski at jane.okrasinski@gmail.com

INSTITUTE OF CONTINUING LEGAL EDUCATION IN GEORGIA

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❑ **I am sight impaired under the ADA, and I will contact ICLE immediately to make arrangements.**
❑ I am unable to attend. Please send written materials and bill me for the cost of materials only. Sorry, no phone orders!
❑ I have enclosed a check for the early registration fee received 48 hours before the seminar.
❑ I authorize ICLE to charge the early registration fee to my ❑ MASTERCARD ❑ VISA ❑ AMERICAN EXPRESS*

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AGENDA

The registration fee for all seminars held at the State Bar of Georgia has been reduced by ICLE in recognition of the Bar's service to Georgia attorneys.

Presiding: ***Richard A. Horder,*** Program Chair, Kazmarek Geiger & Laseter LLP, Atlanta

7:45 **REGISTRATION AND CONTINENTAL BREAKFAST** (All attendees must check in upon arrival. A jacket or sweater is recommended.)

8:30 **WELCOME AND OVERVIEW OF PROGRAM**
Nicki N. Vaughan, Chair, Child Protection and Advocacy Section, State Bar of Georgia; Chief Assistant Public Defender, Northeastern Judicial Circuit, Gainesville

8:45 **THE STATUS OF GEORGIA'S CHILDREN: PAST AND PRESENT**
Gaye Morris Smith, Executive Director, Georgia Family Connection Partnership, Atlanta
Sue Hitchcock, Georgia Family Connection Partnership, Atlanta

9:45 **NAVIGATING FINANCIAL AND OTHER RESOURCES FOR GEORGIA'S CHILDREN**
Linda S. Lowe, Georgia Legal Services Program, Atlanta
Vicky O. Kimbrell, Georgia Legal Services Program, Atlanta

10:45 **BREAK**

11:00 **EDUCATION PLANNING AND EDUCATIONAL RESOURCES**
Jonathan Zimring, The Zimring Law Firm, Atlanta

11:45 **GET BOXED LUNCH**
Reconvene in Meeting Room (included in registration fee)

12:00 **THE VIEW FROM JUVENILE COURT**
Hon. Robert L. Waller, III, Judge, Juvenile Court of Gwinnett County, Lawrenceville

1:00 **ADOPTION BENEFITS AND OTHER RESOURCES FOR ADOPTED CHILDREN**
Sherry V. Neal, Neal & Wright, LLC, Atlanta

1:45 **INCENTIVIZING CHILDREN'S RIGHTS: FUNDING IMPLICATIONS FOR CHILD WELFARE POLICY**
Melissa D. Carter, Executive Director, Barton Child Law and Policy Center, Emory University School of Law, Atlanta

2:30 **BREAK**

2:45 **LONG TERM PLANNING FOR THE SPECIAL NEEDS CHILD: SPECIAL NEEDS TRUSTS AND OTHER RESOURCES**
David P. Pollan, The Pollan Law Firm, Atlanta

3:30 **ADJOURN**

4:00 **SOCIAL MIXER** (Location TBA)

SCHOLARSHIPS

Contact Randee Waldman at rwaldm2@emory.edu to inquire about possible scholarship information

CANCELLATION POLICY

Cancellations reaching ICLE by 5:00 p.m. the day before the seminar date will receive a registration fee refund less a $15.00 administrative fee. Otherwise, the registrant will be considered a "no show" and will not receive a registration fee refund. Program materials will be shipped after the program to every "no show." Designated substitutes may take the place of registrants unable to attend.

SEMINAR REGISTRATION POLICY

Early registrations must be received 48 hours before the seminar. ICLE will accept on-site registrations as space allows. However, potential attendees should call ICLE the day before the seminar to verify that space is available. All attendees must check in upon arrival and are requested to wear name tags at all times during the seminar. ICLE makes every effort to have enough program materials at the seminar for all attendees. When demand is high, program materials must be shipped to some attendees.

Case Law Update

By Thomas L. Williams, Assistant District Attorney, Flint Judicial Circuit

In the Interest of C. H., 2012 Ga. App. LEXIS 1054 (12/12)

The Juvenile Court entered an adjudication of delinquency against C.H. for Public Indecency and Violation of Probation. The court ordered the child to serve 30 days confinement in the Youth Development Center. The trial court explicitly stated the order of disposition arose out of the adjudication of delinquency for the offense of Public Indecency.

Citing to the limiting language of O.C.G.A. 15-11-66, the Court of Appeals reversed the sentence. The court noted a juvenile may only be sentenced to 30 days in a Youth Development Center as a disposition for any offense that would be classified as a felony or a high and aggravated misdemeanor that involves bodily injury or harm or the substantial likelihood of harm. As Public Indecency is a simple misdemeanor, the disposition was not authorized.

In dicta, the court continued to declare the court could not convert the dispositional hearing into a revocation hearing and impose the term of confinement as the state did not file a separate petition for probation revocation. Thus C.H. was not afforded the due process of notice and opportunity to be heard.

In the Interest of S. M. B., 2012 Ga. App. LEXIS 1043 (11/12)

The Juvenile Court terminated the parental rights of the Appellant on Aug. 16, 2011. Various post hearing motions were filed with the Juvenile Court, including a motion for the Juvenile Court to "toll the 30 day time limit for filing the Application for Discretionary Appeal to the Court of Appeals." The Juvenile Court granted this motion and authorized the Appellant seek discretionary review of the Order of Termination.

The Court of Appeals accepted the filing of the application for discretionary appeal and ordered the parties to address the Appellate Courts jurisdiction to hear the case in the face of the trial court's order. After argument, the Court of Appeals found the Trial Court does not have the authority to grant equitable remedies to jurisdictional limitations. Rather, extensions for the filing of discretionary appeals are governed solely by the requirements of O.C.G.A. 5–6-39(d).

In the Interest of J. J. X. C., 2012 Fulton County D. Rep. 3545 (11/12)

J.J.X.C., a citizen of Guatemala, was sent to live with his aunt and uncle in Georgia. The aunt and uncle sought a finding of fact regarding both deprivation and questions regarding J.J.X.C's immigration status. The Trial Court found the child deprived, but declined to address two requested findings that related to immigration law. The petitioners appealed, alleging the court erred in not making particular findings.

Federal law has created a special status for abused, neglected or abandoned alien minors. The so called Special Immigrant Juvenile or SIJ is intended to grant protection to foreign youths located within the United States who are victims of abuse, neglect or abandonment. In order to screen such applications and to prevent parties from seeking unwarranted applications for SIJ status, federal law requires certain findings of fact in support of the application. The state court system, specifically, the Juvenile Courts in Georgia are in the best position to make the required findings. Thus, while the application for SIJ status must be considered and granted by the federal government, it for the Juvenile Courts in Georgia to consider the factual inquires that will become relevant to the youth's application for SIJ status.

The case was reversed and remanded back to the Juvenile Court for further proceedings.

In the Interest of J.X.B., 317 Ga. App. 492 (8/12)

The Court of Appeals reversed a disposition entered against J.X.B. by the Juvenile Court as the Court failed to make sufficient

findings of fact. O.C.G.A. 15-11-63 requires the court to consider five factors before imposing a term of restrictive custody on a juvenile. The court must reduce its findings to writing. In this case, the court did enter a written order, but the order was issued as a pre-printed form with blank spaces for pertinent information. While the trial court did fill in such blanks, the findings were very general and made no reference to J.X.B. specifically. The Court of Appeals relied on *In the Interest of E.D.F.*, 243 Ga. App. 68 (2000) and other cases for the proposition that the General Assembly intended for the Juvenile Courts to take special care in the imposition of restrictive custody. Specific and detailed inquiry and findings are required by the trial court, such that those findings relate to the particular child in question.

In the Interest of J. J., 317 Ga. App. 462 (8/12)

The Department of Family and Children Services filed a complaint for deprivation alleging lack of supervision and a failure to enroll four minor children into school. The Juvenile Court dismissed the complaint. The Juvenile Court orally declared it could not find probable cause based solely on hearsay evidence. The Court of Appeals did not address the Appellant's enumeration of error as the Juvenile Court did not reduce this pronouncement to writing.

Editor's Note: The District Attorney in DeKalb County has litigated a similar issue concerning Magistrate Courts. See Leitch v. Fleming, *291 Ga. 669 (2012). Practioners should tread lightly in initial hearings as the required quantum of proof has become highly controversial.*

In the Interest of R. S., 317 Ga. App. 412 (8/12)

The Court of Appeals reversed the adjudication of delinquency alleging R.S. and others committed a burglary. At trial, the court applied a "clear and convincing" standard as the proper standard of proof. O.C.G.A. 15-11-65 clearly requires all adjudications of delinquency to be support be evidence "beyond a reasonable doubt." Appellees argued the judge simply misstated the wrong standard, but, in fact, applied the appropriate standard. The Court of Appeals rejected such a notion. The trial court failed to correct it's mispronouncement through the use of a written order that included the proper standard.