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I. INTRODUCTION\(^1\)

A. Acknowledgement

McKenna Long & Aldridge LLP would like to thank all of the volunteers who have worked on this project for their dedication, time and hard work. The volunteers include attorneys and staff that come from a broad range of practice groups, specialties of practice and experience.

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In addition, McKenna Long & Aldridge LLP would also like to recognize the following individuals for their efforts in this project.

Carol Geiger  
Partner in the firm Kazmerek Geiger & Laseter LLP, Environmental Law

J. Tom Morgan  
Former DeKalb County District Attorney, now in private practice in Decatur, and the author of Ignorance is No Defense: a Teenager’s Guide to Georgia Law

B. Statement By Reporting Law Firm

This report will summarize the information, ideas and opinions concerning the current juvenile justice system in Georgia that were elicited in interviews conducted by attorneys at McKenna Long & Aldridge LLP (“MLA”) from various stakeholders who live and work in the State’s Fourth Judicial District (the “District”). Between June of 2007 and July of 2008, attorneys conducted a total of twenty-seven (27) interviews compromised of nineteen (19) stakeholder categories in the District, including, but not limited to, current juvenile court judges, current pro tempore juvenile court judges, a member of the Georgia House of Representatives, a police officer, a Special Assistant Attorney General (“SAAG”), probation officers, a juvenile court administrator, a juvenile court prosecutor, an official with the Department of Family and Children Services (“DFACS”), an official with the Court Appointed Special Advocates (“CASA”) organization, child advocacy organization, an attorney who represent parents in deprivation cases, an attorney who represents children, a guardian ad litem (“GAL”), representatives from Refugee Family Services, a child who has aged out of foster care, the grandmother of a child in foster care, and members of the community who have had involvement of one kind or another with the juvenile justice system.\(^2\) In addition, the report will summarize a town hall

\(^2\) In addition, attempts were made to interview a child who was adjudicated delinquent, parents of a child that was adjudicated delinquent, children in foster care, and mental health professionals. However, these potential interviewees declined to be interviewed or did not return calls to be interviewed.
meeting on juvenile justice reform sponsored by the JUSTGeorgia Project and held in Conyers, Georgia on October 9, 2007.

C. Overview of JUSTGeorgia Project

This report is one of ten judicial district reports prepared to help guide a much-needed effort to replace Georgia’s outdated juvenile code with new legislation that will better serve the public safety and child welfare goals of this State. Judges, lawyers, and others who must turn to the juvenile code on a daily basis agree that it is unclear, outdated and difficult to apply. Responding to these views, JUSTGeorgia seeks passage of a new juvenile code that will better organize current state law regarding juvenile justice and child welfare, better reflect the impact of federal law throughout the juvenile code, incorporate research-based scientific findings and best practices in the child development field and respond to the hard-earned wisdom of Georgians who work with or are impacted by the current juvenile code on a regular basis. Under the direction of JUSTGeorgia Partner Georgia Appleseed, teams of trained volunteers set out all across the state to ask stakeholders three simple but important questions about the current juvenile code that governs child neglect and abuse (deprivation), foster care, delinquency and the juvenile courts: What’s working? What’s not? And how would you, the stakeholder, make it better?

Throughout the State’s ten judicial districts, JUSTGeorgia volunteers, mainly lawyers, conducted face-to-face interviews with hundreds of individuals who have a stake in the Juvenile Court system: juvenile court judges, law enforcement officers, child advocates, public defenders, prosecutors, legislators, educators, child welfare experts, school social workers, parents, children, and other community members. Every effort was made to be as inclusive as possible so that members of every demographic and geographic component of the State would have an opportunity to provide input.

To reach an even more diverse group of citizens, JUSTGeorgia conducted a town hall meeting in each of Georgia’s ten judicial districts. The ten town hall meetings were publicized throughout the districts in a variety of ways, including radio, television, newspapers, flyers, statewide email distribution lists and personal contact. JUSTGeorgia engaged professional facilitators through The University of Georgia’s Fanning Institute to ensure that everyone who attended a town hall meeting would have an opportunity to participate and provide input. Sophisticated software enabled the facilitators to capture citizens’ comments.

JUSTGeorgia is a joint project partnered by Voices for Georgia’s Children, Georgia Appleseed, and the Barton Child Law & Policy Clinic at the Emory School of Law. Formed in 2006, JUSTGeorgia is working to build a statewide coalition that will advocate, monitor, and report on the conditions, laws, and policies that affect Georgia's youth.
anonymously and project them onto a large screen for other participants to see and use as a springboard for additional brainstorming and reaction.

Hundreds of interview summaries, together with the town hall meeting notes, were then compiled by district and summarized into ten judicial district reports. The district reports, in turn, have been compiled into one comprehensive statewide report, summarizing the strengths and weaknesses of Georgia’s current juvenile code and making practical and realistic recommendations for fixing it. All reports are accessible through www.GaAppleseed.org and www.justga.org.

In March 2008, the Young Lawyers Division of the State Bar of Georgia (YLD) released its Proposed Model Juvenile Code for Georgia, a compilation of best practices based on four years of intensive research. With the YLD’s Proposed Model Juvenile Code as the starting point, JUSTGeorgia is preparing a legislative package for the comprehensive revision of the Georgia juvenile code, preserving best practices where feasible and tailoring the proposed legislation to meet Georgia’s unique needs as informed by the input of the hundreds of stakeholders who took the time to share their views with the JUSTGeorgia volunteers. The resulting legislative package will be submitted to the Georgia General Assembly.

The goal from the beginning of this project has been to hear from the people who have a stake in the workings of the Juvenile Court system. Throughout this process, JUSTGeorgia has remained true to its commitment to listen to and report the views of these stakeholders as accurately as possible.
II. DESCRIPTION OF THE FOURTH JUDICIAL DISTRICT

A. Basic Information About The District

The District is located in the north-central part of Georgia, east of Atlanta, north of Macon, and west of Augusta. It covers only 0.7% of the land area of the State, but 8.6% of Georgia residents live in the District.
The Fourth Judicial District includes only two (2) counties, DeKalb and Rockdale.

Based on 2006 estimates by the United States Census Bureau, the population of the District is approximately 803,934, with roughly 25% of those residents being under the age of 18. The District is approximately 36% White, 53% Black and 9.5% of Hispanic or Latino decent.

The District is largely urban. The median household income, as of 2004, was approximately $45,667, ranging from a low of $44,965 in DeKalb County to a high of $50,818 in Rockdale County. Also as of 2004, approximately 14.3% of persons in the District were considered to live below the poverty line, slightly above the 13.7% poverty figure that applies to the state of Georgia as a whole.

B. The Juvenile Court System In the District

There are twelve (12) juvenile court judges in the District: one full time judge serving in Rockdale County and a total of eleven judges (two associate judges, two full-time judges, and seven pro tempore judges) serving in DeKalb County.

According to the Georgia Department of Juvenile Justice (“DJJ”), a total of 3,354 individual children in the District were involved in the juvenile justice system in some fashion in fiscal year 2007. According to the 2007 Annual Report: Georgia Courts, published by the Judicial Council of Georgia, 14,284 juvenile court cases were filed in DeKalb County in 2006, and 977 juvenile court cases were filed in Rockdale County in the same year. This is an increase over the previous year, in which 13,877 cases were filed in DeKalb and 892 in Rockdale.
Below is a summary of the breakdown of juvenile court filings from 2006 by county broken down by the type of proceeding:

<table>
<thead>
<tr>
<th>County</th>
<th>Delinquent</th>
<th>Unruly</th>
<th>Termination of Parental Rights</th>
<th>Deprived</th>
<th>Traffic</th>
<th>Special Proceedings</th>
<th>Total Filings</th>
</tr>
</thead>
<tbody>
<tr>
<td>DeKalb</td>
<td>9,026</td>
<td>1,694</td>
<td>96</td>
<td>1,975</td>
<td>933</td>
<td>560</td>
<td>14,284</td>
</tr>
<tr>
<td>Rockdale</td>
<td>510</td>
<td>110</td>
<td>17</td>
<td>191</td>
<td>125</td>
<td>24</td>
<td>977</td>
</tr>
<tr>
<td>District Totals</td>
<td>9,536</td>
<td>1,804</td>
<td>113</td>
<td>2,166</td>
<td>1,058</td>
<td>524</td>
<td>15,261</td>
</tr>
<tr>
<td>State-Wide Totals</td>
<td>74,002</td>
<td>21,615</td>
<td>1,554</td>
<td>32,439</td>
<td>16,961</td>
<td>5,147</td>
<td>151,718</td>
</tr>
<tr>
<td>% of State Filings</td>
<td>13%</td>
<td>8%</td>
<td>7%</td>
<td>7%</td>
<td>6%</td>
<td>10%</td>
<td>10%</td>
</tr>
</tbody>
</table>

There are two (2) regional youth detention centers in the District, both in DeKalb County. These facilities are owned and operated by DJJ. The Metro Regional Youth Detention Center is located in Atlanta and has holds up to 200 juveniles, 150 boys and 50 girls. The DeKalb Regional Youth Detention Center is located in Decatur and has the capacity to hold 64 juveniles, all boys.

C. Particular Challenges Confronting The District

The District is confronted with many of the challenges that typically face economically disadvantaged urban areas – the two most severe being the lack of sufficient funding and resources for this densely populated Judicial District. DeKalb County has the highest population density of any county in metro Atlanta and a great need for alternatives to secure detention that could, in the long term, be more cost effective than secure detention alone in reducing recidivism.

Further, DeKalb County is one of the most ethnically diverse counties in the southeast due in part to its significant refugee population. A “refugee” is one who has entered the United State legally due to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion, is outside the country of his nationality, and is unable to or, owing to such fear, is unwilling to avail himself of the protection of that country.
Such diversity, especially in language and culture, can lead to challenges in the juvenile court system that can be met with additional funding for interpreters and training.

III. FUNCTIONING OF THE FOURTH JUDICIAL DISTRICT’S JUVENILE JUSTICE SYSTEM

   A. Aspects of the Juvenile Justice System That Seem to Work

   When asked about aspects of the current juvenile code and the juvenile justice system that function well, stakeholders did not consistently express satisfaction with any one program or aspect of the current juvenile code. Several programs, however, did garner some positive reactions:

   - One of the local programs mentioned with high praise is the KidsNet system of care. This program focuses on children with serious mental health illnesses. KidsNet consults with schools and social services, making sure the child’s progress is followed and resources are provided in a collaborative way. As part of this program, the court has a mental health clinician on staff.

   - The Rockdale Juvenile Court Evening Reporting Center is another local effort that stakeholders regard as working well. This program keeps children out of detention and out of additional trouble by providing a place for children to go directly after school where they are supervised until their parents pick them up at 9 p.m.

   - Another program that received praise is the Family and Teen court in Rockdale that works closely with family advocates.

   - Stakeholders also favorably mentioned the local mentoring and mediation programs. These confidential programs deal in an individualized way with children and their families.

   - Community alternatives such as competency development programs, cognitive restructuring, job training, and follow-up and aftercare programs were all mentioned as programs that work well in the Fourth Judicial District.

   - Other programs mentioned include “shock classes” and a jail tour for new offenders and other youth in the community, conflict resolution and etiquette classes, and a Girl Scout program that exposes kids to issues related to the juvenile justice system. Participation in one or more of these
programs can be part of court-ordered probation for the children in the District.

With regard to the practices mandated in the current juvenile code, some stakeholders felt that the code should remain focused on tight time deadlines and the goal of seeking the best interests of the child. A few specific provisions of the code and the system were mentioned as positive. For example, stakeholders supported the statutory provision that calls for the appointment, rather than the election, of juvenile court judges. Further, one stakeholder liked the Citizens Review Panel, which aids in reviewing cases, because it engages impartial people outside of the juvenile court system to oversee DFACS. Some also commented positively on having independent child advocate attorneys for children in foster care.

Some stakeholders in the court system felt that the basic law on hearings and the processes for delinquency and unruly cases work well. Stakeholders liked the shorter time parameters for the juvenile system as compared to the adult system. One stakeholder liked the judicial oversight provided by the requirement that the State not file a petition without court approval. Another stakeholder felt that the “best interests of the child” standard seemed to be well understood and is a useful guide for the participants in any legal proceeding in juvenile court. Yet another stakeholder appreciated that the juvenile code has the flexibility to allow agencies to work together in designing a plan to assist those who come into the court system get the help they need.

One stakeholder, who believes that the juvenile justice system, overall, works well, suggested that the general public might think otherwise because the system does not get good press, especially in the area of child abuse and neglect cases. The current code provision around the confidentiality of juvenile court proceedings is the problem in this stakeholder’s opinion. This stakeholder suggests changing or modifying the confidentiality provisions of the code to give DFACS greater transparency with the public and suggests that DFACS should be allowed to comment on the news accounts and thereby provide balance to the reporting of deprivation cases.

Although these aspects of the juvenile justice system were noted by some stakeholders as positive, some were also criticized by other stakeholders, as is discussed below.

B. Aspects of the Juvenile Justice System That Are Not Working

There was much more consensus among stakeholders on what aspects of the juvenile justice need improvement. This section first addresses overarching concerns with the juvenile system and the juvenile code. Next, problems specific
to the handling of delinquency cases are discussed. Finally, this section discusses
problems faced by stakeholders in the deprivation system.

1. System wide Problems
   
   a. Lack of Funding and Resources

   The most common complaint is the lack of funding available for all aspects of the juvenile system, from its courthouses to DFACS to mental health and other services. Many of the specific issues discussed in the following sections are intertwined with the lack of resources in the system. In fact, one stakeholder recommended that funding be specifically contemplated in the juvenile code.

   Because of concern with the current disparity in funding among the different counties in Georgia, some shareholders suggested that the State provide funding directly to each juvenile court to achieve comparable access to needed resources for all children regardless of that county in which that child lives. The juvenile courts could then allocate the funding for the specific programs that are needed in its own jurisdiction based on the local needs of its community.

   The physical design of many juvenile courthouses around the state is insufficient to meet the needs of the children and families that they serve. Many stakeholders expressed a need for better equipped courtrooms and noted that, in some counties around the state, the juvenile court is housed in cramped, out of the way locations, such as the adult courthouse’s basement. One problem with the juvenile court design is lack of space: without space for private conference rooms, “confidential” conversations are held in public hallways. A court administrator responsible for maintaining the confidential nature of juvenile court proceedings, as is required under the current code, strongly supported this sentiment.

   More consequences arising from the lack of funding, such as the scarcity of mental health services, the overload on the courts, and the high turnover of DFACS staff, are discussed in greater detail below.

   b. More Cooperation and Less of an Adversarial Relationship Between Agencies Is Needed

   Several stakeholders expressed the desire for more cooperation between agencies, specifically calling for DJJ, DFACS, and the Child Advocate to take a more collaborative approach in working on cases for the benefit of the child. Right now the system does not promote collaboration among the agencies.

   It should be noted that DeKalb County recently built a state-of-the-art Juvenile Court facility.
Stakeholders urge a move towards alternative dispute resolution and away from the adversarial process so that the agencies can more quickly find what works best for the children rather than focusing on a win/lose system. Stakeholders envision a roundtable discussion, not a miniature version of adult court. Child Advocate Attorneys are often pitted against DFACS, when, ideally, they should work more cooperatively since they both theoretically share the same goal of seeking the best interest of the child. As an example of the current adversarial atmosphere, when a Child Advocate Attorney needs documents from DFACS, a “fight” over the request almost always ensues; this slows down the process of achieving permanency for the child.

Another stakeholder wanted a more cooperative relationship between DJJ and courts for the benefit of the child, the family and the community. Further, stakeholders also see so many intersections between deprivation and delinquency that they want more sharing of information between DJJ and DFACS.

c. It Is Too Hard for Children and Families to Receive the Services They are Supposed to Receive Because They Literally Can Not Get To The Program or Resource Location

Some suggested that the juvenile court building become the centralized location for needed intervention programming. Along with location, several stakeholders also wanted intervention program slots to be reserved for juvenile court referred children and families. A major theme in many of the interviews was the problem with completing the link between needed services and the court-referred children and families that need them. Children and families do not receive the services they are ordered to have due to lack of transportation and limited service slots in the community program. Several stakeholders suggested housing the most important community services in the court, itself, and giving preference to court referrals. As it is right now, without centralization, it takes months to get a counselor for a child. Recognizing that poverty is a defining factor in many deprivation cases, stakeholders also suggested anti-poverty services be housed in the juvenile court building for easier access by parents after they are issued a court order to participate.

Further, stakeholders suggested that every juvenile court receive state funding for (1) a drug court, with counselors, assessors and court administrators, (2) a mental health court, with counselors, and (3) a family violence court - which would bridge gaps between adult court and juvenile court.
**Better Mental Health Services Are Needed**

Several stakeholders felt that the juvenile justice system should focus more on mental health issues and counseling. One judge stated that the system needs more mental health providers so that kids do not “get stuck” in the system. For example, the judge recalled one case in which a child, who was locked up, needed an assessment to qualify for a bed in a mental health facility, but no mental health professional could be found who would perform the assessment.

A young adult, who has aged out of the foster care system, but is still involved in the system as a parent, echoed this sentiment. She believes that she would never have been removed from the custody of her family if her family had received counseling services. She also believes that counseling is what she and her own child could most benefit from now, yet counseling has not been made available to her.

Stakeholders told interviewers that mental health care in the Fourth Judicial District is limited due to insufficient funding. Currently, according to stakeholders, the mental health system has undergone many changes that leave many children without access to needed mental health care. According to stakeholders, MATCH (Multi-Agency Team for Children) meetings, which allocate funding to treat severely mentally ill children, takes place on a regional, not a local, basis. The MATCH funds are very limited. Ultimately, the question wrestled with at MATCH meetings is not “what mental health care does this child need?” but “who is the neediest kid?” Because there is only a small pot of money to allocate, the end result is that many children with serious mental health needs get no treatment. Stakeholders wondered if more funding for mental health services would be allocated to the Fourth Judicial District if community members could show that preventative mental health care, versus the costs of incarceration or other consequences for failing to treat children with mental illness, saves taxpayers money in the long run.

**Lack of Interpreters**

Another resource issue arises due to the large non-English speaking population in the District. According to stakeholders, the need for interpreters in Juvenile Court in DeKalb County is large and growing. More and more languages other than English are spoken by each new wave of refugees who settle in the District. Refugee children typically learn English at school, but their parents often have a harder time acquiring the new language. One stakeholder suggested that the court retain a “cultural liaison” to help immigrant and refugee families understand the American juvenile justice system, especially around laws that may not have a counterpart in their home country, such as the requirement to attend school until age 16. There is also great fear among immigrants, even
those who are present in the country legally, around juvenile court involvement because of the fear of deportation.

\[ f. \quad \text{Ensure Representation for Parents} \]

Another major concern voiced by stakeholders about the juvenile system was the lack of due process for parents. Stakeholders explained that the code is not clear about whether parents are entitled to representation in different types of cases. For example, in delinquency cases, it is possible that the juvenile court might place the parent under court order to participate in counseling as a part of the disposition of the child’s delinquency case. Violation of that order could subject the parent to a contempt of court sanction, including incarceration. The current code does not make clear if the parent was entitled to counsel in the original disposition hearing. Further, one stakeholder stated that parents are often left out of the information sharing loop even though the information is critical to their efforts to help their child obey the court’s directives. This is especially true when the child’s attorney takes seriously the confidential relationship between the attorney and the child. The parent is viewed as a third party not entitled to confidential information. To avoid even the appearance of overstepping bounds, many attorneys simply do not talk with parents even if the information being requested by the parent is not confidential.

Stakeholders acknowledged that lack of funding is the primary reason why a parent usually is not provided separate legal representation even though she would otherwise be qualified for a court-appointed attorney due to indigency.

Stakeholders addressed additional issues:

- First, there is often a failure to appoint attorneys for parents in deprivation cases even though the parent is clearly a “party.” Despite the requirement to appoint an attorney under Code Sections 15-11-6 and 15-11-98, judges do not always do so, according to interviewees, who assumed that the parents were income eligible.

- Further, Code Section 15-11-58 should be revised to better define the requirements parents must meet to regain custody of their children. One stakeholder pointed out that the superior court standard regarding parental fitness is clearer than the standard in the juvenile code.

\[ g. \quad \text{Other Issues} \]

In addition to the above issues, stakeholders also mentioned the following problems:
• The system does not deal adequately with runaways. Because juvenile courts are often powerless to place juveniles in detention or in the custody of DFACS, runaways are almost always placed back in the situation from which they ran.

• Better communication is needed between the juvenile court and the local school boards.

3. General Problems With the Code

In addition to the general problems facing the system, several stakeholders had specific concerns with the code and suggestions for ways to improve the code.

a. The Code is Disorganized

Several stakeholders felt that the code as a whole is disorganized and difficult to use. First, the code section headings are not helpful; section headings should be revised to be meaningful to the user. Also, because additions and deletions have been made to various sections over time, the code is disjointed. Two prosecutors pointed out, for example, that there are two sections covering procedures for prosecutors, O.C.G.A. §§ 15-11-41 and 15-11-64.1. Although not directly in conflict, these code sections do not read well together. As another example of disorganization, the code section on informal adjustment, § 15-11-69, is found near other code sections having to do with dispositions when it actually relates to the handling of a case before it ever gets to disposition.

Further, code sections having to do with dispositions, unruly cases, and delinquencies are all lumped together in one part, but instead each should have its own section. Others noted that the code is organized based on how the child enters the system, but instead should be organized based on the type of case: deprived, unruly, or delinquent.

b. Specific Procedures for Juvenile Court Are Needed

Several stakeholders suggested that there be a set of specific rules of procedure for the Juvenile Court, because it is unclear if the Georgia Civil Practice Act applies to juvenile court proceedings, especially given that some juvenile court cases are closer to criminal than civil in nature. For example, if a child is subpoenaed, but does not show up, the court can hold the child in contempt, but the current juvenile code does not clearly identify who is entitled to service: it is unclear whether or not the Georgia Civil Practice Act should be consulted to find the answer.
In addition, only very limited guidance exists regarding formal discovery in the current juvenile code and that guidance only applies to delinquency cases. The expansion of formal discovery rules for all types of juvenile court cases would allow for a more structured mechanism for enforcement of requests for documents and information.

Such procedural rules would aid in greater accountability for judges, more due process for parties, and greater guidance for everyone involved. Currently, each court has created its own local rules and standards absent any explicit guidance from the juvenile code. Because no party appeals, judges continue to enforce rules that vary from court to court, which does not promote consistency around the state.

c. Age Limits are Inconsistent

Another problem that was echoed by several stakeholders was the issue of a lack of uniform age limits. To illustrate: the definition of a “child” in an unruly, runaway and ungovernable case includes children who are 17 years old (up to the day before the child turns 18); a “child” in a delinquency case only includes children through age 16 (up to the day before the child turns 17); a “child” in a deprived case includes children through age 17. Stakeholders addressing this issue believe that the definition of a “child” should be the same for all cases handled in juvenile court.

When it comes to the “seven deadly sins,” the definition of a “child” only includes children through age 12. Persons age 13 or older are automatically transferred to adult court on these charges. According to stakeholders, this outcome is inappropriate with certain sex offenses, and the law should be changed because consensual sex among kids under 16 happens and too many kids are being tried as adults for this behavior. For example, if a 13-year-old boy engages in consensual oral sex with a 12-year-old girl, both the boy and the girl have each committed the offense of “aggravated child molestation,” one of the so-called “seven deadly sins,” but under current juvenile code law, the 12 year old’s case is handled in juvenile court and the 13 year old’s case is automatically assigned to the adult court.6

One judge explained his support for delinquency jurisdiction being extended up to age 18 -- so that 17-year-olds are not tried in superior (“adult”) courts -- because there are fewer resources for superior court judges to access that are targeted toward young people.

---

6 In this example, even though the victim in the adult court case is only one year younger than the perpetrator, because the victim is under age 13, the perpetrator, who himself is only 13, is subject to a minimum prison sentence of 25 years if convicted in adult court of aggravated child molestation.
At least one stakeholder, though agreeing in principle that the definition of a “child” by age needed to be addressed, nevertheless believed that 17 was the proper age to be considered an adult for criminal acts.

e. Deadlines

Another common complaint voiced by stakeholders was the problem with short deadlines for notice and other tight time frames for service of process and certain hearings. For example, many different deadlines for filings and hearings are scattered throughout the current juvenile code. Stakeholders suggested that the current code be revised to put all deadlines in one place.

Some stakeholders felt there should be greater flexibility around deadlines, noting the difficulty in giving proper notice to all interested parties within the short deadlines imposed by the current code. One example offered by a stakeholder is when the SAAG fails to properly serve the parents, which results in a continuance and the child staying in foster care longer. Other times, attorneys appointed for the parents do not show up for court, sometimes because of lack of notice, so the case is continued. These and other examples of continuances are common in deprivation cases, yet are detrimental to the child who suffers the consequence of those continuances: lingering even longer in foster care or having yet another delay in permanency.

Similarly, attorneys practicing in more than one court, besides the juvenile court, have great difficulty when adult and juvenile court hearings conflict. One proposal offered was to revise the juvenile code to allow the judge to continue certain hearings for one week when the attorney has a conflicting hearing at another court. On the other hand, some stakeholders felt that the juvenile court judges should take a hard line on continuances.

As a separate issue, stakeholders supported the effort to expedite appeals of termination of parental rights cases. The sooner the cases are heard on appeal, the sooner the child can have permanency.

f. Make Part of Superior Court

One stakeholder suggested that juvenile court judges be elevated to the level of superior court judges by having a family court or division of the superior court that hears both domestic relations and juvenile justice matters.

3. Delinquency

a. Judges Do Not Have Enough Options for Dealing With Delinquent Juveniles
Most of the problems cited with respect to delinquency cases revolved around the lack of options for judges in responding to children who are adjudicated delinquent. The system is ostensibly aimed at rehabilitation, but judges are restricted in their access to short term detention (formerly known as “boot camp” but now known as the short term program or STP) and other rehabilitation programs according to the severity of the child’s offense. Because of the paucity of options, some have described the juvenile justice system as “toothless,” where kids committing multiple lower-level offenses cannot be held accountable.

The most often mentioned need by stakeholders was for guidance around the imposition of graduated sanctions. Currently, stakeholders say that graduated sanctions are not imposed consistently and suggested that the reason might be because judges are not given enough information to make consistent decisions. Many stakeholders would welcome a revision of the current juvenile code one way or the other on this point.

Stakeholders complained that the relatively new restrictions around the use of the short-term program (boot camp) cause many problems for judges who already lack meaningful options for responding to delinquent behavior. A few years ago, STP for up to 90 days was a sentencing option in all delinquency cases. But now, a child can be sent to the short term program for a maximum of 60 days and only if he or she has committed a felony or a misdemeanor of a high or aggravated nature or is shown to have failed to respond to “graduated alternative sanctions” for violations of probation. According to stakeholders, this change took the focus off the child and put it on the offense. Further, one judge noted that the juvenile code does not clarify whether a probation violation is itself a felony or a misdemeanor.

Given the restrictions around the imposition of STP, a judge responding to a child’s truancy, which is also a violation of the child’s probation, can only give the child a warning, which is often not an adequate response and usually will not lead to improved behavior. According to stakeholders, the restrictions in the use of STP creates an ineffectual system, especially in rural Georgia where the only rehabilitative program available is STP because there are no drug treatment programs or alternative living programs. These changes to the STP law have also resulted in another unintended consequence: restrictions on plea-bargaining.

Several stakeholders thought the juvenile code should be revised to give judges more discretion. According to these stakeholders, several of whom were the judges, themselves, judges are extremely limited in the penalties they can impose upon juveniles, particularly repeat offenders. More discretion for judges in imposing sanctions is needed, particularly for the type of offenses for which there can be detention, including misdemeanors. Judges want the flexibility to
impose detention for varying lengths of time without having to transfer custody to DJJ, thereby losing control over the detention.

A related problem is that there are few alternatives for unruly children. For example, there are not enough options to respond to kids who skip school. One suggestion was to revoke certain privileges, specifically drivers’ licenses, but this is already provided under the current code and has little impact on the young person who is not a licensed driver in the first place. Another stakeholder felt that there should be more rehabilitation programs, particularly in rural areas, but disagreed with previously cited stakeholders on the efficacy of STP: this stakeholder asserted that the research shows that large-scale programs like STP/boot camp and secure detention are not effective in reducing recidivism. According to this stakeholder, and contrary to popular opinion, STP does “not work.”

b. **Limited Options for Dealing With Incompetent Children**

Stakeholders want the juvenile code to do a better job of providing for children found to be incompetent to stand trial, but who are nevertheless a threat to the community. Under the current system, these children are essentially sent home with no meaningful plan for keeping them and the community safe.

c. **The Seven Deadly Sins Statute**

Several stakeholders expressed dissatisfaction with the “Seven Deadly Sins” statute, also called SB 440. One judge thought that this section should be revised to start the cases in juvenile court rather than in superior (adult) court. This judge wants to give juvenile court judges the discretion to decide what to do with juveniles who commit one of the “seven deadly sins,” especially since these cases often end up back in juvenile court anyway after starting in the adult court. Stakeholders also noted the conflict between Title 15 (the juvenile code) and Title 17 (the adult criminal procedure code) when handling SB 440 cases. This conflict needs to be resolved.

4. **Deprivations**

a. **Problems With DFACS**

There were several issues with respect to DFACS’s role in the system. First, insufficient funding was cited as a major impediment. For example, as a result of the lack of resources and high turnover, DFACS, the agency responsible for placing children in a stable environment, is itself unstable. A frequent complaint with DFACS is that case managers often act without enlisting the cooperation of the other parties and without any communication. For example, DFACS often moves the child without telling the parents about the change in
placement. Some stakeholders offered that this failure to communicate might be due in part to lack of resources, but others were not so charitable. One young adult, who as a child aged out of foster care, expressed her opinion based on having lived years in the foster care system that her DFACS case manager did not seem to care about her as a person.

Another major complaint about DFACS was that they are too quick to take children out of the home without first trying to provide services while keeping the child in the home. It was also noted that once children are removed, visitation is not frequent enough. Stakeholders suggested that there need to be more visitation centers to help get families back together.

b. Children Are Not Adequately Represented

When discussing code revisions that will directly impact the children in the system, the conversations seem to revolve around whether a child in a deprivation case should have both an attorney and a non-attorney Guardian ad Litem (GAL). Currently, according to the stakeholders, children typically have only the non-attorney GAL in court with them. One stakeholder feared that giving the child a lawyer, too, would promote a more adversarial system in the courtroom because the attorney would have the duty to protect the child’s confidences and advocate for what the child wanted even if that was not in the child’s best interest. In contrast, a GAL is an officer of the court and is obligated only to promote the best interests of the child. This stakeholder felt that the better option was to only have the GAL. The GAL can provide the court with an independent judgment on what is in the best interests of the child and is usually the only person in the courtroom, besides the DFACS case manager, who has been to the child’s home, etc.

Another stakeholder suggestion was to revise the current code to make it clear that the child is a “party” in a deprivation case. Then the child would be entitled to legal representation. Currently, the GAL is a voice for the child before the court, but when there is a conflict between the child’s wishes and the GAL’s opinion about the child’s best interests, such as when an older child wants to return home but the GAL thinks that it is not in the child’s best interests to do so, the child needs her own attorney to represent her interests in the courtroom. One stakeholder urged that a child’s attorney be appointed at the beginning of every deprivation case. The GAL, who seems to stay connected to the case more consistently than the DFACS case manager or any of the court personnel, should be appointed if the child is removed from the home and put into care to help with the efforts at reaching permanency. Oftentimes, according to stakeholders, the GAL will be called in when a child is ready to be adopted, after the child has been in care for two years, only to discover that the legal requirements have not been met to find the father, etc., and it seems that another 18 months goes by to
meet the legal requirements that could have been handled much earlier if the GAL had been on the case from the time of the first removal.

One stakeholder felt that, as a child in foster care, she was not able to express to the judge what she really wanted. She feels that if parents and children could communicate more directly with the judge, the judge will understand what is really happening. She thinks children in deprivation actions need to be represented by their own lawyers.

c. Children Are Forced to Change Schools

Another problem that stakeholders want addressed is the problem children face when the adults in charge of their lives make decisions to change the child’s placement without first considering the impact on the child’s education. Many times, when children change foster homes or group homes, they are forced to change schools, too. A child cannot get an education having to get adjusted to a new curriculum every few months. Further, this disruption can lead to so many frustrations that some older foster care children simply drop out of school rather than put up with all the difficulties that come with yet another change in their school. Others noted that curriculum is not coordinated between schools and children are not getting proper credit for work they have done at their former schools. Stakeholders suggested that the current code be revised to permit children to continue in their same school while juvenile court deprivation proceedings are pending.

d. The Requirements for Parent’s to Regain Custody Should Be Better Defined

One stakeholder noted that the requirements under § 15-11-58 for parents to regain custody should be better defined. Even when the requirements are defined in a case plan, DFACS may give parents conflicting directions orally. For example, in one case, DFACS told a mother not to bother completing her case plan because her daughter was about to age out. However, the daughter had a baby while still in DFACS custody, and the baby is now a ward of the state. Because the grandmother never completed her case plan, upon the advice of DFACS, her daughter and grandson cannot stay at her home.

e. Guardianships

One stakeholder described a typical scenario that the stakeholder asserted was used by DFACAS to avoid going through juvenile court to establish deprivation. Sometimes, the DFACS case manager tells the family that the way to avoid being taken to juvenile court is for the family to voluntarily go to probate court to put the child in the temporary guardianship of a relative. Once that guardianship is in place, DFACS leaves and no monitoring or supervision is
provided. Sometimes, the relative gets tired of care taking without any support and simply gives the child back to the parent, but the parent has done nothing to improve on the problem that led to the guardianship in the first place. Or, in a variation on the theme, the guardianship holds, but the children and the families have no access to the resources that they need to respond to the original problem. There are no safeguards for children and for guardians who take on that responsibility, and DFACS, this stakeholder believed, is using guardianship as a way to avoid a deprivation inquiry. There are also no home checks and no safety checks with guardianships.

f. The Subject Matter Jurisdiction should be Clarified

Other stakeholders mentioned the lack of clarity in the conflicting statutory provisions for subject matter jurisdiction involving custody cases where the superior court and juvenile court both have jurisdiction. This attorney stakeholder stated that both courts have jurisdiction in cases where the superior court has jurisdiction under § 19-5-1, because there is a divorce proceeding and the juvenile court also has jurisdiction under § 15-11-28(a)(1)(C), because the child is alleged to be deprived. While both courts are competent to hear the case, it may be preferable for the case to be handled in juvenile court because the juvenile court may have greater access to more appropriate resources for children than are available in the superior court. Despite this reality, in the stakeholder’s experience, the superior court often will not transfer the case to the juvenile court, as allowed under the current code section 15-11-28(c), because of the perception that the juvenile courts are overloaded. The decision to retain jurisdiction in the superior court can lead to conflicting decisions. Clarification in the current juvenile code would reduce the confusion and uncertainty for these families.

IV. CONCLUSION

The Fourth Judicial District has many concerns unique to its counties, such as the high population density and the high number of immigrants and refugees. Many of the programs utilized are working for the numbers they are able to serve, but they are not being implemented consistently.

Many stakeholders realize that most participants in the juvenile justice and child welfare systems have the best interests of the children in mind and that lack of funding and resources limits the amount of services available to children and families and puts a strain on the courts. The code itself needs to be more clearly organized and internally consistent. There also is a concern throughout the system that parents and children are not getting proper legal representation.
With regard to delinquencies, the main problem cited is that the code envisions a rehabilitative system, yet it limits the discretion judges have in dispositions and does not provide for enough alternatives and resources to make that system work. In deprivations, the greatest concerns are the lack of communication from DFACS and the fact that DFACS is too quick to take children out of the home without exploring other options that may make removal unnecessary.