



# Kids Matter

Child Protection and Advocacy Law Section

Winter 2018

## From the Chair

By Nicki Noel Vaughan



Welcome to the Winter 2018, issue of *Kids Matter*. This issue contains articles encompassing the many and varied areas of children's law that our membership represents: articles on immigration, written by Rebeca Salmon and Danielle Fackenthal and by Beth Morris and an article on The Juvenile Code's New Tool: Restraining Orders by John Paul Berlon. A highlight is an article written by Karlise Grier, former vice-chair of the Section and now director of the Chief Justice's Commission on Professionalism.

Please note that our Annual CLE will be held Jan. 25, with the Section Annual Meeting taking place during the lunch hour. The Section is offering scholarships to the CLE, which can be applied for by emailing Randee Waldman at [rwald2@emory.edu](mailto:rwald2@emory.edu). The program will also be Web-streamed to receive self-study CLE credit. Additional information is included in this Newsletter.

Members are welcome and encouraged to attend the Annual Meeting, even if they are not attending the CLE. If you wish to do so, and would like to have lunch provided, please contact me at [nvaughan@hallcounty.org](mailto:nvaughan@hallcounty.org), so that we can be certain to have enough food.

### MEMBERSHIP:

The section currently has 484 members. Thanks to all of you for your continued support. Your dues will go to provide and support valuable training and activities this year. Be sure to tell others that half-year memberships begin in January, when dues are reduced to half the full-year memberships (\$10). It would be wonderful if we could hit the 500 member mark this year!

### ACTIVITIES OF THE QUARTER:

This past quarter, the Executive Committee met monthly. On behalf of the section, we agreed to donate \$125 for a quarter-page sponsorship for the Georgia Legal Services Program's Champions of Justice Recognition Event, as we have done annually since our inception. In addition to the significant direct services that Georgia Legal Services Program (GLSP) provides to the children and families of Georgia, Vicky Kimbrell, staff attorney and a member of our Executive Committee, has contributed to our section's members through making meaningful presentations at all of our CLE programs about changes in the laws and rules regarding benefits so that we can impart accurate advice to our clients. This year's event will honor Executive Director, Phyllis Holmen, who, after 43 years at the helm, is retiring. Phyllis has always been a supporter of the section, and we wish her well in retirement. All members are encouraged to attend the event on Jan. 25 from 5:30 - 8 p.m. at the Bar Center.

As the Section has also done on an annual basis, the Executive Committee agreed to donate \$500 to the statewide Department of Human Services for holiday gifts for needy Foster Care children. The gifts were to be distributed throughout the state.

Crystal Conway-Johnson has agreed to chair the Lovett Award Committee to honor an experienced attorney or judge member of the Section who has a history of dedication to advocacy on behalf of children, exemplifies excellence in the profession, and is active in State Bar or professional associations, as well as community service. A call for nominations will be sent out in late January for the award that will be presented, along with the awards from the Chief Justice's Justice for Children Committee and the Office of the Child Advocate, at the State Bar Annual Meeting in June.

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Our legislative bill, SB 130 that passed the House last year, will carry over to this year's session, which began Jan. 8. Blake Tillery will continue to sponsor it. Our original SB 130 included two components: (1) that a parent's waiver of an attorney in a juvenile case be knowing, voluntary and on the record, and (2) that an adoption proceeding be stayed if the child's parent is appealing a final determination terminating his or her parental rights. Late in the session last year, our little bill grew into the huge bill that revamps the entire Adoption Code.

The State Bar legislative team will continue to work towards the passage of SB 130 during the 2018 legislative session. If anyone is interested in lobbying for the bill, please let me know so that we can organize efforts with the legislative team. If necessary and advised, we may be contacting everyone to help advocate for passage.

The Section welcomes your thoughts and ideas about legislation pertaining to children's issues. If any of you have ideas regarding potential legislation, please let us know. Any legislation sponsored by the Section must be approved in advance by the State Bar Advisory Committee on Legislation, so the earlier we get your ideas, the more likely we can get support. During the session, members are encouraged to contact our Legislative Committee about lobbying efforts. We have tried to be organized about these efforts, as that has the most positive effect on legislators.

As always, we want and need the support of all our members. We encourage you to volunteer to serve on the Training, Legislative, or Newsletter Committees. State Bar sections exist to serve their members. Let us know what you need and what you would like to see the section provide. Thank you all for your continued interest and support.

Nicki Noel Vaughan

Interested in Proposing or  
Modifying any Legislation?

Please join the Legislative  
Committee. Contact Nicki  
Vaughan at  
[nvaughan@hallcounty.org](mailto:nvaughan@hallcounty.org)

to be a part of this important  
process, which has  
already begun.

All members are welcome and  
encouraged to participate.

# Message from Karlise Y. Grier

Immediate-Past Vice-Chair

I first became involved with the Child Protection and Advocacy Section (CPAS) of the State Bar of Georgia in the early stages of its formation. I was invited to attend a meeting by Tonya Boga. At that time, she was director of the Office of the Child Advocate for the Protection of Children, having been appointed to that position by Gov. Nathan Deal. Afterwards, Tonya contacted me and shared that one of her goals while serving as the State's Child Advocate was to start a State Bar Section dedicated to Children. I accepted the invitation. I was aware that the idea of a section was under consideration by various individuals and groups including the State Bar of Georgia's Children and the Courts Committee. I remember attending the meeting chaired by Tonya and attended by Supreme Court Justice Robert Benham and many lawyers from all around Georgia who work in many practice areas, all focused on children and families. Months later, after much hard work by the initial working group and State Bar leaders, and after steadfast collaboration and compromise with numerous stakeholders, the Child Protection and Advocacy Section of the State Bar of Georgia was established. We were excited that we finally had a State Bar section focused on children and children's rights. I am honored to have served as the founding Vice Chair of this award-winning Section of the State Bar. The CPAS, which was founded in 2012, won the State Bar of Georgia's Section Award of Achievement in 2013 and 2014 and the State Bar of Georgia Section of the Year in 2015. As the vice-chair, I was able to design and chair the first CLE presented by the Section entitled Hang On! Laws Impacting Children are Changing. I also contributed articles to the Section's Kids Matter Newsletter and assisted the CPAS in drafting its first piece of proposed legislation (which is still awaiting passage), and provided guidance to the Section about the State Bar's legislative process. I am very grateful to our Section leader and chair, Nicki Vaughan, for giving me the opportunities to serve the section. I am also very thankful to have had the opportunity to work with the Executive Committee and the members in CPAS. In September 2018, I became the fourth Executive Director of the Chief Justice's Commission on Professionalism, and had to resign as the Vice-Chair of the Child Protection and Advocacy Section. I look forward to remaining involved in the Section as a member, as we continue our historic work on behalf of Georgia's children. I encourage you all to stay involved in the CPAS, encourage others to become involved and continue to do the work that you do on behalf of children.

# The Health Law Partnership

By Jimmy Mitchell and Stacie Kershner

Lawyers at the hospital? Perhaps the first thing that comes to the minds of health care providers is medical malpractice lawsuits. But including lawyers on the health care team can improve health care access and health outcomes of patients.

Consider the following scenario: a family brings their child to the emergency room because of an asthma attack. The child's asthma improves under the doctor's care and the family is sent home with the asthma controlled by medication. Yet the child returns within a few days unable to breathe. Upon further discussion with the child's parents, the doctor learns that the family apartment is infested with mold that the property owner is refusing to address. The doctor cannot remedy this situation . . . but a lawyer can. A lawyer can help get the property owner to remediate, to identify another unit for the family, or to release the family from the lease without penalty or fees.

The Health Law Partnership (HeLP) is an award-winning, nationally recognized medical-legal partnership (MLP) among Children's Healthcare of Atlanta, Atlanta Legal Aid Society and Georgia State University College of Law. Through this interdisciplinary community collaboration, health care providers and lawyers address the multiple social, physical and economic conditions that affect the health of low-income children and their families across Georgia, improving their overall health and well-being.

"Health care resources are scarce and expensive," said Sylvia Caley, Georgia State Law clinical professor and HeLP director. "To maximize the benefit to patients, we need to address health-harming legal problems. Teaching medical professionals to identify social determinants of health that may be harming the child, to screen for them, and then refer those affected to a legal resource provides a holistic approach to addressing issues affecting the health of vulnerable individuals."

"The knowledge gained by the professionals working together is cumulative – each assists the others to better understand our complex medical system and to better respond to the needs of our patients," said Dr. Robert Pettignano, HeLP's medical director and pediatrician at Children's Healthcare of Atlanta.

A HeLP attorney is located at each Children's hospital: Hughes Spalding, Eggleston and Scottish Rite. Doctors, nurses, social workers and other health care providers refer patients' families for HeLP's services. Since its inception in 2004, HeLP's attorneys, along with volunteer attorneys offering pro bono services, have provided free civil legal services to nearly 4,000 low-income children receiving care at Children's. HeLP has handled more than 5,000 cases including Social Security Income, Medicaid, food stamps, housing, educational services, skilled nursing care and other health benefits. This holistic approach has resulted in outcomes valued in excess of \$8 million for families.

In addition to direct client representation, HeLP's activities include experiential, interprofessional education of law and graduate students and practitioners, research on best practices and policy development. The HeLP Legal Services Clinic at Georgia State Law opened in 2007. The clinic allows law students to inhabit the role of lawyer, taking responsibility for clients while under supervision

and guidance of a faculty member. As a result, students experience the practice of law before they graduate, developing skill in interviewing clients, counseling and representation, negotiation, research and case management.

Law students in the clinic work as a team alongside medical students and residents from Morehouse School of Medicine and Emory University School of Medicine, as well as graduate students of public health, social work and bioethics.

"Participation in the HeLP Legal Services Clinic provides students the opportunity to develop collaboration, communication and problem-solving skills, which in turn can enhance client services and improve patient outcomes," said Lisa Bliss, co-director of the HeLP Legal Services Clinic, clinical professor and associate dean of experiential education at Georgia State Law. "Working together as a team also encourages and nurtures respect for each profession while helping students to establish their professional identity."

"It is humbling to participate in a clinic and a MLP that are models around the world," said James Mitchell, clinical supervising attorney in the HeLP Clinic. "On any given day, I have law students, medical students and residents and graduate students from other disciplines in my office discussing and collaborating on our clients' cases. Not only does the clinic's interdisciplinary framework provide a truly unique and compelling learning experience, it also guarantees that the legal services our clients receive are unmatched."

Commenting on his experience as a law student in the HeLP Clinic, Blinn Combs said, "Thanks to my participation in the clinic, I've written and submitted my first major brief. I've had my first courtroom experience. I've had my first legal victory. But most importantly, I've helped a sweet child retain the medical care he needs."

Morehouse School of Medicine graduate Charisma Manely reflected, "As a part of the legal team, I was able to advocate beyond the confines of the doctor's office and achieve health care victories beyond anything I could accomplish in a doctor's visit."

Another critical component of HeLP is policy development and systemic advocacy. Sometimes legal or health issues arise in multiple cases. HeLP attorneys identify those that are better addressed through legislative change than through handling each on a case-by-case basis. Students in Georgia State Law's Health Legislation and Advocacy (HLA) course pair with Children's or other nonprofit community



partners to research the issue and draft legislation addressing the problem. The nonprofit partner proposes the legislation. For example, students have partnered with Children's on research and drafting of boater safety laws and child booster seat laws.

HeLP also conducts research and evaluation to develop best practices for MLPs. In 2014, the National Center for Medical-Legal Partnership recognized HeLP with the Outstanding MLP Award for its record of excellence as an MLP, particularly in building the evidence base for such partnerships being an important part of health care. Throughout the years, HeLP has served as a model and consulted with health care systems and universities nationally and internationally on development and best practices of MLPs.

Also in 2014, Gov. Nathan Deal signed SB 352, a bill drafted by students in the HLA course, authorizing government funding of MLPs in Georgia that meet specific standards, paving the way for expansion of MLPs across Georgia. The Department of Community Health finalized these standards in 2017 and recently announced that HeLP is an approved MLP pursuant to O.C.G.A. § 31-2-4.

"Children are among the most underrepresented in the legal system. HeLP fills this justice gap," said Steve Gottlieb, executive director of Atlanta Legal Aid Society. "We have a project that is so innovative, so creative, so responsive to people's needs, how could you ask for more?"

For more information on the Health Law Partnership, to volunteer or to refer a potential client, visit [healthlawpartnership.org](http://healthlawpartnership.org) or call 404-705-0000.

## Willie J. Lovett Jr. Award

The Section is accepting nominations to honor an experienced attorney or judicial member of the Section who has:

- a history of dedication to advocacy on behalf of children
- exemplifies excellence in the profession, and is active in State Bar or professional associations, as well as community service.

Please send nominations to Tony Boga at [tonya.boga@gmail.com](mailto:tonya.boga@gmail.com).

# Section Executive Committee

## Officers

<p>Nicki Vaughan, chair <a href="mailto:nvaughan@hallcounty.org">nvaughan@hallcounty.org</a></p> <p>Tonya Boga, vice chair <a href="mailto:tonya.boga@gmail.com">tonya.boga@gmail.com</a></p> <p>Randee Waldman, treasurer <a href="mailto:rwaldm2@emory.edu">rwaldm2@emory.edu</a></p> <p>Elizabeth Bradley Turner, secretary <a href="mailto:elizabeth@gafcp.org">elizabeth@gafcp.org</a></p>	<p>Deidre' Jur-L Stokes Merriman <a href="mailto:dmerriman@criminalandfamilylawgroup.com">dmerriman@criminalandfamilylawgroup.com</a></p> <p>Mary McKinnon <a href="mailto:mmckinnon@pacga.org">mmckinnon@pacga.org</a></p> <p>Beth Morris <a href="mailto:bmorris@hhhlawyers.com">bmorris@hhhlawyers.com</a></p> <p>Julia Neighbors <a href="mailto:julianeighbors@yahoo.com">julianeighbors@yahoo.com</a></p> <p>Jane Okrasinski <a href="mailto:jane.okrasinski@gmail.com">jane.okrasinski@gmail.com</a></p> <p>Michael L. Randolph <a href="mailto:mrandolph@maconbibb.us">mrandolph@maconbibb.us</a></p>
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## Members-at-Large

<p>Amy Bell <a href="mailto:abell@maconbibb.us">abell@maconbibb.us</a></p> <p>Ira Foster <a href="mailto:lfoster.macon@glsp.org">lfoster.macon@glsp.org</a></p> <p>Leslie Gresham <a href="mailto:greshamlawgroup@gmail.com">greshamlawgroup@gmail.com</a></p> <p>Robert "Ted" Edward Hall <a href="mailto:ted@robertehall-law.com">ted@robertehall-law.com</a></p> <p>Janet Hankins <a href="mailto:jhankins@gapubdef.org">jhankins@gapubdef.org</a></p> <p>Vicky Kimbrell <a href="mailto:vkimbrell@glsp.org">vkimbrell@glsp.org</a></p>	<p>Hon. Thomas C. Rawlings <a href="mailto:trawlings@tomrawlings.com">trawlings@tomrawlings.com</a></p> <p>Natalece Robinson <a href="mailto:natalece.robinson@fultoncountycasa.org">natalece.robinson@fultoncountycasa.org</a></p> <p>Stacey Suber-Drake <a href="mailto:sdrake@doe.k12.ga.us">sdrake@doe.k12.ga.us</a></p> <p>Laurie M. Thomas <a href="mailto:lauriethomaslaw@yahoo.com">lauriethomaslaw@yahoo.com</a></p> <p>Hon. Peggy Walker <a href="mailto:pwalker@co.douglas.ga.us">pwalker@co.douglas.ga.us</a></p> <p>Cindy Wang <a href="mailto:cindy.wang@djj.state.ga.us">cindy.wang@djj.state.ga.us</a></p>
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*Do you know of someone who has made a positive impact in the area of Child Protection and Advocacy in Georgia?*

*If so, please send an email to [Tonya.Boga@gmail.com](mailto:Tonya.Boga@gmail.com) with the story and ask for it to run in the "Kudos!" section of the Newsletter. Remember that Pictures are also welcomed and suggested.*

# ICE Actions having a chilling effect on children

By Rebeca Salmon and Danielle Fackenthal

In the last several months, there have been an increasing number of news stories about ICE detention actions that offend the sensibilities of many Americans; a 10 year old child with cerebral palsy detained by ICE after emergency gallbladder surgery, victims of crimes detained after testifying against the perpetrators at court. What is not as frequently highlighted is the impact of mass deportations on children, and the State dependency systems which are left scrambling in their wake to find the means and resources to protect them.

The recent rash of mass deportations has raised more questions than answers when it comes to vulnerable children, both U.S. citizens and undocumented, left behind. Will the children stay in the United States? Who will care for them? Will someone transport the children to the parents at wherever they are? Will U.S. authorities place them in foster care? And if so, will the parents be able to reclaim custody? Will the children be able to travel back to their parent's native country? Who will make the arrangements for their travel documents? And all of this, at what cost?

As more and more families find themselves the target of ICE raids, there is a steady increase in the forgotten and left behind U.S. citizen and undocumented children that ICE leaves behind. For the indefinite time that their parents are detained, these children are left either in the care of neighbors or older children within the home unless a relative can be found to take in the children. There have not been significant studies on the recent impact on state child welfare agencies following mass deportations, as the information is not recorded nor disseminated openly by ICE or by the agencies.

The Migration Policy Institute estimates that of the 5.1 million children under the age of 18 living with at least one undocumented immigrant parent, the vast majority – 79 percent – were U.S. citizens. ICE has no policy in place to account for minor children when parents are detained, whether the children are at home or at school at the time of the deportation. These children are often left abandoned with no indication of what to do or who will care for them. In many cases, the parents have not had an opportunity to make alternate arrangements or even say goodbye to their children.

As increased deportation efforts are expanded by ICE officials, the strain on state systems will become apparent as children who were once well supported by their families fall into poverty, drop out of school to care for younger siblings, or fall into the state foster care systems.

Attorneys and child welfare workers should consider plans of action in these cases, including assisting families in finding ways to ensure that these children have access to food, clothing, medical care and shelter. Families should be advised to make sure that their children know the numbers and locations of friends and relatives that can care for them. State agencies must consider fundamental welfare issues in light of various interstate compacts and increased focus must be shed on what types of safety measures can be put in place to ensure repatriation to another country in those instances where that option is appropriate.

Regardless of one's stance on the question of immigration and whether mass deportations are just, the impact of these deportations on vulnerable children cannot be understated or ignored and we're just seeing the tip of the iceberg.

*For any questions you might have about child welfare or immigration please rely only on the advice of a skilled and qualified attorney who understands the complex intersection of State and Federal Law.*

*Rebeca E Salmon & Danielle Fackenthal, Access to Law Foundation & A Salmon Firm, LLC, 770-685-1499 // 770-559-4935. [www.accesstolawfoundation.org](http://www.accesstolawfoundation.org) [www.asalmonfirm.com](http://www.asalmonfirm.com)*

## Endnotes

1. Migration Policy Institute. Fact Sheet: U.S. Children of Unauthorized Immigrant Parents. Available at: <https://www.migrationpolicy.org/research/profile-us-children-unauthorized-immigrant-parents> Last accessed November 2, 2017.

The 2018 Child Protection and Advocacy Section CLE will be held at the Bar Center on Jan. 25. During the lunch portion of the program, the section will have its annual meeting. If you do not attend the seminar, you may attend the annual meeting by sending an email to Nicki Vaughn at [nvaughan@hallcounty.org](mailto:nvaughan@hallcounty.org).

# Immigration Issues in Schools Today

By Beth F. Morris

More than 30 years ago, the U.S. Supreme Court issued its landmark decision in *Plyler v. Doe*, cementing children's rights to a free public education regardless of their immigration status. The Court emphasized that, "By denying these children a basic education, we deny them the ability to live within the structure of our civic institutions, and foreclose any realistic possibility that they will contribute in even the smallest way to the progress of our nation." 457 U.S. 202 (1982). Under that ruling, schools may not discourage student enrollment or success by asking immigration status or requiring students to have or to maintain records related to immigration status. But over the last year, immigration issues have become even more complicated in our country.

In January, 2017, the White House issued Executive Order No. 13768, *Enhancing Public Safety in the Interior of the United States*, which provided that the Federal government will increase enforcement efforts against "removable aliens" and "shall ensure that [sanctuary] jurisdictions...are not eligible to receive Federal grants, except as deemed necessary for law enforcement purposes." 82 Fed. Reg. 8,799 (Jan. 30, 2017). In Feb. 2017, the Department of Homeland Security (DHS) published a memorandum implementing the executive order and a Q&A on the executive order. In May 2017, the U.S. Department of Justice issued its own memorandum regarding the implementation of the executive order. But neither the order, nor the subsequent documents, specifically addressed their application to undocumented students – simply a general discussion of sanctuary jurisdictions. So, schools and undocumented children attending school are left in a precarious position about how the order will be implemented in the school setting. The decision for a school district to declare itself a sanctuary school district is complicated by the risks involved related to losing federal funds. The Jan. 2017 Executive Order indicated that sanctuary jurisdictions who violated Federal law "in an attempt to shield aliens from removal by the United States" will not be "eligible to receive Federal grants, except as deemed necessary for law enforcement purposes." Nevertheless, it is unclear what authority exists to withhold federal funds authorized by Congress, and a number of lawsuits were filed by school districts challenging this authority.

But what is a "sanctuary jurisdiction?" While it seems likely that a sanctuary school district is a jurisdiction that "fails to adhere to ICE requests," there is no clear legal definition or standard for this term. The term "sanctuary school district" is commonly applied when a school district has taken proactive steps – whether through formal adoption of a resolution or board policy, making a public statement, self designation or even simply through its actions. Such a school district may refuse to provide student or family information to ICE (U.S. Immigration and Customs Enforcement) except as provided by law, may establish procedural safeguards for ICE agents who engage at school with students or take other actions to support immigrant students. But the amount of protection that being a "sanctuary school district" actually provides is unclear and can be misleading to students and families.

To the extent that a school district has declared itself to be a sanctuary school district, it cannot completely protect undocumented

students from enforcement actions and it may still be required to provide authorities with access to students and student information in certain circumstances. In 2011, ICE issued a policy that enforcement actions are not to occur in sensitive locations such as schools. An exception to this policy exists that allows enforcement actions without prior approval if other law enforcement actions led officers to that location or the officer is seeking to interview the student as part of the Student Exchange and Visitor Program or if exigent circumstances exist such as imminent risk of death, violent or physical harm, the immediate arrest or pursuit of a felon, terrorist suspect or any other individuals that present a danger to public safety. But most actions that will be encountered in the school setting are outside the scope of the sensitive location policy such as seeking to obtain records, serving subpoenas, or securing detainees.

School districts should be prepared for subpoenas seeking documents and other information about undocumented students and for individuals seeking to speak to students. Schools should prepare front office staff for such requests including taking ICE agents' information and offering to have administrators get back in touch rather than offering agents to speak to students immediately so that the school can provide any necessary notice to parents about requested interviews and confirm authority. There are no specific requirements for an adult to serve ICE subpoenas, so the server may not carry ICE credentials. That said, the individual on staff should be prepared for verifying the subpoena itself and for ensuring that he/she complies with local, state and federal requirements and processes in providing the information requested in the subpoena.

The most common requests are related to student information. Schools must comply with the Family Educational Rights and Privacy Act (FERPA) - the federal law governing the maintenance and handling of educational records. Schools must obtain parent consent (or student consent for those over 18) before releasing educational records. There is no ICE enforcement exception under FERPA, nor would the "health and safety emergency," 34 C.F.R. § 99.36, apply in these circumstances. There is certain information that schools *may, but are not required to*, release without parent consent such as directory information. Directory information is defined as "personally identifiable information" which includes, but is not limited to, student names, addresses, dates of birth, place of birth and grade level. 34 C.F.R. § 99.31. Parents must be offered the opportunity to "opt-out" of having their student's information included as part of directory information.

Individuals may file a complaint about a DHS enforcement action if the individual believes it has violated the sensitive locations policy. The agencies' websites provides information about filing such complaints, or the offices may be contacted through:

ICE Enforcement and Removal Operations (ERO) Detention Reporting and Information Line: (888) 351-4024, or [ERO.INFO@ice.dhs.gov](mailto:ERO.INFO@ice.dhs.gov); ICE Office of Diversity and Civil Rights Civil Liberties Division: (202) 732-0092 or [ICE.Civil.Liberties@ice.dhs.gov](mailto:ICE.Civil.Liberties@ice.dhs.gov); or CPB Information Center (complaint or compliment): 1-877-227-5511, or email via website at <https://help.cpb.gov>.

# Youth Get Clothes and Life Lessons from Judges and Attorneys

By Karlise Y. Grier, Executive Director, Chief Justice's Commission on Professionalism

On Saturday, Oct. 14, 2017, the National Association of Women Judges (NAWJ) hosted its first "Shop with the Judges" community service event at the Sheraton Atlanta Downtown hotel. Youth in foster care and law students were invited to "shop" with NAWJ members, and Georgia attorneys and judges. The youth and law students "purchased" gently used clothes, shoes, and purses that were donated by NAWJ members and members of the State Bar of Georgia. During the month of October, attorneys and judges from throughout Georgia donated clothes at locations in Atlanta, Decatur, Blue Ridge, Savannah and Statesboro. The clothes consisted primarily of suits and dresses that could be used by young women in job interviews, during the Celebration of Excellence, or at evening events such as proms or business events requiring cocktail or black-tie optional attire. In addition to having the opportunity to select clothes, the youth also had an opportunity to get wisdom and life lessons from law students, attorneys and judges. For example, NAWJ President, Justice Tanya Kennedy of the Supreme Court, Civil Branch of New York County, talked to the young people about the importance of mentors. She also explained that the youth should consider what skills or talents they could offer as a volunteer to help a mentor when the youth are in a mentoring relationship. Mentoring is a two-way relationship, Judge Kennedy explained. The youth also had the opportunity to talk one-on-one with other judicial leaders such as Judge Cassandra Kirk, Chief Judge of the Fulton County Magistrate Court and Judge Sara Doyle, Judge of the Georgia Court of Appeals. At the conclusion of the event, a young woman from one of Georgia's group homes said, "Before today, I did not have anything to wear to a job interview, and now I do."

The NAWJ "Shop with the Judges" event was organized with staff support from the Judicial Council of Georgia/Administration Office of the Courts Access, Fairness, Public Trust and Confidence Committee.



# The Juvenile Code's New Tool: Restraining Orders

By John Paul Berlon

The "new" Juvenile Code streamlined the court's ability to restrain or otherwise control the conduct of a person (O.C.G.A. 15-11-29 – Protective Orders). In July 2017, Juvenile Code added O.C.G.A. 15-11-29.1 – Restraining Orders. These statutes have similarities and significant differences.

## DIFFERENCES

There are three significant differences between Protective and Restraining orders: the type of proceeding, who may initiate such action, and whose conduct may be restrained. Protective orders are available in *any proceeding* whereas Restraining orders are limited to Child In Need of Services (CHINS), delinquency, or in Juvenile Courts who have established Community Based Risk Reduction Programs (CBRRP) as defined under O.C.G.A. 15-11-38. Protective orders may be requested by any party whereas Restraining orders require the prosecuting attorney or a party involved in a CBRRP. The juvenile code does not include Restraining orders as an option in dependency or termination proceedings. A Protective order may control the conduct of *any person* whereas a Restraining order may only control the conduct of a parent, guardian, or legal custodian.

Another difference between Protective and Restraining orders is the affirmative obligation of the court to make certain findings in Restraining orders. In determining if a Restraining order is appropriate, the Court shall consider the (1) best interests of the child, (2) risk to public safety such delinquent child poses, (3) evidence of a repeated pattern of behavior by such child; and, (4) extent to which enhanced involvement and supervision of such child may ameliorate public safety concerns. These four considerations are not required in issuing a Protective order.

## SIMILARITIES

Protective and Restraining orders are similar in that the Judge may initiate a Protective and/or Restraining order on its own motion. Both Protective and Restraining orders are similar in that they require due process and notice of the grounds and an opportunity to be heard. The Respondent (person defendant the application or motion) should be advised of their rights at the proceedings. O.C.G.A. 15-11-19.

So what types of conduct does a Restraining order control and what, if any, are similar to a Protective order? The following options under a Restraining order includes any corresponding reference under a Protective order (e.g. PO Condition 1 means the condition found under O.C.G.A. 15-11-29(a)(1)). A Restraining order may require a parent, guardian, or legal custodian to (1) ensure that the child attends school [PO Condition 7]; (2) monitor the child's school homework and studies after school; (3) attend school meetings as requested by a child's teacher, counselor or school administrator; (4) participate with the child in counseling or treatment [PO Condition 8]; (5) Provide transportation for the

child to attend counseling, programs, or other services ordered by the court; (6) provide instruction and guidance to improve the child's behavior; (7) prohibit specific individuals from having contact with the child or from entering the child's residence [PO Condition 1]; (8) if child is on probation, (a) provide transportation to probation office or other counsel or program as directed by the child's probation officer; (b) cooperate with the child's probation officer and answer all questions truthfully; and (c) allow access to the child upon request by the probation officer; (9) enter into and successfully complete a substance abuse program [PO Condition 9]; (10) Abstain from offensive conduct against the child [PO Condition 3]; (11) pay for the costs and expenses of the child's counseling or treatment; (12) pay restitution; (13) pay any judgment based upon a tort; and (14) take or refrain from any action that the court finds reasonably related to the child's treatment, rehabilitation, or welfare and safety of the public.

If a Respondent has a matter related to education, the appropriate entity may wish to review O.C.G.A. 15-11-10(3)(G) and 20-2-766.1. The juvenile court has exclusive jurisdiction over a petition brought by the school board requiring that a parent, guardian or legal custodian attend a conference or participate in programs or treatment to improve a student's behavior.

## WHERE'S THE PROOF?

No really, "Where's the proof?" Various instruments of the law like family violence protective orders specifically state the burden of proof in obtaining a protective or restraining order. However, the Juvenile Code omits the standard of proof as it relates to Protective and Restraining orders. Standards of proof in petitions alleging delinquency, dependency, and CHINS cases are clearly outlined in the code. OCGA Sections 15-11-180, 303, 440, and 581. The conduct of all hearings should be conducted in accordance with Title 24 unless otherwise provided. Is the standard of proof the *preponderance of the evidence* or is it *clear and convincing*? So, where's the proof? If you know what is the statutory proof for juvenile court Protective and Restraining orders, please feel free to email me at [jpberlon@chathamcounty.org](mailto:jpberlon@chathamcounty.org) or call 912-652-6918.

John Paul Berlon is Senior Staff Attorney to the Hon. LeRoy Burke III, Presiding Judge of Chatham County Juvenile Court.

# A Profile of Karlise Yvette Grier

The Child Advocacy and Protection Section says Kudos to Karlise Yvette Grier and recognizes her many years of service and dedication to Georgia's Children.

In September 2018, Karlise became the fourth Executive Director of the Chief Justice's Commission on Professionalism. Karlise previously served as a founding committee member of the Child Protection and Advocacy Section.

In addition to her dedication to our section, Karlise has spent nearly two decades devoted to working on behalf of Children. Some of Karlise's work includes serving as one of the founding fellows of the Supreme Court of Georgia Committee on Justice for Children's Cold Case Project. The Cold Case Fellows reviewed cases of children who had been in foster care for an extended period of time, and who appeared to be aging out of foster care without attaining permanency. She had one of her happiest successes as the Fellow on the case of P.W. She became the Fellow assigned to P.W.'s case in July 2015. P.W. was 15 years old. He had entered foster care in January 2012 at age 12 when his adoptive parents, who adopted P.W. when P.W. was approximately 6 months old, refused to allow him to return to their home. P.W.'s adoptive parents ultimately surrendered their parental rights, and their surrender was accepted by the juvenile court. One of the legal obstacles to permanency for P.W. (in addition to his age) was that P.W. wanted to have visitation with his biological brother who had also been adopted by P.W.'s legal parents. P.W.'s biological brother remained in the home of P.W.'s legal and adoptive parents after P.W.'s parents returned him to foster care. After over 2 years of work by P.W.'s team, led by Cold Case Project Fellow, Karlise, DFCS found a new permanent home for P.W. P.W. consented to his adoption, in part, because the Cold Case Project found ways to ensure that P.W. would have visitation with his biological brother who remained in the home of his first adoptive parents after P.W.'s adoption by another family. P.W. was adopted in October 2017, approximately 3 months prior to his 18th birthday. The goal of the Cold Case Project remains finding a permanent home for each and every child in Georgia's foster care system.

Karlise has also worked with the Fulton County Family Law Information Center (Fulton FLIC). Fulton FLIC was started in the late 1990s under the leadership of then Fulton County Superior Court Chief Judge Thelma Wyatt Cummings Moore. Fulton FLIC was developed to assist people who are representing themselves in domestic legal matters or who are educating themselves about domestic issues. Currently Fulton FLIC works in partnership with the Atlanta Legal Aid Society (ALAS). Anyone, regardless of their county of residence or their immigration status, may go to Fulton FLIC to obtain legal forms or information on a variety of issues, including: paternity establishment, legitimation, custody, visitation, child support, annulment and divorce. One of the services that Fulton FLIC provides is a free 30-minute consultation with an attorney. For years, Karlise was one of the attorneys who provided the consultations. Karlise learned, through her work at Fulton FLIC, that often times parents who may not have proper legal documentation, might have children who are U.S. Citizens. The parents, most times, needed assistance in obtaining U.S. passports for their children. On other occasions, the parents needed

information, however, on how to obtain child support or how to file a legitimation action and get court-ordered visitation with their children. She also served Fulton County in a variety of capacities, including serving on the Fulton County Child Attorney's Office Advisory Board from 2013 until 2015. Karlise was also appointed by the judges of the Fulton County Family Division to serve on the Fulton County Family Division Task Force which was charged with 1) developing recommendations for rule and procedural changes and 2) with proposing measures to improve the efficiency and consistency in the Family Division and 3) with proposing measures to ensure meaningful access to justice for all family law litigants.

In 2016, Karlise was invited to become a Master in the Charles Longstreet Weltner Family Law Inn of Court. From 2002 through 2017, Karlise was a Fellow in the American Academy of Adoption Attorneys (now known as the Academy of Adoption and Assisted Reproduction Attorneys). Karlise is also certified by the National Association of Counsel for Children and the American Bar Association as a Child Welfare Law Specialist. A Profile of Karlise Yvette Grier Child Protection and Advocacy Section



Thursday, January 25, 2018

ICLE: State Bar Series

# CHILD PROTECTION AND ADVOCACY SECTION 2018 CLE

**6 CLE Hours including**

2.5 Ethics Hours | 1 Professionalism Hour | 3 Trial Practice Hours

**CHILD PROTECTION  
ADVOCACY SECTION**

**CO-SPONSOR**

**AGENDA**

**PRESIDING:**

**Nicki N. Vaughan**, Program Co-Chair; Public Defender, Hall County Juvenile Court, Gainesville

**Janet W. "Jan" Hankins**, Program Co-Chair; Georgia Public Defender Council, Decatur

- |       |   |       |  |
|-------|---|-------|--|
| 8:00  | <b>REGISTRATION AND CONTINENTAL BREAKFAST</b> (All attendees must check in upon arrival. A jacket or sweater is recommended.)   | 12:15 | <b>PROFESSIONALISM</b><br><b>Hon. Steven Teske</b> , Chief Judge, Clayton County Youth Development & Justice Center, Jonesboro   |
| 8:30  | <b>HOLISTIC LEGAL SERVICES FOR VULNERABLE CHILDREN: HEALTHCARE, EDUCATION, AND BENEFITS FOR AT-RISK CHILDREN</b><br><b>Vicky Ogawa Kimbrell</b> , Georgia Legal Services Program, Atlanta<br><b>Kathleen A. Dumitrescu</b> , Atlanta Legal Aid Society, Atlanta<br><b>Courtney B. Newman</b> , Bishop Newman Advocates, LLC, Atlanta                              | 1:15  | <b>CASE LAW UPDATE</b><br><b>Anne M. Kirkhope</b> , Staff Attorney, Council of Juvenile Court Judges, Atlanta<br><b>Beth F. Morris</b> , Harben Hartley & Hawkins LLP, Gainesville<br><b>Stacey Suber-Drake</b> , Georgia Department of Education, Atlanta |
| 10:00 | <b>BREAK</b>  | 2:15  | <b>BREAK</b>   |
| 10:15 | <b>COLLABORATING TO SERVE DUALY-COMMITTED CHILDREN</b><br><b>Hon. Sheri C. Roberts</b> , Chief Judge, Alcovy Circuit Juvenile Courts, Covington and Monroe<br><b>Nicki N. Vaughan</b><br><b>Candice L. Branche</b> , Assistant District Attorney, Alcovy Circuit District Attorneys Office, Newton County, Covington<br><b>Jennifer Wilds</b> , View Point Health | 2:20  | <b>ETHICS</b><br><b>Randee J. Waldman</b> , Director, Barton Juvenile Defender Clinic, Emory University, Atlanta   |
| 11:45 | <b>LUNCH</b> (Included in registration fee.)<br>Annual Meeting, Child Protection and Advocacy Section   | 3:20  | <b>ADJOURN</b>   |

**SPACE IS LIMITED.**

ICLE cannot guarantee admission to on-site registrants.  
*Early registration closes 48 hours before the seminar.*



**State Bar  
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**To make hotel room reservations, call:**

Embassy Suites phone: 1-800-Hiltons | The Glenn phone: 404-521-2250

Hilton Garden Inn phone: 404-577-2001 | The Omni phone: 404-818-4334

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**Ask for the State Bar of Georgia's negotiated corporate rate.**

**CANCELLATION POLICY**

Cancellations reaching ICLE by 5:00 p.m. the day before the seminar date will receive a registration fee refund less a \$15.00 administrative fee. Otherwise, the registrant will be considered a "no show" and will not receive a registration fee refund. Program materials will be shipped after the program to every "no show." Designated substitutes may take the place of registrants unable to attend.

**SEMINAR REGISTRATION POLICY**

Early registrations must be received 48 hours before the seminar. ICLE will accept on-site registrations as space allows. All attendees must check in upon arrival and are requested to wear name tags at all times during the seminar. ICLE makes every effort to have enough program materials at the seminar for all attendees. When demand is high, program materials must be shipped to some attendees.

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**Mail:** ICLE • PO Box 117210 • Atlanta, GA 30368-7210 (make check payable to ICLE)

**Online:** [iclega.org](http://iclega.org) (credit card payment only)

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Early Registration closes 48 hours before the seminar. **Questions, Call ICLE: 678-529-6688**

## CHILD PROTECTION AND ADVOCACY SECTION 2018 CLE | JANUARY 25, 2018 | 9791

**SECTION MEMBER**

**EARLY REGISTRATION: \$125**

**ON-SITE REGISTRATION: \$200**

**NON-SECTION MEMBER**

**EARLY REGISTRATION: \$155**

**ON-SITE REGISTRATION: \$230**

**On-site Registration Payment Options:**

- **ICLE cannot accept cash.**
- *ICLE accepts checks (make check payable to ICLE).*
- *Debit Cards, Visa, Mastercard, and American Express are accepted.*
- *On-site registrants must pay at the time of the on-site registration.*

**EARLY REGISTRATION  
CLOSES 48 HOURS BEFORE  
THE SEMINAR.**

**NAME** \_\_\_\_\_ **GEORGIA BAR #** \_\_\_\_\_

**FIRM/COMPANY** \_\_\_\_\_ **OFFICE PHONE** \_\_\_\_\_

**EMAIL** \_\_\_\_\_

*(To receive seminar notification and registration confirmation by email only.)*

**MAILING ADDRESS** \_\_\_\_\_ **ZIP + 4** \_\_\_\_\_

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**CITY** \_\_\_\_\_ **STATE** \_\_\_\_\_

- I am sight impaired under the ADA and I will contact ICLE immediately to make arrangements.
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to my  MASTERCARD  VISA  AMERICAN EXPRESS\*

Credit Card Verification Number: A three-digit number usually located on the back of your credit card; \*AmEx is four-digits on the front of the card.

**Account #:**           /

**Expiration Date** \_\_\_\_\_ **Signature** \_\_\_\_\_

**STATE BAR OF GEORGIA  
CHILD PROTECTION AND ADVOCACY SECTION  
SCHOLARSHIP APPLICATION**

The Child Protection and Advocacy Section of the State Bar of Georgia will offer three (3) scholarships in the amount of up to \$500 per scholarship each year. These funds may be used for either registration fees or travel expenses for an out-of-town conference or seminar.

The scholarships will be awarded to members of the Section who demonstrate both a need for financial assistance and a demonstration of the relevance of the content area of the conference or seminar to the work conducted by the attorney.

**Commitment to Share Information:**

Scholarship recipients agree that they will write an article for the Section newsletter, *Kids Matter*, regarding a topic covered at the conference or seminar.

**Application Process:**

**Application Periods:** There will be three application periods each year, with one scholarship awarded during each application period. The application periods are as follows:

January 1 – April 30 (scholarship awarded by May 31)

May 1 – August 31 (scholarship awarded by September 30)

September 1 – December 31 (scholarship awarded by January 31)

**Application:** The attached application form, including a statement of need and copy of the agenda, must be completed and returned to the scholarship committee by the appropriate application period close date. Applications should be returned to [derricks@gabar.org](mailto:derricks@gabar.org).

**STATE BAR OF GEORGIA  
CHILD PROTECTION AND ADVOCACY SECTION  
SCHOLARSHIP APPLICATION**

**NAME:** \_\_\_\_\_

**AFFILIATION:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

\_\_\_\_\_

**PHONE:** \_\_\_\_\_ **FAX:** \_\_\_\_\_

**E MAIL:** \_\_\_\_\_

**DESCRIPTION OF PROGRAM YOU WISH TO ATTEND** : (Please attach a copy of the program agenda, if available.)

**Program Title:** \_\_\_\_\_

**Program Location:** \_\_\_\_\_

**Program Dates:** \_\_\_\_\_

**Program Costs:** \_\_\_\_\_

**STATEMENT OF NEED** (Include any financial contributions provided by your organization, relevance of the seminar to your work, etc) (You may attach a separate letter, on your organization's letterhead, with your statement of need)

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Send completed applications to [derricks@gabar.org](mailto:derricks@gabar.org)