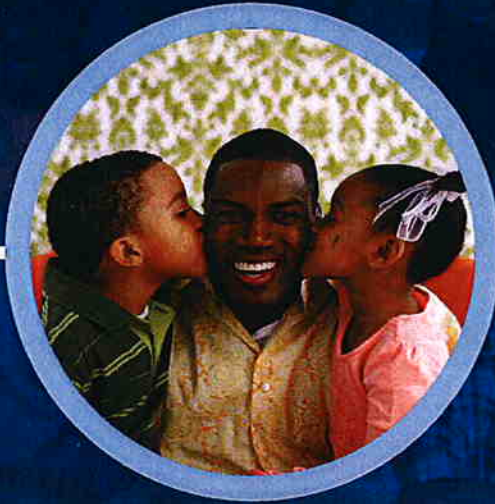


Family Preservation in Georgia:

A Legal and Judicial Guide to Preventing
Unnecessary Removal to State Custody



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SUPREME COURT OF GEORGIA
COMMITTEE ON JUSTICE FOR CHILDREN

FAMILY PRESERVATION IN GEORGIA:
*A Legal and Judicial Guide to
Preventing Unnecessary Removal to State Custody*

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Introduction

Children are Georgia's most precious resource, and safe and stable families are children's most precious resource. When children are safe in their family homes, they have the greatest chance to grow into healthy and successful adults. When Georgia's children are abused or neglected in their homes, however, Georgia's Department of Human Resources (DHR), through its Division of Family and Children Services (DFCS), must intervene into the family to protect the children.

Once suspected maltreatment is reported, DFCS county workers are responsible for investigating the report; assessing the child, family, and the risk involved; and then delivering social services and financial assistance to address the risk and potentially prevent the necessity of having to remove children from their families. While DFCS often must work closely with law enforcement to investigate cases of suspected abuse or neglect, DFCS alone shoulders the burden and responsibilities of protecting children while simultaneously attempting to preserve families.

It is the weighty responsibility of our juvenile courts to balance the state's responsibility to protect children against the liberty interests of families to be free from unreasonable governmental interference. Georgia receives substantial federal funds to assist DFCS with its efforts to strengthen and preserve families and protect children, receipt of which is contingent, in part, upon a judicial finding in removal cases that the state made reasonable efforts to prevent removal and that continuation in the home would be contrary to the child's welfare.¹ Thus, the courts must answer the critical and difficult questions of when removal is *necessary* to preserve health and safety and what efforts would have been reasonable to prevent removal and keep the child safe in the home.

Georgia's juvenile court judges and the attorneys advocating for children, parents, and DFCS in the juvenile courts often struggle with the questions of when a child is safe, what conditions are contrary to the child's welfare, and what are the reasonable efforts that could protect the child from harm. This Guide attempts to address the legal issues in family preservation and removal decisions.

In order to make this Guide on family preservation truly helpful to practitioners, we have limited its scope to the prevention of the initial removal of the child from the family home with a focus on the key question of the reasonable efforts inquiry. Reunification of children with their parents after removal to foster care is an equally important component of family preservation work, but it is beyond the scope of this Guide.

This Guide addresses the laws and policy that determine our state's involvement in families where abuse or neglect has been reported and when DFCS is proposing to remove the child from the home. It is intended for judges and legal practitioners as a guide to the removal process in the State of Georgia.

DHR and DFCS

The Georgia Department of Human Resources (DHR) is the agency responsible for the provision of health, economic, social, and rehabilitative services to Georgia residents. The Division of Family and Children Services (DFCS) is a program division of DHR.

DFCS Family Services Sections administer and manage Georgia's public child welfare programs, which include: Adoptions, Child Abuse Prevention and Treatment (CAPTA); Child Protective Services (CPS); Foster Care; Independent Living Services; Promoting Safe and Stable Families (PSSF); Relative/Kinship Care; and Treatment Services / Provider Relations. These programs are supervised at the state and regional level.

DFCS's statewide service delivery system is comprised of 17 service delivery regions and 159 county departments. The acronym DFCS is used interchangeably to refer to the State Division of Family and Children Services and the County Departments of Family and Children Services.

Source: 2008 Annual Progress and Services Report.

¹ 42 U.S.C. §§ 671-72 (2008).