The Statewide Summary Report and ten Judicial District Reports are available on-line at www.GaAppleseed.org/children/reports

We are grateful for the in-kind print production support generously provided by Ivize, a source for e-Discovery and legal document services.
# Table of Contents

## Acknowledgements

### Preface

## Part I: Executive Summary

Section 1: JUSTGeorgia and the Stakeholder Interview Project

Section 2: What Do We Mean by "Juvenile Code?"

Section 3: Why Change Georgia’s Juvenile Code?

Section 4: Summary of Findings

Section 5: Summary of Recommendations

## Part II: The JUSTGeorgia Project

Section 1: Introduction

Section 2: How This Report Was Prepared

Section 3: Structure of Report

## Part III: Summary of Juvenile Law in Georgia

Section 1: Juvenile Codes in Georgia

Section 2: Children Who Commit Serious Offenses

Section 3: Deprivation Cases

Section 4: Status Offenses

Section 5: Summary of Other Relevant Laws

Section 6: Description of Georgia’s Juvenile Court System

## Part IV: Findings

Section 1: Findings Regarding the Juvenile Code Generally

Section 2: Findings Regarding Delinquency

Section 3: Findings Regarding Deprivation, Foster Care and Termination of Parental Rights

Section 4: Findings Regarding Status Offenses

## Part V: Recommendations

## Part VI: Conclusion

## Endnotes

Appendix A: Law Firm Volunteers

Appendix B: Acronyms Used in Reports

Appendix C: Designated Felonies and Seven Deadly Sins

Appendix D: Georgia Judicial Circuits & Districts
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

Georgia Appleseed’s participation in the JUSTGeorgia project, its coordination and leadership of the statewide stakeholder interview project, the drafting of ten Judicial District Reports, and the publication of this statewide summary report, Common Wisdom: Making the Case for a New Georgia Juvenile Code, were made possible through the generous financial support of the following foundations:

- Sapelo Foundation
- Georgia Bar Foundation
- Community Foundation of Greater Atlanta
- Community Foundation of the Chattahoochee Valley
- Lawyers Foundation of Georgia
- Community Foundation of Central Georgia, Inc.

In-Kind Support

We are grateful for the in-kind support generously provided by Ivize, a source for e-Discovery and legal document services. Ivize printed Common Wisdom: Making the Case for a New Georgia Juvenile Code.

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.

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
Lead Partner and Lead Writer: Taylor Daly
DLA Piper
Lead Attorney and Contributing Writer: Tony Lehman

Judicial District 4 Report
McKenna Long & Aldridge
Lead Partner: Debby Ebel
Lead Writer: Elizabeth Hall
We would like to express our deep gratitude to the hundreds of individual interviewees and Town Hall meeting participants who freely gave of their time to share with us their ideas, wisdom, and, yes, their frustrations, about the state's current juvenile code, our juvenile court system, and the child welfare, mental health, and educational agencies that serve our state. Their opinions and insights are the basis of all ten judicial district reports and the state-wide summary report. The willingness of these stakeholders to be part of this process made possible this unique opportunity to inform key public policy makers in this critical task of updating and rewriting Georgia's juvenile code.

Georgia Appleseed's JUSTGeorgia Steering Committee

We wish to acknowledge the following members of the Georgia Appleseed Board of Directors who served as the JUSTGeorgia Steering Committee for the Stakeholder Interview Project:

Charles (Chuck) C. Clay, Brock, Clay and Calhoun, P.C.
The Honorable Norman S. Fletcher, former Chief Justice, Georgia Supreme Court (ret.); Brinson, Askew, Berry, Seigler, Richardson & Davis LLP
Catherine Z. Manning, PricewaterhouseCoopers LLP (ret.)
Dr. Portia H. Shields, President Emerita, Albany State University
A. Stephens Clay, Kilpatrick Stockton LLP, Chair, Georgia Appleseed Board of Directors
Georgia Appleseed Volunteers

We also wish to thank the following volunteers who lent their interviewing and copy-editing expertise to this project:

- **Charles (Chuck) Cantey**, Probation Supervisor, Fulton County Juvenile Court (ret.)
- **Kathryn V. Stanley**

Georgia Appleseed’s JUSTGeorgia Project Team

The following individuals comprised Georgia Appleseed’s JUSTGeorgia Project Team. We are grateful to them for their hard work and dedication to the Stakeholder Interview Project:

- **Sharon Hill**, Executive Director, Georgia Appleseed
- **Leslie Gresham**, Stakeholder Interview Project Manager, Georgia Appleseed
- **Theresa Brower**, Project Development, Georgia Appleseed
- **Margo Gold**, Communications Specialist, Georgia Appleseed
- **Tujuana Tate**, Office Manager, Georgia Appleseed
- **Shaunicie Fielder**, Project Summer Intern, Georgia Appleseed
- **Annette LoVoi**, Field Director, Appleseed

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.
In early 2006, the Sapelo Foundation approached Georgia Appleseed, Voices for Georgia's Children, and the Barton Child Law and Policy Clinic of Emory Law School with a bold request. The Foundation wanted to partner with these organizations to achieve meaningful improvements in juvenile justice for Georgia's children over the next three to five years. The three groups accepted the challenge and formed JUSTGeorgia.

JUSTGeorgia determined that the first step should be to support the completion of the model juvenile code effort begun almost two years earlier by the Young Lawyers Division of the State Bar of Georgia. Such a model code would incorporate best practices from across the country, provide consistency with current state and federal laws, reflect recent studies about child brain development, and offer a progressive approach to solving some of the most tragic cases to cross a judge's bench.

But a new juvenile code for Georgia would need something more than excellent research and draftsmanship if it were to be accepted by a majority of the stakeholders and policy makers. It needed the common wisdom of Georgians throughout the state who might be willing to share their own ideas and opinions about our current juvenile code – about what is working, what is not working, and how they would fix the problems.

This is where Georgia Appleseed and its ability to leverage the pro bono work of lawyers and other professionals came into play. All of our core competencies – research, dissemination of findings, and effectuation of change – have been brought to bear in our work on this massive undertaking.

Research – Georgia Appleseed recruited thirteen of the most civic-minded law firms in the state (listed in the Acknowledgements in this Report) to field teams of lawyers and other professionals to take on the huge task of gathering stakeholder input from each of the ten judicial districts within the State of Georgia.

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.

Our objective throughout this process was to find that common and practical wisdom about "how we do things in Georgia." The stakeholders’ combined input created meaningful, insightful, on-the-ground feedback that will help to inform the development of a new juvenile code governing how we handle deprivation and delinquency, and how we help children in need of services get back on track so they will grow up to be productive citizens.

Disseminate – We are proud to share with you the results of our work, summarized in this comprehensive Report. We extend our special thanks to Judy O’Brien, the lead partner of the Sutherland JUSTGeorgia team and the lead writer on this statewide summary report, Common Wisdom: Making the Case for a New Georgia Juvenile Code. Judy took a special interest in making certain that this effort accurately summarized and communicated the personal opinions of the stakeholders interviewed throughout our state. Judy’s own expertise in education law and her previous tenure as a law school professor, with special emphasis in the areas of family and juvenile law, contributed to her ability to take all the information collected and present it in a way that informs JUSTGeorgia’s next steps.
Effect Change – We are confident that this Report will be a vital tool in achieving the goals laid out by the Sapelo Foundation, to bring “meaningful improvements in Georgia juvenile justice public policy.” To the best of our ability, the ideas, opinions and suggestions of Georgians statewide have been gathered and recorded to help inform the JUSTGeorgia partners in their work to develop the JUSTGeorgia legislative package. The experiences conveyed in the Report will also empower JUSTGeorgia coalition members statewide as they advocate for real change armed with compelling stories. Perhaps most importantly, we want the voices of Georgians with the largest stakes in the system to be heard and understood in their different contexts by public policy makers charged with the responsibility to provide justice for our children and families.

As we move into the next phase of the JUSTGeorgia project, let us come together to promote an overall improved juvenile justice and child welfare code that is a powerful reflection of Georgia’s values. Securing that kind of a new juvenile code will speak volumes about who we are as Georgians.

Sharon N. Hill, Esq.  Leslie M. Gresham, Esq.
Executive Director  Stakeholder Interview Project Manager
Part I: Executive Summary

Section 1: JUSTGeorgia and the Stakeholder Interview Project
Section 2: What Do We Mean by “Juvenile Code?”
Section 3: Why Change Georgia’s Juvenile Code?
Section 4: Summary of Findings
Section 5: Summary of Recommendations
Part I: Executive Summary

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?”

The lawyers compiled the stakeholders’ responses into ten judicial district reports. These reports were then compiled into this 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.”
Part II: The JUSTGeorgia Project

Section 1: Introduction

Section 2: How This Report Was Prepared

Section 3: Structure of Report
Part II: The JUSTGeorgia Project

Section 1: Introduction

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. In addition, JUSTGeorgia is working to build a statewide coalition that will advocate to improve the health, education, child protection, and other services available to children.

To achieve its first 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. Stakeholders in each of the state's ten judicial districts would be asked three simple but important questions about the code: "What is working? What is not? And how would you make it better?"

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, agreed to recruit ten teams of volunteer attorneys from the state's largest law firms to interview stakeholders and prepare reports for each judicial district. An eleventh team would then compile the judicial district reports into a statewide summary report that would serve to inform the development of a legislative package. The legislation itself would be based on the model juvenile code that was being researched and drafted by the Young Lawyers Division of the State Bar of Georgia ("YLD").

The goal from the beginning of this project has been to hear from as many people as possible 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.

Section 2: How This Report Was Prepared

Judicial District Teams

To ensure that views from all parts of the state were reflected in this Statewide Summary Report, Georgia Appleseed assigned separate teams to interview individuals from among 26 “stakeholder” categories in each of the state's ten judicial districts. All stakeholders were individuals who had a stake in the workings of the juvenile court system. Every effort was made to be as inclusive as possible in identifying stakeholders to be interviewed, so that every demographic and geographic component of the state would have an opportunity to provide input. Each of the ten judicial district teams then prepared a report summarizing the views expressed by the stakeholders in their district.

Although all of the participating law firms were located in Atlanta, they were encouraged to partner with local attorneys, who played a critical role in identifying stakeholders to be interviewed. As a practical matter, the large law firms in Atlanta were the only ones with enough attorneys and other resources to undertake this huge project. The law firm attorneys occasionally encountered skepticism or even hostility at the outset of an interview, but, as it became evident that these “Atlanta lawyers” were there simply to listen and record their views, and not to criticize or judge, any reluctance dissipated before the interview was over.

Stakeholder Categories

Individuals interviewed for the ten judicial district reports fell into the following categories:

- Juvenile Court Judge
- Prosecutor in Juvenile Court
- Defense Attorney in Juvenile Court
- Parent Attorney in Juvenile Court
- Child Attorney, Child Advocate, or Guardian ad Litem in deprivation cases
- Special Assistant Attorney General representing the Department of Family & Children Services in deprivation cases
Court-Appointed Special Advocate
Supervisor or Case Manager with the Department of Family & Children Services
Juvenile Court Administrator
Juvenile Court Probation Officer
Mental Health Provider for children
Police Officer who focuses on delinquency/truants
Parent of child who has been alleged or adjudicated delinquent
Parent of child alleged or found to be deprived
Young adult who has aged out of foster care
Older child in foster care
Older child who has been adjudicated delinquent
Member of business community
Victim of juvenile delinquency
Republican Member of State House of Representatives
Democratic Member of State House of Representatives
Republican Member of State Senate
Democratic Member of State Senate
School Board Member
School Principal (middle school preferable)
School Social Worker or School Resource Officer

Town Hall Meetings
To reach an even more diverse range of citizens, Georgia Appleseed also conducted town hall meetings in each of Georgia’s ten judicial districts. The town hall meetings were publicized throughout each district in a variety of ways, including radio, television, newspapers, flyers, and personal contact. Georgia Appleseed engaged professional facilitators from 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 track citizens’ comments and project them onto a large screen for all to see.

Judicial District Reports and Statewide Summary Report
After completing the interviews, each judicial district team prepared a report, summarizing the views expressed in the stakeholder interviews and at the town hall meetings. The ten judicial district reports were then compiled into this Statewide Summary Report, which provides a comprehensive statewide summary of the strengths and weaknesses of the existing juvenile code and practical and realistic recommendations for improving it. This report, which is intended to accompany the proposed legislation, is available at www.GaAppleseed.org/children/reports, along with the ten judicial district reports.
Release of Proposed Model Juvenile Code

In March 2008, while Georgia Appleseed volunteers were continuing to interview stakeholders about the current juvenile code, the Young Lawyers Division of the State Bar of Georgia (YLD) released its Proposed Model Juvenile Code (PMC). The authors of the PMC had spent four years examining national resources and the juvenile codes of other states in an effort to glean “best practices” in juvenile law. Upon the release of the PMC, JUSTGeorgia worked with the YLD to introduce the PMC to as broad an audience as possible, conducting multiple workshops and meetings across the state. JUSTGeorgia has been afforded the opportunity to meet with representatives from a wide range of organizations and agencies to introduce the PMC and elicit comments. JUSTGeorgia remains actively engaged in making the public aware of the PMC and providing opportunities for comment. The PMC is posted on JUSTGeorgia’s website, (www.justgeorgia.org), and on-line input and comments are invited. Several organizations and individuals have submitted thoughtful written comments, and they too will be made public. All of these are important steps leading up to the drafting of the specific legislative package that the state legislature will be asked to consider for enactment during the 2009-10 legislative session.

Legislative Package

The starting point in drafting the proposed legislative package is, of course, the Proposed Model Juvenile Code (PMC). But the PMC was never intended to be the final proposal. Instead, the final legislative package, while preserving “best practices” from the PMC where feasible, will be tailored to reflect the views expressed in stakeholder interviews, town hall meetings, on-line comments, individual and group meetings, and other forums.

This juvenile code revision project is a non-partisan effort, and the views of juvenile court judges, prosecutors, defense attorneys, special assistant attorneys general, Department of Family & Children Services caseworkers and supervisors, Department of Juvenile Justice officials, legislators, business representatives, school officials, victims, law enforcement, and child-focused organizations have been actively solicited and received. One juvenile court judge who was interviewed in connection with this project commented that, during his many years on the bench, he had been consulted only once by a representative of the General Assembly regarding bills that had a direct impact on the juvenile justice system. He emphasized that communication between the juvenile courts and the legislature is important to the success of any changes that are made to the juvenile court system in the State. JUSTGeorgia agrees that communication among all interested parties is essential to ensure that the legislative package that is submitted for enactment meets Georgia’s unique needs. To that end, JUSTGeorgia will be soliciting additional input throughout the legislative drafting process and thereafter.

Section 3: Structure of Report

This report contains six parts, most of which are divided into several Sections. Part I is an Executive Summary. Part II introduces the reader to the meaning of “juvenile code” and provides a description of the JUSTGeorgia project and the methodology by which this report was prepared. Part III provides background information on the state’s early juvenile codes, outlines the main elements of the current juvenile code, and concludes with a description of the state’s juvenile court system and a summary of other relevant state and federal laws. Based on views shared during interviews and town hall meetings, Part IV presents findings regarding general or systemic issues; delinquency; deprivation, foster care, and termination of parental rights; status offenses; and other provisions of the code. Part V provides legislative recommendations. Part VI is the conclusion.
Part III: Brief Summary of Juvenile Law in Georgia

<table>
<thead>
<tr>
<th>Section 1:</th>
<th>Juvenile Codes in Georgia</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 2:</td>
<td>Children Who Commit Serious Offenses</td>
</tr>
<tr>
<td>Section 3:</td>
<td>Deprivation Cases</td>
</tr>
<tr>
<td>Section 4:</td>
<td>Status Offenses</td>
</tr>
<tr>
<td>Section 5:</td>
<td>Summary of Other Relevant Laws</td>
</tr>
<tr>
<td>Section 6:</td>
<td>Description of Georgia's Juvenile Court System</td>
</tr>
</tbody>
</table>
Section 1: Juvenile Codes in Georgia

Georgia's first juvenile courts were established 100 years ago, with the passage of the Juvenile Court Act of 1908. This Act created a children's court as a branch of the superior court in certain counties. The children's courts were authorized to hear cases involving delinquent and wayward children under the age of 16. In 1915, this statute was declared unconstitutional on the ground that it violated a provision of the Georgia Constitution requiring all courts of the same class to be uniform in their powers and practices. A new statute was enacted that same year. It too faced constitutional challenges but survived in a somewhat truncated form until it was replaced with the Juvenile Court Act of 1951. The 1951 Act, among other things, attempted to give juvenile courts exclusive original jurisdiction over all accused children under the age of 17. Parts of this statute were held to be in conflict with the state constitution, which gave superior courts jurisdiction to try offenses punishable by death or life imprisonment.

In the mid-1960s, the U.S. Supreme Court handed down two ground-breaking decisions that greatly expanded the due process rights available to children. In 1968, the General Assembly made extensive revisions to the Juvenile Court Act and created a commission to consider further changes. That same year, the General Assembly enacted a revised criminal code, which, among other things, set the age of criminal responsibility at 13. Children below the age of 13 could not be found guilty of a crime; children aged 13 or above could. That remains the law in Georgia today.

After three years of study, the Juvenile Code Commission proposed a new Juvenile Court Code of Georgia to the General Assembly in 1971. When enacted, the juvenile code applied to deprived, delinquent and unruly children up to age 17. The cut-off age was supposed to rise to 18 in 1973, but the legislature took action that year to eliminate the change.

The age limit was increased to 18 for deprivation cases in 1977 and for status offenses in 2003. The age limit for delinquency cases remains at 17. In 1999, procedures for determining a child's mental competence to stand trial on delinquency or unruly charges were added to the juvenile code.

Although the 1971 juvenile code has been amended many times since then, it remains the governing statute today.

Section 2: Children Who Commit Serious Offenses

Deciding how to deal with children who are alleged to have committed serious criminal acts is a topic that has stirred controversy for as long as Georgia has had juvenile courts. In 1972, Georgia voters approved a constitutional amendment, authorizing the General Assembly to decide whether children alleged to have committed felonies should be tried in superior court or juvenile court. The General Assembly exercised this authority in 1973 by giving superior courts concurrent jurisdiction over capital felonies committed by children between the ages of 13 and 17. Since then, the Georgia legislature has enacted a number of measures designed to “get tough” on children who commit delinquent acts.

The current juvenile code allows the juvenile court to waive jurisdiction in delinquency cases under certain circumstances and to transfer the case to superior court. Before the case may be transferred, a hearing must be held in juvenile court, and the judge must determine that the child is not amenable to treatment or rehabilitation and that the transfer would be in the interest of the child and the community. Once the transfer order is entered, the juvenile court loses jurisdiction over the child for that matter.

Children who commit serious criminal acts may be subject to Georgia’s Designated Felony Act for offenses that include, among others, murder, rape, kidnapping, arson in the first degree by a child 13 or older, aggravated assault, voluntary manslaughter, aggravated sodomy, arson in the second degree,
armed robbery by a child 13 or older, attempted murder or attempted kidnapping by a child 13 or older, and a fourth felony. First enacted in 1980, the designated felony statute requires children who commit specific, enumerated offenses to face enhanced penalties, including at least 12 months’ confinement in a youth development center (YDC) and five years’ commitment to the Department of Juvenile Justice (DJJ). Upon release from YDC confinement, the statute calls for the child to be placed under intensive supervision for at least 12 months. Although the designated felony statute requires the juvenile court to obtain a progress report on the child every six months after sentencing, the Georgia Court of Appeals has held that juvenile courts have no power to alter or reduce a sentence once physical custody of a child has passed to DJJ.

In response to a nationwide perception that juvenile crime was becoming more frequent and more serious, the Georgia legislature in 1994 enacted Senate Bill (SB) 440, a measure that remains controversial to this day. In a sharp departure from previous juvenile law, SB 440 gives the superior court exclusive jurisdiction over the trial of any child 13 or over who is alleged to have committed one of the so-called “seven deadly sins” – murder, rape, voluntary manslaughter, aggravated sodomy, aggravated child molestation, aggravated sexual battery, or armed robbery committed with a firearm. In all other cases in which a child is alleged to have committed an offense punishable by loss of life, imprisonment for life without the possibility of parole, or life imprisonment, juvenile courts and superior courts have concurrent jurisdiction.

Transfers from superior court to juvenile court are significantly circumscribed in SB 440 cases, especially after indictment. Once the child has been indicted, the superior court may grant a transfer to juvenile court only if the charge is voluntary manslaughter. Before indictment, the district attorney may decide to transfer any SB 440 case to juvenile court for “extraordinary cause.” Any SB 440 case that is transferred to juvenile court must be subject to the Designated Felony Act.

Children convicted of an SB 440 offense in superior court are committed to the custody of the Department of Corrections, not DJJ. Until reaching age 17, they must be housed in a designated youth confinement unit; kept separate from adult offenders; and provided life skills training, academic or vocational education, and substance abuse and violence prevention counseling “to the extent appropriations are available for such activities.” Most SB 440 offenses carry a mandatory sentence of ten to twenty-five years.

Section 3: Deprivation Cases

When parents abuse, neglect, abandon or fail to provide proper care for their children, the state may intervene to ensure the well-being of the children. The juvenile court may order the children to be removed from the home and may assign temporary legal custody to the Department of Family & Children Services (DFCS) or some other third party while the parents attempt to correct the problems that led to the removal of the children. Meanwhile, the children will be cared for by relatives or foster parents or placed in some other temporary setting. Eventually, if the parents remain unable to care for their children and reunification is not feasible, DFCS may seek termination of parental rights, freeing up the children for adoption or some other permanent placement. Throughout these proceedings, the overriding consideration is the best interest of the child.

The deprivation provisions of the juvenile code also have been amended numerous times since 1971, including amendments made in response to enactment of the federal Adoption and Safe Families Act (ASFA) in 1997. Some of these changes were required so that Georgia would qualify for certain child welfare funds that help support the state’s foster care program.

Section 4: Status Offenses

Status offenses are acts that are considered offenses only if committed by a child. They include truancy, unruliness, curfew violations, and running away from home. Except for the age increase in 2003, the provisions of the juvenile code relating to status offenses have undergone few changes since 1971.

Section 5: Summary of Other Relevant Laws

In addition to the juvenile code, many other laws have a direct impact on the cases that come before the juvenile courts. These include, among others, the state and federal constitutions, state criminal law, state and federal health and welfare laws, state and federal school law, state family law, immigration law, and probably many more.
Juvenile courts are subject to the due process clause of the U.S. Constitution. That was first established by In re Gault, a Supreme Court decision that was groundbreaking in its day, but is well entrenched in juvenile law today. Nearly 40 years later, another Supreme Court decision reminded us of the unique qualities of children that gave rise to the juvenile court movement. Roper v. Simmons held that the death penalty cannot be imposed for crimes committed prior to age 18. The Supreme Court based its decision at least in part on the latest scientific literature on brain development, which presents evidence that the capacity to exercise good judgment and make sound decisions is not fully developed in the teen years.

State laws relevant to the juvenile courts are found in many parts of the Georgia Code other than Title 15. They include the criminal code (Title 16), the education code (Title 20), the evidence code (Title 24), guardianship (Title 29), family and adoption law (Title 19), minors (Title 39), and social services (Title 49). The education code (Title 20), for example, contains the mandatory school attendance law, which has a direct bearing on truancy. Title 20 also contains a statute that makes it a misdemeanor of a high and aggravated nature “to disrupt or interfere with the operation of any public school.” Another federal statute that has a major impact on the state’s juvenile code is the Adoption and Safe Families Act, which seeks to promote the adoption of children in foster care. The ASFA requires states to make reasonable efforts to reunify families and declares that the child’s health and safety are the primary concerns in determining the extent of such efforts. When efforts at reunification fail, ASFA requires the state to initiate termination of parental rights proceedings within a certain timeframe.

Immigration law is another body of federal law that has become increasingly relevant in juvenile courts in recent years. Juvenile courts do not hear immigration cases, of course, but some of the deprivation cases that come before them might have important consequences for a child’s immigration status. Under a fairly recent change in immigration law, children who enter this country illegally and without a parent or legal custodian might be eligible for permanent legal residence status, referred to as Special Immigrant Juvenile Status (SIJS), if a state juvenile court finds that they are deprived and that it is not in their best interest to return to their home country. Because SIJS is a relatively new immigration status, many juvenile court judges are not familiar with it and may be fearful of entering such an order, not fully appreciating its significance for the child.

Section 6: Description of Georgia’s Juvenile Court System

In truth, Georgia does not have a “juvenile court system.” That term implies far more uniformity than exists in Georgia. Some of the state’s 159 counties have full-time juvenile court judges, others have only part-time judges, while still others have no dedicated juvenile court judges at all and must tap superior court judges for this purpose. Some juvenile courts employ their own personnel to handle intake, probation and several other court functions (“independent systems”). In many others, the personnel who perform these functions are employees of the Department of Juvenile Justice (DJJ) (“dependent systems”). Still others are a blend of both (“hybrid systems”). Courts differ widely, too, in the number and variety of local programs and community-based services available to serve the children and families who appear before them.

Despite their many differences, these courts face similar challenges. All of them must deal with communities weighed down by poverty, crime, gangs, drugs, ineffective schools and dysfunctional families. No juvenile court would claim to have sufficient resources to help all of the children in its area. Nor would any of the other government agencies that work closely with the juvenile court system – Department of Human Resources, Division of Family and Children Services, Department of Juvenile Justice, Department of Education, and Department of Corrections, to name a few – make such a claim. Indeed, at times these agencies are so focused on their own particular area of responsibility that they seem unable or unwilling to work together to meet the multiple needs of a single child or a single family.
## Part IV: Findings

<table>
<thead>
<tr>
<th>Section 1:</th>
<th>Findings Regarding the Juvenile Code in General</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 2:</td>
<td>Findings Regarding Delinquency</td>
</tr>
<tr>
<td>Section 3:</td>
<td>Findings Regarding Deprivation, Foster Care and Termination of Parental Rights</td>
</tr>
<tr>
<td>Section 4:</td>
<td>Findings Regarding Status Offenses</td>
</tr>
</tbody>
</table>
Part IV: Findings

Section 1: Findings Regarding the Juvenile Code Generally

A. Stakeholders overwhelmingly support a new juvenile code for Georgia.

Among the stakeholders who work with the juvenile code, nearly everyone who offered an opinion on the topic agreed that Georgia needs a new juvenile code.46 Except for a few stakeholders who thought the current code just needed a little tweaking, virtually everyone else said that the current juvenile code is beyond repair and should be replaced with a new juvenile code. Stakeholders described the code as disorganized, difficult to use, hard to understand, poorly drafted, and outdated. They called it long and repetitive, impossible to navigate, overly complicated, confusing, and just plain broken. They complained that critical terms are left undefined, key topics are ignored, and ambiguities abound. Some stakeholders even blame the code’s lack of organization and structure for some of the problems in the juvenile court system.47 Representatives of the media made the point that the unnecessary complexity of the code makes it inaccessible to members of the public and the press.48

Several stakeholders singled out the section on family reunification, O.C.G.A. § 15-11-58, as particularly cumbersome and hard to follow. One juvenile court judge confessed that he cannot understand that section and must re-read it at least monthly. “It’s embarrassing not to know what a code section means,” the judge remarked.49 Another juvenile court judge had a clever idea: Require the legislature to remove an old provision from the code every time they add a new provision, he suggested facetiously.50

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

Most stakeholders who commented on the method of selecting juvenile court judges, including those who attended town hall meetings, preferred to stay with the current method of having juvenile court judges appointed by superior court judges, rather than elected.51 They feel that the local superior court judges routinely appoint competent and impartial juvenile court judges. Only a few stakeholders expressed concern that juvenile court judges might be unduly influenced by the superior court judges who appointed them.52 To minimize the risk that cronynism might influence the appointment process, a juvenile court judge recommended use of a selection committee to screen out unqualified applicants.53

Stakeholders in general had high praise for the juvenile court judges serving in their districts. A woman who had spent much of her childhood in foster care had nothing but praise for the juvenile court judge overseeing her case.54 This judge, she said, spent a lot of time trying to “make her parents better” so that the entire family could be reunited. Although the estranged parents resisted and were not reunited with this child, the judge’s compassion was the only shining moment in an otherwise tumultuous foster care experience. Similarly, another woman who was in foster care during part of her childhood emphasized the value of being able to speak directly and privately with the judge at several stages in her case.55

Whether these opportunities were driven by the juvenile code or merely reflected the concern of a particular judge who chose to go above and beyond the call of duty, they had a positive impact on these individuals. Such stories are typical of the many juvenile court judges throughout the state who were praised as jurists who “really understand the system well and are excellent advocates for the children.”56

C. Speedy hearings are viewed as one of the strengths of the juvenile court system. To prevent erosion of this important feature, continuances and delays need to be better controlled.

The juvenile code establishes a hearing schedule that reflects both the urgency of the cases that juvenile courts handle, as well as the unique characteristics of a child’s sense of time. In deprivation cases, the code calls for an initial hearing within 72 hours after a child is removed from his home and a second hearing ten days later.57 Stakeholders agree in theory with the expeditious handling of deprivation cases, but recognize that a ten-day period is often not sufficient time to conduct an investigation, prepare the necessary reports, identify and subpoena witnesses, and otherwise prepare for the hearing.58 As a result, courts often end up granting multiple continuances.
In delinquency cases, when a child is in detention, the adjudicatory hearing “shall not be later than ten days after the filing of the petition.” Many stakeholders complained that the juvenile courts do not observe this ten-day deadline and grant too many continuances. Other stakeholders stated that, because the ten-day hearing deadline is so unreasonable, parties are forced to seek continuances or take other steps to postpone the hearing. For example, parties may delay the filing of a petition to prevent the ten-day clock from starting, or they may have the judge issue a scheduling order within the ten-day period that sets the trial for a date outside the ten-day period.

Deadlines are meaningless if they are frequently waived or circumvented. Some stakeholders thought the best solution was to push the ten-day hearing to 30 days and make continuances harder to obtain. Most stakeholders, however, felt that the ten-day deadline serves an important purpose, and they were reluctant to change it. Instead, they favored keeping the current timeframe and providing stricter oversight of continuances.

D. Many of the continuances that cause hearings to be delayed could be avoided if juvenile court cases were accorded greater priority when attorneys face calendar conflicts in other courts.

Stakeholders also complained about continuances that are granted when attorneys have calendar conflicts with other courts. This is a major irritant for nearly all stakeholders. Often these continuances are granted on the day of the hearing, after parents, children, witnesses, case workers, foster parents, and others have waited hours for their case to be called, only to learn they must come back another day.

The resulting inconvenience is not just a “customer-service” issue, though it certainly engenders a great deal of anger and frustration. It is also a reflection of a lack of respect for the juvenile court system itself. As many stakeholders stated, these continuances occur because juvenile court cases are given a lower priority than cases pending in other courts. At least one stakeholder complained that people view juvenile court as “kiddie court” and do not consider its work to be important.

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

Many stakeholders involved with juvenile courts seemed unaware that the Georgia Supreme Court ruled nearly 25 years ago that proceedings in delinquency cases should be presumptively open to the public and closed only for good reason. In Florida Publishing Co. v. Morgan, the Supreme Court recognized a First Amendment right of access to delinquency proceedings that should prevail unless a legitimate reason for closing the proceeding is shown. Although the juvenile code has been amended many times since then, the code still does not reflect the Supreme Court’s ruling. In fact, recent changes to O.C.G.A. § 15-11-78 have had the effect of limiting, rather than expanding, access, according to stakeholders affiliated with the media. These stakeholders feel strongly that the current statutory language not only creates unnecessary confusion, it also deters the public and the press from seeking access in the first instance because they are uncertain about their rights.

Media stakeholders favor greater openness of all juvenile court proceedings, subject to appropriate exceptions for sexual abuse and certain deprivation evidence. Several juvenile court judges and others involved with the juvenile courts share that opinion. They feel that closing juvenile court proceedings to the public hinders the juvenile justice system because the public does not become aware of the types of cases being handled in the juvenile courts and does not have an opportunity to provide input on how to deal with these cases. Indeed, noted some stakeholders, the public might insist that more resources be devoted to the juvenile court system if they were more aware of the many unmet needs that juvenile court judges face every day.

Other stakeholders point to the benefits of transparency, noting that closed proceedings and other confidentiality provisions may serve to protect agencies from scrutiny, to the detriment of children. One juvenile court administrator commented that maintaining the confidentiality of juvenile court proceedings and records causes a lack of public confidence in the juvenile court system. On the other hand, some stakeholders felt there was a need to maintain confidentiality by excluding the public from juvenile court proceedings, even in some designated felony cases.

Stakeholders also expressed concern that the sealing of juvenile court records, including prior offenses, meant that law enforcement and court personnel could not determine whether a particular child was a recidivist or a first offender. They felt that many repeat offenders were able to pass themselves off as first offenders due to the sealing of juvenile court records. This loophole poses a threat to public safety, according to these stakeholders, because repeat offenders end up back on the streets even though they have a history of multiple offenses. One way to address this problem would be to seal informal adjustments and prior offenses at the discretion of the judge rather than automatically, they suggested.
Some victims of juvenile delinquency also favor greater openness of juvenile court proceedings and records. They felt frustrated when the juvenile court’s confidentiality policies prevented them from finding out what steps were being taken to punish or rehabilitate the children who harmed them. As a result, they remained in fear of becoming victims once again.

As one victim of a juvenile crime stated: “The juvenile justice code should recognize the competing interest of members of a community to be assured of their safety. When communities are being stalked by a dangerous juvenile predator, the government should not be permitted to hide behind confidentiality provisions and refuse to provide any information about the steps being taken to assure their safety.” However, not all stakeholders favored greater openness of court records.

In addition to addressing confidentiality concerns, a variety of stakeholders voiced the need for Georgia to have an automated system for juvenile records. As one stakeholder recognized: “The real estate record keeping system in Georgia is far superior to the recordkeeping system for that of children who are in trouble and in the juvenile justice system.” The lack of a good, accessible, state-wide record system frustrates both court personnel and police officers. Police officers said they have no way of knowing whether the children they arrest have a history of juvenile court involvement or whether any charges are pending against them. The “hardened juveniles” in the Atlanta area simply move their criminal acts between counties to avoid getting caught, according to these officers.

The inability to retrieve records affects foster care as well. Invariably, a new coordinator or case worker will be unable to locate the case records and will have to “begin from scratch” to understand the issues surrounding the particular child. This causes unnecessary delay, to the potential detriment of the child.

As for whether children should be present when their own deprivation case is being heard, this should remain a matter of judicial discretion and the nature of the evidence. One judge, who is uncomfortable with children hearing testimony about their injuries and mistreatment, recalls a 16-year old who broke down in court when she heard her mother’s testimony rejecting the child in open court.

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

Many parts of the state have experienced a large influx of immigrants. The families who appear in juvenile court nowadays speak many different languages and come from many different cultures. To accommodate this diverse population, juvenile courts are finding it necessary to employ interpreters to help immigrant populations understand the legal system in which they have become involved. Funding these positions places new strains on budgets that were already stretched thin. But money is not the only challenge the courts face. The child and his parent or guardian, as well as any witnesses or victims, may be undocumented, meaning that, if apprehended, they may face deportation. If so, they will be very reluctant to become involved with the juvenile court system. Moreover, if the child or his family needs services, they may not have health insurance or other resources to cover the cost of the services, and, if they are undocumented, they cannot qualify for most public benefits.

Juvenile courts also may encounter another situation with which they are not familiar. A fairly recent change in the federal Immigration and Nationality Act allows certain children who entered this country illegally, without a parent or legal guardian, to apply for “Special Immigrant Juvenile Status” (SIJS), which grants them the legal right to remain in this country permanently. Typically, these “unaccompanied minors” faced abuse or neglect in their home country, or their family was simply too poor to feed and clothe them. Without fully realizing the risks they are taking or the enormous size of this country, they set out in search of relatives or friends who are living somewhere in the United States. If they are apprehended, as many are, they will be placed in temporary care while they await deportation proceedings. If they avoid apprehension, they may locate a family member or friend who will take them in.

Whether apprehended or not, these children may be eligible for SIJS. The first step in obtaining this status is to petition the juvenile court in the jurisdiction where the child is located for a determination that the child is deprived. To meet the SIJS requirements, certain findings
must be made by the juvenile court judge, namely: (1) that the child is under the age of 21 and is not married; (2) that the child is deprived; (3) that the child is eligible for long-term foster care; and (4) that it would not be in the best interest of the child to be returned to the country of origin.90 With that ruling in hand, the child applies to the United States Citizenship and Immigration Services (formerly INS) for Special Immigrant Juvenile Status.91

Unfortunately, many juvenile court judges (as well as special assistant attorneys general, child advocates, and DFCS personnel) are not aware of Special Immigrant Juvenile Status and may be reluctant to make (or request) the necessary findings.92 Including a provision in the new code expressly authorizing juvenile court judges to make these findings would help to remove any such impediment.

G. 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 adequacy of resources in the juvenile justice system is not the subject of this report. Nonetheless, the frequency with which stakeholders referred to the lack of mental health services was so striking that it is singled out here for brief mention.93 One stakeholder characterized the process of getting mental health needs identified and treated as a “nightmare.”94 A former probation officer, currently employed by the Georgia Department of Juvenile Justice (DJJ) in another capacity, felt that mental health needs are a major challenge for DJJ today due to a large influx of children with significant mental health needs.95

The need may be most urgent in rural communities.96 One stakeholder even cited cases in which judges went on the record to say that they were ordering detention only because there was no other available placement that would provide the child with desperately needed mental health services.97 A legislator suggested that a tactic that might be useful in obtaining funding for mental health resources would be to show the savings of preventative mental health care, versus the costs of incarceration or other consequences for failing to treat a child with mental illness.98

H. 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.

This point will be mentioned only briefly because it is not one that can be addressed solely through revisions to the juvenile code. Stakeholders uniformly point to the need for more cooperation and coordination of services among juvenile courts, Department of Human Resources, Department of Family & Children Services, Division of Mental Health, Developmental Disabilities and Addictive Diseases, Department of Juvenile Justice, public schools, and law enforcement. Some of the specific problems that stakeholders repeatedly mentioned were:

- Lack of an umbrella agency or “chief executive officer” with overall responsibility for the juvenile justice system as a whole.
- Lack of agreement on a common mission among all participants.
- Separate and often conflicting laws, regulations, and policies applicable to the various agencies.
- Disagreement over which agency pays for what.

Section 2: Findings Regarding Delinquency

A. 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.

One of the threshold issues that any juvenile code must address is the definition of a “child” because this determines the jurisdiction of the juvenile courts. The 1971 juvenile code defined a “child” as anyone under the age of 17, but included an automatic one-year increase, which was to take effect in 1973.99 However, the legislature removed the automatic age increase before it could take effect.100 Since then, the legislature has tackled the age issue in piecemeal fashion, adopting 18 as the cut-off age for deprivation cases in 1977 and for status offenses in 2003.101 The cut-off age for delinquency cases remains 17.102 Children who commit criminal offenses after turning age 17 are treated as adults, even though they may still be in high school.

Nearly all of the stakeholders who commented on the definition of “child” in the current code affirmatively favored extending the cut-off age for delinquency jurisdiction to 18, making it consistent with deprivation and status of-
Stakeholders favoring the age increase generally noted that most 17-year-olds are still in high school and still “live in a juvenile world.” They have far more in common with their classmates who have not yet reached age 17 than they do with adults. The kinds of scrapes they are likely to get into look much more like a typical delinquency case than the serious criminal cases that routinely appear on the dockets of the superior courts. Juvenile court would be a far more suitable forum than superior court for the vast majority of 17-year-olds, these stakeholders felt.

A defense attorney gave the following example in support of extending delinquency jurisdiction to 17-year-olds: Two high school classmates, one aged 16 and the other aged 17, are alleged to be in possession of illegal drugs at school. They are brought before a school tribunal, found to be equally culpable, and both are suspended or expelled from school. If the boys are referred to law enforcement, the 16-year-old will go to juvenile court, where his case will be reached within a matter of weeks, the sentence imposed will be geared toward rehabilitation, and the record of his offense will be sealed. His 17-year-old classmate, on the other hand, is too old for juvenile court. His case will be handled in the adult system, where it might take months for his case to be reached; the focus will be on punishment, not rehabilitation; and his offense will remain a matter of public record. Many parents and children do not realize the significance of turning 17.

Another reason stakeholders give for increasing the delinquency age by one year is to eliminate an anomaly that currently exists. Juvenile courts have jurisdiction over deprived children and status offenders until they turn 18. It is not uncommon for abused or neglected children to be involved in both deprivation and delinquency proceedings. Once these children turn 17, however, any criminal charges they face will be handled in superior court, even though the offense may be a reflection of the family problems that are being addressed in the pending deprivation case. Increasing the delinquency age by one year would address this anomaly.

Some stakeholders who were reluctant to extend delinquency jurisdiction to 17-year-olds cited the possibility of increased costs and the need for additional resources as the biggest obstacles. They were concerned that the change would: (1) increase case loads; (2) cause overcrowding in detention centers; and (3) require additional resources, including judges. These are valid concerns, especially in the current economic climate. To address their concerns, these stakeholders suggested that the legislature undertake a fiscal impact study to better assess the potential costs. Presumably, if the study showed that the change would not increase overall costs, but would simply shift costs from one set of courts and agencies to another, these stakeholders’ concerns would have been addressed, making it possible for them to support the age increase.

Other stakeholders who said they were not in favor of bringing 17-year-olds within the delinquency jurisdiction of the juvenile courts seemed to equate such a change with “coddling” criminals. Quite apart from the jurisdictional age issue, many stakeholders are worried about whether juvenile courts hand out stern enough sanctions, whether they hold youthful offenders sufficiently accountable, and whether society would be better served by having certain types of cases handled in superior court rather than juvenile court. The most thoughtful stakeholders recognized that these concerns transcend the age issue and should be dealt with directly, not indirectly through the age-change issue. Keeping the current age limit will not make these problems go away, but, by the same token, increasing the age limit by a year may not make them any worse.

B. 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 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 a youth development center have further limited sentencing options.

The juvenile court system is frequently criticized for being soft on children who commit delinquent acts. According to many stakeholders, that criticism is misplaced. The real culprit, they say, is the juvenile code, which does not provide juvenile court judges with enough meaningful sentencing options. Prosecutors, state legislators, juvenile court judges, defense attorneys, probation officers, and police officers agreed that a new code should provide juve-
nile court judges with more sentencing options and more flexibility. They stated that sentences under the current code are too lenient to deter children who are at risk of becoming “career criminals” and not rehabilitative enough to help children get back on track.  

The dispositions available to juvenile court judges in delinquency cases (other than designated felony or DUI cases) are set out in O.C.G.A. § 15-11-66. They include:

- Home placement, subject to conditions and limitations.
- Probation, subject to conditions and restrictions.
- Placement in a locally operated facility for delinquent children.
- Restitution.
- Community service.
- Suspension of or refusal to issue a driver’s license.
- Payment of a fine in cases involving certain motor vehicle or drug offenses.
- Commitment to DJJ custody.
- Under certain circumstances, short-term placement for up to 60 days in a secure youth development center (YDC).

Most children who are adjudicated delinquent are placed on probation. The value of probation depends on whether adequate supervision and rehabilitative programs are provided. Stakeholders noted that children are regularly put on probation without having access to resources (e.g., drug treatment, mental health services, etc.) that will enable them to comply with the terms of the probation. If a child does not carry out the terms of probation, there are few if any repercussions.

The state has established a graduated alternative sanctions program, which, in theory, calls for heightened supervision and oversight when a child fails to comply with the conditions of probation. Graduated sanctions may include, for example, increased reporting, electronic monitoring, day or evening reporting centers, home confinement, and other measures. Many stakeholders expressed the opinion that the graduated sanctions program is not working, in large part due to a lack of resources. Graduated sanctions may be fine in theory, they stated, but because electronic monitoring devices, reporting centers, and other monitoring programs are not generally available, nothing much happens when a child violates the conditions of probation. As a result, children are not being held accountable for violations of probation, nor are they being effectively rehabilitated.

Juvenile court judges in particular feel powerless. As a case in point, a judge notes that, if a child is violating probation by skipping school, all the judge can do is warn the child: “If you do that again, I'm going to see you back in court.” This diminishes judicial authority and makes the juvenile court system appear ineffectual. Stakeholders also complained that the juvenile code currently requires a new delinquency petition to be filed when a child violates the terms and conditions of probation. They feel this is an overly burdensome procedure that should be streamlined.

Finding appropriate sentences for first-time offenders is particularly challenging in juvenile court. A juvenile court judge complained that he does not have the ability to order community service, drug treatment, or personal responsibility classes, because no such state- or county-sponsored programs exist in his area. Another stakeholder complained that community service opportunities for delinquent children are scarce in Georgia because nonprofit organizations and agencies generally require individuals to be over the age of 17 to participate. Likewise, in many parts of the state, there are no locally operated residential facilities for delinquent children. Many stakeholders expressed the fear that, without adequate rehabilitative programs, first-time offenders will become repeat offenders.
One of the dispositions available to juvenile court judges is commitment to DJJ. Although this option may conjure up visions of children in secure or semi-secure detention facilities, the reality is often otherwise. Commitment to DJJ initiates a screening process through which DJJ determines the child’s placement. Judges do not know at the time of commitment to DJJ what the child’s actual placement will be, nor do the judges have a say in that decision. Possible placements range from probation to confinement in a YDC, with probation and release back into the community being by far the most common placement.124

Many juvenile court judges are reluctant to commit offenders to DJJ because they perceive DJJ as being too lenient.125 Although most orders of commitment to DJJ are for two years, DJJ may decide unilaterally to discharge a child early, before the term of commitment ordered by the court has expired.126 One juvenile court judge commented that he will commit a child to DJJ for two years, only to have DJJ release the child back into the community after six months. This judge stated that he only commits children to DJJ after all community resources have been exhausted, so he finds it hard to believe that these children are ready to re-enter the community after only six months. This judge and other stakeholders believe that many of DJJ’s early discharges are resource-driven.127 Beds are in such short supply at YDCs that children often are discharged early to free up beds for other juvenile offenders.128 On the other hand, there is a perception that children in rural counties are more likely to get locked up because DJJ will not put services in their communities.129

Another disposition that is available under the juvenile code is short-term placement (STP) in a YDC. The STP provision allows a juvenile court judge to order a specific child to spend up to 60 days in a YDC in certain limited circumstances. The STP option is available only if: (1) the offense is (a) a felony, (b) a misdemeanor of a high and aggravated nature involving bodily injury or harm or a substantial likelihood thereof, or (c) a violation of probation involving another adjudicated delinquent act; and (2) the judge makes a finding that the child has failed to respond to graduated alternative sanctions.130 If those conditions are met, a juvenile court judge may sentence the child to a maximum of 60 days in a YDC.

Even when STP is an available option under the code, a YDC bed may not be available when the child is sentenced. In that case, the child may be sent to a detention center or may be sent home on conditional release.131 Time spent in the detention center or on conditional release counts against the 60-day STP period. By the time a bed opens up at a YDC, the 60 days might be almost up, and the child will not receive the full benefits of the program. Several stakeholders suggested that time spent in detention or on conditional release pending availability of a bed should not count toward an STP sentence.132 Stakeholders also urged that the number of YDC beds be increased so this situation would not occur with such frequency.133

Juvenile court judges, prosecutors, and many other stakeholders are unhappy about the restrictions currently placed on STP and insist that they undermine the juvenile courts’ ability to rehabilitate youthful offenders.134 These stakeholders feel that short-term placements should be available in a broader range of cases and that judges should be able to impose up to 90 days of STP, as they could under a previous version of the law. Numerous stakeholders also called for a return of boot camps, a program they considered enormously beneficial for children, especially in rural Georgia where there are no drug programs or alternative living programs.135

The failure to impose meaningful consequences on children who commit delinquent acts erodes confidence in the juvenile justice system and has other undesirable consequences. Victims of juvenile crime do not feel that they are getting adequate protection.136 Law enforcement officials question whether investigating juvenile offenses is a waste of their time.137 Prosecutors look for ways to charge children as adults or construe delinquent acts as designated felonies so that heightened sentencing options will apply.138

C. 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 Department of Juvenile Justice.

The comment heard most frequently about the Designated Felony Act was that it does not allow juvenile court judges sufficient discretion or flexibility to tailor sentences to the individual needs of each child. Juvenile court judges expressed enormous frustration at having to require at least a one-year confinement in a youth development center (YDC) and a five-year commitment to DJJ when they felt less was needed.139 Stakeholders in other categories expressed the same sentiment.140 As one juvenile court prosecutor put it: “Cookie cutter sentencing guidelines are not effective. Judges need to be able to fashion penalties based on the child’s situation and the nature of his offense.”141
Stakeholders expressing a desire for greater flexibility in the sentencing provisions of the Designated Felony Act want juvenile court judges to be able to:

- Sentence a child who has committed a designated felony to 0 to 12 months of confinement in a YDC;
- Commit a child who has committed a designated felony to DJJ for less than 60 months; and
- Modify the original sentence while the child is still in DJJ custody.\(^{142}\)

Stakeholders noted that the Designated Felony Act requires the DJJ to send periodic progress reports to the juvenile court judge. Yet, the Georgia Court of Appeals has ruled that the committing judge has no power to reduce the child’s sentence even if the reports show progress.\(^{143}\) These stakeholders would like to see the new code override this case law.\(^{144}\)

Other comments that stakeholders made about the Designated Felony Act were to:

- Require DJJ to continue providing education, counseling and other rehabilitative services after the child is released from YDC confinement.\(^{145}\)
- Allow children to earn credit for good behavior, like adult prisoners, if they make positive progress toward rehabilitation.\(^{146}\)
- Establish more rational and consistent age limits for the various designated felonies. As the law stands now, a child who commits two auto thefts is a designated felon at any age, but a child who commits four burglaries is not a designated felon until reaching age 15.\(^{147}\)

A smaller number of stakeholders called for the Designated Felony Act to be expanded in the following ways:

- Add house burglary and any crime involving a firearm to the list of designated felonies, regardless of the child’s age and even if it is the child’s first offense.\(^{148}\)
- Change the language in the Designated Felony Act to refer to three previous felony offenses, instead of three previous felony adjudications.\(^{149}\) In smaller counties where juvenile court is only held once a month, a child who has committed several offenses in a single month may have all of them tried in a single adjudication.\(^{150}\)

D. Even stakeholders who take issue with many aspects of Senate Bill 440 acknowledge that at least some children may appropriately be tried as adults in superior court under some circumstances. The issue that most sharply divides stakeholders is whether SB 440 cases should automatically start out in superior court or whether a judicial gatekeeper should decide at the outset of the case whether it should be sent to juvenile court or superior court.

In 1994, the General Assembly responded to concerns about serious juvenile crime by enacting Senate Bill 440, a measure that remains controversial to this day. SB 440 requires children aged 13 through 16 to be tried and sentenced as adults in superior court if they are alleged to have committed any of the so-called “seven deadly sins.” The SB 440 offenses include murder, voluntary manslaughter, rape, aggravated sodomy, aggravated child molestation, aggravated sexual battery, and armed robbery if committed with a firearm.\(^{151}\) Children convicted of these offenses are committed to the Department of Corrections (DOC), not the Department of Juvenile Justice (DJJ), and face mandatory sentences of ten or twenty-five years in prison with no possibility of parole.\(^{152}\) These are much longer sentences than the juvenile courts are authorized to impose, and they are intended to punish, not rehabilitate, the child.

Stakeholders expressed differing views on whether children convicted under SB 440 should be subject to the same mandatory sentences that adults face for those crimes. Some felt that judges should have the discretion not to impose the mandatory sentences, while others felt the mandatory sentences should apply but parole or early release should be allowed.\(^{153}\) Still others stated that children convicted of SB 440 offenses should be committed to the custody of DJJ rather than DOC.
Disagreement over sentencing is but one manifestation of a much deeper and more fundamental difference of opinion. Surprisingly, the major point of disagreement is not whether any child should ever be tried as an adult. On that point, even stakeholders who are generally opposed to SB 440 acknowledge that at least some juvenile offenders may appropriately be tried as adults in superior court under some circumstances. Rather, the issue that most sharply divides stakeholders is whether SB 440 cases should automatically start out in superior court or whether there should be a judicial mechanism for deciding at the outset whether a particular SB 440 case should be sent to juvenile court or superior court. If this “judicial gatekeeper” issue can be resolved, chances are that the other SB 440 issues will fall into place.

Under current law, juvenile court judges do not have any say in where SB 440 cases are tried, and superior court judges have very little say. Prior to indictment, district attorneys have total control over this decision. One prosecutor stated that he would be reluctant to transfer an SB 440 case to juvenile court because of DJJ’s discretion to shorten a sentence. Whether that is an appropriate factor cannot be determined from the statute because SB 440 provides virtually no guidance on how DAs should make this decision or what factors they should consider. The statute states simply that DAs may decline to prosecute an SB 440 case in superior court “after investigation and for extraordinary cause.” Because only the district attorney is authorized to transfer a case prior to indictment, it is unclear whether the accused must wait until he is indicted before filing a motion for a transfer.

Prosecutors feel they are handling their responsibilities well, keeping the cases that belong in superior court and transferring the cases that should be handled in juvenile court. On the other hand, even though state law requires district attorneys to indict children under the age of 17 within six months of detention, stakeholders described instances in which children were held for as long as a year or more before trial. During these delays, the children receive inadequate services and only a rudimentary education. Often, after lengthy delays, the SB 440 charges are reduced (e.g., the “aggravated” portion is dropped), and the case is transferred to juvenile court, where it may be resolved quickly.

Once the child has been indicted, the superior court judge may transfer the case to juvenile court “after investigation and for extraordinary cause,” but only if the offense is “not punishable by loss of life, imprisonment for life without possibility of parole, or confinement for life in a penal institution.” Only one of the seven deadly sins – voluntary manslaughter – satisfies this condition. As for cases involving the six other deadly sins, the statute does not expressly authorize the superior court to transfer such a case to juvenile court. If the superior court grants a juvenile’s motion to transfer, the State may appeal. If the transfer motion is denied, the juvenile has no appeal.

Many stakeholders believe that the decision whether to try an SB 440 case in superior court or juvenile court should be a judicial decision, not a prosecutorial decision. They envision a hearing at which the parties have an opportunity to present evidence of the child’s mental capacity and potential for rehabilitation. Some stakeholders argue that this hearing should be held in juvenile court because juvenile court judges have more experience in matters involving children, are accustomed to conducting hearings on short notice, and have the time and resources to make a decision in a timely fashion. Moreover, if the child is being detained pending a decision on the appropriate court, the juvenile court can provide more suitable facilities and services than the superior court can. However, these stakeholders seem to be more concerned with providing some judicial gatekeeper, rather than with insisting that the decision be made by the juvenile court.

Stakeholders also discussed what to do with juveniles who are acquitted of the SB 440 offense but convicted of a lesser included offense. Under current law, a child in such circumstances may ask to have the case transferred to juvenile court for disposition. Transfer is not mandatory in this circumstance, and, if the transfer is denied, the sentence handed down by the superior court is likely to be more severe than what the child would have received if the lesser offense had been charged initially and tried in juvenile court.
A defense attorney described a case in which his 15-year-old client was charged with murder but was found guilty of theft by taking, which is not one of the “seven deadly sins.” The superior court refused to transfer the case to juvenile court for disposition and, instead, sentenced the 15-year-old to ten years of imprisonment without the possibility of parole or early release. Had the case been tried in juvenile court, the child probably would not have been placed in secure detention.\(^1\)\(^{69}\)

Stakeholders also expressed differing views on which offenses should be covered by SB 440 and how old a child should be to be subject to SB 440. Law enforcement officers favored expanding SB 440 to include additional offenses, such as drug sales, drug trafficking and burglary.\(^1\)\(^{70}\) Other stakeholders favored revisiting and perhaps removing some of the offenses considered “deadly sins.”\(^1\)\(^{71}\) Many stakeholders favored removing consensual teenage sex from the reach of SB 440. (See discussion in next section.)

Split opinions were expressed as to whether to keep, lower, or increase the age 13 minimum requirement for SB 440 offenses. A prosecutor and a public defender thought that age 13 was arbitrary and that a judge should have the discretion to charge a juvenile under SB 440 based on competency, not age. A judge struggled with the age requirement because he felt that some juveniles do not understand the consequences of their actions and should be given a second chance. Others favored keeping the age 13 requirement.\(^1\)\(^{72}\)

**E. 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.**

Under Georgia law, a child under the age of 16 cannot legally “consent” to sex.\(^1\)\(^{73}\) Engaging in sexual activity with a child under 16 can result in a charge of aggravated child molestation, which is one of the “deadly sins” for which a child age 13 or older may be tried and sentenced as an adult.\(^1\)\(^{74}\) Because of the way aggravated child molestation is defined elsewhere in Georgia law, teenagers who engage in oral sex could be charged with this offense\(^1\)\(^{75}\) and some could face the harshest consequences. If convicted in adult court, a teen could, under certain circumstances, face a 25-year minimum prison term and be required to register as a sex offender upon release.\(^1\)\(^{76}\) Even if the case was transferred to juvenile court for adjudication, it would be subject to the Designated Felony Act.\(^1\)\(^{77}\) Under the Designated Felony Act, this teen would face a sentence of one to five years in a youth detention facility.\(^1\)\(^{78}\)

The consensus among stakeholders was that teenagers who engage in voluntary sex with other teenagers should not be treated as serious criminals under SB 440 or the Designated Felony Act and should not have to register as sex offenders. One stakeholder recounted the story of a teenager in his hometown who had been a star athlete and above-average student at a private school, but whose “life was ruined” because he was tried as an adult and sent to prison for having voluntary sex with another teen.\(^1\)\(^{79}\) According to another stakeholder, these cases often begin when two teenagers have voluntary sex and a parent finds out. The parent becomes angry and demands that charges be filed against the older teenager.\(^1\)\(^{80}\)

The significance of turning 13 is apparent in the following example. Consider a situation in which a 13-year-old boy and a 12-year-old girl engage in voluntary oral sex.\(^1\)\(^{81}\) Both children have committed the offense of aggravated child molestation, but, under the current juvenile code, the case involving the 12-year-old girl will be handled in juvenile court, while the case involving the 13-year-old boy will be assigned automatically to the adult court. Moreover, if the 13-year-old “perpetrator” is convicted of aggravated child molestation in adult court, he will face a minimum prison sentence of 25 years because the “victim” is under age 13.\(^1\)\(^{82}\)

Another stakeholder, believing that school counselors are required to report sexual activity among minors to DFCS, questioned the wisdom of such a requirement because children would be reluctant to seek help from their counselors if they would be reported to DFCS.\(^1\)\(^{83}\) As it turns out, the law actually gives school counselors the discretion, within the framework of established guidelines, to assess the situation and exercise their judgment about reporting to DFCS.\(^1\)\(^{84}\)

Stakeholders expressed the opinion that cases involving voluntary sex between teenagers should originate in juvenile court. A mental health provider observed that too many sex cases are sent to superior court, without any distinction being made between sexual predators and sexual curiosity.\(^1\)\(^{85}\) One public defender noted that many of the sex cases that start out in superior court end up getting transferred back to juvenile court eventually.\(^1\)\(^{86}\) He thought it made better sense to start out in juvenile court and let the juvenile court judge decide where the case belonged. A prosecutor participating in the same interview stated that he would go along with this, even though he did not see it as a big problem in his particular jurisdiction.\(^1\)\(^{87}\)
F. There is widespread dissatisfaction with the DJJ’s Detention Assessment Instrument, especially among law enforcement officers. Their main criticism is that the DAI lets too many offenders stay on the street.

The Detention Assessment Instrument (DAI) is a point-based system used by the Department of Juvenile Justice in delinquency cases to determine whether a child is eligible for pre-hearing detention. When a juvenile is taken into custody (arrested), a juvenile intake officer prepares a DAI form, which assigns points based on the seriousness of the offense, the juvenile’s prior record and pending charges, and certain other factors. Stakeholders explained that a certain number of points on the DAI would permit detention in the juvenile detention center, while a lower score would require release to a parent or guardian.

Many stakeholders, including police officers, prosecutors, business owners, and crime victims, expressed extreme dissatisfaction with the DAI. Police officers in particular feel that the DAI point system is not working, at least not for repeat juvenile offenders who have figured out the system. Typically, a property crime and/or weapons possession is not considered serious enough to warrant detention, even for a short period of time. According to these stakeholders, many juvenile offenders know how the DAI points are allocated and they know how to “game” the system to avoid detention.

Law enforcement officials sometimes have to release children they consider to be genuinely dangerous because the children have not yet accumulated enough points on the DAI to be detained. One detective cited a recent example in which a juvenile allegedly stole a car at a convenience store. Because the child’s record did not reflect a sufficient number of points to detain him, the detective took the child back to his mother, even though she told him that she could not handle the child and begged the authorities to detain him. Another stakeholder recounted the story of a child who was removed from a home environment that was described as “awful.” While in foster care, the child robbed his foster mother, broke the windows in the home, and assaulted the other foster children. This child, however, never accumulated enough DAI points to be put in secure detention.

Many of the juveniles who are taken into custody and released are repeat offenders who commit additional delinquencies before they even have to appear in court for their initial charge. A police officer reported that he recently arrested the same juvenile on six straight nights for burglary. The youth was finally detained on the last arrest. Meanwhile, this police officer’s frustration was “in the stratosphere.” He and his fellow officers began asking themselves why they should even bother arresting these juveniles when they will just be released back to the parents.

Victims, too, are frustrated. A manager of apartment properties in Atlanta states that crime is rampant in his area but juvenile offenders are effectively immune from prosecution because the police will not pick them up until they are certain the juveniles will be detained. Another victim of juvenile crimes complained that it simply takes too long for a repeat juvenile offender to be removed from a neighborhood. Other stakeholders, too, complain that the existing juvenile code establishes a “catch and release” system that does not work for “hardened juvenile criminals” in urban settings like Atlanta. Police acknowledge that, even when juveniles are initially detained in the juvenile detention center, “99 percent” of them will have a hearing and then be released by the court to their parents, with no bail. Even though the DAI conceptually allows for judicial overrides, it has not worked out that way in practice. For law enforcement officials, seeking a judicial override would simply be an additional expenditure of time for an uncertain result.

Some stakeholders feel it is time for DJJ to reconsider whether the Detention Assessment Instrument should be required. One district attorney recommended reducing the DAI to advisory status only, so that subjective factors, such as the intake officer’s personal knowledge of the child and his history, could play a more central role in the decision to detain or release a child. Some juvenile court judges feel that the decision whether to detain a child should not be dictated by the DAI but should be within the court’s discretion based upon a judge’s experience, common sense and judgment.

At least some of the dissatisfaction with the DAI may stem from a lack of training on the instrument. Some law enforcement officers observed that DJJ has not effectively communicated to them how the DAI is supposed to work. While law enforcement officials are generally aware that DJJ has strict standards and a checklist with a point system, the point system has not been explained to them. From the perspective of these stakeholders, it appears that DJJ chooses not to detain juveniles, but they do not know why.
G. Schools may be inadvertently feeding the school-to-prison pipeline by referring student discipline problems to juvenile courts under the Georgia School Disruption Statute.

Stakeholders in many parts of the state are seeing what they consider to be a troubling increase in the number of students referred to juvenile court for disruptive school behavior that does not rise to the level of criminal conduct. These referrals are based on O.C.G.A. § 20-2-1181, which makes it a misdemeanor of a high and aggravated nature “to disrupt or interfere with the operation of any public school, public school bus, or public school bus stop.” This code section may have been intended originally to stop persons from the outside coming onto campus and causing a disruption, but it is being used now to remove disruptive students from the classroom and from the school building entirely. These children end up at the local regional youth detention center – a harsh version of “out-of-school suspension.”

Numerous stakeholders expressed concern that, too often, referrals for school behavior become a child’s pathway into the criminal justice system, a phenomenon referred to as the “school-to-prison pipeline.” Schools may not even realize the negative impact that a referral to the juvenile justice system may have on these children. Once these children have been adjudicated delinquent, they are often assigned to alternative schools, even though this may not be beneficial either from an academic or rehabilitative perspective. Indeed, this move may serve to reinforce the child’s cycle of bad behavior.

So far, the state’s appellate courts do not seem inclined to put a stop to what could become a virtual floodgate of school disruption cases. The Georgia Court of Appeals has upheld the use of the school disruption statute in a case involving a fight between two students just outside the entrance to the high school and in a case involving a 13-year-old student who caused a commotion in the classroom. Some stakeholders suggested that the School Disruption Statute should be modified to provide that a student may not be referred to juvenile court under the statute unless the student’s conduct rises to the level of a separate criminal offense.

Stakeholders also criticized public schools for their sometimes inflexible application of so-called “zero tolerance” weapons policies that may result in the expulsion of students for bringing items to school without any apparent intent to do harm. Other stakeholders questioned the wisdom of imposing long-term suspension or expulsion except in the most serious of cases because often those affected are the very children who most need to be in school. Removed from school, these children often end up committing more serious offenses that send them into the school-to-prison pipeline. Some stakeholders speculated that public schools are using expulsion as a way to rid themselves of students who would hurt their standing under the No Child Left Behind Act.

Section 3: Findings Regarding Deprivation, Foster Care and Termination of Parental Rights

Striving to meet the needs of thousands of deprived children is a daunting task, made all the more difficult by a perennial lack of adequate resources, both financial and otherwise. Stakeholders in every category expressed enormous frustration with what they viewed as serious shortcomings in the system. Much of their criticism was directed at DFCS. Nevertheless, stakeholders seemed to recognize that many of the problems they identified – frequent caseworker turnover, lack of training, heavy caseloads, long delays in completing investigations, superficial case reports, and other similar issues – were directly attributable to a lack of adequate funding.

That reality is not likely to change any time soon. While several stakeholders suggested that a funding formula be included in the juvenile code (similar to public school funding), that concept is beyond the scope of this report. Instead, the report focuses on other problems that could be remedied by a change in the code.

A. The requirements of the Adoption and Safe Families Act need to be better integrated into the Code.

Stakeholders uniformly recognize that the requirements of the Adoption and Safe Families Act (ASFA) need to be better integrated into the juvenile code. ASFA, a federal law, requires a juvenile court to make specific findings prior to the initial removal of a child from his home and to conduct periodic reviews while a child is in temporary foster care placement or is awaiting adoption or other permanent placement after parental rights have been terminated. To date, federal requirements relating to hearing schedules, foster care placement, permanency planning, and termination of parental rights have been incorporated into the code in a piecemeal fashion. The resulting length and complexity of O.C.G.A. §15-11-58 contribute to the difficulty in implementing it so as to satisfy the requirements of ASFA. Indeed, O.C.G.A. §15-11-58 garnered more stakeholder complaints than any other code section.
Besides complaining about the length of the code section, stakeholders also complained that it does not provide definitions for critical terms. For example, DFCS must make “reasonable efforts” to preserve and reunify families, prevent unnecessary removal of children from their homes, and facilitate the safe return of children to their homes following removal. The term “reasonable efforts” is not defined anywhere in the code. Nor is it clear whether a finding of “reasonable efforts” is a precondition to the child’s removal from the home, or merely a prerequisite for receipt of federal funding for the child’s foster care placement after removal has occurred.211

Similarly, DFCS must conduct a “reasonably diligent search” to locate a parent or relative of the child or another person who has demonstrated an ongoing commitment to the child, but that term too is not defined. “Permanency hearings” are required, but the code does not say what should take place at such a hearing. If a child has been in foster care for 15 of the previous 22 months, termination of parental rights must be pursued, unless DFCS determines that termination is “not in the best interest of the child.” The code, however, does not set out the factors that DFCS should consider in reaching such a determination. Moreover, although DFCS technically complies with the filing deadline, the hearing itself may be delayed for weeks or even months.212

Parents must be provided with a case plan, spelling out the steps they must take to resolve their problems before being reunified with their children. Some stakeholders feel the code needs to be more specific about what should be included in such a plan and how DFCS will monitor and assist parents.213 The current case plan form is 40 pages long, far too long for parents to understand and follow.214

Failure to comply with the ASFA requirements may have costly consequences for the state. When an order is not worded precisely as required or is not dated correctly, the state’s share of federal Title IV-E funding may be jeopardized.215

B. Juvenile court judges want a greater say in the placement of children who are in DFCS custody, but other stakeholder groups are divided on the issue.

Stakeholders disagree sharply over what role the juvenile court judge should play in placement decisions involving deprived children who are in the custody of the Department of Family & Children Services.216 A 2006 Georgia Supreme Court decision held that a juvenile court judge does not have the authority to mandate the placement of a child who is in DFCS custody.217 Under this decision, the judge’s role in deprivation cases is limited to reviewing and approving child placement recommendations made by DFCS, not determining the placement in the first instance.218 Although the judge could divest DFCS of custody and grant custody to a relative or non-relative, critical DFCS funding for services and child support would be terminated. Moreover, as one stakeholder communicated, removing custody from DFCS is often futile because the Department typically is the “custodian of last resort.”219

In many instances, stakeholders favored giving juvenile court judges greater discretion in placement decisions because they disagreed with what they considered to be DFCS’s inflexible child placement policies.220 As one special assistant attorney general insisted, a judge should have the discretion to direct placement of a child with an otherwise fit relative, even where internal DFCS policy would preclude such placement because of prior drug use or criminal history. The alternative, according to this attorney, is to leave the child languishing in foster care for an extended period of time while DFCS attempts to find another placement.221

Other stakeholders criticized inflexible adherence to an internal DFCS policy that requires the Department to place children with a fit relative, regardless of whether such placement is viable or even the most favorable option for the child. For example, a special assistant attorney general described a family in which the two youngest siblings had the same father and the oldest child had a different father. The three children were close in age and had a strong bond with each other and with their foster mother. DFCS placed the two youngest siblings with their paternal grandmother and left the oldest sibling with the foster parent.222

A juvenile court judge remembered a case in which DFCS split two siblings by placing each with a different parent, both of whom, in the judge’s opinion, were unfit as the result of extensive criminal problems. While the judge could have blocked the placement, he had no direct, formal power to select and mandate a different placement.223 A special assistant attorney general recalled cases in which a child clearly was denied the best possible placement because of a personal issue between the case worker and the potential placement.224 A foster parent criticized DFCS’s blind adherence to a “pointless” policy requiring her foster child to obtain parental consent before she could apply for a learner’s permit for driving. The birth mother’s refusal was purely vindictive, according to the foster parent, and caused the child unnecessary anguish.225
On the other hand, some stakeholders strongly objected to granting greater judicial discretion in this area.\textsuperscript{226} According to one special assistant attorney general, once custody is granted to DFCS, that agency should have full authority to make placement decisions because DFCS is solely responsible for the health and safety of the child.\textsuperscript{227} Another special assistant attorney general complained that judges “micromanage” DFCS and make it hard for DFCS to do its job.\textsuperscript{228} However, at least one DFCS worker agreed that the court should have more involvement and discretion in placement decisions.\textsuperscript{229}

A 2007 amendment to O.C.G.A.\textsection{15-11-55} gave juvenile court judges a somewhat greater role in placement decisions, at least when DFCS is proposing a change in placement, by authorizing the judge to reject a case plan or permanency plan, including the location of the child's placement.\textsuperscript{230} In essence, this gives the judge veto power over a particular placement.\textsuperscript{231} This subsection has not yet been tested in court. While many stakeholders applauded these changes,\textsuperscript{232} others expressed concern that the changes will further bog down an already overloaded docket of deprivation cases.\textsuperscript{233}

Placement decisions are not the only area in which juvenile court judges feel powerless to address the needs of a child. Several judges and other stakeholders expressed frustration at the inability of the juvenile courts to “make things happen.”\textsuperscript{234} Juvenile court judges felt they could be more effective if they had more authority over a deprived child's placement, education, and medical treatment and if they could hold the providers of children's services accountable for complying with juvenile court orders.\textsuperscript{235}

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

There is a general consensus among stakeholders that the code should more clearly define the role, responsibilities and authority of a court-appointed special advocate (CASA), a guardian ad litem (GAL), and a child's attorney. At present, the quality of representation is not consistent throughout the state or even within a given judicial district. With clearer standards, stakeholders hope the quality will improve. Responsibilities should be clearly articulated, along with consequences for failing to fulfill those responsibilities. Training requirements should be imposed for each category of representative.\textsuperscript{236} The role of the attorney should be distinguished from that of a GAL or a CASA. The term “best interests of the child” for which a CASA volunteer or GAL must advocate should be defined.\textsuperscript{236}

Many stakeholders believe that a CASA, GAL or some other child advocate should be mandated in every deprivation case; however, in some parts of the state, there are not enough CASAs or GALs to assist all of the children in need of their assistance. Where CASAs or GALs are available, procedures should be streamlined to ensure that they are appointed at the very beginning of the case.

D. 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.

Many stakeholders criticized the lack of continuity of care that the Department of Family & Children Services provides for children in its custody. Cases are assigned to different caseworkers at each stage of the case, meaning that every child will have a series of caseworkers even if there is no turnover within the particular DFCS office. The process works like this:

- The first caseworker investigates the allegations of deprivation.
- A second caseworker handles intake if the child is removed from the home.
- A third caseworker handles placement of the child with a foster parent or family member.\textsuperscript{238}

Stakeholders believed that a single caseworker should have the knowledge and skills necessary to handle the case through each of these steps. To ensure continuity, they propose including statutory protection for caseworker continuity.

E. 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.

Until a finding of deprivation has been entered by the juvenile court, funding for programs and services for troubled families is typically insufficient or nonexistent.\textsuperscript{239} A finding of deprivation must be based on clear and convincing evidence.\textsuperscript{240} If DFCS does not have enough evidence to prove deprivation, the children will remain in the home and the family may not receive some of the services they need.\textsuperscript{241}
Sometimes, however, DFCS will seek an adjudication of deprivation simply to obtain funding for services for the family. If neither the parents nor the children object, the court may enter a finding of deprivation, even though the evidence does not satisfy the “clear and convincing” standard. With the finding in place, the judge may enter a temporary protective order requiring the parents to meet certain conditions and making services available to the family. In those instances, a deprivation proceeding is simply the vehicle that enables the family to obtain programs and services that otherwise would not be available.

A more direct approach advocated by stakeholders would be for the juvenile code to provide specific authorization for DFCS to seek a temporary protective order either by consent of the parties or by establishing certain elements of deprivation by a preponderance of the evidence. This would eliminate the need for subterfuge and would provide clear-cut authority to proceed.

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

The Interstate Compact on the Placement of Children (ICPC), among other things, provides a protocol for evaluating a possible out-of-state placement for a deprived child. Stakeholders who work with the ICPC uniformly agree that it needs to be reformed. The predominant complaint among stakeholders is that a home study on a potential out-of-state placement typically takes far too long to be completed because of the alleged “bureaucratic nightmare” created by the statute. A home study that previously could be accomplished with a few phone calls now must go through a series of time-consuming steps in both states, resulting in delays ranging from a minimum of six or eight months up to as much as two years, according to stakeholders. Meanwhile, the child lingers in foster care while the out-of-state relatives, who want to provide a home for the child, await evaluation.

The time it takes to complete an out-of-state evaluation is especially troubling when a previously unknown out-of-state relative steps forward late in the case. Arrangements that DFCS may have been in the process of completing must be put on hold while the newly discovered relatives are evaluated. Unfortunately, this fact pattern is not unusual.

ICPC procedures may cause delays even at the outset of a case. A stakeholder described a case in which a child's parents were arrested for drug trafficking while driving through the state. The child was removed from their care. Out-of-state paternal grandparents appeared at the 72-hour probable cause hearing and requested custody of the child. The court denied the request because a home study had not been performed and was likely to take six months or more to complete under the ICPC.

As a possible solution, some stakeholders suggest that DFCS be authorized to assign its own case workers to conduct home evaluations in foreign states, without having to filter the request through the foreign state's ICPC agency.

G. Informal placements, made while DFCS attempts to help families correct problems, are taking place without court oversight or involvement.

Stakeholders expressed concern that, instead of seeking court approval for the removal of children, DFCS too often encourages parents to place their children with relatives or friends on an informal basis while the parents attempt to correct problems identified by DFCS during a preliminary investigation of possible abuse or neglect. For example, an informal placement might be used while the parents complete a substance abuse program or take other steps to address their problems. The code does not address this situation, and many stakeholders felt that the absence of statutory guidelines may put children – and DFCS – at risk. One judge recalled several examples of “disastrous” informal placements, including a child who was placed with an aunt who was married to a child molester.

Stakeholders acknowledge that DFCS should have flexibility to assist families informally. However, when children are removed from the home with DFCS's encouragement or tacit approval, there is a need to clarify and define the agency's role and responsibilities. For example, is DFCS required to conduct a home evaluation and criminal record check on the relative or friend who will be looking after the children? How extensive should the study be? How long may the informal placement continue before the juvenile court must be informed? Some stakeholders even expressed concern that, without appropriate legislative guidance, DFCS personnel might be tempted to forego formal court proceedings in favor of informal placement as a means of compensating for high turnover and staff shortages.
An additional concern expressed by stakeholders was that the protections made available to children in a formal court proceeding are not available when informal placements are made outside the juvenile court system. No guardian ad litem is appointed, no evidence is presented, and no one is held accountable for protecting the child’s best interest. For these reasons, stakeholders believe the code should address this area.

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

Children who are involved in both delinquency and deprivation cases often become “hot potatoes,” with each side of the juvenile justice system insisting that the child should be handled by the other side.249 “Each department would prefer to save its money and have another department expend funds on the child.”250 Greater coordination between the deprivation and delinquency sides of the juvenile court system is needed. If a CASA or GAL is appointed, the appointment should extend to both cases.251

Procedures should be enacted to ensure that children who are accused of crimes are screened to determine if they are victims of abuse or other deprivation, and are in need of assistance and services to correct this situation.252 One probation officer suggested that DJJ and DFCS should hold joint trainings so they each become familiar with the other’s policies, procedures, and limitations.253

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

Stakeholders in a few judicial districts suggested that the juvenile courts should be given concurrent jurisdiction with superior courts in adoption cases that arise from the termination of parental rights cases handled in the juvenile court.254 According to one stakeholder, the code requires the juvenile court to follow a termination of parental rights case until the child is adopted, but the superior court does not typically keep the juvenile court updated on the progress of the adoption case.255

It makes sense for the juvenile court to have concurrent jurisdiction in these cases, these stakeholders reasoned, because the juvenile court is already familiar with the parties and the situation. The case could move smoothly into the adoption phase without any disruption. Moreover, handling the adoption in the juvenile court might allow for a more streamlined procedure and an easier financial burden for the adoptive parents.256 The adoption cases would not overwhelm the juvenile courts because they terminate parental rights in deprivation cases relatively infrequently.

However, one juvenile court judge cautioned that budgetary constraints might make it difficult for juvenile courts to handle the additional caseload, particularly if the adoption decision is appealed.257

J. Stakeholders had many other suggestions for changes to the deprivation section of the code.

Stakeholders had many other suggestions for changes to the deprivation section of the juvenile code:

- Define the burden of proof that DFCS must satisfy every two years when it seeks to extend temporary custody in a deprivation case, taking into account that the child has not been living with his parents and, thus, is no longer deprived.258

- Require the juvenile court judge to direct DFCS to conduct a complete home evaluation, including criminal background checks, on all adults residing in the home, before granting temporary custody to a relative or non-relative.

- Allow the juvenile court judge to order DFCS to continue to provide services to the child’s parents when custody is granted to a relative or non-relative.

- Enable private foster parents to obtain support subsidies without first requiring the child to be placed in foster care under DFCS custody for a period of time.259
Section 4: Findings Regarding Status Offenses

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

The juvenile code uses the terms “status offender” and “unruly child” to refer to a child whose alleged conduct is only an offense because of the actor’s status as a child. The covered offenses include truancy, running away from home, incorrigibility, and unruly conduct. The juvenile court’s jurisdiction over status offenses extends until the child turns 18, except in the case of truancy, which ends at age 16, when school attendance is no longer mandatory.

Judges, probation officers, court personnel, educators and social workers who were interviewed for this report feel a great deal of frustration in dealing with status offenders. Several probation officers and other stakeholders expressed the sentiment that these children and their families might be better served outside of the juvenile court system, provided they could still qualify for social services. Status offenses sweep too many children into the juvenile justice system unnecessarily, they said. These stakeholders favor a revision to the code that would make it easier for unruly children and their families to obtain needed services outside of the juvenile court system.

That view was not unanimous, however. Several judges felt that the juvenile courts should continue to handle these cases because DFCS is overwhelmed and cannot deal with them. Perhaps some of these cases would be better handled under the deprivation prong of the court, suggested at least one juvenile court judge.

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

Once unruly children enter the juvenile court system, what should be done with them? Stakeholders are unified in their frustration but divided in their views. Stakeholders fall into two main camps: those who favor detention of status offenders and those who do not. Those favoring detention would lock up a truant or an unruly child who repeatedly ignored a court order that required him to attend school or take other steps toward good behavior. Unless children perceive detention as a realistic threat, truancy enforcement will have no “teeth,” say school social workers. Placing truants in detention has the added benefit of making sure they are attending school. On the other hand, several stakeholders believe that too many juveniles are being detained generally. Less restrictive approaches, such as electronic monitoring, should be used.

A district attorney raised a problem with the “runaway” statute, pointing out that the statute does not afford standing for district attorneys to intervene in runaway situations. As a result, runaways are often simply returned to a parent or legal guardian, even in situations where the child’s flight was prompted by abuse.

C. 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.

Business leaders interviewed for this report stressed the importance of keeping children in school longer so that they will gain a sufficient education to become productive, contributing members of society. One prominent business leader expressed concern that, as the baby boomers leave the workforce, younger workers will not be equipped to fill the vacancies. He predicted that, in some major businesses, as many as 60 to 70 percent of workers may have to be replaced over the next twelve years. From a business perspective, the concern is that prospective workers who do not at least complete high school will not be properly prepared to fill the jobs that Georgia businesses will need to fill.

Other stakeholders, particularly school officials, want the mandatory school attendance age to be raised to 17 or even 18. In addition, they want to see the code amended to provide juvenile court judges with greater authority to impose tangible sanctions on parents who violate the school attendance laws. Currently, truancy cases that do not involve any physical deprivation or delinquency are rarely prosecuted against the parents. In addition, where feasible, truancy intervention programs should be implemented across the state.
Part V: 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.”
Recommendation No. 1: Enact a new juvenile code during the 2009-10 session of the General Assembly.

The current juvenile code has outlived its usefulness. Georgians want a new juvenile code that is clear, straightforward and sound. As we listened to stakeholders across the state describe the strengths and weaknesses of the current code, we could not help but notice that the very individuals who are most familiar with the code do not always agree on what the code says. If even juvenile court judges, prosecutors, and defense attorneys read some parts of the code quite differently, how are families, teachers, probation officers, therapists, news reporters, and ordinary citizens ever going to make sense of the code so that they can abide by it?

Dividing the juvenile code into separate sections for delinquency, deprivation, and status offenses would be the first step toward achieving greater clarity in the juvenile code. This would make the juvenile code much easier to understand and follow. Several additional measures would improve the code even further. The stakeholders themselves offer the following suggestions:

**Suggestions to Clarify the Code**

- Divide delinquency, deprivation, and status offenses into separate parts of the code.
- In the table of contents and a new index, use meaningfully descriptive section headings.
  
  Do not include too many topics in any one code section.
- Simplify the language and use terms in the code that are actually used in the field.
- Define terms of art and use defined terms consistently.
- Incorporate or override existing case law. Simply ignoring case law will only lead to more confusion.
- Make the new juvenile code (Title 15, Chapter 11) as comprehensive and all-inclusive as possible.
  
  - Where feasible, include in Title 15, Chapter 11 all provisions that have a direct bearing on the juvenile court system (e.g., compulsory school attendance ages).
  
  - Where that is not feasible, include descriptive cross-references that pair a verbal description with the numerical section citation.
- Remove references to state agencies that no longer exist.
- Remove or modify references to programs that are not available throughout the state.

We also heard many stakeholders call for changes to the current juvenile code beyond simple clarification. Their ideas are listed throughout this report as Findings. Commentaries on those Findings make up the bulk of this report. We hope that public policy decision makers and opinion leaders will review the Findings and agree to needed substantive change to the current code.
**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.

Not surprisingly, different stakeholders bring different perspectives and philosophies to the task of rewriting the juvenile code. Those who advocate for safer communities and sterner punishments may at times be at odds with those who advocate for rehabilitation and treatment. This divergence of opinion can contribute to a positive tension that requires all parties to take time to reflect on proposed changes as opposed to taking positions absent healthy debate. In fact, just as a diversified economy is stronger than one based on a single product or a single crop, so too is a legislative process stronger when it operates on the premise that multiple perspectives ultimately produce better legislation.

The challenge, of course, is to strike a balance that keeps public safety paramount and also provides for the welfare of Georgia’s children. Senate Resolution 161 provides guidance on how this can be accomplished, which leads directly to Recommendation No. 3.

**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.”

When an issue is likely to evoke strong feelings, as a new juvenile code will certainly do, it is imperative that legislators strive not to be swayed by emotions – their own or those of their constituents. Rather, legislators should commit to follow a rational, principle-based approach that all participants can find acceptable. Senate Resolution 161 provides just such an approach. During the legislative process, when disagreements arise over how the new juvenile code should address a particular issue, legislators should turn to Senate Resolution 161 for a reminder that they should:

- Work harmoniously.
- Enact a comprehensive juvenile code.
- Enact a juvenile code that is based on research, not emotion.
- Enact a juvenile code that is based on best practices, not politics.
- Enact a juvenile code that will simplify juvenile court practice and procedures.
Part VI: Conclusion

For more than 18 months, we have sought the common wisdom of Georgians across our state – many of whom are the very ones who use the current juvenile code every day to make critical decisions about children, families and community safety -- to learn what needs to be done to create the kind of juvenile justice and child welfare laws that will move Georgia from the past and into the present and the future. As we have heard clearly, and as is described throughout this report emphatically, Georgia needs and deserves a new juvenile code.

By committing to enact a new juvenile code during the 2009-10 session of the General Assembly, the state’s legislators would demonstrate that they have heard the nearly unanimous voices of the hundreds of stakeholders who gave an interview or attended a town hall meeting as part of the JUSTGeorgia stakeholder interview project.

A complete overhaul of a significant body of law that affects state and local officials in all three branches of government will demand the kind of political acumen, courage and leadership that Georgia’s top public policy makers can provide. Indeed, Senate Resolution 161, adopted in 2005, provides legislators and constituents alike with both the purpose and the means to accomplish the task. Resolution 161 tells us, first, that our purpose is to serve the “safety and welfare of the public and Georgia’s children,” and, second, that “a comprehensive, research based, best practices legal model that would simplify and govern juvenile practice and procedures” would best serve our purpose.274

Even people of good will can get bogged down in the details. That is bound to happen in this endeavor, too. When it does, we need only look to the words of Senate Resolution 161 to find the way back to the legislative path that leads to success. We need only access our common wisdom as Georgians to find new ways around old obstacles and thereby reach our shared goal of a more just juvenile code for Georgia.
Endnotes

1 See Senate Resolution 161, Act No. 165, 2005 Ga. Laws 856 (recognizing that the "safety and welfare of the public and Georgia's children would be best served by a comprehensive, research-based, best practices legal model that would simplify and govern juvenile practice and procedures."

2 Readers should understand that the Judicial District Reports and the Statewide Summary Report do not purport to be scientific studies. The information they contain is qualitative, not quantitative.

3 Model codes are an important resource in the development of legislation, but they do not necessarily meet the specific needs of a given state. Model codes focus on research and best practices, rather than the political, financial, and other practical realities that often shape legislation. This does not in any way diminish the significance of what the YLD has accomplished.


9 See In re Gault, 387 U.S. 1 (1967) (juvenile offenders entitled to same due process rights as adult offenders); Kent v. U.S., 383 U.S. 541 (1966) (due process rights applicable to transfer to adult court).


16 The 1972 amendment gave the superior courts “exclusive jurisdiction over trials in felony cases, except in the case of juvenile offenders as provided by law.” See Ga. Const. Art. VI, Sec. IV, Para. 1 (emphasis added.)


19 O.C.G.A. §15-11-63(a)(2). See Appendix C for a complete list of the offenses that are classified as designated felonies.

20 O.C.G.A. §15-11-63(e)(1)(A) & (B).


30 Id.

31 O.C.G.A. §17-10-6.1

32 O.C.G.A. §§15-11-28(b); 15-11-54.

33 O.C.G.A. §15-11-55.


35 Adoption and Safe Families Act of 1997, PL. 105-89.


38 In re Gault, 387 U.S. 1 (1967).


41 O.C.G.A. § 20-2-690.1.

42 O.C.G.A. § 20-2-1181.

43 Adoption and Safe Families Act, PL. 105-89.


48 Media Stakeholders, Statewide Interviews.


50 Juv. Ct. Judge, JD 1.


52 Def. Atty, JD 6; SAAG, JD 8; Legis., JD 8.


54 Former Foster Child, JD 8.

55 Former Foster Child, JD 10.


57 O.C.G.A. §§15-11-49(c)(3); 15-11-39(a).

58 CASA, JD 2; Def. Atty. & SAAG, JD 3; Juv. Ct. Admin., JD 4; DFCS Staff, JD 9; see also JD 10 Report.


60 Prob. Off., JD 2; THM, JD 5; Juv. Ct. Judge, JD 7; see also JD 8, 9 & 10 Reports.


62 JD 9 Report.

63 THM, JD 4; see also JD 6 & 9 Reports.

64 E.g., SAAG, JD 7; CASA, JD 7; Def. Atty., JD 8.
Various stakeholders insisted that the public should be excluded from proceedings in some designated felony cases. E.g., Def. Atty., SAAG & Juv. Ct. Clk., JD 3. It is difficult to see how this would comport with Florida Pub. Co. v. Morgan, 253 Ga. 467, 322 S.E.2d 233 (1984).

Media Stakeholders, Statewide Interviews.

E.g., THM, JD 2; SAAG, JD 3; GAL, JD 4; Juv. Ct. Judges, JD 4, 5, & 7; Juv. Atty., JD 4 & 8.


Def. Atty., JD 3; SAAG, JD 3; Juv. Ct. Clk., JD 3.


Vic., JD 5.

Vic., JD 5.

Parent, JD 6.

Pol. Off., JD 5.

Pol. Off., JD 5.

Foster Child, JD 5.


THM, JD 7.

Immigr. Atty., Statewide Interview.


8 U.S.C. § 1101(a)(27)(J); see also 8 C.F.R. § 204.11.

Immigr. Atty., Statewide Interview.

8 C.F.R. § 204.11(c).

Immigr. Atty., Statewide Interview.

CASA, JD 6.


Prob. Officer, JD 3.

CASA, JD 2.

Ment. Health Worker, JD 5.

Legis., JD 4.


The cut-off age for truancy is 16, which is the age at which compulsory school attendance now ends. See O.C.G.A. § 20-2-690.1.


Def. Atty., JD 6.

Two stakeholders expressed concern about the code provision that allows juvenile courts to exercise delinquency jurisdiction up to age 21 if the individual was charged with a delinquent offense while he or she was under the age of 17 and currently is under the supervision of the court. Their specific concern was that offenders age 18 and above are too old for a YDC placement but are not eligible for placement in an adult facility because they are under DJJ or juvenile court supervision. Pros., JD 1; Juv. Ct. Staff, JD 6.

Def. Atty., JD 6.

One SAAG stated that DFCS generally will not provide bail for a 17-year-old child in its custody under these circumstances, so the child is likely to remain incarcerated until trial. SAAG, JD 6.

See, e.g., Juv. Ct. Judge, JD 7; Legis., JD 6; Prob. Off., JD 6.

E.g., Legis., JD 6.


E.g., Def. Atty., JD 2.


See O.C.G.A. § 15-11-2(6)(B) (defining “delinquent act” to include act of disobeying terms of supervision in order of probation).

E.g., Juv. Ct. Judge, JD 4. Stakeholders hoped that the new code would clarify whether a probation violation is a felony or misdemeanor. This would affect, for example, whether short-term placement is available.


E.g., Juv. Ct. Judge, JD 2; Pros. Atty., JD 2; Def. Atty., JD 6; Sch. Res. Off., JD 10.


O.C.G.A. § 15-11-70(a); see, e.g., SAAG, JD 6.

E.g., Juv. Ct. Judge, JD 6; Pros. Atty., JD 6; Law Enf., JD 6.

Law Enf., JD 6.


Juv. Ct. Judge, JD 1; Legis., JD 4.

E.g., Juv. Ct. Judge, JD 1 & 2; SAAG, JD 1.


E.g., Juv. Ct. Judges, JD 1, 2, 4 & 7; Pros. Atty., JD 3; SAAG, JD 1; Pol. Off., JD 3 & 7; Juv. Ct. Admin., JD 10; Prob. Off., JD 3 & 10; Legis., JD 3 & 4; Def. Atty., JD 3.


Pros. Atty., JD 3.

Law Enf., JD 10.

Def. Atty., JD 3; Pros. Atty., JD 4.


E.g., Pros. Atty., JD 4 & 10; Legis., JD 6; Def. Atty., JD 5.

Pros. Atty., JD 3.


E.g., Juv. Ct. Judge, JD 8.

E.g., Juv. Ct. Judge, JD 2.

E.g., Juv. Ct. Admin., JD 5.
When a juvenile is taken into custody, the law enforcement officer may not have enough information to realize that the case involves an SB 440 offense. The officer will take the youngster to juvenile court in the usual fashion, and processing of the case will begin. By the time more facts come to light, a case may have been initiated in juvenile court. Before handing the juvenile over to “adult” law enforcement and the jurisdiction of the superior court, some juvenile courts will conduct a hearing. The precise nature of the hearing is unclear, as SB 440 does not provide for a hearing in these circumstances. Nor is conduct a hearing. The precise nature of the hearing is unclear, as the situation addressed or contemplated by the transfer statutes. See, e.g., O.C.G.A. § 15-11-28(b); 15-11-30.2; 15-11-30.3.

According to O.C.G.A. § 19-7-5, school counselors are not required to report sexual activity between minors to DFCS. The statute explains that “[s]exual abuse’ shall not include consensual sex acts involving persons of the opposite sex when the sex acts are between minors or between a minor and an adult who is not more than five years older than the minor. This provision shall not be deemed or construed to repeal any law concerning the age or capacity to consent.”


SAAG, JD 9.


JD 6 Report.

See, e.g., O.C.G.A. § 39-4-1 et seq. The ICPC addresses other issues as well, including which state will be financially responsible for the child in the event the placement does not work out. While the provisions found at O.C.G.A. §15-11-87 et seq. have not been repealed, the ICPC has rendered those provisions obsolete.

Def. Atty., JD 9; see also JD 6 Report.

DFCS Case Worker, JD 6.

SAAG, JD 2.

Id.


DFCS Case Worker, JD 3.

Id.


Pros. Atty., JD 3.

Prob. Off., JD 3.

Juv. Ct. Judge, JD 6; Def. Atty. & Juv. Ct. Judge, JD 9; see also JD 8 Report.

See JD 8 Report.

See JD 9 Report.

See JD 6 Report.


See JD 6 Report.


See O.C.G.A. §20-2-690.


See, e.g., JD 6 Report.


Juv. Ct. Judge, JD 1; Prob. Off., JD 2.

Sch. Soc. Worker, JD 1.


Dist. Atty., JD 5.

Bus. Leader, Sum. Rept.

Bus. Leader, Sum. Rept.

Sch. Prin., JD 8; see also JD 5 & JD 10 Reports.

Sch. Officials, JD 8.

Stakeholders specifically singled out the Truancy Intervention Project in Judicial District 5 (Fulton County) and the Truancy Panel in Judicial District 8 as examples of what all juvenile courts should strive to provide.

See Senate Resolution 161, Act No. 165, 2005 Ga. Laws 856 (recognizing that the “safety and welfare of the public and Georgia’s children would be best served by a comprehensive, research based, best practices legal model that would simplify and govern juvenile practice and procedures.”)
Appendix A

Law Firm Volunteers

Judicial District 1 Report
King & Spalding
Lead Partner: Meghan Magruder
Lead Writer: Emily Sweitzer
Attorney Team Members:
Brooke A. Baires-Irvin
Tracy C. Braintwain
Stephen Devereaux
Kiera Courtney Dillon
Cheri A. Grosvenor
John Harbin
Bill Hoffmann
Kendall H. Lioon
Kameelah Iman Luqman
Meghan Magruder
James J. Mayberry
Amber A. Murray
Catherine O’Neil
Linda Parish
Robert L. Rearden
Mason Stephenson
Lea Thompson
Pat Costello
Ambreen Delawalla
Hetal Doshi
Stephanie Driggers
Doug Hinson
Trinh Huynh
Bill Jordan
Colin Kelly
Jennifer Meyerowitz
Wendy Reiss
Timothy Wang
Leslie Wood
Holland & Knight
Robert L. Rhodes, Jr.
Valdosta State University
Laverne Lewis Gaskins, M.Ed
Non-Attorney Team Members:
April Mathis
Cheryl Naja
Judicial District 2 Report
Alston & Bird
Lead Partner: Mary Benton
Lead Writer: Colin Kelly
Attorney Team Members:
Van Anderson
Vonetta Benjamin
May Benton
Lisa Bojko
Stephen Bracy
Pat Costello
Ambreen Delawalla
Hetal Doshi
Stephanie Driggers
Doug Hinson
Trinh Huynh
Bill Jordan
Colin Kelly
Jennifer Meyerowitz
Wendy Reiss
Timothy Wang
Leslie Wood
Holland & Knight
Robert L. Rhodes, Jr.
Valdosta State University
Laverne Lewis Gaskins, M.Ed
Non-Attorney Team Members:
April Mathis
Cheryl Naja
Judicial District 3 Report
Nelson Mullins
Lead Partner and Lead Writer: Taylor Daly
Attorney Team Members:
Lee Ann Anand
Jeffrey Baxter
Keri Chayavadhanangkur
Keri Conley
Taylor Tapley Daly
LaKeitha Daniels
Chris EnloeClinton
Fletcher Brian Galison
Matthew Gomes
Nekia Hackworth
Tiffani Hiudt
Michael Hollingsworth
Kay Hopkins
Michelle Johnson
Stan Jones
Elisa Kodish
Brandee Kowalzyk
Matthew Lerner
Jennifer Malinovsky
Wade Malone
Jeff Mapen
Brooks Morel
Melinda Moseley
Robert Pannell
Rebecca Phalen
Holly Pierson
Daniel Shea
Amanda Shelton
Byron Starcher
Davené Swinson
Anita Wallace Thomas
James Valbrun
Charles Vaughn
Tom Wamsley
Sarah Whalin
Stephen White
Non-Attorney Team Members:
Jennifer Coleman
Maureen Collett
Judy Merlé Corbin
Megan Durkee
Edgar Neely
Mimi Powell
Helen Sloat
Pamela Smart
Shirley Smith
Mary Turner
Shannon Wallace
Margaret Welch
Motoraya Westbrook
Eric Zaytzeff
DLA Piper
Lead Attorney and Contributing Writer: Tony Lehman
Attorney Team Members:
Christopher Campbell
Brian Fielden
Brian Gordon
Rich Greenstein
Matthew James
Anthony Lehman
Tracy Plott
Sarah Roadcap
Michael Rubinger
Amy Sullivan
Shunta Vincent
Aubrey Waddell
Anuradha Yadav
Non-Attorney Team Members:
Carol Casey
Cynthia Dunaphant Sabo
Antonia Roberts
Rebecca Saferstein
Judicial District 4 Report
McKenna Long & Aldridge
Lead Partner: Debbby Ebel
Lead Writer: Elizabeth Hall
Attorney Team Members:
B. Summer Chandler
Deborah S. Ebel
Douglas M. Flaum
McLendon W. Garrett
David A. Geiger
S. Elizabeth Hall
Amada K. Leech
J. Michael Levengood
Eliza Lewis
James H. Ludlam
Rosalind Rubens Newell
Terri S. Sutton
James A. Washburn
Carol Geiger
David Gordon
Judicial District 5 Report
Troutman Sanders
Lead Partners: Art Domby and Mark VanderBroek
Lead Writers: Lynette Eaddy Smith and Anna Curry
Southern Company Legal Department
Lead Attorney: Melissa Caen
Attorney Team Members:
Lynette Eaddy Smith
Anna Curry
James T. Martin (research)
Adam Bassing
Melissa Caen (Southern Co)
Anna Curry
Art Domby
Judith Fuller
John Lamberski
Melissa Lu
James T. Martin
Jeffrey Nix
Tera Pullen
Steve Ruth (Southern Co)
Ryan Schneider
Heather Shirley
Mark Vanderbroek
M. Drew Wooldridge
Appendix B

List of Acronyms Used in Report

**ASFA** – Adoption and Safe Families Act; federal law that seeks to promote the adoption of children in foster care after reasonable efforts to reunify family have failed; provides federal funds for state’s foster care program, subject to certain conditions.

**CASA** – Court Appointed Special Advocate; specially trained volunteer who advocates for best interest of child in deprivation and custody cases.

**DAI** – Detention Assessment Instrument, developed by Department of Juvenile Justice to guide detention decisions and ensure uniform, unbiased decisions.

**DFCS** – Department of Family & Children Services, agency charged with overseeing child welfare programs.

**DJJ** – Georgia Department of Juvenile Justice, agency responsible for intake, probation and other juvenile court functions in most counties and for operation of youth detention centers and youth development centers throughout Georgia.

**GAL** – Guardian Ad Litem; attorney appointed to represent the best interests of a child in a juvenile court proceeding.

**ICPC** – Interstate Compact on the Placement of Children; state statute applicable when out-of-state placement is being considered for a child.

**O.C.G.A.** – Official Code of Georgia Annotated; contains laws enacted by the General Assembly.

**PMC** – Proposed Model Code, researched and written by the Young Lawyers Division of the State Bar of Georgia; serves as starting point for development of JUSTGeorgia’s legislative package.

**SIJS** – Special Immigrant Juvenile Status, a provision of the Immigration and Naturalization Act that allows “unaccompanied minors” who enter the United States without proper documents and without a parent or other legal guardian to obtain permanent legal residence status under certain circumstances.

**STP** – short-term placement; placement in a youth development center for a period of up to 60 days.

**YDC** – Youth Development Centers, secure detention facilities operated by Department of Juvenile Justice.

**YLD** – Young Lawyers Division of the State Bar of Georgia; authors of the Proposed Model Code (see above).
Appendix C

Designated Felonies and Seven Deadly Sins

**Designated Felony Act, O.C.G.A. § 15-11-63**

1. Kidnapping (13 or older)
2. Arson in the first degree (13 or older)
3. Aggravated assault (13 or older)
4. Arson in the second degree (13 or older)
5. Aggravated battery (13 or older)
6. Battery on teacher or school personnel (13 or older)
7. Robbery (13 or older)
8. Armed robbery not involving a firearm (13 or older)
9. Attempted murder (13 or older)
10. Attempted kidnapping (13 or older)
11. Hijacking a motor vehicle (13 or older)
12. Carrying or possession of a weapon (school zone, school property, or school event)
13. Explosives violation (13 or older)
14. Fourth felony adjudication
15. Street gang activity
16. Trafficking in cocaine, illegal drugs, marijuana, or methamphetamine
17. Racketeering (criminal enterprise)
18. Escape from lawful custody (if previously adjudicated as a designated felon)
19. 2nd or subsequent adjudication for hoax devices (bomb)
20. Any of the seven deadly sins, if superior court transfers case to juvenile court: murder, voluntary manslaughter, rape, aggravated sodomy, aggravated child molestation, aggravated sexual battery, or armed robbery with a firearm.
21. 2nd or subsequent theft of motor vehicle
22. 2nd or subsequent offense of possession of a pistol or revolver

**Seven Deadly Sins (Senate Bill 440), O.C.G.A. § 15-11-28(b)**

1. Murder
2. Voluntary Manslaughter
3. Rape
4. Aggravated Sodomy
5. Aggravated Child Molestation
6. Aggravated Sexual Battery
7. Armed Robbery if Committed with a Firearm
Judicial District 1

Location: Far southeastern corner of Georgia.

Population: Approximately 821,000 (8.6% of state population).

Counties: Bryan, Evans, Liberty, Long, McIntosh, Tattnall, Bacon, Brantley, Charlton, Coffee, Pierce, Ware, Jeff Davis, Appling, Wayne, Glynn, Camden, Chatham, Bulloch, Effingham, Jenkins, and Screven.

Largest Cities: Savannah (pop. 127,889), Hinesville (pop. 29,554), Statesboro (pop. 22,698), Brunswick (pop. 15,600), Waycross (pop. 15,333).

Judicial Circuits: Atlantic, Brunswick, Eastern, Ogeechee, and Waycross.

Juvenile Courts: Five full-time and eight part-time juvenile court judges.

Racial/Ethnic Makeup: 63.7% white; 30.3% black; 6% multiracial and other; 4.1% Hispanic.

Persons Below Poverty Line: 16.9% (vs. 13.7% statewide).

Percentage of Persons Age 25+ Who Are High School Graduates: 76.2% (vs. 78.6% statewide) (2000 Census).

Median Household Income: Ranges from low of $24,603 for Jenkins County to high of $54,365 for Bryan County (vs. $42,679 statewide).
**Judicial District 2**

**Location:** Southwestern corner of Georgia.

**Population:** 579,399 (6.2% of state population).

**Counties:** Quitman, Randolph, Terrell, Clay, Early, Miller, Seminole, Lanier, Clinch, Atkinson, Berrien, Cook, Dougherty, Colquitt, Echols, Lowndes, Brooks, Thomas, Turner, Irwin, Tift, Worth, Mitchell, Baker, Calhoun, Decatur, and Grady.

**Largest Cities:** Albany (pop. 75,335), Valdosta (pop. 45,529), Thomasville (pop. 19,000), Tifton (pop. 15,060), Moultrie (pop. 14,387), Bainbridge (pop. 12,108), Sylvester (5,990), Camilla (5,703), Blakely (pop. 5,696), Quitman (pop. 4,591).

**Judicial Circuits:** Pataula, Dougherty, Tifton, Alapaha, South Georgia, and Southern.

**Racial/Ethnic Makeup:** 59.6% white; 38.4% black; 2% multiracial and other; 4.8% Hispanic.

**Persons Below Poverty Line:** 20% (vs. 13.7% statewide)

**Percentage of Persons Age 25+ Who Are High School Graduates:** 70.1% (vs. 78.6% statewide) (2000 Census).

**Median Household Income:** Ranges from low of $22,627 for Clay County to high of $33,286 for Lowndes County (vs. $42,679 statewide).
Judicial District 3

Location: West central Georgia.

Population: 664,206 (7.1% of state population).

Counties: Muscogee, Harris, Chattahoochee, Marion, Talbot, Taylor, Lee, Sumter, Schley, Macon, Stewart, Webster, Houston, Peach, Crawford, and Bibb.

Largest Cities: Columbus (pop. 188,660), Macon (pop. 93,665), Warner Robbins (pop. 58,672), Americus (pop. 17,013), Perry (pop. 9,600), Fort Valley (pop. 8,005).

Judicial Circuits: Chattahoochee, Southwestern, Houston, and Macon

Racial/Ethnic Makeup: 58% white; 40% black; 2% multiracial and other; 2% Hispanic.

Persons Below Poverty Line: 17% (vs. 13.7% statewide).

Percentage of Persons Age 25+ Who Are High School Graduates: 78% (vs. 78.6% statewide) (2000 Census).

Median Household Income: Ranges from low of $23,588 for Stewart County to high of $52,175 for Harris County (vs. $42,679 statewide).
Judicial District 4

**Location:** Northeast part of the state, part of metro Atlanta.

**Population:** 803,934 (8.6% of state population).

**Counties:** DeKalb and Rockdale.

**Largest Cities:** Decatur (pop.18,147), Conyers (pop. 12,205).

**Judicial Circuits:** Stone Mountain and Rockdale.

**Racial/Ethnic Makeup:** 36% white; 53% black; 11% multiracial and other; 9.5% Hispanic.

**Persons Below Poverty Line:** 14.3% (vs. 13.7% statewide).

**Percentage of Persons Age 25+ Who Are High School Graduates:** 84.8% (vs. 78.6% statewide) (2000 Census).

**Median Household Income:** $45,667, ranging from a low of $44,965 in DeKalb County to a high of $50,818 in Rockdale County (vs. $42,679 statewide).
Judicial District 5

Location: Northeast part of the state.

Population: 960,009 (10.3% of state population).

Counties: Fulton

Largest Cities: Atlanta (pop. 486,411), Sandy Springs (pop. 98,000), Roswell (pop. 87,807), Johns Creek (pop. 65,000), Alpharetta (pop. 43,424), East Point (pop. 42,204).

Judicial Circuit: Atlanta Circuit.

Racial/Ethnic Makeup: 51.4% white; 42.8% black; 4.2% Asian; 1.6% multiracial and other; 7.9% Hispanic.

Persons Below Poverty Line: 15.6% (vs. 13.7% statewide).

Percentage of Persons Age 25+ Who Are High School Graduates: 84% (vs. 78.6% statewide) (2000 Census).

Median Household Income: $45,819 (vs. $42,679 statewide).
**Judicial District 6**

**Location:** West-central Georgia, extending from south metro Atlanta to the Alabama border.

**Population:** 1,041,138 (11.1% of state population).

**Counties:** Butts, Carroll, Clayton, Coweta, Fayette, Heard, Henry, Lamar, Meriwether, Monroe, Pike, Spalding, Troup, and Upson.

**Largest Cities:** Newnan (pop. 27,000), La Grange (pop. 26,000), Griffin (pop. 23,451), Carrollton (pop. 19,843), Jackson (pop. 4,411).

**Judicial Circuits:** Clayton, Coweta, Flint, Griffin, and Towaliga.

**Racial/Ethnic Makeup:** 62.3% white; 34.4% black; 2.5% Asian; 1.5% multiracial or other; 5.6% Hispanic.

**Persons Below Poverty Line:** 9.5% (vs. 13.7% statewide).

**Percentage of Persons Age 25+ Who Are High School Graduates:** 79.5% (vs. 78.6 % statewide) (2000 Census).

**Median Household Income:** $47,193, ranging from a low of $30,946 in Upson County to a high of $75,679 in Fayette County (vs.$42,679 statewide).
Judicial District 7

**Location:** Northwest corner of Georgia, roughly south of Tennessee, east of Alabama, north of Carrollton, and west of Canton.

**Population:** 1,521,820 (16.3% of state population).

**Counties:** Bartow, Catoosa, Chattooga, Cobb, Dade, Douglas, Floyd, Gordon, Haralson, Murray, Paulding, Polk, Walker, and Whitfield.

**Largest Cities:** Marietta (pop. 63,152), Dalton (pop. 33,045), Cartersville (pop. 21,274), Calhoun (pop. 13,570), Cedartown (pop. 9,470), LaFayette (pop. 7,000), Summerville (pop. 4,556).

**Judicial Circuits:** Cherokee, Cobb, Conasauga, Douglas, Lookout Mountain, Paulding, Rome, and Tallapoosa.

**Racial/Ethnic Makeup:** 87.7% white; 9.0% black; 3.3% multiracial and other; 7.7% Hispanic.

**Persons Below Poverty Line:** 12.4% (vs. 13.7% statewide).

**Percentage of Persons Age 25+ Who Are High School Graduates:** 79.6% (vs. 78.6 % statewide) (2000 Census).

**Median Household Income:** $41,400, ranging from a low of $31,284 in Chattooga County to a high of $58,801 in Paulding County (vs. $42,679 statewide).
Judicial District 8

Location: East-central part of Georgia, roughly south of Madison, east of Macon, north of Vidalia and west of Swainsboro.

Population: 462,611 (4.9% of state population).


Largest Cities: Milledgeville (pop. 18,757), Vidalia (pop. 10,491), Swainsboro (pop. 6,943), Sandersville (pop. 6,144), Eastman (pop. 5,440).

Judicial Circuits: Cordele, Dublin, Middle, Ocmulgee, and Oconee.

Racial/Ethnic Makeup: 61% white; 36% black; 3% multiracial and other; 3% Hispanic.

Persons Below Poverty Line: 19% (vs. 13.7% statewide) (of the 27 counties in JD 8, thirteen have 20% or more of their residents living below the poverty line).

Percentage of Persons Age 25+ Who Are High School Graduates: 68.5% (vs. 78.6 % statewide) (2000 Census).

Median Household Income: $31,665, ranging from a low of $24,297 in Hancock County to a high of $45,130 in Jones County (vs. $42,679 statewide).
Judicial District 9

Location: Northeastern part of state.

Population: 1,541,418 (16% of state population).

Counties: Cherokee, Dawson, Fannin, Forsyth, Gilmer, Gwinnett, Habersham, Hall, Lumpkin, Pickens, Rabun, Stephens, Towns, Union, and White.

Largest Cities: Gainesville (pop. 33,340), Canton (pop. 21,464), Toccoa (pop. 9,323).

Judicial Circuits: Appalachian, Blue Ridge, Mountain, Bell-Forsyth, Enotah, Northeastern and Gwinnett.

Racial Makeup: 80% white; 13% black; 7% multiracial and other; 14% Hispanic.

Persons Below Poverty Line: 9% (vs. 13.7% statewide). The poorest county in JD 9, Stephens County, has a 15.9% poverty rate.

Percentage of Persons Age 25+ Who Are High School Graduates: 82.3% (vs. 78.6 % statewide) (2000 Census).

Median Household Income: $44,086, ranging from a low of $31,638 in Stephens County to a high of $74,379 in Forsyth County (vs. $42,679 statewide).
Judicial District 10

Location: Northeastern part of Georgia, bordering South Carolina.

Population: 934,417 (10% of state population). Clarke, Columbia, and Richmond have populations over 100,000; fourteen other counties in JD 10 have populations under 50,000.

Counties: Banks, Barrow, Burke, Clarke, Columbia, Elbert, Franklin, Glascock, Hart, Jackson, Lincoln, Madison, McDuffie, Newton, Oconee, Oglethorpe, Richmond, Taliaferro, Walton, Warren and Wilkes.

Largest Cities: Augusta (pop. 193,916), Athens (pop. 102,498), Winder (pop. 12,451), Monroe (pop. 11,409), Grovetown (pop. 6,089), Waynesboro (pop. 5,813), Elberton (pop 4,743).

Judicial Circuits: Alcovy, Augusta, Northern, Piedmont, Toombs and Western.

Racial/Ethnic Makeup: 67.7% white; 26.4% black; 5.9% multiracial and other; 3.5% Hispanic.

Persons Below Poverty Line: 14.4% (vs. 13.7% statewide).

Percentage of Persons Age 25+ Who Are High School Graduates: 66.9% (vs. 78.6% statewide) (2000 Census).

Median Household Income: $31,665, ranging from a low of $23,772 in Taliaferro County to a high of $61,966 in Oconee County (vs. $42,679 statewide).
The Statewide Summary Report and the Judicial District Reports are available on-line at www.GaAppleseed.org/children/reports