

VI. DEPRIVATION

A. Code Sections: O.C.G.A. §15-11-3, 15-11-4, 15-11-5, 15-11-6, 15-11-7, 15-11-8, 15-11-9, 15-11-11, 15-11-12, 15-11-13, 15-11-23, 15-11-28, 15-11-30.1, 15-11-35, 15-11-36 through 15-11-39, 15-11-38.1, 15-11-39.1, 15-11-39.2, 15-11-40, 15-11-41, 15-11-45, 15-11-46, 15-11-46.1, 15-11-48, 15-11-49, 15-11-49.1, 15-11-55, 15-11-56, 15-11-58, 15-11-65, 15-11-78, 15-11-87 through 15-11-90, 15-11-89.1, 15-11-93 through 15-11-106

B. Uniform Juvenile Court Rules 6, 7, 8, 11, 15, 16, 21, 24, Forms JUV-4, JUV-6, JUV-7, JUV-19

C. Procedure

1. Pleading and Service of the Petition. Pleading requirements in juvenile court cases are strict. A deprivation petition must set forth in ordinary and concise language the facts demonstrating the basis for the parents' or custodians' alleged failure to provide proper parental care or control. The failure to do so by merely setting out the statutory requirements is insufficient because it lacks adequate information to enable the parent to prepare a defense which results in a denial of due process. In re D.R.C., 191 Ga.App. 278 (1989); McCrary v. D.H.R., 151 Ga.App. 181 (1979); In re R.L.Y., 181 Ga.App. 14 (1986). If the child is detained, the Petitioner must file the petition with the court within five (5) days of the detention hearing. O.C.G.A. §15-11-49. The court must serve this petition and a summons on the parents and other parties as provided by O.C.G.A. §15-11-39(b) and 15-11-39.1. Service of the summons may be made by a suitable person pursuant to the direction of the court. O.C.G.A. §15-11-39.1. The use of Uniform Form JUV-4 Standard Deprived Petition is required by the court.

a. Residents. A resident parent is entitled to be personally served with a summons at least 24 hours before the hearing unless the parent cannot be found. O.C.G.A. §15-11-39.1(a). If the parent cannot be found but the parents' address is known or can be ascertained, the summons may be served by mailing a copy by certified or registered mail at least five (5) days before the hearings. See Uniform Form JUV-7 for mandatory Summons and Process.

b. Non-Residents. Non-residents are entitled to be served personally or by registered or certified mail at least five (5) days before the hearing. O.C.G.A. §15-11-39.1. This short notice may warrant, in the right case, a due process challenge. It is suggested that the court liberally grant a continuance upon request. See also UJCR 6.6, requiring service for some amended petitions.

2. Uniform Child Custody Jurisdictional Act ("UCCJA"). O.C.G.A. §19-9-42(3) defines the scope of the UCCJA to encompass child neglect and dependency proceedings involving non-resident parents and/or child(ren). The service requirements of the UCCJA mandate the notice required for the exercise of jurisdiction shall be served, mailed, delivered or last published at least 30 days before any hearing. O.C.G.A. §19-9-45(b).

3. Venue. O.C.G.A. §15-11-29 provides that deprivation proceedings may be commenced in the county in which the child resides or in the county in which the child is present when the action is commenced; provided however, that for the convenience of the parties and witnesses, the court may transfer the proceeding to the county in which the child resides. If the proceeding is transferred, certified copies of all legal and social documents and records pertaining to the proceeding on file with the clerk of court shall accompany the transfer. If a superior court judge sits as a juvenile court judge, then hearings may be heard in any county within the judicial circuit over which the judge presides. See Ga.Const. 1983, Art. VI, Sec. 11, Paragraph VI, In re R.A.S., 249 Ga. 236 (1982), Guy v. Houston County DFCS, 162 Ga.App. 778 (1982), and In re M.J.G., 203 Ga.App. 452 (1992) (waiver of venue).

4. Jurisdiction. The juvenile court has exclusive jurisdiction over deprivation proceedings. The juvenile court has concurrent jurisdiction with the superior court to determine custody issues only when the case is properly transferred by the superior court. O.C.G.A. §15-11-28. The Supreme Court has held that deprivation proceedings between parents are NOT prima facie custody cases and can be brought in juvenile court by filing deprivation petitions. In the Interest of M.C.J., 271 Ga. 546 (1999). Each petition must be judged on its own merits. Id. If it appears from an analysis of the pleading that the case is actually a disguised custody matter, then the juvenile court does not have subject matter jurisdiction and cannot hear the case. Id. Otherwise, if a party is dissatisfied by the juvenile court's ruling on jurisdiction that issue can be raised on appeal. Id.

When a court orders reunification with a parent whose residence is in a county other than the county of the court, the court may transfer jurisdiction to the juvenile court of the residence of the parent who is to receive custody. O.C.G.A. § 25-11-41.1.

5. Parties. Parents, guardians, a legal caretaker or other custodian of child, guardians ad litem, and other "proper or necessary parties" including CASA, DFCS and DHR workers, as well as counsel for the above, are proper parties in deprivation cases. O.C.G.A. §15-11-39(b).

The parents of a child born in wedlock or legitimated pursuant to O.C.G.A. §19-7-22 are proper parties in deprivation proceedings and are entitled to the substantive and procedural protections afforded by O.C.G.A. §15-11-39 and 15-11-39.1. The mother of a child born out of wedlock is a necessary party. O.C.G.A. §19-7-25. See Nix v. DHR, 236 Ga. 794 (1976). The rights of a biological father to notice and participation in the proceedings are set out in O.C.G.A. §15-11-96. While §15-11-96 deals specifically with termination of parental rights, it is believed to be equally applicable to deprivation hearings.

Any foster parents, preadoptive parents or relatives providing care for the child shall be provided with notice and an opportunity to be heard in any review or hearing held with respect to the child. However, it is not necessary that such foster parents, preadoptive parents or relatives providing care for the child be made parties to the review or hearing solely on the basis of their right to notice and an opportunity to be heard. O.C.G.A. § 15-11-58(k).

6. Adding Parties; service of summons. The court may at anytime direct the clerk to issue a summons for any other person who appears to the court to be proper and necessary to the proceeding. A copy of the petition should be served with the summons. If a child is fourteen (14) years of age or older, a copy of the summons and petition should be served on him/her. See *Uniform Form JUV-7 for mandatory Summons and Process*.

A non-parent legal custodian of a child should be a "party" to the deprivation proceeding and be entitled to the same procedural and substantive rights afforded parents and all other parties. In re M.A.F., 254 Ga. 748 (1985).

7. Appointment of Guardian. The court is vested with authority to appoint a guardian of the person or property of any child who is the subject of controversy in a custody or deprivation proceeding. O.C.G.A. §15-11-30.1(a). The court, at any stage of the deprivation proceeding, on application of a party or on its own motion, shall appoint a guardian ad litem for a child when the child has no parent, guardian or custodian appearing on their behalf, or when the child's interests conflict with those of the parent, guardian or custodian, or in any other case in which the child's interests require a guardian. The court may appoint an attorney or court appointed special advocate, or both, as the child's guardian ad litem. A party to the proceeding or their employee or representative shall not be appointed. In re J.S.C., 182 Ga.App. 721, 723 (1987); DHR v. Ammons, 206 Ga.App. 805 (1992). See also 1976 Op. Atty. Gen. No. 76-131 which all but mandates the appointment of a guardian in deprivation proceedings.

8. Right to Counsel. All parties are entitled to counsel at all stages of the proceedings. Counsel must be appointed for indigent parties. O.C.G.A. §15-11-6.

9. Recordation. O.C.G.A. §15-11-41(b) requires that all hearings shall be recorded unless waived by the juvenile, his/her parent, guardian, or attorney. Failure to record a hearing, without express waiver, is reversible error. In re R.L.M., 171 Ga.App. 940 (1984); In re L.G., 230 Ga. App. 153 (1998). The courts have also held that the right to counsel can be utilized to grant an indigent parent the right to a paupered transcript on appeal. Nix v. DHR, 236 Ga. 794 (1976). See also K.E.S v. State, 134 Ga.App. 843 (1975).

The court in In re T.M.C., 206 Ga.App. 595 (1992) ordered a new hearing on a modification petition for a malfunctioned or unrecorded proceeding. The appellate court held it was incumbent upon the juvenile court judge to ensure that a record of the omitted testimony was made by recording or by having the parties stipulate as to the testimony. The best practice is to see that a certified court reporter takes down the hearing, although such is not required by law.

10. Preliminary Protective Custody. O.C.G.A. §15-11-45 provides, in part, that a child may summarily be taken into protective custody by a law enforcement officer or duly authorized officer of the court if there are reasonable grounds to believe that the child is suffering from illness or injury or is in immediate danger from his/her surroundings and that such removal is necessary.

11. Alternative to Protective Custody. The alternative for obtaining protective custody of a child requires the filing of a deprivation petition, where, upon affidavit or sworn testimony, the judge enters a special endorsement upon the summons authorizing a law enforcement officer to take a child immediately into custody. O.C.G.A. §15-11-49.1. These hearings may be held ex parte if the petitioner believes that exigent circumstances require immediate action by the court. Some Georgia courts do not require the filing of a petition to trigger this provision, but will do so upon the filing of a complaint accompanied by affidavit or sworn testimony.

At any time during the pendency of a deprivation proceeding, a protective order may be granted pursuant to O.C.G.A. §15-11-11.

12. Detention Hearing.

a. Purpose. The purpose of the detention hearing is for the court to determine whether the child must be detained pursuant to O.C.G.A. §15-11-46 to protect the child, to prevent the child from being removed from the jurisdiction, or to provide for the child's care or supervision because no parent, guardian or custodian is able to do so until the full hearing can be held. The burden is on the Petitioner to prove the need for detention; there is no indication from the code that a "probable cause" standard is all that is necessary.

b. Detention Criteria. In 1991, the General Assembly adopted O.C.G.A. §15-11-46.1, relating to interim control or detention of accused juveniles. This law restricts the imposition of restraint on the freedom of accused juveniles prior to adjudication. While the law generally references "accused" juveniles, it may likewise be applicable to deprived children.

c. Places of Detention/Shelter Care. The places in which a deprived child may be detained pending final disposition of the proceedings are very restrictive. O.C.G.A. §15-11-48(f) provides that a child alleged to be deprived may be placed in shelter care only in (1) a licensed foster home or a home approved by the court, which may be a public or private home or the home of the noncustodial parent or a relative, or (2) a facility operated by a licensed child welfare agency, or a shelter care facility operated by the court. The actual physical placement of a child pursuant to this code section requires approval by the judge or his/her designee. A detention order is merely an order designating the place of confinement and is not an exercise of jurisdiction. Hartley v. Clack,

13. Adjudicatory Hearing.

a. Purpose. The sole issue for determination is whether or not the child is **currently** deprived under any of the bases subsumed under the statutory definition. Remember, a petition alleging deprivation shall not be filed unless the court, or person authorized by the court, has determined and endorsed upon the petition that the filing of such petition is in the best interest of the public and the child. O.C.G.A. §15-11-37. See also J.G.B. v. State, 136 Ga.App. 75 (1975) and Lane v. Jones, 244 Ga. 17 (1979).

b. When Held. If the child is not in detention, no later than sixty (60) days from the filing of the petition. If the child is in detention, no later than ten (10) days from the filing of the petition. O.C.G.A. §15-11-39(a), Rule 6.8. The hearing may be continued on motion of the court or that of a party only for good cause shown, and only for a reasonable time. If the court fails to set the adjudicatory hearing within the applicable 10-day or 60-day time limit, upon proper motion to dismiss and after a hearing on the motion, the court may deny the motion, or may grant the motion either with or without prejudice. In any case, findings of fact and conclusions of law must be filed as a part of the order. If a petition is dismissed without prejudice, the petition may be refiled. In re R.D.F., 266 Ga. 294 (1996).

c. Conduct of Hearings: Generally. All hearings shall be conducted by the court without a jury and may be adjourned in the discretion of the court. O.C.G.A. §15-11-41(a). Absent a waiver, the code mandates recording of all proceedings. K.E.S. v. State, 134 Ga.App. 843 (1975); In re R.L.M., 171 Ga.App. 940 (1984); In re L.G., 230 Ga. App. 153 (1998); and In re T.M.C., 206 Ga.App. 595 (1993) (court held it is incumbent upon the juvenile court to ensure that a record of omitted testimony is made, either by recordation in a new hearing or by having the parties stipulate as to their testimony, unless waived by the child, parent(s), guardian or attorney). Only parties, their counsel, witnesses, persons accompanying a party for assistance, and any other persons the court in its discretion finds to have a proper interest in the proceeding may be present. O.C.G.A. §15-11-78(a) and §15-11-7. (But see #5 above regarding parties).

d. Standard of Proof. Clear and convincing evidence must be adduced to prove deprivation. O.C.G.A. §15-11-56(b). In re R.R.M.R., 169 Ga.App. 373 (1983).

e. Rights. Parties in a deprivation case have the right to counsel (at all stages of the proceedings) and the right to testify, introduce evidence, and confront and cross-examine adverse witnesses. A.C.G. v. State, 131 Ga.App. 156 (1974). These rights are guaranteed by the due process clause. In re L.L.W., 141 Ga.App. 32 (1977).

(i) In order to shield the child from unnecessary stress and conflict, O.C.G.A. § 15-11-78(a) provides the child may, in the court's discretion, be temporarily excluded from the courtroom.

(ii) The judge has the discretionary right to ask questions of any witness for the purpose of determining the truth. See T.L.T. v. State, 133 Ga.App. 895 (1975) and Land v. State, 101 Ga.App. 448 (1960).

f. Hearing Conclusion. At the conclusion of the hearing, the court has three options: (1) dismiss the petition where the allegations have not been established by clear and convincing evidence; (2) sustain the petition; or (3) suspend judgment for a given period of time during which the child's caretaker is permitted to carry out the court's stated objective. The first two options are provided by statute (O.C.G.A. §15-11-56) and the third by common practice in some courts.

g. Contents of Adjudicatory Order. An adjudicatory order must contain specific findings of fact and conclusions of law in accordance with O.C.G.A. §9-11-52 regarding findings by the court. See Crook v. Georgia Department of Human Resources, 137 Ga.App. 817 (1976); W.R.G. v. State, 142 Ga.App. 81 (1977) and In re A.A.G., 143 Ga.App. 648 (1977). The judge must state the process by which the conclusion was reached and not merely state the conclusion. A mere recitation of the events that took place at trial is not sufficient neither is a bare statement of what the court considered. What is required under O.C.G.A. 9-11-52(a) is a recitation of how the facts lend support to the conclusion reached by the court. In re J.B., 241 Ga. App. 679 (1999). Because of the juvenile court's limited jurisdiction, its order must recite findings of fact which support its jurisdiction over both subject matter and all necessary parties. Williams v. Department of Human Resources, 150 Ga.App. 610 (1979). If the order fails to recite the jurisdictional facts, the judgment is void. Bosson v. Bosson, 223 Ga. 259 (1967); In re S.K.L., 199 Ga.App. 731 (1991). Findings of fact and conclusions of law which merely parrot the statutory definition of deprivation are legally inadequate. Avera v. Rainwater, 147 Ga.App. 505 (1978). In addition, the adjudicatory order must contain findings as to whether the child is a deprived child and whether such deprivation is found to have been the result of alcohol or drug abuse. O.C.G.A. §15-11-41(f).

If the petition is sustained and the dispositional hearing does not immediately follow, the court is authorized to reconsider the issue of detention and can order the child held in shelter care pending disposition. O.C.G.A. §15-11-56(b) and (d). In addition, the court is empowered to enter appropriate "protective orders" as necessary to ensure the well-being of the child upon entry of an adjudication order. See O.C.G.A. §15-11-11. If the provisions of a protective order are violated, a contempt action is an available enforcement remedy. O.C.G.A. §15-11-5.

NOTE: In the event the petition is dismissed, the court must order that the child be discharged from any detention or restriction previously imposed. O.C.G.A. §15-11-56(a).

14. Dispositional Hearing

a. Evidentiary Matters. A deprivation proceeding is divided into two phases: adjudicatory and dispositional. During the adjudicatory phase, the hearing is conducted pursuant to the rules of evidence which exclude hearsay. However, in the dispositional phase, reports and studies which may contain hearsay may be introduced to assist the court in determining the most appropriate disposition. O.C.G.A. §15-11-12; UJCR 8.1.

NOTE: While the appellate courts have held that admission of reports containing hearsay during the adjudicatory phase is a violation of law, it is not considered reversible error on appeal if there is other evidence to support the adjudication. In re J.C., 242 Ga. 737 (1978); Moss v. Moss, 135 Ga.App. 401 (1975).

b. Dispositional alternatives. At disposition, the court may permit the child to stay with a parent, guardian, or other custodian, including a putative father, subject to conditions prescribed by the court. The court may order that the placement be supervised by DFCS or an officer of the court. If the child is not permitted to return home, the court must find whether or not reasonable efforts were made to prevent placement outside the child's home pursuant to O.C.G.A. § 15-11-58 and Public Law 96-272..

c. Reasonable Efforts. Public Law 96-272, the Adoption Assistance and Child Welfare Act of 1980, requires that reasonable efforts be made to prevent the removal of abused or neglected children from their homes. Under O.C.G.A. § 15-11-58(a), the court is required to determine as a finding of fact whether reasonable efforts were made by the DFCS and other agencies to preserve and reunify the family. This determination should be made when a child is removed from the home and at every subsequent review of the court's order. In evaluating "reasonable efforts," the child's health and safety is the paramount concern.

Reasonable efforts toward reunification **are not required** when a court has determined that:

- (i) the parent has subjected the child to aggravated circumstances such as abandonment, torture, chronic abuse, or sexual abuse;
- (ii) the parent has murdered or committed voluntary manslaughter of another child of the parent;
- (iii) the parent has aided, abetted, attempted, conspired, or solicited to commit murder or voluntary manslaughter of another child of the parent;
- (iv) the parent has committed a felony assault that results in serious bodily injury to the child or another child of the parent; or
- (v) the parental rights of the parent to a sibling have been terminated involuntarily.

When, because of any of these circumstances, the court has determined that reasonable efforts toward reunification are not required, a permanency hearing shall be held within 30 days of the court's determination. The statute also requires that reasonable efforts be made to finalize a permanent placement of the child, in accordance with the permanency plan. O.C.G.A. § 15-11-58(a)(5). It is permissible to make reasonable efforts toward reunification while at the same time making reasonable efforts toward placing the child through adoption or legal guardianship. O.C.G.A. § 15-11-58(a)(6).

d. Deprivation involving substance abuse. If the child is found to be a deprived child and the deprivation is found to have been the result of alcohol or other drug abuse and the court orders transfer of temporary legal custody of the child, the court is authorized to further order that legal custody of the child may not be transferred back to the person having custody of the child when the deprivation occurred unless such person undergoes substance treatment and random substance abuse screenings and those screenings remain negative for a period of no less than six consecutive months. O.C.G.A. §15-11-55(e).

e. Duration of custody order.

(i) An order of disposition placing a deprived child in foster care under the supervision of DFCS will continue in force for 12 months after the date the child is considered to have entered foster care or until sooner terminated by the court. The date the child is considered to have entered foster care is defined as the date of the first judicial finding that the child has been subjected to child abuse or neglect, or the date that is 60 days after the date on which the child is removed from the home, whichever is earlier. O.C.G.A. §15-11-56(k). Such an order may be extended for up to an additional 12 months, upon conditions as specified in O.C.G.A. § 15-11-56(n). Subsequent extensions are unavailable; instead, DFCS must file a new deprivation petition in order to continue custody. In re B.G., 231 Ga. App. 39 (1998).

(ii) If the court grants custody to a relative following a hearing at which the court finds that reunification is not in the best interests of the child, the custody order shall remain in effect until the child's eighteenth birthday unless modified following a petition for modification by a party. Within 36 months of the custody order and every 36 months thereafter, a person or agency designated by the court shall submit a report to the court addressing whether the relative with custody continues to be qualified to receive and care for the child. A copy of the report shall be mailed to the parents at their last known address. O.C.G.A. §15-11-56(i).

(iii) Any other order of disposition in a deprivation proceeding continues in force for not more than two years. O.C.G.A. §15-11-56(o).

f. Mandatory filing of termination petition. According to O.C.G.A. § 15-11-56(m), DFCS is required to file or join a petition for termination in the following circumstances:

- (i) When the child has been in DFCS custody for 15 of the past 22 months;
- (ii) When the child is an abandoned infant;
- (iii) When the parent has murdered or committed voluntary manslaughter of another child of the parent;
- (iv) When the parent has aided, abetted, attempted, conspired, or solicited to commit murder or voluntary manslaughter of another child of the parent; or,
- (v) When the parent has committed a felony assault that results in serious bodily injury to the child or another child of the parent.

At the same time, DFCS is to seek permanent placement of the child through adoption.

g. Mandatory filing of termination excused. Despite the existence of the circumstances above, DFCS is not required to file or join a petition for termination if:

- (i) the child is being cared for by a relative;
- (ii) the case plan documents a compelling reason why termination is not in the child's best interests; or
- (iii) DFCS has not provided services necessary for the safe return of the child to the home.

h. Retransfer of custody. See Chapter XII of this Benchbook, Return of Physical Custody.

15. Motion for Reconsideration. There is no authority under the Juvenile Proceedings Code for the court to entertain a motion to reconsider a judgment once it is entered in the record. However, the court has the inherent power to modify its own judgments for at least thirty (30) days. In re P.S.C., 143 Ga.App. 887 (1977). Consequently, counsel may seek review from the trial court without resorting immediately to an appeal. Presumably, the time for taking an appeal would run from the entry date of the denial of a motion for reconsideration rather than from the entry date of the original judgment.

NOTE: It does not appear necessary to exhaust this potential trial court review procedure as a precondition for appellate review. See O.C.G.A. §5-6-36 and 5-6-38; Rockdale Cty v. Water Rights, 189 Ga.App. 873 (1989); In re Doe, 188 Ga.App. 255.

16. Petition for Modification or Vacation of Order. A petition to modify or vacate an order may be filed on the grounds that changed circumstances require such in the best interest of the child. The specific grounds for modification or vacation of an order must be set forth in clear and concise language in the petition. This procedure may not be used to change orders of dismissal after entry of judgment. O.C.G.A. §15-11-40.

a. Formerly, a Motion for New Trial could not be used to attack an order of the juvenile court, because a juvenile court had no authority to consider or grant new trials. The Supreme Court, however, has now held that a juvenile court is authorized to grant new trials. In re T.A.W., 265 Ga. 106, 454 S.E.2d 134 (1995). A juvenile court order can also be challenged by filing a motion to modify or vacate pursuant to O.C.G.A. §15-11-40. See In re M.A.L., 202 Ga.App. 768 (1992).

b. The juvenile court has jurisdiction to modify its order granting temporary custody of a deprived child to DFCS and to permit visitation by parents who filed petition for visitation rights four months after the custody order. In re K.B., 188 Ga.App. 199 (1988).

c. O.C.G.A. §15-11-40 vests in the juvenile court of a county the jurisdiction to modify and vacate its orders on any of the grounds specified in subsection (a) of that statute, whether the child is detained in that county or elsewhere; however, the superior court of that county has no jurisdiction to exercise appellate review of judgments rendered by the juvenile court. Rossi v. Price, 237 Ga. 651 (1976).

d. A motion to modify under O.C.G.A. §15-11-40 does not extend the time for filing a notice of appeal, even though it is styled "Motion for New Trial." Juvenile courts are courts of limited jurisdiction, possessing only those powers specifically conferred upon them by statute. They are unlike superior, state and city courts. See West v. Hatcher, 219 Ga. 540, 542 (1964) and In re C.M., 205 Ga.App. 543 (1992).

17. Appeals. All orders culminating in final judgment at the conclusion of the dispositional hearing are subject to appellate review. Even though a deprivation order is only valid for a period of two years, it nevertheless constitutes a final judgment for the purpose of appeal. Sanchez v. Walker County DFCS, 135 Ga.App. 891 (1975), rev'd 235 Ga. 817 (1976). An appeal grants standing only to the parties to the actual trial in juvenile court. Gates v. Rutledge, 151 Ga.App. 844 (1979).

a. Forum. Appeals of juvenile court final judgments shall be taken to the Court of Appeals or Supreme Court in the same manner as appeals from the superior court. O.C.G.A. §15-11-3. No judgment or order shall be superseded except in the discretion of the judge; rather, the judgment or order shall stand until reversed or modified by the reviewing court.

b. Constitutional Challenges. Appeals asserting a federal or state constitutional construction or challenge must be taken to the Georgia Supreme Court (Ga.Const. 1983, Act VI, §V1, Paragraph II) and all other appeals are within the jurisdiction of the Georgia Court of Appeals (Ga.Const. 1983, Act VI, §V, Paragraph III).

c. Notice. The notice of appeal must be filed within thirty (30) days after entry of final judgment. O.C.G.A. §5-6-38.

d. Right of Appeal. Juveniles are granted the same rights of appeal as adults. J.J. v. State, 135 Ga.App. 660 (1975).

e. Supersedeas. There is a significant departure from usual appellate procedure concerning the availability of a supersedeas of a final judgment tendered by the juvenile court. A superior court judgment is automatically superseded or suspended upon the filing of a timely appeal. Walker v. Walker, 239 Ga. 175 (1977). A juvenile court, unlike a superior court dealing with the same subject matter, has the discretion to grant or deny supersedeas even though the case in juvenile court emanated from a superior court. Elder v. Elder, 184 Ga.App. 167 (1987).

18. Court of Inquiry. Although the child is always the focus of juvenile court proceedings,

oftentimes the child in a deprivation case is the victim of some criminal dereliction of an adult. In such instances the juvenile court is empowered to examine the issue of whether any adult has committed a crime "whenever the person is brought before the court under any type of juvenile court proceedings." A suspect may be apprehended and brought before the court upon either a writ of summons, warrant, or by arrest. If after hearing evidence, the court finds probable cause to believe an adult has committed a misdemeanor or felony, the court may commit or bind him/her over for trial to a court of proper criminal jurisdiction or may discharge him/her. If necessary to ensure the defendant's presence at trial, the court may require and set bond or bail. See O.C.G.A. §15-11-4 and State v. Belcher, 157 Ga.App. 137 (1981).

Cases

An order denying a petition to vacate the order committing the juvenile is a judicial order subject to judicial review. Rossi v. Price, 237 Ga. 651 (1976).

An adjudication order alone, without a dispositional order following a dispositional hearing under O.C.G.A. §15-11-56, is not a final appealable judgment under this section, nor is it made one by the provisions of O.C.G.A. §5-6-34. M.K.H. v. State, 132 Ga.App. 143 (1974); In re G.C.S., 186 Ga.App. 291 (1988).

An indigent parent, whose parental rights have been terminated by an order of juvenile court on a petition filed by an agency of the state, is entitled to a paupered transcript of the proceeding in juvenile court for use in appealing the decision of that court. Nix v. Department of Human Resources, 236 Ga. 794 (1976).

A final order in a deprivation case is directly appealable. In the Interest of J.P., 267 Ga. 492, 480 S.E.2d 8 (1997).

The standard of review by the appellate court when the child is removed from his parent(s) is "whether after reviewing the evidence in the light most favorable to the appellee, any rational trier of fact could have found by clear and convincing evidence that the natural parent's rights to custody have been lost." Blackburn v. Blackburn, 249 Ga. 689, 694 (1982); In re J.C.P., 167 Ga.App. 572, 573 (1983).

A reviewing court is to defer to the juvenile court in the area of fact finding and should affirm **unless** the appellate standard of review is not met. The fact finding and weighing of evidence is to be done in the juvenile court under the clear and convincing evidence test. In re G.T.S., 207 Ga.App. 187 (1993).

A post trial declaration of a 10-year-old victim that he lied when he testified appellant molested him is not a ground for a new trial. Karvonen v. State, 205 Ga.App. 852 (1992).

D. Checklists

1. Detention Hearing: Deprived Case

Present in Court: Judge/Associate judge, Parent(s) of child(ren), Guardian ad litem, Child Advocate Attorney and/or CASA representative, DFCS caseworker, SAAG, Probation officer (if appropriate), and Court clerk.

Procedure:

(1) The judge or other designated individual reads the complaint into the record and verifies the identity of all persons present in the courtroom.

(2) If either or both parents are not represented by counsel, judge discusses the parent's rights. (See Section E.I., *Sample Dialogue Read by Judge to Parents*).

a. If either parent wants an attorney and says he/she can afford to hire an attorney, suspend the hearing so he/she has an opportunity to hire an attorney. It may be necessary to reset the hearing for a later time or the next day.

b. If either parent wants an attorney and indicates he/she cannot afford to hire one, the court may inquire into the parent's eligibility for an appointed attorney. The court may designate a representative to assist the parent in completing a financial eligibility form and determine if eligibility criteria are met. Counsel should be appointed expeditiously and the hearing should be suspended or continued to allow counsel to consult with client.

c. If both parents waive their right to counsel, proceed with the hearing. Counsel may be appointed at any stage of the proceeding.

The judge asks all parties present the following:

A. Have you reviewed the complaint?

B. Do you have any objection to its form or to the jurisdiction of the court?

(3) The hearing is informal and hearsay is admissible. Most frequently, these cases are brought by DFCS and the caseworker is represented by a Special Assistant Attorney General. The judge may inquire if there is an agreement among the parties. If there is no agreement, the judge may allow opening statements by the parties or their attorneys. The complainant must present evidence to prove that there is reasonable cause to believe that the child is deprived and that detention is necessary. There are two steps: (1) Are there sufficient deprivation allegations? and, (2) Is the detention to be continued? The reasonable efforts to prevent removal of the child from the child's home must be documented in the findings of fact and must be addressed in the order. Each party may cross-examine any witness. Once the complainant rests, each party may present its case. The judge may ask the caseworker to make a recommendation, to which the parent(s) are given an opportunity to respond. Finally, the child advocate attorney expresses his/her recommendations.

(4) The judge may:

a. Find there are reasonable grounds to believe that the allegations contained in the complaint are true. The complainant has five days to file a petition if the child is detained. The court may anticipate the filing of the petition and set the adjudicatory hearing for a date certain while the parties are in court, though this would not eliminate the need to serve the parties with summons and process once the petition is filed. The court may place the child back with a parent, guardian or custodian under conditions prescribed by the court, or may place the child in the temporary custody of others as authorized by law.

b. Find no reasonable grounds exist to support the allegations, order the complaint be dismissed and release the child back to the parent(s), guardian or custodian.

(5) If detention is found to be necessary, the court should first inquire whether or not the child can be placed with a relative pending the adjudicatory hearing. If so, the court may place temporary custody with DFCS and allow DFCS to place physical custody with the relative, or the court may

place temporary custody directly with the relative. If no relative is available, and the child cannot be returned to the parent, guardian or custodian, the child should be placed in temporary DFCS custody. The court and parties must attend to the requirements of Public Law 96-272 and O.C.G.A. § 15-11-58, regarding reasonable efforts.

2. Adjudicatory Hearing: Deprived Case

Present in Court: Judge/Associate judge, Petitioners, Attorney or Special Assistant Attorney General (SAAG) (hereinafter call Prosecutor), Child Advocate Attorney and/or CASA representative, Parent(s) of child(ren) alleged to be deprived, Counsel for parent(s), DFCS caseworker, Probation officer (if appropriate), other interested parties, and court clerk.

NOTE: In the event mother and father have conflicting interests, they shall each be entitled to separate counsel.

Procedure:

- (1) The judge or a designee reads the petition on the record and indicates who is present in the courtroom. If the mother and/or father are not present, the prosecutor shall state for the record how they were served with notice of the hearing.
- (2) If either parent has an attorney, the judge asks the attorney if the parent understands his/her rights and the allegations contained in the petition. If a parent does not have an attorney, the judge determines if the parent has previously waived such right and, if so, asks if the parent still wishes to proceed without legal counsel. If the parent has not previously waived his/her right to legal counsel, the judge reviews the parent's rights. The judge shall ask if there is any objection to the form of the petition or the jurisdiction of the court.
- (3) If the parent(s) is/are ready to proceed, the judge asks his/her attorney (or the parent himself/herself if the right to counsel has been waived) whether he/she admits or denies the allegations contained in the petition.
- (4) If parent(s) deny/ies the allegations, the judges asks whether they will agree to stipulate that biographical data contained in the petition is correct.
- (5) The parties may make opening statements. The prosecutor calls witnesses for direct examination. The other parties may cross-examine.
- (6) The prosecution rests.
- (7) Each remaining party may call witnesses.

3. Dispositional Hearing: Deprived Case

After adjudication, the court may proceed immediately to a disposition hearing or may continue the matter to a later date. In the latter event, the interim custody of the child should be determined. The same parties and personnel who were at the adjudicatory hearing are present. The court may make any disposition permitted under O.C.G.A. §15-11-55. In the Court's discretion, the public may be admitted to any dispositional hearing. O.C.G.A. § 15-11-78 (b)(5).

E. Sample Dialogue between Judge and Parents.

Because this is a deprivation case and you are the parent(s) of this/these child(ren), you have the right to have an attorney represent you in these proceedings. If you want to have an attorney represent you and are able to afford one, you must hire your own attorney. If you want to have an

attorney represent you and cannot afford one without undue financial hardship, I will appoint an attorney to represent you at no cost to you. You are not required to have an attorney, and you do have the right to represent yourself, but I must point out some of the dangers involved in proceeding without an attorney. An attorney might be able to assist you in preparing your case. An attorney can advise you of defenses, subpoena witnesses, and prepare witnesses for the hearing. Attorneys are trained to cross-examine witnesses called by the other attorneys, call witnesses and present evidence on your behalf. In general, an attorney may conduct the case for you in a manner you might not be able to do yourself. Do you understand that you have the right to have an attorney represent you and the possible dangers involved in proceeding without an attorney? [*Once understood*] Do you wish to have attorney represent you in these proceedings? [*If yes*] Can you afford to hire an attorney? [*If no, the court may inquire into the applicant's finances, or may designate an appropriate individual to assist the parent in executing a financial affidavit*]

[*If the parent does not want an attorney*] Do you want to go ahead with today's temporary hearing without an attorney and have an attorney if this case goes forward to a full hearing?

Notes:

O.C.G.A. §15-11-6(b) entitles a party to representation by counsel at all stages of any proceeding alleging deprivation. This right extends to both parent(s) and child(ren). See also In re L.L.B., 256 Ga. 768 (1987); In re D.B., 187 Ga.App. 66 (1988); In re J.D.H., 188 Ga. App. 466 (1988); and O.C.G.A. §15-11-98(a).

O.C.G.A. §15-11-49(c)(4) and §15-11-6 place affirmative duties on the judge to inform parties of their right to counsel and to appoint counsel if indigent. This is also applicable to an indigent putative father of a deprived child, even prior to proof of parenthood.

CLERK/DEPUTY CLERK

IN THE JUVENILE COURT OF _____ COUNTY
STATE OF GEORGIA

IN THE INTEREST OF:

A Child Under 18 Years of Age

SEX: _____

FILE:# _____

DOB: _____

CASE # _____

ORDER FOR SHELTER CARE

A complaint has been made to the Court concerning the above-named child. The Court finds from information brought before it that continuation in the home at this time would be contrary to the welfare of said child. It is necessary for the protection of said child that that he/she be placed in shelter care **because** _____

The Court also finds that pursuant to Official Code of Georgia Ann. Section 15-11-58(a):

- () **reasonable efforts have been made** by the Department to preserve and reunify the family prior to the placement of the child in foster care, to prevent or eliminate the need for removal of the child from the child's home and to make it possible for said child to remain safely in the home, **to wit:**

- () **reasonable efforts** by the Department to preserve and reunify the family prior to the placement of the child in foster care, to prevent or eliminate the need for removal of the child from the child's home and to make it possible for said child to remain safely in the home **were not required pursuant to O.C.G.A. Section 15-11-58 (a)(4) (A-C) because:**

- () the Department failed to make reasonable efforts to preserve and reunify the family prior to the placement of the child in foster care, to prevent or eliminate the need for removal of the child from the child's home and to make it possible for said child to remain safely in the home. The following efforts would have been reasonable to prevent or eliminate the need for removal: _____

IT IS THEREFORE ORDERED that said child be placed in the custody of _____ until further Order of the Court or until released by a person duly authorized by the Court. Said child is being placed pursuant to Official Code of Georgia Ann. Section 15-11-46 for the following reasons:

- () to protect the person or property of others or of the child;
- () the child may abscond or be removed from the jurisdiction of the court;
- () because he/she has no parent, guardian, or custodian or other person able to provide supervision and care for him/her and return him/her to the Court when required;
- () an Order for his/her detention or shelter care has been made by the Court pursuant to the Juvenile Proceedings Code.

Pursuant to O.C.G.A. Section 15-11-48(f), the Court approves the following physical placement of the child: _____
_____ pending the 72 Hour Hearing on _____ at _____, _____.m.

It is further ordered that the custodian be and hereby is authorized to obtain a physical examination, ordinary medical care, and such additional medical treatment and care which, in the opinion of a licensed physician, requires prompt treatment for the care of said child while said child is in his/her/its custody.

ORDERED AND ADJUDGED this _____ day of _____, 20____.

JUDGE/ASSOCIATE JUDGE
_____ County Juvenile Court

IN THE JUVENILE COURT OF _____ COUNTY
STATE OF GEORGIA

IN THE INTEREST OF:

A Child Under 18 Years of Age

SEX:
File #

DOB:
Case #

CONSENT IN LIEU OF 72 HOUR HEARING ORDER

The above and foregoing matter is before the Court for a Detention Hearing based upon a (Complaint)(Petition) filed by _____ alleging the above named child to be deprived. Present for Court were:

- () Mother _____ () Attorney _____
() Father
(Legal) _____ () Attorney _____
(Putative) _____ () Attorney _____
() DFACS _____ () SAAG _____
() Other Petitioner _____ () Attorney _____
() Guardian ad Litem _____
() Other _____

The following part(y)(ies) was/were not present: _____

He/She/They was/were (not) notified of the proceedings as follows: _____

Prior to the call of the matter for hearing, the parties conferred and the (mother)(father) consented to temporary custody and control of said child being placed with the following individual or agency:

_____.

Based upon the consent of the parties, the Court finds that there is probable cause to believe the above named child is deprived pursuant to O.C.G.A. Section 15-11-2(8)(A). The precipitating cause of removal of the child from the home was: _____

() The _____ County Department of Family and Children Services **made reasonable efforts** to preserve and reunify the family prior to the placement of the child in foster care, to prevent or eliminate the need for the removal of the child from his/her home, and to make it possible for the child to return safely home, **to wit:**

() **Reasonable efforts** by the _____ County Department of Family and Children Services to preserve and reunify the family prior to the placement of the child in foster care, to prevent or eliminate the need for the removal of the child from his/her home, and to make it possible for the child to return safely home **were not required under O.C.G.A. Section 15-11-58 (a)(4) (A-C) because:** _____

() This is a private deprivation matter in which DFACS is not involved. The child is not placed in foster care. Reasonable efforts are not an issue.

Continuation in the home would be contrary to the welfare of the child and removal of the child from his/her home is in his/her best interest **because** _____

IT IS THEREFORE ORDERED that temporary custody of the above named child should be and is HEREBY AWARDED to _____ pending (the filing of a Petition and) an Adjudicatory Hearing (to be scheduled in this Court) (now scheduled for _____ at _____, _____.m.)

IT IS FURTHER ORDERED that the following home evaluation(s) be performed: _____

IT IS FURTHER ORDERED: _____

IT IS FURTHER ORDERED that the named custodian is hereby authorized to obtain for this child physical examinations, ordinary medical care, and such additional medical treatment and care which, in the opinion of a licensed physician, is necessary for the care and well being of the child.

Unless otherwise noted, all parties named as present for the Detention Hearing were given a copy of this Order.

IT IS SO ORDERED this _____ day of _____, 20____.

JUDGE/ASSOCIATE JUDGE
_____ County Juvenile Court

Consented to by:

Mother

Attorney for mother

Father

Attorney for father

Other Petitioner

Petitioner's Attorney

SAAG

Guardian ad Litem

IN THE JUVENILE COURT OF _____ COUNTY
STATE OF GEORGIA

IN THE INTEREST OF:

A Child Under 18 Years of Age

SEX: _____ DOB: _____
File # _____ Case # _____

72 HOUR HEARING ORDER

The above and foregoing matter is before the Court for a Detention Hearing based upon a
(Complaint)(Petition) filed by _____ alleging the above
named child to be deprived. Present in Court were:

() Mother _____	() Attorney _____
() Father _____	
(Legal) _____	() Attorney _____
(Putative) _____	() Attorney _____
() DFACS _____	() SAAG _____
() Other Petitioner _____	() Attorney _____
() Guardian ad Litem _____	
() Other _____	

() The following part(y)(ies) was not/were not present: _____

He/She/They was/were (not) notified of the proceedings as follows: _____

Based upon the evidence presented, the Court finds that there is probable cause to believe the
above named child is deprived pursuant to O.C.G.A. Section 15-11-2(8)(A). The precipitating cause of
removal of the child from the home was: _____

() The _____ County Department of Family and Children Services **made reasonable efforts** to
preserve and reunify the family prior to the placement of the child in foster care, to prevent or eliminate the
need for the removal of the child from his/her home, and to make it possible for the child to return safely
home, **to wit:** _____

() **Reasonable efforts** by the _____ County Department of Family and Children Services to preserve and reunify the family prior to the placement of the child in foster care, to prevent or eliminate the need for the removal of the child from his/her home, and to make it possible for the child to return safely home **were not required under O.C.G.A. Section 15-11-58(a)(4)(A-C) because:** _____

() The _____ County Department of Family and Children Services failed to make reasonable efforts to preserve and reunify the family prior to the placement of the child in foster care, to prevent or eliminate the need for the removal of the child from his/her home, and to make it possible for the child to return safely home. The following efforts would have been reasonable to prevent or eliminate the need for removal: _____

() This is a private deprivation matter in which DFACS is not involved. The child is not placed in foster care. Reasonable efforts are not an issue.

Continuation in the home would be contrary to the welfare of the child and removal of the child from his/her home is in his/her best interest **because** _____

IT IS THEREFORE ORDERED that temporary custody of the above named child should be and is HEREBY AWARDED to _____ pending (the filing of a Petition and) an Adjudicatory Hearing (to be scheduled in this Court) (now scheduled for the following date and time: _____ at _____, _____.m.)

IT IS FURTHER ORDERED that the following home evaluation(s) be performed: _____

IT IS FURTHER ORDERED: _____

IT IS FURTHER ORDERED that the named custodian is hereby authorized to obtain for this child physical examinations, ordinary medical care, and such additional medical treatment and care which, in the opinion of a licensed physician, is necessary for the care and well being of the child.

IT IS SO ORDERED this _____ day of _____, 20____.

JUDGE/ASSOCIATE JUDGE
_____ County Juvenile Court

IN THE JUVENILE COURT OF _____ COUNTY
STATE OF GEORGIA

IN THE INTEREST OF:

_____ SEX: _____ DOB: _____
File # Case #

A Child Under 18 Years of Age

ORDER OF ADJUDICATION and DISPOSITION

The above and foregoing matter came before the Court on _____, for an
Adjudicatory Hearing based upon a Petition filed by (_____) (the
_____ County Department of Family and Children Services) alleging the above
named child to be deprived.

Based upon the evidence presented, the Court makes the following Findings of Fact and
Conclusions of Law by clear and convincing evidence.

FINDINGS OF FACT

1.

Present in Court were:

() Mother _____	() Attorney _____
() Father _____	
(Legal) _____	() Attorney _____
(Putative) _____	() Attorney _____
() DFACS _____	() SAAG _____
() Other Petitioner _____	() Attorney _____
() Guardian ad Litem _____	
() Other _____	

The following interested part(y)(ies) was/were NOT present: _____

2.

The child is of the age and sex and has the name set forth above. (The child is a resident of _____ County, Georgia.) (The child was physically present in _____ County, Georgia, at the time of the filing of the Petition.)

3.

The mother of the child, _____, was/was not present in Court for the hearing. She was notified of the proceedings by (personal service) (certified mail) (publication). (She was not notified of the proceedings because _____.)

The (putative) (legal) father of the child, _____, was/was not present in Court for the hearing. He was notified of the proceedings by (personal service) (certified mail) (publication). (He was not notified of the proceedings because _____.)

4.

(facts showing deprivation)

5.

(facts showing deprivation)

6.

(facts showing deprivation)

7.

[Facts outlining the efforts to prevent removal and make the child's return home possible] [or facts showing that the Department has not made reasonable efforts]

CONCLUSIONS OF LAW

Based upon the above findings of fact, the Court concludes as follows:

The Court has subject matter jurisdiction over this action and personal jurisdiction over the child, the mother and the (putative) (legal) father. Venue is proper in this Court.

This child is a deprived child as defined in O.C.G.A. Section 15-11-2(8)(A) in that he/she is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for his/her physical, mental or emotional health or morals. The causes of the deprivation are:

- | | |
|--|---|
| <input type="checkbox"/> Physical abuse | <input type="checkbox"/> Sexual abuse |
| <input type="checkbox"/> Emotional abuse | <input type="checkbox"/> Neglect/Lack of Supervision |
| <input type="checkbox"/> Medical Neglect | <input type="checkbox"/> Neglect/Inadequate Housing |
| <input type="checkbox"/> Educational Neglect | <input type="checkbox"/> Substance Abuse by Parent |
| <input type="checkbox"/> Abandonment | <input type="checkbox"/> Mental/Physical Impairment of Parent |
| <input type="checkbox"/> Other _____ | |

The _____ County Department of Family and Children Services made reasonable efforts to preserve and reunify the family prior to the placement of the child in foster care, to prevent or eliminate the need for removal of the child from the home and to make it possible for the child to return home. **The reason(s) the child cannot be adequately and safely protected at home is/are** _____

Therefore, continuation in the home would be contrary to the welfare of the child and removal of the child from the home is in the best interest of the child.

DISPOSITION

Temporary custody and control of this child is HEREBY AWARDED to the Georgia Department of Human Resources through its agent the _____ County Department of Family and Children Services.

The Permanency Plan is to reunite this child with the parent(s). ACCORDINGLY, the _____ County Department of Family and Children Services is HEREBY DIRECTED to prepare a Case Plan for reunification pursuant to Section 15-11-58 of the Official Code of Georgia Annotated which shall become the Court Ordered plan of care unless a party appeals the

plan as provided by law. At a minimum, said plan shall include the following goals which must be accomplished before the child may return home: _____

IT IS FURTHER ORDERED that while said child is in the custody of the _____ County Department of Family and Children Services the parents of said child shall participate in the Judicial Citizen Panel Review program or Judicial Review as directed and the _____ County Department of Family and Children Services is HEREBY directed to furnish the Court or the Judicial Citizen Review Panels all information in its possession concerning the family, including but not limited to psychological evaluations performed on the child, the parents or any other extended family member if available.

IT IS FURTHER ORDERED that the mother and the father shall notify the Clerk of this Court of any change in address within 72 hours of the change.

IT IS FURTHER ORDERED that the _____ County Department of Family and Children Services is authorized to obtain for said child physical examinations, ordinary medical care, and such additional medical treatment and care which, in the opinion of a licensed physician, is necessary for the care and well being of the child.

This Order shall expire on _____, unless sooner terminated by Order of this Court.

IT IS SO ORDERED this ____ day of _____, 20____.

JUDGE/ASSOCIATE JUDGE
_____ County Juvenile Court

Notes for consideration with this Order

Disposition alternatives:

***** "The permanency plan is uncertain at this time. Accordingly, the _____ Department of Family and Children Services is hereby directed to prepare a case plan for reunification or nonreunification pursuant to O.C.G.A. Sec. 15-11-58. If reunification is deemed appropriate, the plan shall become the Court ordered plan of care unless a party appeals the plan as provided by law. If nonreunification is deemed appropriate, a hearing shall be set on the matter."

***** "The Court recessed while the parents, the representatives from the Department of Family and Children Services, the representative from the Citizen's Review Panel, and the attorneys conferred on a case plan for reunification. The parties reached an agreement as to that plan which has been presented to the Court. The Court finds the plan to be appropriate and finds the following elements of the plan essential for reunification of the child with the parent:

- 1.
- 2.
3. etc.

The Court finds that substantial compliance with items 1, 2, 3, and (whatever) must be accomplished by the father/mother before reunification can be achieved."

***** "Disposition is hereby continued until **[date and time]**. The parties are HEREBY ORDERED to be in attendance at that time."

***** "This matter shall be reviewed by the Court on **[date and time]**. A Permanency Hearing is hereby set for **[date and time approximately 11 months away]**. The parties are HEREBY ORDERED to be in attendance at that time."

***** "This matter is hereby set for review by the (Court) (Judicial Citizen Review Panels) on the following dates: **[Set dates and times for reviews (90 days, 6 months after that)]** A Permanency Hearing is hereby set for **[date and time approximately 11 months away]**. The parties are HEREBY ORDERED to be in attendance at that time."

IN THE JUVENILE COURT OF _____ COUNTY
STATE OF GEORGIA

IN THE INTEREST OF:

SEX: DOB:
File # Case #

A Child Under 18 Years of Age

SUPPLEMENTAL ORDER INCORPORATING 30-DAY CASE PLAN

On _____, this Court entered an Order finding the above-named child to be deprived and placing temporary custody and control of said child with the _____ County Department of Family and Children Services.

The child was removed from the home on _____.

The Department formulated a case plan pursuant to the requirements of O.C.G.A. Section 15-11-58(c). The written report containing the case plan was received by this Court on _____. Pursuant to law, the father/mother was/were provided with proper notice concerning his/her right to a hearing on the proposed case plan. No hearing having been requested by any party, and the Court having received the plan and having found it to be an appropriate plan for reunification, the Court does hereby approve the plan as submitted and finds the following elements of the plan essential for reunification of the child with the parent:

- 1.
- 2.
3. (etc.)

The Court finds that substantial compliance with items 1, 2, 3, and (whatever) must be accomplished by the father/mother before reunification can be achieved.

The parties are hereby ordered to comply with each and every requirement of this Supplemental Order. The child may be returned home only upon the prior approval of the Court pursuant to O.C.G.A. Section 15-11-55.

IT IS SO ORDERED this _____ day of _____, 20_____.

JUDGE, ASSOCIATE JUDGE
_____ County Juvenile Court

IN THE JUVENILE COURT OF _____ COUNTY
STATE OF GEORGIA

IN THE INTEREST OF:

_____, SEX ____ AGE ____ DOB _____ CASE # _____
_____, SEX ____ AGE ____ DOB _____ CASE # _____
_____, SEX ____ AGE ____ DOB _____ CASE # _____
_____, SEX ____ AGE ____ DOB _____ CASE # _____

Child(ren)

ORDER ON MOTION FOR NONREUNIFICATION
(PERMANENCY PLANNING HEARING ORDER)

The above and foregoing matter came before the Court on _____ for a Permanency Hearing pursuant to O.C.G.A. Section 15-11-58(e). An Order finding the above-named children to be deprived was entered on _____. On _____, the _____ County Department of Family and Children Services submitted a report to the Court which does not contain a plan for reunification services.

Based upon the evidence presented, the Court makes the following Findings of Fact and Conclusions of Law by clear and convincing evidence:

FINDINGS OF FACT

1.

Present in Court were:

() Mother _____	() Attorney _____
() Father _____	
(Legal) _____	() Attorney _____
(Putative) _____	() Attorney _____
() DFACS _____	() SAAG _____
() Guardian ad Litem _____	
() Other _____	

The following interested part(y)(ies) was/were NOT present: _____

2.

The mother of the child, _____, was/was not present in Court for the hearing. She was notified of the proceedings by (personal service) (certified mail) (publication). (She was not notified of the proceedings because _____

_____.)

The (putative) (legal) father of the child, _____, was/was not present in Court for the hearing. He was notified of the proceedings by (personal service) (certified mail) (publication). (He was not notified of the proceedings because _____

_____.)

3.

The following circumstances exist, which create a presumption that reunification services should not be provided:

() The parent has unjustifiably failed to comply with a previously ordered plan designed to reunite the family.

() A child has been removed from the home on at least two previous occasions and reunification services were made available on those occasions.

() The following grounds for terminating parental rights exist: _____

() The following circumstances as set out in O.C.G.A. Section 15-11-58 (a)(4) exist:

4.

(See attached Exhibit "A" for other facts, if applicable.)

5.

In regard to the reasonable efforts requirements of O.C.G.A. Section 15-11-58:

() **Reasonable efforts were made** after removal of the children by DFACS to make it possible for the children to return safely home in that: _____

() **Reasonable efforts** to return the children safely home **were not required under O.C.G.A. Section 15-11-58 (a)(4)(A-C) because:** _____

() The Department **failed to make reasonable efforts** to return the children safely home. The following efforts would have been reasonable to safely reunify the children with the family:

6.

The specific reason(s) that the children cannot be maintained safely in the home and that continuation of the children in the home would be contrary to their welfare at this time is (are)

7.

Reasonable efforts to reunify the child with the family will be detrimental to the child and therefore reunification services should not be provided or should be terminated because

[7.]

The presumption that reunification services should not be provided has been rebutted by the following facts: _____

8.

The Department of Family and Children Services stated that it does (not) intend to proceed with termination of parental rights at this time. *[The Court hereby appoints the guardian ad litem to determine whether termination proceedings should be commenced.]*

9.

The Department of Family and Children Services has/has not made a reasonable search for a relative placement with the following results: _____

CONCLUSIONS OF LAW

Based upon these findings of fact, the Court concludes as follows:

Reasonable efforts to reunify this family are not appropriate and therefore should not be provided or should be terminated.

[Reasonable efforts to reunify this family should be provided. The Department is directed to work with the family to formulate a reunification plan which shall become the order of the Court unless a party appeals the plan as provided by law.]

The Permanency Plan is as follows:

() Reunification with _____

() Adoption

() Legal guardianship with _____

() Placement with a fit and willing relative, to wit: _____

() Placement in the following planned permanent living arrangement: permanent placement in the _____ foster home, as shown by a long-term foster care agreement, submitted to the Court, which has been signed by the children, the biological parents, the foster parents and the agency representative. The Court has considered reunification, adoption, referral for legal guardianship and permanent placement with a fit and willing relative as possible permanency plans for the child and finds that there is a compelling reason that these plans are not in the children's best interest because _____

The Department of Family and Children Services shall make reasonable efforts to place said children in accordance with this permanency plan and shall complete whatever steps are necessary to finalize the permanent placement of the children.

IT IS SO ORDERED this _____ day of _____, 20____.

JUDGE, ASSOCIATE JUDGE
_____ County Juvenile Court

IN THE JUVENILE COURT OF _____ COUNTY
STATE OF GEORGIA

IN THE INTEREST OF:

	SEX:	DOB:
_____	File #	Case #

A Child Under 18 Years of Age

SUPPLEMENTAL ORDER FOLLOWING CITIZEN PANEL REVIEW

The above styled matter was reviewed at a Citizen Review Panel meeting held on _____.

The recommendations of the Panel were submitted to the Court within five days of the Review as required by O.C.G.A Section 15-11-58 (k). No party requested a hearing on the recommendations. Upon review of the recommendations by the Panel, the Court makes the following **FINDINGS OF FACT**:

The permanency plan at the time of the review was: (reunification, adoption, legal guardianship, placement with a fit and willing relative, or placement in another planned permanent living arrangement),
to wit: _____

1. _____ Returning to the home would be contrary to the welfare of the child **because** _____

2. _____ Reasonable efforts have been made to finalize the permanency plan that was in effect. Those efforts were:

3. _____ DFACS has not made reasonable efforts to finalize the permanency plan in effect.
4. _____ DFACS' revised plan is for (reunification or **specify** other permanency plan): _____
5. _____ DFACS does/does not intend to petition for termination of parental rights.
6. _____ The current placement is appropriate for the child's needs.
7. _____ The current placement is not appropriate for the child's needs **in that** _____

IT IS THEREFORE ORDERED AND ADJUDGED:

- a. _____ A guardian ad litem shall be appointed to determine whether termination proceedings should be commenced (when DFACS indicates that it does not intend to petition for termination of parental rights).
- b. _____ The child shall return to the home of the parent(s), legal guardian or custodian.
- c. _____ The child shall continue in the current placement as it is appropriate for the child's needs.
- d. _____ The child shall continue in the current placement but the current placement plan is no longer appropriate for the child's needs. _____ County DFACS is **HEREBY DIRECTED** to devise another plan addressing the concerns outlined in # 7 above and submit said plan to the Court within 10 days for Court approval.
- e. _____ A hearing has been requested by a party/or upon the Court's own motion. The Clerk of Court is instructed to set the the above-styled case for a hearing within _____ days with notice to all parties. The purpose of the hearing is to address the following issues: _____
- f. _____ The revised plan is a change from reunification to adoption following termination of parental rights.
Reunification services shall continue to be offered and provided until any termination is complete unless otherwise specified herein: _____
- g. _____ The revised plan is substantially the same as the case plan currently in effect. All elements previously found by the Court to be essential to accomplish the permanency plan remain essential.
- h. _____ The revised plan is substantially different than the previous plan in effect. **See addendum to this Order.**

The parties are ordered to abide by each and every requirement of the Order of the Court.

IT IS SO ORDERED this _____ day of _____, 20_____.

JUDGE/ASSOCIATE JUDGE
_____ County Juvenile Court

IN THE JUVENILE COURT OF _____ COUNTY
STATE OF GEORGIA

IN THE INTEREST OF:

A Child Under 18 Years of Age

SEX:
File #

DOB:
Case #

ADOPTION STATUS HEARING ORDER

The parental rights of the mother were terminated on _____. The parental rights of the father were terminated on _____. Said child was placed in the custody of the Georgia Department of Human Resources. The permanency plan for said child is adoption.

This matter is before the Court for a Judicial Review pursuant to the requirements of O.C.G.A. Section 15-11-103.

() The adoption of the child was finalized on _____. It is therefore Ordered that this case BE and HEREBY IS CLOSED.

() The adoption of the child has not been finalized because _____

() It appears from the report made by said Department that all reasonable efforts to finalize the permanent placement of said child have been made since this matter was last before the Court, to wit: _____

() It appears from the report made by said Department that the Department has failed to make reasonable efforts to finalize the permanent placement of said child. The following further efforts are ordered: _____

() IT IS THEREFORE ORDERED that said child shall remain in the custody and control of the Georgia Department of Human Resources pending finalization of the adoption.

() IT IS FURTHER ORDERED that this matter shall be brought back before the Court for another review on _____, at _____, ____m. unless the adoption has been finalized prior to that date.

IT IS SO ORDERED this ____ day of _____, 20____.

JUDGE/ASSOCIATE JUDGE
_____ County Juvenile Court

IN THE JUVENILE COURT OF _____ COUNTY
STATE OF GEORGIA

IN THE INTEREST OF:

SEX: DOB:
File # Case #

A Child Under 18 Years of Age

ORDER ON MOTION FOR EXTENSION/PERMANENCY ORDER

The above and foregoing matter came before the Court on _____, based upon a Motion for Extension filed by the _____ County Department of Family and Children Services alleging that said child continues to be a deprived child and requesting that said child be continued in the temporary custody and control of the _____ County Department of Family and Children Services.

Based upon the evidence presented, the Court makes the following Findings of Fact and Conclusions of Law by clear and convincing evidence.

FINDINGS OF FACT

1.

Present in Court were:

() Mother _____	() Attorney _____
() Father	
(Legal) _____	() Attorney _____
(Putative) _____	() Attorney _____
() DFACS _____	() SAAG _____
() Other Petitioner _____	() Attorney _____
() Guardian ad Litem _____	
() Other _____	

The following interested part(y)(ies) was/were NOT present: _____

2.

The child is of the age and sex and has the name set forth above. The child is a resident of _____ County, Georgia.

3.

The mother of the child, _____, was/was not present in Court for the hearing. She was notified of the proceedings by (personal service) (certified mail) (publication). (She was not notified of the proceedings because _____.)

The (putative) (legal) father of the child, _____, was/was not present in Court for the hearing. He was notified of the proceedings by (personal service) (certified mail) (publication). (He was not notified of the proceedings because _____.)

4.

The child was removed from his/her home on _____, and entered foster care on _____. The Order granting custody to the Georgia Department of Human Resources through its agent the _____ County Department of Family and Children Services will expire on _____. Since the child was placed in custody, the _____ County Department of Family and Children Services has provided the following services to assist in the reunification of this family: (list the services provided here)

5.

The parents have not availed themselves of these services and have failed to comply with their case plan for reunification as follows: (state how parents have failed to comply)

[5].

[The parents have actively participated in the case plan for reunification and have worked diligently to improve their circumstances. However, immediate reunification is not feasible because (state why).]

[5.]

[The parents have substantially complied with the case plan for reunification and have accomplished the goals required by the Court. The Court finds that the child can be safely returned to the home at this time.]

6.

An extension of the Court's Order entered on _____, is necessary to accomplish the purposes of the Order.

[6]

[An extension of the Court's Order is not appropriate.]

7.

The Department stated that it intends to file a Petition to terminate the parents' parental rights within 60 days and thereafter place the child for adoption.

[The Department stated that it does not intend to file a Petition to terminate the parents' parental rights but to continue to pursue reunification.]

[The Department stated that it does not intend to file a Petition to terminate the parents' parental rights. The child has a bond with the parents and does not wish to have that connection legally severed. The child is placed with the _____ foster family with whom a long term foster care agreement has been signed.]

CONCLUSIONS OF LAW

Based upon the above findings of fact, the Court concludes as follows:

The Court has subject matter jurisdiction over this action and personal jurisdiction over the child and the child's parents. Venue is proper in this Court.

This child is a deprived child as defined in O.C.G.A. Section 15-11-2(8)(A) in that he/she is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for his/her physical, mental or emotional health or morals. [The child is no longer a deprived child.]

The _____ County Department of Family and Children Services made reasonable efforts to make it possible for the child to return home. Return to the home would be contrary to the welfare of the child and continued removal of the child from the home is in the child's best interest. [Continued removal of the child from the home is not in the child's best interest.]

DISPOSITION

The Court HEREBY ORDERS that temporary custody and control of said child be and hereby is continued with the _____ County Department of Family and Children Services.

[The Motion for Extension is HEREBY DENIED. The child is returned to the custody of the parents.] [End of Order]

Permanency Plan: Adoption following Termination of Parental Rights. Prompt filing of a Petition for Termination of Parental Rights is part of making reasonable efforts to find permanency for this child. Failure of the _____ County Department of Family and Children Services to file its Petition for Termination of Parental Rights in a timely manner could result in a finding by the Court that reasonable efforts to achieve the permanency plan in place have not been made. Reunification services shall continue until a termination of parental rights is granted. The _____ County Department of Family and Children Services shall actively pursue obtaining an appropriate adoptive placement of the child.

[Permanency Plan: Reunification with the parents. The facts supporting continued efforts toward reunification are (state facts). It is too early to specify a time certain for reunification because

(state why). The plan to achieve reunification within 6 months includes: (state steps to achieve prompt anticipated reunification).

[Permanency Plan: Permanent placement in another planned permanent living arrangement, to wit: permanent placement in the _____ foster home, as shown by a long-term foster care agreement, submitted to the court, which has been signed by the child, the child's parents, the foster parents and the Department representative. The Court has considered reunification, adoption, referral for legal guardianship and permanent placement with a fit and willing relative as possible permanency plans for the child and finds that there is a compelling reason that these plans are not in the child's best interest _____ because

The plan to ensure the stability of this placement is (state plan here).

IT IS FURTHER ORDERED that the _____ County Department of Family and Children Services is authorized to obtain for said child physical examinations, ordinary medical care, and such additional medical treatment and care which, in the opinion of a licensed physician, is necessary for the care and well being of the child.

This Order shall expire on _____, unless sooner terminated by Order of this Court.

IT IS SO ORDERED this _____ day of _____, 20____.

JUDGE, ASSOCIATE JUDGE
_____ County Juvenile Court

