

March 2012

COURTS: Juvenile Proceedings, Parental Rights Modify Training Requirements for Juvenile Court Judges Showing Hardship; Define Rights and Responsibilities of Department of Corrections with Respect to Certain Juveniles

Georgia State University Law Review

Follow this and additional works at: <http://readingroom.law.gsu.edu/gsulr>

 Part of the [Law Commons](#)

Recommended Citation

Georgia State University Law Review (2012) "COURTS: Juvenile Proceedings, Parental Rights Modify Training Requirements for Juvenile Court Judges Showing Hardship; Define Rights and Responsibilities of Department of Corrections with Respect to Certain Juveniles," *Georgia State University Law Review*: Vol. 12 : Iss. 1 , Article 48.

Available at: <http://readingroom.law.gsu.edu/gsulr/vol12/iss1/48>

This Peach Sheet is brought to you for free and open access by the Publications at Reading Room. It has been accepted for inclusion in Georgia State University Law Review by an authorized editor of Reading Room. For more information, please contact jgermann@gsu.edu.

COURTS

***Juvenile Proceedings, Parental Rights: Modify Training
Requirements for Juvenile Court Judges Showing Hardship;
Define Rights and Responsibilities of Department of
Corrections with Respect to Certain Juveniles***

CODE SECTIONS: O.C.G.A. §§ 15-11-4.1, -5.1 (amended)
BILL NUMBER: SB 229
ACT NUMBER: 376
GEORGIA LAWS: 1995 Ga. Laws 783
SUMMARY: The Act gives the Institute of Continuing Education of Georgia, in cooperation with the Council of Juvenile Court Judges, the authority to establish seminars for all judges exercising juvenile court jurisdiction. The Act allows the Council to give juvenile court judges credit for attending seminars outside the state or to extend the yearly seminar attendance deadline in circumstances of hardship. In addition, the Act delineates the Department of Corrections' rights and duties when the Department obtains legal custody of a juvenile convicted as an adult.
EFFECTIVE DATE: April 18, 1995¹

History

Prior to the enactment of SB 229, Code section 15-11-5.1 provided that legal custody of juveniles between the ages of thirteen and seventeen years, who were convicted of crimes as adults, was delegated to the Department of Corrections (Department).² However, this section did not address the Department's rights and duties upon obtaining legal custody of juveniles.³ To avoid any future conflicts, the Department sought to clarify its rights and duties regarding juveniles.⁴

-
1. The Act became effective upon approval by the Governor.
 2. 1994 Ga. Laws 1012 (formerly found at O.C.G.A. § 15-11-5.1 (1994)).
 3. *See id.*
 4. Interview with Eric J. John, Executive Director of the Council of

Although unrelated to legal custody over juveniles, Code section 15-11-4.1 required all judges exercising juvenile court jurisdiction in Georgia to attend at least one seminar on juvenile law in Georgia per year.⁵ Any judge who failed to meet this requirement could no longer exercise juvenile court jurisdiction.⁶ This requirement was problematic because only two seminars were offered in Georgia per year.⁷ Some judges had difficulty attending the seminars.⁸ In some cases, judges who could not attend for medical reasons or who attended an out-of-state seminar were disqualified.⁹

SB 229

The Act has two purposes. First, the Act clarifies the rights and duties of the Department with regard to legal custody of a juvenile convicted as an adult.¹⁰ Second, the Act allows juvenile court judges who show hardship extra time to attend a seminar or to attend an out-of-state seminar to fulfill their continuing legal education requirements.¹¹

Legal Custody Over Juveniles

The Act amends Code section 15-11-5.1 by adding subsection (b), granting the Department the right of physical possession of the juvenile, the right to discipline the juvenile, the right to choose where the juvenile will be confined, and the right to seek or provide medical attention for the juvenile without the consent

Juvenile Court Judges of Georgia (July 12, 1995) [hereinafter John Interview].

5. 1990 Ga. Laws 1691 (formerly found at O.C.G.A. § 15-11-4.1(d) (1994)).

6. *Id.*

7. John Interview, *supra* note 4.

8. John Interview, *supra* note 4.

9. John Interview, *supra* note 4. One judge missed both seminars for medical reasons, while another judge attended a seminar in Reno, Nevada at one of the best juvenile education centers in the world. John Interview, *supra* note 4.

10. O.C.G.A. § 15-11-5.1(b) (Supp. 1995); *see* John Interview, *supra* note 4.

11. O.C.G.A. §§ 15-11-4.1(a), (d) (Supp. 1995); *see* John Interview, *supra* note 4.

of parents or guardians.¹² The Act requires the Department to protect, train, educate, feed, clothe, and shelter the juvenile.¹³

The original version of SB 229, which was drafted by the Department,¹⁴ contained only the above provisions.¹⁵ The Act quickly passed in the Senate with little opposition.¹⁶ Because of the similarity in subject matter, Representative Cathy Cox proposed two new sections to the bill, both dealing with continuing education for juvenile court judges.¹⁷

Seminars

The Act amends subsections (a) and (d) of Code section 15-11-4.1 in four ways. First, the Act makes clear that the Institute of Continuing Judicial Education in Georgia (Institute) shall assist the Council of Juvenile Court Judges (Council) in establishing seminars for judges.¹⁸ This change codifies the existing relationship between these two entities and gives credit to the Institute, which performs all the administrative work and preparations for the seminars.¹⁹

Second, the Act allows the Council to give judges credit for attending out-of-state seminars if warranted by circumstances of hardship.²⁰ However, legislators were concerned about allowing judges to attend out-of-state seminars.²¹ Judges attending out-of-state seminars would not receive the benefits of pre-seminar discussions with their fellow Georgia juvenile court judges and Council members.²² In addition, because judges are reimbursed for seminar-related expenses, legislators were concerned that judges would choose to attend seminars given in popular vacation destinations, thus increasing the expense to the state.²³ The Act

12. O.C.G.A. § 15-11-5.1(b) (Supp. 1995).

13. *Id.*

14. John Interview, *supra* note 4.

15. SB 229, as introduced, 1995 Ga. Gen. Assem.

16. John Interview, *supra* note 4.

17. Telephone Interview with Rep. Cathy Cox, House District No. 160 (July 6, 1995) [hereinafter Cox Interview].

18. O.C.G.A. § 15-11-4.1(a) (Supp. 1995).

19. John Interview, *supra* note 4.

20. O.C.G.A. § 15-11-4.1(a) (Supp. 1995).

21. John Interview, *supra* note 4.

22. John Interview, *supra* note 4.

23. John Interview, *supra* note 4.

addresses these concerns by allowing credit for out-of-state seminars only upon proof of hardship.²⁴

Third, the Act requires associate juvenile court judges to attend at least one seminar per year.²⁵ This change codifies the Council's long-standing policy that associate judges must abide by the same requirements as the judges who appoint them.²⁶ Finally, the Act allows the Council to extend the annual deadline for completing the continuing education requirement in hardship cases.²⁷

These amendments were originally introduced as SB 292, but that bill did not receive approval before the end of the session.²⁸ In an effort to save the provisions of SB 292, Representative Cathy Cox proposed a floor amendment to SB 229, incorporating the relevant language of SB 292.²⁹ This amendment, proposed on the last day of the session, was approved.³⁰

One potential problem is that the Act provides no definition of "hardship."³¹ Eric John, Executive Director of the Council, believes that this omission could lead to disputes concerning whether hardship has been established.³² The Council plans to propose a uniform rule that enumerates the circumstances that constitute hardship.³³

Brian Wiklendt

24. John Interview, *supra* note 4.

25. O.C.G.A. § 15-11-4.1(d) (Supp. 1995).

26. John Interview, *supra* note 4.

27. O.C.G.A. § 15-11-4.1(d) (Supp. 1995).

28. John Interview, *supra* note 4; SB 292, as introduced, 1995 Ga. Gen. Assem.

29. Cox Interview, *supra* note 17.

30. Cox Interview, *supra* note 17.

31. John Interview, *supra* note 4; *see* O.C.G.A. § 15-11-4.1(a), (d) (Supp. 1995).

32. John Interview, *supra* note 4.

33. John Interview, *supra* note 4.