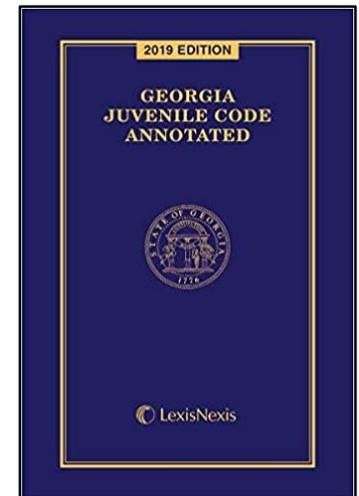


Discussion on Transparency in Juvenile Courts and Transformation of the Georgia Juvenile Court System



Judge Peggy H. Walker
Judge Diana Rugh Johnson

October 1, 2020



TOPICS

- Juvenile Code Revision
- Presumption of Unsupervised Visitation
- Open Courts
- Court Improvement Project
- Judicial and Legal Education

Juvenile Code Revision



- Initial discussion and proposal by judges
- Early stakeholder meetings
- Project housed in State Bar
- Involvement of academic & legal experts
- Based on scientific research and best practices
- Enhanced Resource Guidelines – NCJFCJ
- Stakeholder meetings for clean-up
- Legislative process

Presumption of Unsupervised Visitation

- Initiated by Juvenile Court Judges
- Influenced by guidelines of National Council of Juvenile and Family Court Judges (NCJFCJ)
- Arkansas adopted similar statute in 2019



A.C.A. § 9-27-325(o)

- (1) If the court determines that the health and safety of the juvenile can be adequately protected and is in the best interest of the child, unsupervised visitation may occur between a juvenile and a parent.
 - (A) A petitioner has the burden of proving at every hearing that unsupervised visitation is not in the best interest of a child.

O.C.G.A. § 15-11-112

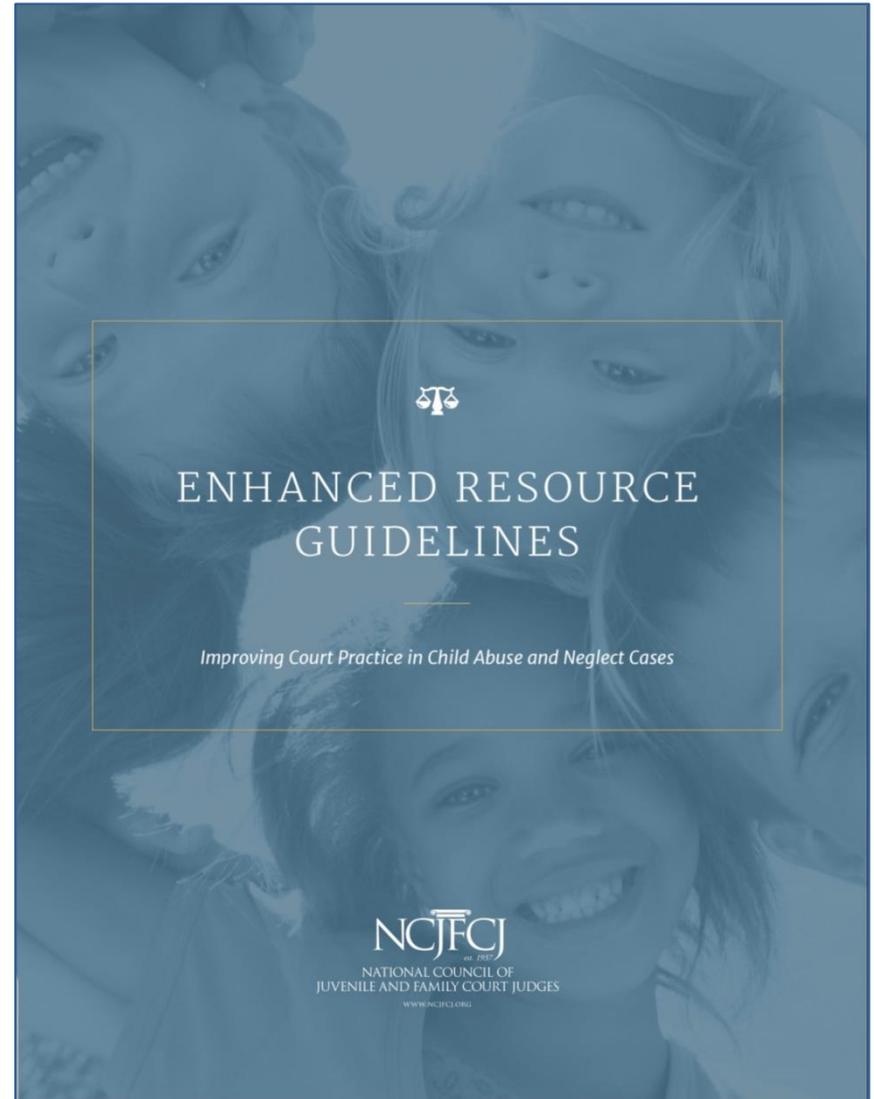
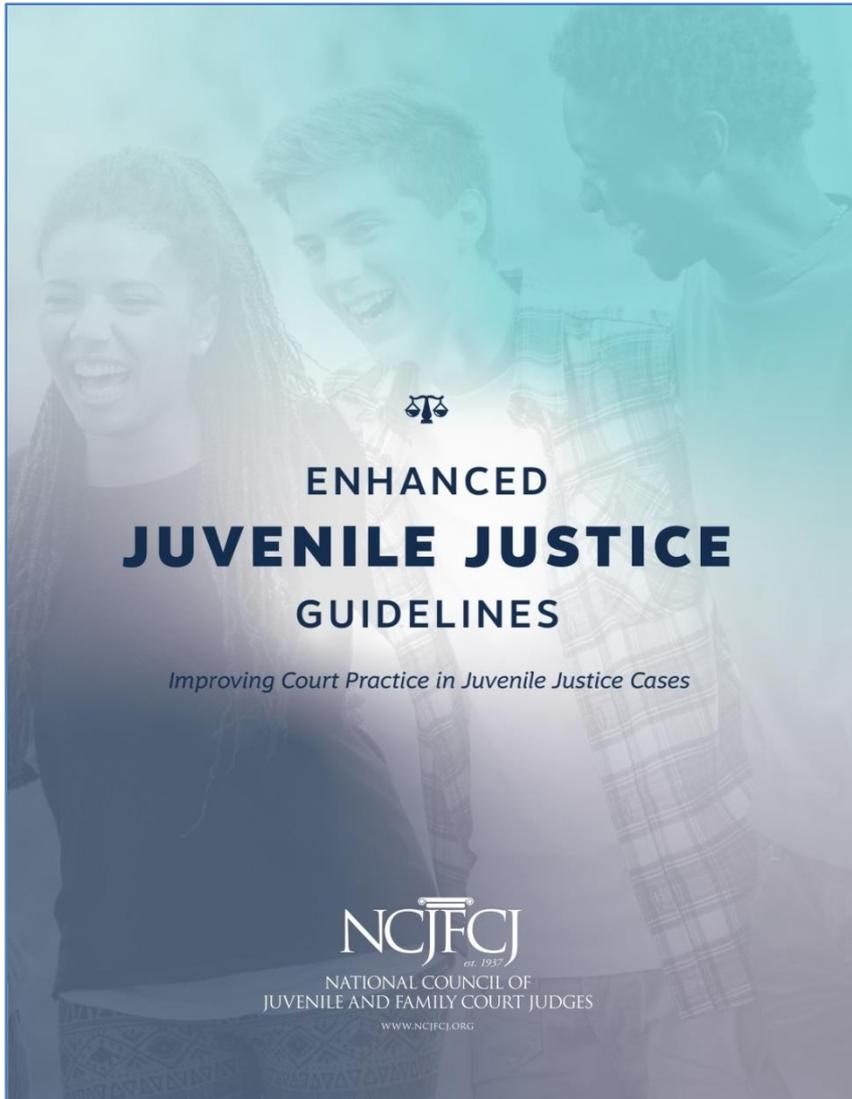
- (a) When a child is removed from his or her home, the court shall order reasonable visitation that is consistent with the age and developmental needs of a child if the court finds that it is in the child's best interests. The court's order shall specify the frequency, duration, and terms of visitation including whether or not visitation shall be supervised or unsupervised.
- (b) There shall be a presumption that visitation shall be unsupervised unless the court finds that unsupervised visitation is not in the child's best interests.



NATIONAL COUNCIL OF
JUVENILE AND FAMILY COURT JUDGES

The National Council of Juvenile and Family Court Judges is the oldest judicial membership organization in the country and provides all judges, courts, and related agencies involved with juvenile, family, and domestic violence cases with the knowledge and skills to improve the lives of the families and children who seek justice.

www.ncjfcj.org



<https://www.ncjfcj.org/publications/enhanced-juvenile-justice-guidelines/>

<https://www.ncjfcj.org/publications/enhanced-resource-guidelines/>

1995 Resource Guidelines in Child Abuse and Neglect Cases

- **What are the terms and conditions for parental visitation?**
 - If a child cannot be returned home after the preliminary protective hearing, immediate parent-child visitation often can ease the trauma of separation. Early visitation helps to maintain parental involvement and speed progress on the case. Judicial oversight of visitation helps to ensure that visitation is begun promptly, that it is permitted frequently, and that **unnecessary supervision and restrictions are not imposed**. The court should make an initial decision concerning the frequency, duration and terms of visitation for the parents, such as whether visitation should be supervised or unsupervised. The court should also decide whether there is a need for any additional orders concerning the conduct of the parents or agency efforts to provide services to the parents or child.

2016 Enhanced Resource Guidelines in Child Abuse and Neglect Cases

- **ENSURE ADEQUATE, APPROPRIATE FAMILY TIME**
 - Consistent with child safety, relationships between and among children, parents, and siblings are vital to child well-being. Judges must ensure that quality family time is an integral part of every case plan. Family time should be liberal and **presumed unsupervised** unless there is a demonstrated safety risk to the child. Sibling family time apart from parental family time should be considered. Family time should not be used as a case compliance reward or consequence.

Effect of § 15-11-112

- Court addresses visitation at every hearing
- Few cases begin with unsupervised visitation
- Identification of safety issue(s) that prevent unsupervised visitation
- Increased opportunities for visitation
- Reduced need for transporters/supervisors
- Easier to transition to unsupervised visits later in case



Open Courts

- Origin – disagreement with CASA
- 2009 – Senate Bill 207 signed into law
- 17 other states already had open courts
- Current statute – O.C.G.A. § 15-11-700

2018 Enhanced Juvenile Justice Guidelines

- **ENSURE ACCESS TO JUSTICE**

- Judges must ensure that the courtroom is a place where all who appear are treated with respect, patience, dignity, courtesy, and as part of the problem-solving process. Juvenile courts must be child- and family centered and presumptively open to the public. Children and parents must have the opportunity to be present in court and meaningfully participate in their case planning and in the court process. It is the responsibility of judges to see that all children and each parent are afforded their constitutional rights to due process.

2016 Enhanced Resource Guidelines in Child Abuse and Neglect Cases

- **Court Facilities**

- Recognizing that the “public has a legitimate and compelling interest in the work of juvenile and family courts,” and that open court hearings would increase public awareness of child protection matters and increase accountability in the conduct of hearings, the membership of the NCJFCJ resolved in July 2005, that “our nation’s juvenile and family courts be open to the public except when the juvenile or family court judge determines that the hearing should be closed in order to serve the best interests of the child and/or family members.”

Delinquency Matters

- **Public shall be admitted**
 - Adjudicatory hearings involving designated felony
 - Adjudicatory hearing involving allegation of delinquency for child previously adjudicated delinquent
- **Public shall not be admitted**
 - Adjudicatory hearings involving child not previously adjudicated delinquent
 - Any delinquency hearing on allegation of sexual assault
 - Any delinquency hearing at which any party expects to introduce substantial evidence related to matters of dependency
- **Court has discretion**
 - Dispositional hearings

Dependency Matters

- **Public shall be admitted**
 - Child support hearings
 - Legitimation hearings
 - Any dependency hearing not excepted by subsection (c)
- **Court has discretion**
 - Hearings involving allegation of criminal sexual offense
 - Best interest of the child
 - Dispositional hearings

Procedures

- **On motion by Court, any party, or child who is subject of proceeding**
- **Factors Court shall consider:**
 - Age of child
 - Nature of the allegations
 - Effect of open proceeding on Court's ability to reunite and rehabilitate the family unit
 - Necessity of protecting privacy of child, foster parent or other caretaker, victim of domestic violence
- **Court may refuse to admit a person whose presence would**
 - Be detrimental to best interest of child
 - Impair the fact-finding process
 - Be otherwise contrary to the interest of justice
- **Written order required**

Media

- Requests for use of recording, transmission, video, or still photography must be made two days in advance and evaluated under O.C.G.A. § 15-1-10.1
- Judge may order media not to release identifying info concerning any child, family members, foster parents, or other caretakers

Effects of Open Courts

- Family identification
- Family involvement
- Opportunity for contact between family and foster parents
- Court sees parents and children context

Court Improvement Project

- Data collection and sharing
- Application of science to practice
- Identification of trends
- Goal setting
- Analysis of outcomes
- Sharing of ideas and resources



Judicial & Legal Education

- National Council of Juvenile & Family Court Judges (NCJFCJ)
- Child Welfare Law Specialist certification
 - 45 CWLS in Georgia
 - 7 full-time judges are CWLS



Thank you for your time.