



January 8, 2017

Page 1

General Assembly 2018

What can we expect to see in the next 40 days?

OCA asked two of our most trusted child welfare policy gurus — **Melissa Carter** of Emory's Barton Child Law and Policy Center and **Polly McKinney** of Voices for Georgia's Children, to give us their predictions on children's issues in the upcoming session. Their opinions are their own and not necessarily those of OCA.



Melissa's Take....

On Monday, January 8, the 236 mem-

bers of the Georgia General Assembly will convene under the Gold Dome for the start of the 2018 legislative session. Until then, much time and energy is being spent trying to predict and influence the issues and ideas that will fill the debate calendar for those 40 legislative days. Roughly three dozen bills directly related to child welfare and juvenile justice are introduced

each session. Several dozen more concern broader social issues of children's health, education, and public benefits. Of note, all bills that were introduced but did not pass last year are eligible for consideration and formal action again this year because this is year two of the legislative biennium.

The political conversation about

[See Carter, page 4](#)



Polly's Points....

Over the past month, a number of people have asked me what I see in store for children's issues in the 2018 Georgia Legislative Session.

As I look into my slightly dusty,

and somewhat hippie-like crystal ball, the only things I can make out for sure are two budgets (the amended 2018 and the 2019), a lot of late labor-intensive nights, and bunions. One thing that I predict in the 2019 Appropriations is a recommendation for more funding for Child and Adolescent mental health services. This would support the recommendations released by the Governor's Children's Mental Health Commission last month. Other budget items could include monies for various supports for rural Georgia, and some sort of plan for what to do about a massive shortfall in the state budget (perhaps as much as \$400 million)

[See McKinney, page 3](#)

OCA's monthly platform for the unedited voices of young people who have been in care....

Youth Voice

By Jessica Ushry

To all my current and alumni siblings from care,

I was a long-term care foster child. Myself and my five other siblings were placed into foster care by the time I was four. My mother struggled with her drug addiction and finally the state terminated her rights. As a child, no matter what your mother has done or was still struggling with, wanting your mom never goes away. That was a very hard pill to swallow for a very long time. During my time in care, I was only placed in four foster homes. My last placement I stayed there for seven years but it wasn't my forever home and my foster mom made that very clear daily. There was no physical abuse there but there was a lot of consistent

[See Voice, page 6](#)



January 8, 2017

Page 2

OCA Data Points: Peer Review Project

Over the past several years, OCA has worked in collaboration with the Supreme Court's Committee on Justice for Children and a number of experienced child welfare attorneys to assess the critical intersection between our child protection agency and our juvenile courts.

In 2017, we observed dependency and TPR proceedings in 17 different juvenile courts around the state (see map), with a focus on representation for children in these courts. Our ob-

servations revealed the following strengths and weaknesses:

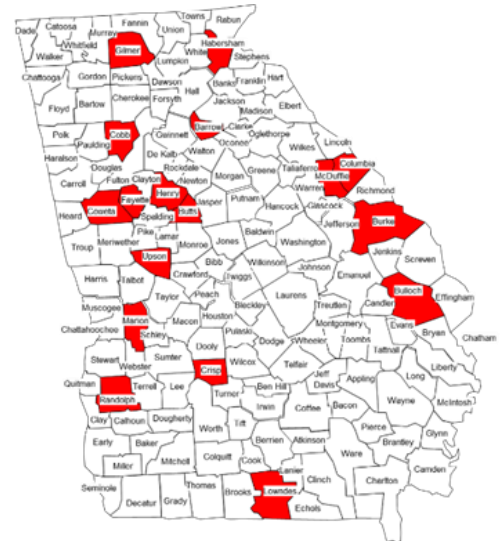
Strengths:

- **Participation of fathers in dependency proceedings**
- **Visitation between parents and children and among siblings**

Weaknesses:

- **Child participation in proceedings**
- **Diligent searches for relatives**
- **Permanency efforts**

[See Peer Review, page 5](#)



Peer-Reviewed Counties 2017

Policy and Practice Spotlight on Drug-Exposed Newborns

Federal Law requires that all States identify newborns who are affected by parental drug or severe alcohol use, whether that use involves prescribed drugs or illegal street drugs. Hospitals are required to identify these children and mothers so that the State can assist the parent in overcoming an addiction while keeping the child safe. The law requires that in these cases, the State assess the family's issues, obtain a substance abuse assessment, and plan and implement a "plan of safe care" to protect the child while the mother undergoes any necessary treatment.

In Georgia, DFCS has taken the primary role in coordinating this work, of course with the assistance of the Department of Public Health and DBHDD. DFCS policies [3.7](#) and [19.27](#) address the protocols for responding to reports that a mother has given birth to a drug-exposed child.

In OCA's work, we have recognized that there are improvements to be made in implementing Plans of Safe Care. Too often, we see situations

[See Safe Care, page 5](#)

WHY?

Why is it important for a child to participate in dependency hearings?

Georgia Law recognizes the child as a party to dependency proceedings and gives all children the right to be present at each hearing. Having children present is recognized internationally as a best practice. But why would a child want to participate in a hearing, and why should the adults in a child's life encourage it?

- **So the child can be informed and better understand the process**

Some children may not have anything they want to speak about in court, but being present is still helpful for them. They are able to witness first-hand how

[See Why, page 3](#)



January 8, 2017

Page 3

McKinney, continued...

if the U.S. Congress does not renew the Children's Health Insurance Program (CHIP) which expired about 100 days ago. This pays for PeachCare for Kids, a program that provides health insurance for children whose families make too much to be able to use Medicaid, but too little to be able to cover private insurance.

Less clear to me are which issues will be resolved over the course of the three or so months, but I can almost make out a few hazy forms in the glass. I will try to describe what I think I see....

One form looks to be an adoption bill. Last session, a bill that would clean-up and improve Georgia's antiquated adoption laws failed to pass as a result

of some pretty testy inter-chamber maneuverings between the House and Senate. This year, legislation is likely to return, and with a little good will, arrive on the Governor's desk sooner rather than later.

As is often the case, there will also likely be legislation to address various hiccups in state agency processes and for changes which need to be made to maintain federal funds. The Division of Family and Children Services and the Department of Early Care and Learning are two such agencies where I expect we will see movement to address fixes ranging from refining criminal records checks, to nuanced exemptions for access to sealed records, to codification of stuff that is already well established in existing regulations. Other non-agency attempts could involve trying to raise the age of juvenile

court jurisdiction to 17, keep guns out of the hands of domestic violence perpetrators, and improve access to healthcare by expanding the scope of practice for nurses.

There is one other thing looming across the entire vision the ball presents: An election year. For those of you who have been stranded on a deserted island for a while, this is the last session of the Nathan Deal Administration, and there is a gracious plenty of folks (some still seated in the legislature) vying for the Governor's job. On top of that, every seat in the General Assembly will be up for grabs, as they are every second year of the biennial. While these are not children's issues per se, my shiny sphere hints that all this campaign year posturing could be cause for a wild ride for us all.



Why, continued.

everyone acted in court and what was said.

- **So the child can feel heard and understood**

Whether the child formally testifies or not, he or she will have the opportunity to feel heard. The child's attorney can prepare the child for the possibility that the outcome may not be what the child hopes for; however, many children can still appreciate the opportunity to voice their wishes themselves and develop respect for those who have listened to them.

- **So the juvenile court can gain important insight and make informed decisions**

Even in pre-verbal children, the judge is able to observe interactions between the child and parents (or foster parents) as well as the child's development. Such first-hand observations can positively impact safety, permanency, and well-being decisions.

Although there may be concerns about a child's attending a dependency hearing, most of these concerns can be adequately addressed with appropriate preparation. Many youth who have experienced the foster care system are appreciative of the time they have spent in court and view it as a positive experience.

For further information, visit:

- [The National Council of Family and Juvenile Court Judges](#)
- [The American Bar Association Center on Children and the Law](#)



Carter, continued

child welfare is likely to be touched off by the next chapter in the saga of the adoption code revision. House Bill 159, introduced last year, represented a multi-year effort to update and modernize Georgia's Adoption Code. It failed to pass as the final act of the 2017 session, but all signals point to it being the topic of conversation for both the House and the Senate in the early days of the 2018 session.

The recurring proposal to allow the temporary transfer of caregiving authority by means of a private agreement between the parent and substitute caregiver is also likely to return in some form. The most recent iteration, House Bill 359, passed last year but was vetoed by Governor Deal. This proposal has sparked thoughtful reflection on the need for well-crafted private law alternatives to juvenile court dependency proceedings to meet the needs of families under certain circumstances.

The State Bar of Georgia will resurrect its proposals to clarify that waiver of the right to an attorney in a dependency case by a party other than a child must be knowing and voluntary (Senate Bill 131) and to mandate a procedural stay of an adoption proceeding until the appeal of the termination order is decided (Senate Bill 130). Future termination of parental rights actions also could be impacted by an anticipated proposal supported by DFCS aiming to address the 2016 Georgia Court of Appeals ruling in the case of *In re E.M.D.* that established the need for the court to find both that keeping a child in foster care, as well as returning the child to his or her parent, will cause serious harm before ordering termination of parental rights. The specific proposal is likely to clarify that the harm analysis should focus on the parent-child relationship exclusive of the child's experience in foster care.

DFCS is expected to have several other legislative priorities, including legislation authorizing the agency to build a program to extend foster care to youth up to the age of 21, a proposal to protect foster parent privacy, and a bill to clarify the requirements and applicability of the Indian Child Welfare Act. Finally, as concerns about the design and operation of the state's child abuse registry continue to be raised, one or more proposals intending to fix some of the implementation mechanics, possibly including changes to the definitions in the mandated reporter statute, seem likely.

Largely due to the comprehensive reforms of the past five years, less legislative activity is predicted for the juvenile justice system. An effort to expand the categories of serious offenses for which children as young as 13 can be tried and sentenced as adults (popularly referred to as "SB440 cases") is expected as a result of demand originating from Savannah. While that proposal will be contentious, a longstanding effort to raise the age of criminal responsibility to 18 is more popular among child advocates. The most recent version of that proposal, House Bill 53, was introduced last year and has already been pre-filed this year, signaling the sponsor's intention to reenergize the debate.

To keep up with the General Assembly's work:

- Learn more about the Georgia General Assembly and monitor legislation of interest at <http://www.legis.ga.gov/>
- Learn updates on bills of interest to child advocates at <http://bartoncenter.net/about/maillinglist.html>



January 8, 2017

Page 5

Peer Review Project, continued

At OCA, we especially want to emphasize to our colleagues on the front lines the importance of having children present in court and participating whenever possible.

The Juvenile Code puts a significant emphasis on having children present at hearings. Under the Code, children are to be notified orally of the preliminary hearing. OCGA § 15-11-145 (b). Because no one can waive the child's right to an attorney under OCGA § 15-11-103, hearings (including Preliminary Protective Hearings when possible) should not proceed if the child's attorney is not present. Children 14 and over must receive a written summons advising them of dependency hearings and termination of parental rights proceedings. OCGA §§ 15-11-160 (a); 15-11-281 (b). The child's presence may be waived only by the child's attorney after age-appropriate consultation with the child.

When a child is present for the hearing, the child has a right to be in the courtroom for all proceedings unless, after considering evidence of harm to such child that will result from his or her presence at the proceeding, the court determines the child's presence not to be in his or her best interests. OCGA § 15-11-181 (b)(3). The court's determination of whether it is in a child's best interests to be present in the courtroom for any or all of the hear-

ing is separate from the decision of the child and his attorney as to whether the child should be present at the courthouse for the hearing. Even if the court were to determine, for example, that a child should not be present during all or a portion of a hearing, the child's attorney would still need to consult with the child in an age-appropriate manner regarding the conduct of the proceeding.

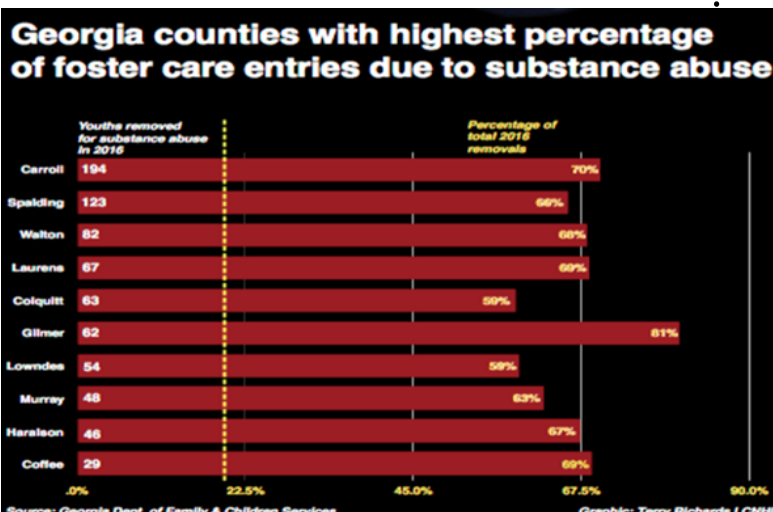
Additionally, in each case the court should make an explicit finding on the record as to whether the child was personally notified of the hearing, how that notification occurred, and whether the child expressed a desire to attend the hearing. If the child's attorney waives the child's presence, the court should inquire as to whether the attorney consulted with the child in an age-appropriate manner regarding the waiver of the child's presence.

When children are 14 and over, best practice suggests that they be present in the courtroom and participate actively in the proceedings. These children, and many younger than 14, have the maturity and capacity to express to the court their desires, needs, and hopes. Nationwide, a major complaint of former foster youth is that they were not allowed to participate in the juvenile court proceedings that determined their futures. The denial of due process rights in juvenile actions may result in a void judgment. See McBurrough v. Dept. of Human Resources, 150 Ga. App. 130, 131 (1979).

Safe Care, continued....

in which hospitals are not testing newborns for drug exposure. As a result, our state agencies do not have the opportunity to assist these families. We also see room for improvement in the coordination of the work needed to assess the mother's drug issues and provide her and her child with the necessary interventions.

In 2018, OCA will be making efforts to work with judges, agency leaders, and medical experts to improve the implementation of this important practice. If you'd like to help or have input, please let us know!





Voice, continued....

verbal abuse. We all know that once you've been called out of your name you start to believe it. Still I knew that my only way of the daily mental abuse was band. I stayed after school every chance I got only to come home to eat, take a shower, and get up for school again. I made good grades and I was not a bad child. However, my foster mom would scare us daily with the unknown that she would get rid of us and the next placement may not feed us or may physically abuse me. So I stayed quiet a lot in the home so I wouldn't give her a reason to tell my caseworker to move me.

Once I graduated from high school I was ready to leave and start a new chapter in my life at college. However, that was short ended after not having anywhere to go for the breaks. I asked my foster mom since I had lived with her for seven years and she told me no since she was no longer getting paid for me. I felt even more abandoned. I eventually found a job and DFCS assisted me with my apartment and it was a very successful three years. After that I started working for group homes and started to share my story. Some of the kids looked up towards me and the other kids just listened. It was different because they had a big sister looking out for them that they saw everyday and would trust me with things they would never even tell their therapist. I knew that this field was my calling. I worked my way around the business and ended up starting my own Nonprofit, Foster Care Alumni of America - Georgia Chapter. We had a successful 5k Walk Summer 2017. We raised over \$2000 to assist our chapter start up and young homeless youth in need of housing.

During my time networking and starting my own nonprofit, I met an angel who oversaw DeKalb County Housing and gave me the opportunity to assist some of our current and alumni of care with housing choice vouchers. I learned the housing business and networked in Fulton and DeKalb Housing Authority. Due to funding however, the housing choice vouchers are put on hold. However, there are still private dollars out here and all you have to do is network. My goal and passion is to create resources around the needs of current and alumni of care. The need is housing from ages 21-26. No one is looking at this group because the state feels that they have helped until this age and have put funding in place to assist until they age out. However, who really has their life together at 21? When you have an apartment for a year and the rent goes up \$75 that you cannot afford many people can go home to mom or dad. What about this age group? What happens if they lose their job or they come down with an illness and can't work anymore, what then? Or most importantly from personal experience, what happens when you live on campus and have no where to go for breaks?

Even though that housing is an issue, mental health is as well at this age. This is the time in your life where you evaluate yourself and see why you can't have healthy relationships. It's because we have not dealt with the skeletons in our own closet. We feel as though by having a partner may fill that hole of abandonment. Until we deal with that issue and heal from it, we will always accept certain behaviors from people and we do not even understand why. Also, with us getting into bad relationships, this may cause depression which trickles down to our lack of motivation. Motivation is key to our livelihood. We see this all the time in group homes: kids don't want to go to school, don't want to participate in therapy. They don't want to work when they get to the ILP homes. A lot of this is because we do not have any role models. We don't know how to love ourselves or have healthy relationships because we have never seen what that even looks like. I would also like to raise awareness that mental health from the age of 21-26 is very important and should always be addressed with any assistance from this age group.

My brothers and sisters, take advantage of the resources you currently have such as IDA, Taggart's Driving school, Georgia Empowerment and FCAA. These services were not in place when I was here. If you feel that you have no one you need to find at least one trusted adult and speak with them about whatever your issues may be. Carrying around hurt all your life is very damaging. Also remember, you oversee your own life, and your circumstances do not matter!



**Office of the
Child Advocate**
For Georgia's Children

AdvOCacy
Your child welfare update

January 8, 2017

Page 7

*Georgia Office of the Child Advocate for
the Protection of Children*
Tom C. Rawlings, Director
<https://oca.georgia.gov>

*7 MLK Jr. Blvd, Ste 347
Atlanta, GA 30334*

*For general inquiries, assistance, or to file
a complaint:*

Phone: (404) 656-4200

Internet: [https://oca.georgia.gov/
webform/request-oca-assistance-or-
investigation](https://oca.georgia.gov/webform/request-oca-assistance-or-investigation)

To submit an article for the newsletter:
rdavidson@oca.ga.gov

Join us on social media!



@GeorgiaOfficeoftheChildAdvocate

[https://www.facebook.com/
GeorgiaOfficeoftheChildAdvocate/](https://www.facebook.com/GeorgiaOfficeoftheChildAdvocate/)

[GeorgiaOfficeoftheChildAdvocate/](https://www.facebook.com/GeorgiaOfficeoftheChildAdvocate/)



@Georgia_oca