

# Child Protective Services: Juvenile Court Placement Issues

## 2102 Juvenile Court – Placement Issues

### 2102.1 Court Intervention to Protect Children

#### Discussion

The Juvenile Court is a significant part of the child protective services network. Determining when to initiate Juvenile Court action is one of the most difficult and important decisions made in child protective services. Involving the court too quickly may be a misuse of the authority granted both child protective services and the court. Involving the court at any time may later the relationship with parents and children to an adversarial one. **Not involving the authority and protection of the court, when a child is in an unprotected situation, may constitute a failure to adequately protect the child and a failure to discharge the mandate placed on child protective services.**

Child welfare and law enforcement agencies have a specific legal mandate to investigate, to intervene and to protect children from maltreatment. Critical to this role is the ability to differentiate unintentional, circumstantial or isolated incidents of maltreatment from deliberate, cruel or repeated maltreatment. Some parents cannot or will not care for their children. The investigation of child maltreatment is complicated by the knowledge that parents may not tell case managers the truth and the knowledge that human behavior is remarkably unpredictable. One of the best predictors of future behavior is past behavior. Generally, the longer a behavior has occurred the more difficult it is to change and the more likely it is that relapses will occur. A child's right to protection and safety outweigh a parent's right to the child when there is serious maltreatment.

The department may file a deprivation complaint requesting placement authority for a child or requesting that custody of a child be transferred or returned to another party. Any person with knowledge of the facts alleged or who is informed and believes they are true may file a deprivation complaint (O.C.G.A 15-11-38).

Court action may become necessary when:

- Reasonable efforts have been made to ameliorate a neglect or abuse situation so a child can remain at home, but these efforts failed and the child remains at risk;
- One or more of the conditions listed in the requirements (below) exist;

#### Requirement

Intervene to protect a child, with assistance from law enforcement and the courts, in the following situations if evidence indicates that the child should not remain in the home or be returned to the parents:

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- A child has experienced life-threatening maltreatment or serious permanent injury at the hands of a parent;
- A child was intentionally abandoned by the parents and they have avoided disclosing their identity or location;
- A child steadfastly refuses to return to the parents, and the return could cause significant physical or emotional harm to the child;
- Parents steadfastly refuse to have a child returned to them. The department should seek direction through a court hearing for a child thirteen years old or older;
- Parents have a significant mental illness, untreated illness or significant mental disability that renders them unable to care for their children;
- A parent has sexually abused a child; the offending parent will have access to the child and the non-offending parent fails to protect the child;
- A parent has caused the death of one child through maltreatment;
- Either a newborn infant or the mother, as reported by medical personnel, tests positive for drugs;
- Parents have a significant history of drug or alcohol addiction that is persistently denied or untreated and that renders them unable to care for their children;
- A child requires medical treatment to prevent a serious illness or disability, or a child's life may be in danger and the parents are unwilling or refuse to seek medical treatment;
- A non-offending parent, although cooperative with the department, is unwilling or unable to protect a child from the offending parent;
- Parents have repeated, serious criminal activity or a conviction of a felony and imprisonment which has a demonstrable negative effect on the quality of the parent-child relationship;
- Parents deny serious maltreatment and are unwilling to participate in the case plan, thus leaving children at risk of serious maltreatment.
- Parent's explanation for an injury or illness is inconsistent with the medical evaluation and or assessment findings.