

MINUTES

Senate and House Committees on Judiciary Meeting Jointly

Thursday, October 1, 2020

1:30 PM

Room A, MAC
Little Rock, Arkansas

Committee Members Present: Senators Alan Clark, Chair; Greg Leding, and Terry Rice; Representatives Carol Dalby, Chair; Nicole Clowney, Andrew Collins, Cindy Crawford, Marsh Davis, Denise Jones Ennett, Charlene Fite, Jimmy Gazaway, Spencer Hawks, Douglas House, John Maddox, Jamie Scott, Matthew J. Shepherd, Brandt Smith, and Dwight Tosh

Other Members Present: Representatives Cameron Cooper, Jana Della Rosa, Vivian Flowers, Jack Ladyman, Austin McCollum, Tippi McCullough, Keith Slape, and Stu Smith

Senator Clark called the meeting to order.

Consideration to Adopt Meeting Minutes from March 9, 2020 [Exhibits C1 and C2]

Senator Rice made a motion to adopt the minutes with a second from Representative Tosh. The motion carried.

Representative Dalby introduced Judge Peggy H. Walker and Diana Rugh Johnson from Georgia.

Discussion of Child Welfare Court Reform [Exhibits D1-D8]

Peggy H. Walker, Retired Judge, Juvenile Court of Douglas County, Georgia, and Diana Rugh Johnson, Judge Pro Tempore, Juvenile Court of DeKalb County, Georgia, Child Welfare Law Specialist, discussed the revision of Georgia's entire Juvenile Code, revision of presumption of unsupervised visitation between parents and children who are in foster care, juvenile courts being open to the public, work with their court improvement project, and commitment to judicial and legal education in child welfare. The presumption of unsupervised visitation between parents and children was one of the biggest changes to the Juvenile Code. Judge Walker explained that frequent and meaningful visits between parents and children maintain and enhance the parental bond; that the more contact that exists between parents and children, the faster reunification happens; that the default to supervised visitation in all child welfare cases supports the harmful "us versus them" mentality of the child welfare system; and unsupervised visitation conserves resources by reducing transportation and supervision needs.

Judge Diana Rugh Johnson discussed the differences between Arkansas and Georgia statutes. She explained, Georgia mandates that an order for visitation be made when the child is removed which translates to a 72-hour hearing where parents and children first appear in court. The Georgia Juvenile Code was completely rewritten and improved clarity, definitions, and organization. She also discussed bringing in an academic specialist and a judge to draft the code.

Georgia's Legislature allowed for a year of preparation time for training to implement the new code.

Speakers Mischa Martin and Glenn Hoggard Were Asked to Present

Mischa Martin, Director, Division of Children and Family Services, stated that over 50% of the children in foster care are in foster care related to substance abuse and neglect. Only a small number of children are in foster care due to severe maltreatment. In many cases, it is very appropriate to have unsupervised visitations.

Glenn Hoggard, Parent Counsel, stated that visitations are not to benefit the parents. They are to benefit the children. He discussed the change of visitation hours under an edict from Judge Elmore from one hour to three hours per week in Lonoke County; and explained the value in this change. Supervised visitation in Lonoke County is now four hours per week and they enacted that into the Code.

Discussion of Child Welfare Court Transparency

Judge Johnson and Judge Walker explained, in 2009 an open- court bill in Georgia passed and became law in 2010. About 17 other states had open courts at the time. The Georgia judicial leadership took guidance from the National Council of Juvenile and Family Court Judges. In 2005, the National Council passed a resolution advocating for open Child Welfare Courts throughout the nation. The 2016 Enhanced Resource Guidelines for Abuse and Neglect also has a finding that the public has a legitimate interest in the work of the juvenile and family courts and should be presumptively open.

In Georgia, the open-courts law reads that there are hearings in which the public shall be admitted and those are on the delinquency side adjudicatory hearings for designated felonies, adjudicatory hearings involving allegations of delinquency, and cases in which the child has previously been adjudicated delinquent. The public cannot be admitted to hearings involving a child's first offense, any delinquency hearing on an allegation of sexual assault, or any delinquency hearing where a party expects to introduce substantial evidence regarding a corresponding dependency matter.

Judge Johnson and Judge Walker explained, the effects of having open courts in Georgia has been very positive. The benefits have far outweighed problems of open courts, particularly because judges have so much discretion and are able to close the courts when they need to.

Discussion of Continuing Education Practices

When Georgia judges pay their dues to the State Council, the State uses 3/4ths of that money to purchase a National Council membership. The National Council membership brings enhanced resource guidelines, best practices, domestic violence trainings, child abuse, and neglect institute trainings to state judges. The membership also provides scholarship opportunities for continued training and education.

With no other business, the meeting adjourned at 3:13 p.m.