

## **XII. RETURN OF PHYSICAL CUSTODY**

### **A. Code Section: O.C.G.A. §15-11-55(a)(2)**

### **B. Uniform Juvenile Court Rule: None**

### **C. Procedure**

1. The court may order that the return of the child to the custodian occur upon the satisfactory completion of certain requirements. The court may also conduct a hearing to decide if the proposed retransfer of physical custody is in the best interest of the child. Code Section 15-11-55(a)(2) does not specify a format for the hearing. Any procedure should insure that all parties who have a concern about the retransfer, including the child and the child's attorney, are heard by the court.

2. If a 30-day case plan has been made or if there has been a revised plan after a citizen panel review, and the plan provides for a retransfer of the child upon the occurrence of specified circumstances, the court may, upon approval of the plan, supplement the prior dispositional order by incorporating the original or revised plan.

3. Some courts have allowed DFCS to write the court and explain the justification for returning the child. The judge may then indicate his or her approval of the retransfer at the bottom of the letter.

4. Code Section 15-11-55(a)(2) was developed in 1993, after a series of cases in which children were mistreated after DFCS returned children to their homes. The legislature gave the juvenile court authority to review the Agency's proposed safety plan for the physical return of the child to the custodian from whom the child had been removed because of deprivation. The return or "retransfer" encompasses everything from expanding visitation from supervised to unsupervised visitation, to the child actually moving back home. The court may approve the proposed plan, modify the proposed plan, or refuse to allow the retransfer.

It was the clear intent of the legislature to give the court oversight, and the court should not treat these situations routinely.

### **D. Temporary DFCS Custody, O.C.G.A. §15-11-14**

Effective July 1, 1999, DFCS may accept temporary physical custody of a child for seven days when the parent is unable to care for the child as a result of emergency or illness. So long as the child is not otherwise at risk, a parent or the parent's designee may regain physical custody of the child at any time. At the expiration of the seven days, or if DFCS determines the child is abused, DFCS must bring the child before an intake officer or the court as provided in O.C.G.A. §15-11-47 or 49.