Common Wisdom: Making the Case for a New Georgia Juvenile Code

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Section 1: JUSTGeorgia and the Stakeholder Interview Project

JUSTGeorgia is a joint project initiated by Georgia Appleseed, Voices for Georgia's Children, and the Barton Child Law and Policy Clinic of Emory Law School. Formed in 2006, JUSTGeorgia's initial objective is to secure passage of a new juvenile code during the 2009-10 session of the Georgia General Assembly.

To achieve this objective, JUSTGeorgia hit upon an ambitious plan – to ask Georgians all across the state to share their views and opinions on the current juvenile code. Georgia Appleseed, a nonprofit, non-partisan, public interest law center that works with volunteer lawyers and other professionals to tackle difficult social problems at their root causes, recruited volunteers from the state's largest law firms to interview stakeholders in each of the state's ten judicial districts and ask them three simple but important questions about the code: “What is working? What is not? And how would you make it better?”

For over a year, hundreds of lawyers and other professionals logged over 6,500 pro bono hours in identifying, interviewing, and transcribing interviews from a wide array of stakeholders, such as parents, young adults and older youth, law enforcement, child welfare workers, mental health providers, judges, prosecutors, defense attorneys, educators, business leaders, probation officers and many more. More than 300 individuals throughout the state were interviewed. In addition, to encourage input from the general community about the current juvenile code, Georgia Appleseed held public town hall meetings, facilitated by the University of Georgia's Fanning Institute, in each of the ten judicial districts.

The lawyers compiled the stakeholders’ responses into ten judicial district reports. These reports were then compiled into the statewide summary report, which is intended to inform the development of legislation to create a new juvenile code. The legislation itself will be based on the model juvenile code that was developed by the Young Lawyers Division of the State Bar of Georgia and released in early 2008.


Section 2: What Do We Mean by “Juvenile Code?”

The term "juvenile code" or "code" in this report refers to the Juvenile Court Code of Georgia, codified at Chapter 11 of Title 15 of the Official Code of Georgia. Enacted in 1971 and amended many times since then, the juvenile code establishes separate juvenile courts to hear cases involving children. The juvenile courts deal primarily with three types of cases: delinquency, deprivation, and status offenses.

Delinquency cases involve children under the age of 17 who are accused of committing acts that would be crimes if committed by an adult. Not all offenses involving children are tried in juvenile court. Since 1994, the juvenile code has required certain serious offenses committed by children age 13 or over to originate in superior court and remain there unless transferred to juvenile court by the district attorney or a superior court judge. Other cases originate in juvenile court but may be transferred to superior court under certain circumstances.

Deprivation cases involve children under the age of 18 whose parents or guardians have been accused of abusing or neglecting them. Deprived children may be removed from their home and placed with relatives, foster parents, or other caretakers while their parents attempt to correct the problems that led to the children's removal. If efforts to reunify the family fail, the code provides for termination of parental rights and placement of children in other permanent placements, such as adoption.

Status offenses are acts that are considered offenses solely because the offender is a child under the age of 18. The code refers to these offenders as “unruly children” and attempts to get them back on track before they become involved in more serious misconduct.

Although defined in terms of the age of the children who come before them, juvenile courts have serious implications for adults as well. Parents deemed unfit to care for their children; relatives asked to care for their nieces, nephews and grandchildren; school officials; police officers; business leaders; and victims of juvenile crime – all have a stake in the juvenile court system.
**Section 3: Why Change Georgia’s Juvenile Code?**

Georgia’s juvenile code is showing its age. Patched repeatedly over the years, the juvenile code is so disorganized that even lawyers and judges who refer to it on a daily basis come away from it confused and frustrated. Certain provisions, specifically those relating to foster care and termination of parental rights, need to be simplified and clarified so that practitioners statewide can implement those provisions correctly – in compliance with federal law – to ensure that the state remains eligible for federal funds under various child welfare programs.

It is not surprising that a set of laws enacted almost 40 years ago would be out of date. Indeed, the General Assembly recognized this fact when it passed a resolution in 2005 calling for a complete overhaul of the juvenile code. Interviews with hundreds of individuals throughout the state who have been involved with the juvenile court system confirm the need for a new juvenile code.

Of course, a new juvenile code cannot solve all of the problems that children, families, and juvenile courts face. Still, the stakeholders who took time to share their thoughts and experiences in connection with this report believe it is worth a try. What they had to say is summarized in the following pages.

**Section 4: Summary of Findings**

Stakeholders touched on dozens of topics throughout the course of the JUSTGeorgia interview project. Though no two interviews covered the same items, certain key topics came up over and over again. Sometimes the opinions expressed on a particular topic were consistent enough to allow a majority position or consensus viewpoint to be identified. These were compiled into a series of findings, which are summarized below. Each finding is discussed in greater detail in the body of the report.

**Findings Regarding the Juvenile Code Generally**

- Stakeholders overwhelmingly support a new juvenile code for Georgia.

- Stakeholders for the most part are satisfied with the appointment of juvenile court judges.

- Speedy hearings are viewed as one of the strengths of the juvenile court system, but excessive continuances and delays undermine this important feature.

- Many continuances could be avoided if juvenile court cases were accorded greater priority when attorneys face calendar conflicts in other courts.

- Support is growing for opening juvenile court proceedings to the public, with exceptions to protect children in some circumstances.

- The state’s juvenile courts are not yet prepared to meet the challenges presented by the influx of undocumented immigrant children.

- Although a lack of adequate resources affects every aspect of the juvenile court system, the need for more mental health services is particularly acute.

- The multiplicity of separate agencies and entities that comprise the juvenile justice system, each operating under separate policies, priorities, budgets and leadership, sometimes stands in the way of addressing the needs of children and the community.

**Findings Regarding Delinquency**

- Many stakeholders favor including 17-year-olds within the delinquency jurisdiction of the juvenile courts, and even more would support this change if they believed that older children who committed serious offenses would face tough sanctions in juvenile court or would be transferred to superior court.

- Stakeholders want juvenile courts to have more sentencing options, ranging from additional rehabilitative programs to more youth development center beds. Children committed to the custody of the Georgia Department of Juvenile Justice often serve their time at home due to a lack of other available options. Legislative restrictions on the use of short-term placements in youth detention centers have further limited sentencing options.
Stakeholders want juvenile court judges to have the flexibility to sentence children under the Designated Felony Act to less than 12 months of confinement in a youth development center and less than five years of commitment to the Georgia Department of Juvenile Justice.

Requiring a judge to hear evidence and decide whether a case involving one of the so-called “seven deadly sins” should proceed in superior court or juvenile court would defuse much of the controversy surrounding Senate Bill 440 and would make it easier to resolve several other issues, such as whether to lengthen or shorten the list of offenses covered by Senate Bill 440 or whether to raise or lower the age of children subject to Senate Bill 440.

Stakeholders do not want voluntary sex between teenagers to be treated as a serious crime or as an offense that requires the teenagers to register as sex offenders.

There is widespread dissatisfaction with the Department of Juvenile Justice’s Detention Assessment Instrument, especially among law enforcement officers, whose main criticism is that it lets too many offenders stay on the street.

Schools may be inadvertently feeding the school-to-prison pipeline by referring student discipline problems to juvenile courts under the Georgia School Disruption Statute.

Findings Regarding Deprivation, Foster Care and Termination of Parental Rights

- The requirements of the federal Adoption and Safe Families Act need to be better integrated into the new code.

- Juvenile court judges want a greater say in the placement of children who are in the custody of the Department of Family & Children Services, but other stakeholder groups are divided on the issue.

- The code is unclear as to the roles and responsibilities of court-appointed special advocates, guardians-ad-litem, and children’s attorneys.

- The lack of continuity in Department of Family & Children Services caseworker assignments is upsetting to children and causes unnecessary delays in the handling of cases.

- Allowing temporary protective orders to be granted based on a preponderance of evidence, rather than clear and convincing evidence, would enable funding for programs and services to become available earlier in a deprivation case.

- Home studies on potential out-of-state placements take too long under the Interstate Compact on the Placement of Children.

- Informal placements, made while the Department of Family & Children Services attempts to help families correct problems, are taking place without court oversight or involvement.

- The needs of children who are involved in both deprivation and delinquency proceedings are not being adequately addressed.

- Juvenile courts are willing and able to handle adoptions following termination of parental rights.

Findings Regarding Status Offenses

- Stakeholders support an approach that would enable children and their families to receive needed services without labeling the child a “status offender.”

- Stakeholders are split on whether detention should be an option for status offenses.

- Stakeholders believe that completing high school is so important that they would support an increase in the mandatory school attendance age and stricter enforcement of truancy laws against parents.
Section 5: Summary of Recommendations

**Recommendation No. 1:**
Enact a new juvenile code during the 2009-10 session of the General Assembly.

**Recommendation No. 2:**
In the spirit of Senate Resolution 161, seek to strike a balance between protecting the safety of the public and the welfare of Georgia’s children.

**Recommendation No. 3:**
In the spirit of Senate Resolution 161, work harmoniously with all stakeholders to enact “a comprehensive, research based, best practices legal model that would simplify and govern juvenile practice and procedures.”

To review the full Statewide Summary Report, visit www.GaAppleseed.org/children/reports.
Our JUSTGeorgia Partners

Georgia Appleseed Center for Law and Justice has been honored to partner with Voices for Georgia’s Children and the Barton Child Law and Policy Clinic of Emory Law School in a multi-faceted effort to realize a new juvenile code in Georgia. Our partnership will continue into the future as we work together with many other organizations and individuals to improve social service systems for Georgia’s children and families.

Our Financial Supporters

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Our Pro Bono Volunteers

We are indebted to the hundreds of volunteers who comprised the JUSTGeorgia stakeholder interview teams and the Statewide Summary Report team, led by some of the largest and most prestigious law firms in our state. These firms embrace the call to pro bono service that exemplifies the highest levels of professionalism. The participating firms are listed below by Statewide Summary Report and Judicial District number. For the names of the individual attorneys and other volunteers who participated in each of the teams, please refer to Appendix A of the Summary Report.

Common Wisdom: Making the Case for a New Georgia Juvenile Code
(available on-line at www.GaAppleseed.org/children/reports and in print)

Sutherland
Lead Partner and Lead Writer: Judy O’Brien

Judicial District Reports (available on-line at www.GaAppleseed.org/children/reports)

Judicial District 1 Report
King & Spalding
Lead Partner: Meghan Magruder
Lead Writer: Emily Sweitzer

Judicial District 2 Report
Alston & Bird
Lead Partner: Mary Benton
Lead Writer: Colin Kelly

Judicial District 3 Report
Nelson Mullins
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DLA Piper
Lead Attorney and Contributing Writer: Tony Lehman

Judicial District 4 Report
Mckenna Long & Aldridge
Lead Partner: Debby Ebel
Lead Writer: Elizabeth Hall
Stakeholder Interviewees and Town Hall Meeting Participants

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Georgia Appleseed’s JUSTGeorgia Steering Committee

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**Georgia Appleseed Center for Law and Justice** is an independent affiliate of the national Appleseed network of nonpartisan, nonprofit, public interest law centers. Georgia Appleseed leverages the pro bono work of lawyers and other professionals to produce systemic solutions to difficult social justice problems.

The mission of Georgia Appleseed is to listen to the unheard voices of the poor, the children, the marginalized; to uncover and end the injustices that we would not endure ourselves; and to win the battles for our constituency in the courts of public opinion or in the halls of justice that no one else is willing or able to fight.
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