

**ANNUAL REPORT
OF THE
STUDY COMMITTEE ON JUVENILE JUSTICE
TO THE ILLINOIS JUDICIAL CONFERENCE**

Hon. Patricia Martin Bishop

Hon. C. Stanley Austin
Hon. Lynne Kawamoto
Hon. Diane M. Lagoski
Hon. John R. McClean, Jr.
Hon. Daniel J. Stack

Hon. David W. Slater
Hon. Edna Turkington
Hon. Kendall O. Wenzelman
Hon. Milton S. Wharton
Professor Suzanne S. Greene

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I. STATEMENT ON COMMITTEE CONTINUATION

The charge of the Study Committee on Juvenile Justice (Committee) is to study and make recommendations on aspects of the juvenile justice system, propose education and training programs for judges and prepare and update the juvenile law benchbook. The major work of the Committee has been the completion of the two-volume set of the *Illinois Juvenile Law Benchbook*

Annual updates of both volumes of the benchbook are necessary due to the rapid and continuing changes in juvenile law. In light of the continued legislation and changes in case law in this area, the Committee believes that continued instruction of judges concerning all aspects of juvenile law is necessary. Further, the Committee believes that continued monitoring of the upcoming federal review and compliance with the federal requirements is warranted. Therefore, the Committee requests that it be permitted to continue implementing its assigned charge.

II. SUMMARY OF COMMITTEE ACTIVITIES

A. Juvenile Law Benchbook

During this Conference year, the Committee commenced updating Volume I of the Juvenile Law Benchbook. Volume I, published in 2000, covers juvenile court proceedings involving allegations of delinquency, minors requiring authoritative intervention (MRAI) and addicted minors. Approximately 200 judges have received copies of Volume I. The Committee anticipates an update for Volume I will be available in 2004.

Because of significant expansion of statutory and case law governing Illinois juvenile court proceedings in recent years, the benchbook was divided into two volumes. The two-volume set is designed to provide judges with a practical and convenient guide to procedural, evidentiary, and substantive issues arising in Juvenile Court proceedings. The books suggest to trial judges relevant statutory provisions, identify areas and issues which present challenges unique to these proceedings and, where possible, suggest the controlling case law. Volume II addresses exclusively proceedings brought in the juvenile court which involve allegations of abuse, neglect and dependency. The Committee hopes these volumes will serve two functions. First, the books will afford judges, particularly judges who are new to the Juvenile Court, an idea of the issues and problems which should be anticipated in presiding in Juvenile Court proceedings. Second, the books will provide all judges quick access to controlling statutory and case law needed on the bench, and during the hearing, when time, circumstances and case load do not afford the opportunity for recess and research.

The discussion in each book is organized transactionally, i.e., issues are identified and discussed in the order in which they arise during the course of a case. In general, the discussions begin with an examination of how a case arrives in Juvenile Court and end with post-dispositional matters such as termination of parental rights proceedings, termination of wardship, and appeal. The Appendix in each book contains procedural checklists and sample forms that can be used or

adapted to meet the needs of each judge and the requirements of the county and circuit in which he or she sits. Additionally, uniform court orders for abuse, neglect and dependency cases and their accompanying instructions can be found in the Appendix of Volume II. The Committee anticipates updating each volume annually.

B. Uniform Juvenile Court Orders

During the Conference year, the Committee monitored the use of uniform juvenile court orders it designed. The orders are designed for use by judges involved in abuse, neglect or dependency proceedings in the Juvenile Court. The Committee designed the uniform orders to fulfill a number of critical functions. First, the orders incorporate the findings required by federal law (45 C.F.R. § 1356.21 (2000)) when a child is removed from the custody of a biological parent or parents. The absence of these findings when the 2003 federal review of the Illinois Juvenile Court is conducted will jeopardize federal funding which supports foster care services in Illinois. Second, the proposed orders incorporate the findings required by the Illinois Juvenile Court Act. Third, the orders are designed to provide a clear judicial statement to the parties which identifies the parental problems which the court will require be addressed before custody will be returned to the parent or parents. Fourth, the orders provide a convenient summary of the previous findings made and steps taken by the court which hopefully will ease any change in caseworkers, attorneys or judges.

Supreme Court Order M.R. 17494 was considered in drafting the uniform orders. The Supreme Court Order was issued in response to newly promulgated regulations by the U.S. Department of Health and Human Services (HHS). Among other things enacted, those regulations changed HHS' requirements for judicial determinations that a court must make when removing or authorizing removal of a child from his/her parents. Each uniform order, including the temporary custody order, contains each of those judicial determinations. The uniform orders and instructions are included in the Appendix section of Volume II of the *Illinois Juvenile Law Benchbook*

C. Juvenile Court Federal Review

The Committee continued to discuss at great length the anticipated 2003 federal review of the Illinois Juvenile Court which will study compliance with federal funding mandates concerning necessary findings in juvenile cases. The review is intended to ensure conformance with the "State Plan" requirements in Titles IV-B and IV-E of the Social Security Act (42 U.S.C. §§ 620-628b, 670-679b (2000)). Specifically, Title IV-B concerns the requirements for State plans regarding child welfare services. Title IV-E concerns the requirements for State plans regarding foster care and adoption assistance. A failure to comply with these requirements will result in the loss of many millions of dollars in federal funding for foster care placement in Illinois. The loss of such funds will seriously compromise the safety, permanency and well-being of the 26,000 children currently in foster care in our state.

Juvenile court orders will be reviewed to determine their compliance with Title IV-E

mandates. Under Title IV-E, which authorizes federal foster care funding, court orders removing children from the custody of biological parents must include a judicial finding that reasonable efforts to prevent removal of the child have been made and that remaining in the home would be contrary to the welfare of the child. These determinations must be made in abuse/neglect/dependency and delinquency cases. Section 1356.21 (45 C.F.R. §1356.21 (2000)), the corresponding federal regulation for Title IV-E, sets forth the foster care maintenance payments program requirements which must be met by the State. Pursuant to sections 1356.21(b)(1) and 1356.21(c) (45 C.F.R. §§1356.21(b)(1), (c) (2000)), judicial determinations regarding reasonable efforts and the welfare of the child must be made in accordance with specified criteria and time frames set forth in those sections, or the child is not eligible to receive Title IV-E foster care maintenance payments for the duration of that stay in foster care. The regulation further requires judicial determinations to be explicitly documented, to be made on a case-by-case basis, and to be stated in the court order. 45 C.F.R. §1356.21(d) (2000). The purpose of this requirement is to assure that the individual circumstances of each child are properly considered in making judicial determinations.

At this time, the Committee does not have any official role or planned activities in the review process. Individual members of the Committee have been contacted for input into the Illinois Assessment phase of the review. It is hoped that the Committee will be allowed some official role in the review process and that the Illinois Department of Children and Family Services (DCFS) will consult the Committee in developing and implementing any program improvement plan resulting from the review.

D. Education

The Committee continued its commitment to educating Illinois judges on juvenile law issues during the 2003 Conference year. In December of 2002, various Committee members assisted in the presentation of a program on juvenile law at the 2002 New Judge Seminar. The presentation introduced new judges to the issues and problems they might experience presiding in juvenile court. The Committee will continue to offer recommendations for judicial education programs in this rapidly changing area of the law.

III. PROPOSED COMMITTEE ACTIVITIES FOR THE NEXT CONFERENCE YEAR

During the 2004 Conference year, the Committee will draft updates for Volume I and Volume II of the *Illinois Juvenile Law Benchmark*. The Committee also intends to recommend and participate in the presentation of juvenile law education programs. The Committee will continue to monitor other proposed and enacted legislation, executive initiatives and developing common law that may affect the juvenile justice system. Finally, the Committee will continue to monitor the progress and results of the federal review.

IV. RECOMMENDATIONS

The Committee is making no recommendations to the Conference at this time.