

# **Family Time Practice Guide**

## **A Guide to Providing Appropriate Family Time for Children in Foster Care**



**A Project of the Georgia Supreme Court Committee on Justice for Children  
and the J4C Court Improvement Initiative**

May 2019

# Acknowledgments

This Family Time Practice Guide is the result of 15+ years of collaborative efforts by over 100 people who care deeply about families affected by trauma and who have dedicated their careers to improving the lives of victims of child maltreatment.

In 2004, a desire to improve visitation for children in foster care led to a gathering of experts. One gathering led to a second convening, and then to the production of “A Guide to Providing Appropriate Family Time for Children in Foster Care.” Appendix A lists the original workgroup participants, without whom this Practice Guide would not exist.

Steadfastly, for more than 15 years, Judge R. Michael Key moved this initiative forward, staying true to the original vision of implementing best practices to sustain family relationships when children cannot live with their birth parents.

The Visitation Protocol Project started as a joint project of the Georgia Supreme Court Committee on Justice for Children’s (J4C) Court Improvement Initiative (CII) and the National Council of Juvenile and Family Court Judges (NCJFCJ). NCJFCJ has continued to be involved, and J4C has continued to provide financial and staff support as well as expertise. This 2019 Family Time Practice Guide is a project of J4C and the judges of its CII, under the leadership of the Georgia Court Improvement Program Director, Jerry Bruce.

The 2019 Family Time Practice Guide was written by Karen Worthington and edited by Judge R. Michael Key, Judge Jeremy Clough, and Jerry Bruce. Retired Judge Leonard Edwards wrote the Foreword. Individual contributors, sharing comments and suggested language, include participants in the Court Improvement Initiative meetings in 2018 and 2019, Jerry Bruce, Melissa Carter, Rachel Davidson, Priscilla Faulkner, Darice M. Good, Brenda Jones, Nicole Kennedy, Katie Lounds, Amber Patterson, Tammy Reed, Juanita Stedman, Angela Tyner, and Susan Webb.

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# Table of Contents

|  |    |
|--|----|
| Family Time Practice Guide-----  | i  |
| I. Foreword-----   | 1  |
| II. Introduction-----  | 3  |
| A. Project Goals-----  | 4  |
| 1. Develop a Family Time Practice Guide Based on Children’s Developmental Needs-----   | 5  |
| 2. Develop a Family Time Decision Model-----   | 5  |
| 3. Document the Research Behind the Family Time Practice Guide-----  | 5  |
| 4. Provide Guidance for Making Family Time Successful-----   | 5  |
| 5. Explain the Continuum of Supervision Levels-----  | 6  |
| 6. Describe Roles Related to Successful Family Time-----   | 6  |
| B. Core Values-----  | 6  |
| 1. Children and Parents have a Constitutional right to maintain a parent/child relationship after a child is removed from the home.----- | 7  |
| 2. Frequent Family Time is essential to strengthening child-parent bonds and minimizing the time a child spends in foster care.-----     | 8  |
| 3. Family Time decisions and practices should be based on children’s developmental needs.-----   | 8  |
| 4. Children’s best interests and well-being take precedence in decisions about Family Time.-----   | 8  |
| 5. Family Time should be individualized, flexible, and evolving.-----  | 9  |
| 6. Family Time should minimize disruptions to family relationships.-----   | 9  |
| 7. Family Time must not be used as a threat, discipline, or reward.-----   | 10 |
| 8. Family Time planning should be a collaborative process.-----  | 10 |
| 9. Family Time planning should consider the practical realities of the people and agencies involved.-----                                | 11 |
| 10. Meaningful Family Time requires appropriate locations and activities.-----   | 11 |
| III. Why Family Time is Important-----   | 12 |
| A. Family Time Increases the Likelihood and Success of Reunification-----  | 13 |
| B. Family Time Is Necessary for Children’s Healthy Development-----  | 13 |
| 1. Family Time Maintains Family Connections-----   | 13 |
| 2. Family Time Facilitates Healthy Attachments-----  | 14 |
| 3. Family Time Moderates the Damage from Separation-----   | 15 |
| 4. Family Time Supports Children’s Emotional and Behavioral Health-----  | 15 |
| 5. Family Time Improves Children’s Well-Being-----   | 16 |
| 6. Possible Negative Impacts of Family Time-----   | 17 |
| C. Family Time Supports Parents-----   | 18 |
| IV. Presumptive Family Time Provisions-----  | 18 |
| A. When Family Time Begins-----  | 19 |
| B. Presumptive Frequency and Duration by Age-----  | 20 |
| 1. Birth to six months: 1 ½ - 2 hours, 3 times per week-----   | 21 |
| 2. Six months to eighteen months: 1 ½ - 2 hours, 3 times per week-----   | 22 |

|     |  |    |
|-----|--|----|
| 3.  | Eighteen months to three years: 1 ½ - 2 hours, 3 times per week -----                            | 23 |
| 4.  | Three years to five years: 2 or more hours, at least 2 times per week -----                      | 24 |
| 5.  | Five years to twelve years: 2 or more hours, at least 2 times per week -----                     | 24 |
| 6.  | Twelve years to fifteen years: 1 or more hours, 1 or 2 times per week -----                      | 26 |
| 7.  | Fifteen years to eighteen years: 1 or more hours, 1 or 2 times per week -----                    | 27 |
| C.  | Sibling Visitation-----  | 28 |
| D.  | Visits With Other Important People-----  | 28 |
| E.  | Reasons to Deviate From Presumptive Family Time Provisions -----                                 | 29 |
| V.  | Considerations for Family Time-----  | 30 |
| A.  | Permanency Plan-----   | 30 |
| B.  | Other Court Orders -----   | 31 |
| C.  | Location of Visits -----   | 32 |
| D.  | Activities During Family Time-----   | 32 |
| 1.  | Facilitating Smooth Beginnings and Endings -----   | 33 |
| 2.  | Activities in Addition to Scheduled Family Time -----  | 33 |
| 3.  | Supporting Parents During Family Time -----  | 34 |
| E.  | Levels of Supervision -----  | 34 |
| 1.  | Presumptions Around Supervision-----   | 35 |
| 2.  | Types of Supervision -----   | 36 |
| 3.  | Progressive Family Time Plans-----   | 37 |
| 4.  | Considerations when determining the level of supervision -----                                   | 38 |
| F.  | Scheduling Visits-----   | 39 |
| 1.  | Specific considerations for scheduling-----  | 40 |
| 2.  | Making changes to the Family Time schedule -----   | 41 |
| G.  | Family Dynamics -----  | 42 |
| H.  | Roles of Participants-----   | 42 |
| 1.  | Case Manager-----  | 43 |
| 2.  | The Court -----  | 45 |
| 3.  | Guardian Ad Litem (GAL), Court Appointed Special Advocate (CASA) and/or<br>Child’s Attorney----- | 46 |
| 4.  | Special Assistant Attorney General-----  | 46 |
| 5.  | Parent’s Counsel-----  | 47 |
| 6.  | Foster Parents -----   | 48 |
| 7.  | Parents and Children-----  | 48 |
| I.  | Attachment -----   | 49 |
| J.  | Grief and Child Behavior-----  | 50 |
| K.  | Virtual Visits-----  | 52 |
| VI. | Special Circumstances -----  | 53 |
| A.  | Incarcerated Parent-----   | 53 |
| B.  | Parent in a treatment facility or hospital-----  | 55 |
| C.  | Parent with mental illness -----   | 55 |
| D.  | Parent with substance addiction-----   | 55 |

|       |  |    |
|-------|--|----|
| E.    | Parent with special needs (cognitive or intellectual disability, physical disability, developmental delay, special health needs) ----- | 57 |
| F.    | Parent detained by U.S Immigration and Customs Enforcement (ICE) -----   | 57 |
| G.    | Youth in a detention facility, treatment facility, hospital, or congregate care setting --   | 58 |
| H.    | Child with special needs (cognitive or intellectual disability, physical disability, developmental delay, special health needs) -----  | 59 |
| I.    | Family with domestic violence/intimate partner violence -----  | 59 |
| J.    | Parents with Limited English Proficiency-----  | 60 |
| VII.  | Georgia Perspectives and Recommendations-----  | 61 |
| A.    | Survey Findings -----  | 61 |
| B.    | Survey Implications -----  | 63 |
| C.    | CII / J4C Recommendations -----  | 64 |
| VIII. | Appendices -----   | 67 |
| A.    | Original Workgroup Members -----   | 67 |
| B.    | Survey Questions-----  | 69 |
| C.    | Resources and References -----   | 71 |
| 1.    | Books and Articles -----   | 71 |
| 2.    | State Policies, Procedures, and Recommendations -----  | 76 |

## I. Foreword

*By Judge Leonard Edwards (retired)*

Georgia has created a remarkable document, unique in the United States and destined to be the starting point for other jurisdictions to modify their policies regarding contact between children removed by the state from parental care and their parents. The Family Time Practice Guide (The Guide) outlines best practices for maintaining important connections between these children and their families.

Everyone working in child welfare understands that contact between parents and children is a critical component of any family reunification plan. Many believe it is the most important. Frequent contact maintains family relationships, helps families cope with changing relationships, empowers and informs parents, and enhances children's well-being. In addition, it helps families confront reality (the situation in which they find themselves), and it provides a time and place to practice new behaviors. Ongoing contact with the child enhances a parent's motivation to change.

"Family Time" is the proper designation for time spent between parents, children and other family members. Most state laws and appellate decisions label such meetings as visitation. This designation reminds one of a visit to a jail or other location where a person is held against his or her will. It is a negative term. Family time, on the other hand, has a positive connotation and reminds us that time spent with family members is fundamental to our understanding of the positive aspects of human social behavior.

The Guide is not just a policy declaration. It is a substantial document, well-researched, carefully written, and comprehensive. It details the best times and places for family time. Most court orders around the country permit parents to see their child once or twice each week. The Guide stresses the importance of individualized plans for each family based on the child's age and development and numerous other factors. The result is a plan to suit the special needs of each child and family.

Few courts around the country permit parents to attend the child's doctor's appointments, dental appointments, teacher-parent conferences, the child's athletic events, and other important occurrences in the child's life. The Guide recommends that these events are optimal for high-quality contact and a recognition that these places are where a parent should be. The Guide points out that family time is more meaningful when it is unsupervised and in places where the parents and child can relax and enjoy one another. Meeting in a social service room along with a supervisor does not serve the child's interests. In fact, it may be a negative experience for the parent and the child.

We are all aware that family time puts great demands on the social service agency to set up the time and place for the contact. The agency may have to provide transportation and supervision for the parents and child. Over-burdened agencies often have social workers with large numbers

of cases. They may not have the time for arranging and facilitating frequent family time meetings. Nevertheless, we work in a system that is supposed to serve the best interests of the child. Moreover, agency practices can change.<sup>1</sup> For example, if more children can be placed with relatives instead of with strangers, family time can be increased significantly both in quality and quantity.<sup>2</sup>

The Guide is a reminder to judges that they have a critical role to play in providing high-quality family time. Social workers make recommendations, but it is the judge who must make the final decision about family time. Some judges understand this very well. Judge Douglas Johnson sitting in Omaha, Nebraska, wrote the following:

The standard supervised biweekly, one-or-two-hour visitation is inadequate, inappropriate, and unacceptable. Reasonable efforts in this context means meaningful daily or near daily parenting time to build the infant/parent relationship and achieve permanency. A judge can rule earlier on whether a parent is making progress toward becoming a proper parent when the parent is given a fair opportunity to learn skills and apply them. If Health and Human Services is unwilling to provide such services, the judge could rule that a negative reasonable efforts finding will be issued in 30 days. If so ruled, Health and Human Services will not receive its foster care matching dollars under Federal Title IV-E Foster Care and Adoption Assistance Program. But Health and Human Services must still provide the services as ordered.<sup>3</sup>

Both on and off the bench, judges need to address family time with agency leaders, and stress the importance of high quality, frequent contact between children and family. As a juvenile court judge, I met with social service leaders, attorneys, CASA representatives, and others in the juvenile court dependency system every month. Family time was on the agenda at each of these meetings. We worked together to increase the quantity and quality of contact between children and their parents.

Perhaps the most important research finding highlighted in The Guide is that children benefit from continued contact with their parents, and that is true even if they will ultimately not be reunited. The Guide devotes a substantial part of its contents to this topic: Why Family Time is Important. The text reviews research that demonstrates that family time increases the likelihood of reunification, is necessary for children's healthy development, shortens the time to reunification, and moderates the damage from separation. If child welfare agencies hope to fulfill their goal of serving the best interests of children, they should continue to encourage family time throughout the dependency process, sometimes even after termination of parental rights. So, a warm thank you and congratulations to the Georgia Court Improvement Initiative and the Committee on Justice for Children. You have written a guide that will benefit Georgia's most vulnerable children as well as children across our country.

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<sup>1</sup> See Leonard Edwards, *Judicial Oversight of Parental Visitation in Family Reunification Cases*, *Juvenile and Family Court Journal*, Summer 2003, pp. 1-24.

<sup>2</sup> Leonard Edwards, *Relative Placement: The Best Answer for Our Foster Care System*, *Juvenile and Family Court Journal*, Vol 69 No 3 (2018) at pp. 55-64.

<sup>3</sup> Johnson, Hon. Douglas, *Babies Cry for Judicial Leadership: Reasonable Efforts for Infants and Toddlers in Foster Care*, *The Judge's Page*, Online publication of National CASA, October 2007.

## II. Introduction

For most intact families, Family Time occurs intermittently and naturally throughout the day as family members pass one another in their homes, sit around the dinner table, ride together in cars, and participate in a variety of activities, sometimes structured and sometimes random and free-flowing. This time together is important for conducting the business of the family, exchanging information and affection, and building and maintaining healthy and nurturing relationships among family members.

For children who are removed from their own homes and placed in foster care through state action, informal family interactions cannot occur. Instead, formal Family Time<sup>4</sup> provides the only opportunity for maintaining in-person connections among family members.

Though meaningful Family Time is mandated by federal and state laws, current visitation practices are often not adequate, in quantity or quality, to allow the affected families to maintain or build strong relationships. Moreover, in many situations, Family Time practices fail to promote reunification or to provide a healthy transition to some other permanency option.

Family Time planning and scheduling should be guided by evidence-based, structured decision making. Maintaining meaningful contact between a child and his family is far too critical to the future of the family and its individual members to be left to chance or to be conditioned on the convenience of persons outside the family or on arbitrary factors.

In 2005, the original Visitation Protocol Project work was captured in a document entitled “VISITATION PROTOCOL PROJECT: A Guide to Providing Appropriate Family Time for Children in Foster Care” (hereinafter referred to as the “Original Protocol”). The Original Protocol was developed following two 2004 convenings of a workgroup of approximately forty professionals from multiple and diverse disciplines and jurisdictions. A list of the members of that workgroup is attached as Appendix A.

The 2004 workgroup reviewed visitation practices for children in foster care from around the country and developed a best practice model for visitation. The Original Protocol was implemented in Troup County in 2005.

Research, practice, and policies around Family Time have advanced since 2004. Federal and state law have also changed. What was considered best practice 14 years ago may no longer be best. Therefore, the Original Protocol is being updated to reflect new knowledge and an enhanced understanding of best practices.

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<sup>4</sup> Family Time is the time that a child in foster care spends with parents, siblings, or extended family. Child welfare systems have typically called this “visitation.” The National Council of Juvenile and Family Court Judges (NCJFCJ), ABA Center on Children and the Law, and other experts recommend using the term “Family Time” rather than visits or visitation because “Family Time” is more exact. Specifically, NCJFCJ says, “Courts should discourage the use of the term “visitation” which does not communicate the intimacy and importance of the parent/child/sibling relationship.” Sophie Gatowski, et al., *Enhanced Resource Guidelines: Improving court practice in child abuse and neglect cases*, National Council of Juvenile and Family Court Judges (2016), page 85 (hereinafter *Enhanced Guidelines*). Also see Mimi Laver, “Family Time/Visitation: Road to Safe Reunification,” *Child Law Practice Today*, Mar/Apr2017.



This update continues the original workgroup’s excellent work. The Original Protocol included an outline of future research that was expected to round out and supplement topics mentioned but not fully explored, and this update fills in those areas. The 2004 workgroup envisioned statewide implementation of a research-based, practical protocol, and the current hope is that this Practice Guide realizes that vision.

In recognition of the expanded scope of this update and acknowledging that “visitation” does not reflect the quality and value of the time that families spend together, this version is referred to as the “Family Time Practice Guide” (hereinafter “Practice Guide”). Furthermore, use of the term “Family Time” aligns with National Council of Juvenile and Family Court Judges (NCJFCJ) recommendations, which state “Courts should discourage the use of the term ‘visitation’ which does not communicate the intimacy and importance of the parent/child/sibling relationship.”<sup>5</sup>

Several steps led to the development of this Practice Guide. First was the vision established in 2004, which included an expectation that future research would expand guidance on identified topics. Next was the implementation of the Original Protocol and the sharing of information about the process and its outcomes. Third, Judge R. Michael Key sustained the vision of a statewide Family Time Protocol for Georgia, learned as much as possible about Family Time Protocols around the country, and shared that knowledge at the national, state, and local levels. Fourth, in 2017, Judge Key and Court Improvement Program Director Jerry Bruce, a former juvenile court judge, agreed that laws and practice had changed so significantly that it was time to update the Original Protocol.<sup>6</sup> Before moving forward, they discussed the topic of Family Time with other judges and found widespread agreement that it was time to revisit this topic at a statewide level. They then commissioned a survey of judges and key court stakeholders about Family Time practices and beliefs, which informed a conversation Judge Key convened at the Court Improvement Initiative (CII) meeting in March 2018. The survey and CII conversation, information collected from other states about visitation protocols and requirements, and legal and social-sciences research were incorporated into a draft Practice Guide. In fall 2018, and continuing into 2019, input was obtained from a broad group of stakeholders through discussion groups, listening sessions, and written comments. Stakeholders included the Permanency Planning Committee of the Council of Juvenile Court Judges, Child Welfare Law Specialists in Georgia, Georgia CASA, the CII courts and stakeholders, the Division of Family and Children Services (DFCS), private child development specialists, birth parents, fictive kin, and foster parents.

## **A. Project Goals**

The goals for this Practice Guide grew out of the next steps outlined in the Original Protocol<sup>7</sup> as well as from additional research and data collection and years of conversations at training events,

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<sup>5</sup> NCJFCJ *Enhanced Guidelines*, page 85.

<sup>6</sup> Between 2004 and 2017, at least three major new federal child welfare laws were passed along with many federal and Georgia laws amending existing statutes; the Georgia Juvenile Code was completely revised (2013); and research in child and adolescent development increased considerably.

<sup>7</sup> The Original Protocol included a section called “Moving Forward,” which discussed other areas needing work and clarification. In addition, references to additional work needed were included throughout the document.

conferences, and courtrooms about what was needed to improve Family Time for Georgia’s families.

## 1. Develop a Family Time Practice Guide Based on Children’s Developmental Needs

Recommendations in this Practice Guide are based on what children need for optimal development. Extensive social-science research documents children’s needs regarding time with their parents and other family members. That research informs this document.

## 2. Develop a Family Time Decision Model

The Family Time Decision Model<sup>8</sup> can be used by social workers, services providers, child advocates, attorneys, and judges to guide Family Time planning and decision-making so that all relevant factors are considered and properly weighed. The NCJFCJ and the ABA Center on Children and the Law both produce narrowly-tailored benchcards to assist judges in decision-making and ensure all relevant information is obtained and all required steps are taken. The Family Time Decision Model provides a framework for making decisions about Family Time. The presumptive provisions are recommended as the starting point from which decisions can deviate based on individual circumstances.

## 3. Document the Research Behind the Family Time Practice Guide

The Practice Guide synthesizes information obtained from a stakeholder survey, a formally convened CII conversation, other states, national resource centers, federal, state and local laws and policies, and legal and social sciences research. Citations to research studies and child development research as well as a comprehensive bibliography are included to direct readers to more detailed information.

## 4. Provide Guidance for Making Family Time Successful

The original workgroup set a future goal of exploring the quality of Family Time. The Practice Guide achieves this goal by discussing research about defining, assessing and experiencing “quality” Family Time. It also includes practical suggestions for increasing the likelihood of high-quality visits between parents and children. Additional resources are referenced for those who want to look more closely at assessing and improving the quality of Family Time, as the full benefits of Family Time are inherently tied to its quality.

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<sup>8</sup> The Decision Model will be developed as a stand-alone tool based on the Presumptive Family Time Provisions.

## 5. Explain the Continuum of Supervision Levels

The Original Protocol presumed that Family Time would be supervised, but the workgroup set a future goal of exploring the need for and use of supervision. In 2013, Georgia by statute created a legal presumption that Family Time is unsupervised unless the court finds it not in the child's best interests.<sup>9</sup> DFCS then included this presumption in its visitation policy.<sup>10</sup>

While “supervised” and “unsupervised” are binary terms, supervision is more accurately described as a continuum. This Practice Guide describes types of supervision along this continuum as well as the circumstances and reasons that make the different levels appropriate.

## 6. Describe Roles Related to Successful Family Time

A long-term goal of the Original Protocol was to “clearly identify the roles of various persons and agencies involved in the juvenile court system relative to Family Time.”<sup>11</sup> This Practice Guide discusses the roles of key court participants (case manager, court, child's representative, Special Assistant Attorney General for the Division of Family and Children Services (DFCS), parent's attorney, foster parents, parents, child) in ensuring frequent, high quality Family Time.

### B. Core Values

The original Family Time workgroup agreed on core principles to guide the development of the Original Protocol. Those principles have been incorporated into an updated set of ten Core Values that provide the foundation for this Practice Guide.

#### CORE VALUES

1. Children and parents have a Constitutional right to maintain a parent/child relationship after a child is removed from the home.
2. Frequent Family Time is essential to strengthening child-parent bonds and minimizing the time a child spends in foster care.
3. Family Time decisions and practices should be based on children's developmental needs.
4. Children's best interests and well-being take precedence in decisions about Family Time.
5. Family Time should be individualized, flexible, and evolving.
6. Family Time should minimize disruptions to family relationships.
7. Family Time must not be used as a threat, discipline, or reward.
8. Family Time planning must be a collaborative process.
9. Family Time planning should consider the practical realities of the people and agencies involved.
10. Meaningful Family Time requires appropriate locations and activities.

<sup>9</sup> O.C.G.A. § 15-11-112(b).

<sup>10</sup> *Georgia DFCS Policy Number 10.19: Visitation* (June 2016).

<sup>11</sup> *Original Protocol*, page 2.

## 1. Children and Parents have a Constitutional right to maintain a parent/child relationship after a child is removed from the home.

Courts have consistently held that children and parents have a fundamental Constitutional right to their intimate relationship with each other. This right underpins statutory requirements that DFCS make reasonable efforts to reunify families and that case plans include a schedule of visits.<sup>12</sup> This right also informs the factors considered when determining the best interests of the child.<sup>13</sup>

“The U.S. Supreme Court has repeatedly held that parents’ rights to the care, custody, and control of their children are ‘fundamental rights’ protected by the Fourteenth Amendment of the Constitution.”<sup>14</sup> Furthermore, “[t]he law is clear as to the fundamental importance of visitation in child protection proceedings and in the reunification process. ‘Visitation rights arise from the very ‘fact of parenthood’ and the constitutionally protected right ‘to marry, establish a home and bring up children.’”<sup>15</sup> When the state removes a child from her parents, it has an obligation to make reasonable efforts to reunify the family. In this context, family time is an essential component of any reunification plan.<sup>16</sup>

The Federal District Court in *Kenny A.* found “that children have fundamental liberty interests at stake in deprivation and TPR proceedings. These include a child's interest in his or her own safety, health, and well-being, as well as *an interest in maintaining the integrity of the family unit and in having a relationship with his or her biological parents.*”<sup>17</sup>

In addition to legal requirements to facilitate frequent, meaningful Family Time, child welfare system stakeholders have a moral obligation to provide as much of it as possible consistent with the best interests of the child (both in frequency and duration), and in as natural a place and manner as is possible.

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<sup>12</sup> See O.C.G.A. § 15-11-112, § 15-11-201, § 15-11-202.

<sup>13</sup> See O.C.G.A. § 15-11-26.

<sup>14</sup> *Child Welfare Law and Practice: Representing children, parents, and state agencies in abuse, neglect, and dependency cases*. NACC 3<sup>rd</sup> Edition (Don Duquette, et al., eds., 2016), page 765, citing *Troxel v. Granville*, 530 U.S. 57, 65 (2000) (“[T]he interest of parents in the care, custody and control of their children . . . is perhaps the oldest of the fundamental liberty interests recognized by this Court.”); see also *Prince v. Massachusetts*, 321 U.S. 158 (1944); *Pierce v. Society of Sisters*, 268 U.S. 510 (1925); *Meyer v. Nebraska*, 262 U.S. 390 (1923).

<sup>15</sup> *In re Jennifer G.*, 270 Cal. Rptr. 326, 327 (Cal. Ct. App.1990); *In re Jeffrey S.*, 1998 WL 879652, at \*10 (Ohio App. 6 Dist. 1998); see also “noncustodial parents with court-ordered visitation rights have a liberty interest in the companionship, care, custody, and management of their children,” *Brittain v. Hansen* 451 F.3d 982, 992 (9th Cir. 2006).

<sup>16</sup> *Judicial Oversight of Parental Visitation*, supra note 1, page 5, citing *In re Jennifer G.*, 270 Cal. Rptr. 326, 327 (Cal. Ct. App. 1990); *In re Jeffrey S.*, 1998 WL 879652, at \*10 (Ohio App. 6 Dist. 1998).

<sup>17</sup> *Kenny A. v. Perdue*, 356 F. Supp. 2d 1353, 1360 (N.D. Ga. 2005) (emphasis added).

## 2. Frequent Family Time is essential to strengthening child-parent bonds and minimizing the time a child spends in foster care.

The NCJFCJ says, “[t]he goal of Family Time is to promote reunification by strengthening the parent-child relationship and reducing the potentially damaging effects of separation.”<sup>18</sup> Extensive research, discussed in this Practice Guide, documents why children who do not live with their parents need frequent contact with them, the negative consequences of not having frequent contact, and the benefits of strengthening the child-parent relationship through frequent, high-quality Family Time.

## 3. Family Time decisions and practices should be based on children’s developmental needs.

This Practice Guide is designed to help child welfare professionals, including attorneys and judges, understand typical cognitive and behavioral functioning for childhood developmental stages. Understanding where a given child is developmentally, in terms of his or her attachment to parents and other family members, guides expectations of how the child will develop while in care and facilitates the creation of an appropriate Family Time Plan. This understanding will also help everyone involved evaluate the family’s progress and success with Family Time. This understanding, based on extensive and ongoing research, guides this document and the recommendations it makes.

Children’s needs do not always align with what is best or easiest for the child welfare system or its individual players. In such instances, this Practice Guide recommends changing the system to meet the needs of children. Not making children’s needs the highest priority creates an unacceptably high risk of causing irreversible harm to children who have already experienced substantial trauma.

The NCJFCJ *Enhanced Resource Guidelines* (hereinafter “*Enhanced Guidelines*”) provides that “[j]udges should set the expectation for all parties that a child’s well-being will be focused on with the same urgency as the court focuses on safety and permanency” and that “[a] judge’s focus on child well-being can highlight for caseworkers, attorneys, and others involved in the case the importance of a child’s healthy development to case review and permanency planning.”<sup>19</sup>

## 4. Children’s best interests and well-being take precedence in decisions about Family Time.

When making Family Time plans, if a decision does not infringe upon the rights of another party, the primary consideration should be the child’s best interests and well-being. This value applies to considerations of resources and convenience for all involved, as well as to conflicts between

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<sup>18</sup> NCJFCJ *Enhanced Guidelines*, page 85.

<sup>19</sup> NCJFCJ *Enhanced Guidelines*, page 76.

the parents' needs and desires and those of the child. Although it is generally true that whatever is good for the parent is good for the child, if a conflict arises between the best interests of the child and a parent's needs or desires, the well-being of the child shall take precedence. Georgia has codified a list of factors that should be evaluated when determining what is in the best interests of a child.<sup>20</sup>

## 5. Family Time should be individualized, flexible, and evolving.

Family Time Plans should be based on the unique facts of each case, allowing for variation from the Presumptive Family Time Provisions where certain factors, or "special circumstances," are present. When circumstances necessitate a variance from the Presumptive Family Time Provisions, and particularly when that variance results in less Family Time, the reason for the variance should be factually-based, appropriately documented, approved by the court, and articulated to all parties to the case.

Throughout the life of the case, circumstances change, and new facts become known. Therefore, the Family Time Plan should allow flexibility for change. When changes are considered, safeguards must exist to protect the rights of all parties.

The *Enhanced Guidelines* say that "[j]udges should ensure the plan for family time is individualized and promotes permanency" and that "[a]ll family time should be based on the specific needs of the child and parent, including developmental needs and ongoing attention to the child's stress response to the visitation process."<sup>21</sup>

## 6. Family Time should minimize disruptions to family relationships.

Separating children and parents traumatizes both of them, and frequent contact can help minimize this trauma. The negative effects of separation can be reduced by scheduling the first visit and creating a subsequent Family Time schedule as soon as possible after separation. Children have great anxiety after removal and many worry about their parents. Face-to-face visits can soothe these worries and should not be delayed.

Throughout the life of the case, Family Time should support a child's family relationships with as much continuity as possible. These relationships include parents, siblings, and extended biological and fictive kin. Infrequent interactions and restrictive settings (like offices) subtly disrupt relationships because they interfere with the natural flow of interpersonal interactions.

To promote natural relationships and minimize disruptions, the *Enhanced Guidelines* recommend that:

Visits should be scheduled at a time that best allows the parent to participate and disrupts the child's schedule as minimally as possible. Visitation should include all levels of

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<sup>20</sup> O.C.G.A. § 15-11-26 (for courts); O.C.G.A. §15-11-105(b) (for guardians *ad litem*).

<sup>21</sup> NCJFCJ *Enhanced Guidelines*, page 132.

family time with frequent face-to-face interactions. Parent-child visits should include all siblings unless there are reasons to do otherwise. If so, arrangements should be made for specific visitation time between/among siblings. Visits should take place in a natural environment – a home, family church, or park – rather than an office. Other contacts such as video contact, phone calls, emails, and letter writing should be scheduled, and parents should be expected and encouraged to participate in all school, medical, and therapeutic appointments. Parents should be allowed to participate in cultural and community events with their children.<sup>22</sup>

## 7. Family Time must not be used as a threat, discipline, or reward.

Family time is a right of the child and parent that should only be curtailed when it poses a danger to the child's health, safety, or well-being.<sup>23</sup> Changes in Family Time Plans must never be used as a threat or form of discipline to the child or to control or punish the parent. While changes may be made based on evidence presented at hearings, and those changes may be related to a parent's progress through a case plan, Family Time should not be held out as a reward related to a child's or a parent's behavior. The *Enhanced Guidelines* Key Principle on Family Time explicitly states, "Family time should not be used as a case compliance reward or consequence."<sup>24</sup>

## 8. Family Time planning should be a collaborative process.

Where possible, a Family Time Plan should be developed in a Family Team Meeting with as many affected participants present as possible. Where appropriate and feasible, the following people should be consulted:

- Any family member with whom the child has a significant attachment
- Foster parents
- Case manager
- Any service provider in a position to offer constructive assistance
- Any provider who has assessed the child, the family or circumstances, especially the person who prepared the Comprehensive Child and Family Assessment (CCFA)
- Guardian ad litem or CASA.<sup>25</sup>

Family members and others demonstrating a significant attachment or commitment to the child should always be considered as resources to facilitate Family Time. Whenever possible, parents and foster parents both should be involved in developing the plan. This promotes an understanding of the purpose of Family Time, helps all parties better appreciate the importance

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<sup>22</sup> NCJFCJ *Enhanced Guidelines*, page 141.

<sup>23</sup> O.C.G.A. § 15-11-112(a), "When a child is removed from his or her home, the court shall order reasonable visitation that is consistent with the age and developmental needs of a child if the court finds that it is in a child's best interests." See *Kenny A. ex rel. Winn v. Perdue*, 356 F.Supp.2d 1353,1360 (N.D. Ga., 2005).

<sup>24</sup> NCJFCJ *Enhanced Guidelines*, page 16.

<sup>25</sup> *Georgia DFCS Policy Number 19.3: Family Team Meetings* (Dec. 2016), includes a list of potential family team members.

of quality Family Time, and supports the child’s permanency goal. The original workgroup noted anecdotally that properly involving foster parents often results in them engaging the birth parents to support their reunification efforts.

## 9. Family Time planning should consider the practical realities of the people and agencies involved.

Meeting the needs of children and parents is the primary goal of Family Time. Despite this, the *Enhanced Guidelines* keenly note, “Many family time schedules are more focused on the needs of the child welfare workers or foster parents than the needs of the child and family.”<sup>26</sup>

Failing to consider logistics and convenience sets Family Time plans up for failure. Therefore, they should take into account practical realities such as long distances between parents and placements; restrictive visitation policies of facilities housing a parent or child; and school, work, or other activity schedules of parents, children, foster parents, and agency workers. At the same time, DFCS and courts must avoid prioritizing the needs of the system or foster parents above the needs of children and families.

Practical realities impact the entire system, not just individual Family Time Plans. System Stakeholders agree that Family Time is essential and agree with the research behind the Presumptive Family Time Provisions. They also express concern that the recommendations cannot be followed because there is not enough funding and staff to meet the timeframes.

Regardless of resources, federal and state law require DFCS to provide Family Time in making reasonable efforts to reunify a family. If system barriers prevent compliance, reasonable efforts must be made to overcome them. Some judges see the system’s failure to provide adequate resources as a failure to make reasonable efforts. Their recommendation is to acknowledge resource barriers and work to overcome them because resource limitations do not excuse the system’s obligations and cannot infringe upon the rights of parents and children. Developing adequate resources is so important that NCJFCJ included it as a key principle in the *Enhanced Guidelines*.<sup>27</sup>

## 10. Meaningful Family Time requires appropriate locations and activities.

Research shows that the benefits of Family Time are more likely to be realized when families are set up for success. Critical elements include an appropriate location such as a comfortable family-like setting or inviting public place like a park, and activities that are appropriate for the parent’s abilities and the child’s developmental stage. Parents may need advance coaching to help plan and implement activities as well as materials such as a coloring book and crayons, a storybook, or toys. Unless a court finds it would not be in the best interests of the child, Georgia law requires Family Time to be unsupervised.<sup>28</sup>

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<sup>26</sup> NCJFCJ *Enhanced Guidelines*, page 141.

<sup>27</sup> Key Principle: “Advance the development of adequate resources.” NCJFCJ *Enhanced Guidelines*, page 16.

<sup>28</sup> O.C.G.A. § 15-11-112(b).



### III. Why Family Time is Important

A significant body of research suggests that face-to-face interactions are “a vital tool for promoting timely reunification,” and Judge Leonard Edwards has repeatedly stated that visitation “is a critical element of the child protection system.”<sup>29</sup> Consistent, frequent visitation with at least one parent improves children’s emotional health and behavior, improves attachment, reduces the negative impact of removal on children, and helps children adjust to foster care and maintain a healthy, realistic view of themselves and their parent.<sup>30</sup> Finally, consistent, frequent visitation helps parents stay attached to their children, improves their parenting, increases the likelihood of a smooth and lasting reunification, and motivates parents to continue visiting and working toward reunification. For these and many other reasons, “visits have been called the ‘heart of reunification.’”<sup>31</sup>

What follows is a summary of research findings about many benefits of Family Time. It is important to note that results are often framed as “suggestive of” the reported findings. Studies have limitations and researchers seem hesitant to generalize their findings. Most researchers list additional research and information they feel is needed to provide a more complete understanding of the benefits of Family Time. Because so many variables are involved, and each family is unique, researchers have not necessarily drawn causal relationships between visits and their conclusions. Rather, they find an association between the situation they are studying (such as frequency of visits) and the positive outcome(s) they find (such as shorter time to reunification).

Nevertheless, the number of studies leading to the same conclusions indicates that frequent, consistent Family Time leads to improved outcomes for children and parents. As Judge Edwards says, “The best interests of children are clearly enhanced by regular visitation.”<sup>32</sup>

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<sup>29</sup> Judge Leonard P. Edwards was member of the Original Workgroup. He is a retired Judge of the Santa Clara County Superior Court in San Jose, Calif., and a Past President of the NCJFCJ; *Judicial Oversight of Parental Visitation*, supra note 1; see also, Inger Davis, et al., *Parental Visiting and Foster Care Reunification*, 18 Children and Youth Services Review, No. 4/5, 363 (1996); Amber Weintraub, *Information Packet: Parent-Child Visiting*. Hunter College School of Social Work: National Resource Center for Family-Centered Practice and Permanency Planning (April 2008).

<sup>30</sup> See Peg McCartt Hess & Kathleen Proch, *Family Visiting in Out-of-Home Care: A Guide to Practice*, Child Welfare League of America (1988); David Fanshel, *Parental Visiting of Children in Foster Care: Key to Discharge?*, 49 Soc. Service Rev. 493 (1975); Joint Interim Committee of Health and Welfare, Public Welfare Services for Children and Youth in Arizona, 19th Legislature (1970); Jerry L. Milner, *An Ecological Perspective on Duration of Foster Care*, 66 Child Welfare 113, 116 (1986); Lenore McWey, *I Promise to Act Better if You Let Me See My Family: Attachment Theory and Foster Care Visitation*, 5 J. of Fam. Soc. Work 91 (2000); Peg Hess, *Case and Context: Determinants of Planned Visit Frequency in Foster Family Care*, 67 Child Welfare 311, 323 (1988); *Parental Visiting and Foster Care Reunification*, supra note 29; David Fanshel and Eugene B. Shinn, *Children in Foster Care: A Longitudinal Investigation*, New York: Columbia University Press (1978); Elizabeth A. Lawder et al., *A Study of 185 Foster Children 5 Years after Placement*, 65 Child Welfare 241, 248 (1986).

<sup>31</sup> Peg McCartt Hess & Kathleen Proch, *Visiting: The Heart of Reunification*, in “Together Again: Family Reunification in Foster Care,” Washington, DC: Child Welfare League of America, (Barbara A. Pine et al. eds., 1993).

<sup>32</sup> *Judicial Oversight of Parental Visitation*, supra note 1.

## A. Family Time Increases the Likelihood and Success of Reunification

Children who have regular, frequent contact with at least one birth parent while in foster care experience:

- Shorter stays in out-of-home care.<sup>33</sup>
- A greater likelihood of reunification.<sup>34</sup>
- Increased chances that reunification will last.<sup>35</sup>

## B. Family Time Is Necessary for Children’s Healthy Development

### 1. Family Time Maintains Family Connections

Children who have regular, frequent contact with their family while in foster care maintain their family connections, which provides the following benefits:

- “Continuing family connections when children are in care may ease the process of reintegrating a child back into a family.”<sup>36</sup>
- “Regular visitation helps children maintain continuity of family relationships, fosters a more positive parent-child relationship, and helps families prepare to reunite.”<sup>37</sup>

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<sup>33</sup> Edmund V. Mech, *Parental Visiting and Foster Placement*, 64 *Child Welfare* No. 1, 67 (1985); Sonja A. Leathers, *Parental Visiting and Family Reunification: Could Inclusive Practice Make a Difference?*, 81 *CWLA* No. 4, 609 (2002); Mary E. White, et al., *Factors in Length of Foster Care: Worker Activities and Parent-Child Visitation*, 23 *Journal of Sociology and Social Welfare*, Vol. 2, 75 (1996) (children in care for less than 20 months received twice as many visits from their parents than children who were in care over 20 months).

<sup>34</sup> Mark Simms and B.J. Bolden, *The family reunification project: Facilitating regular contact among foster children, biological families, and foster families*, 70 *Child Welfare* No. 6 (1991), 679; Fred Wulczyn, *Family Reunification*, 14 *The Future of Children* 14 No. 1, 94 (Winter 2004); Marty Beyer, *Parent-Child Visits as an Opportunity for Change*, *The Prevention Report of The National Resource Center for Family Centered Practice*. No. 1, 2 (1999); *Parental Visiting and Foster Care Reunification*, supra note 29; *Parental Visiting and Family Reunification*, supra note 33; Kathleen Proch and Jeanne A. Howard, *Parental Visiting of Children in Foster Care*, 31 *Social Work* 3, 178 (1986); Yolanda R. Green and Catherine C. Goodman, *Understanding birthparent involvement in kinship families: Influencing factors and the importance of placement arrangement*, 32 *Children and Youth Services Review* No. 10, 1357 (October 2010); Susan C. Mapp, *A Framework for Family Visiting for Children in Long-Term Foster Care*, 83 *Families in Society: The Journal of Contemporary Social Services* No. 2, 175 (2002); Lenore McWey and Ann K. Mullis, *Improving the Lives of Children in Foster Care: The Impact of Supervised Visitation*, 53 *Family Relations: Interdisciplinary Journal of Applied Family Science* No. 3, 293 (2004); Lenore M. McWey, et al., *The Impact of Continued Contact with Biological Parents upon the Mental Health of Children in Foster Care*, 32 *Children and Youth Services Review* No. 10, 1338 (October 2010); *Parental Visiting and Foster Care Reunification*, supra note 29 (The chances for reunification for children in care increase tenfold when mothers visit regularly as recommended by the court. Consistent contact with biological mothers is a predictor of reunification).

<sup>35</sup> Elaine Farmer, *Family reunification with high-risk children: Lessons from research*, 18 *Children* No. 4/5, 287 (1996).

<sup>36</sup> *Family reunification*, supra note 34.

<sup>37</sup> *Children in Foster Care: A Longitudinal Investigation*, supra note 30; *Parent-Child Visiting*, supra note 29.

- “The connection with the biological family allows the child to maintain a sense of family history and identity necessary to endure the psychosocial stages of development, especially those that take place during adolescence.”<sup>38</sup>
- “Foster children whose birth parents visited at least once a week tended to rate their parents as normal or healthy. In contrast, this same study found that children who were deprived of contact with their birth parents and wanted additional visits rated their parents as problematic.”<sup>39</sup>

## 2. Family Time Facilitates Healthy Attachments

Children in foster care who have consistent, frequent visits with their parents are more likely to develop healthy attachments to them and others.<sup>40</sup>

- “Children need to know that their parent cares for them and is available to them.”<sup>41</sup>
- “Very young children are dependent on close physical proximity and frequent, repeated interactions with a parent in order to develop an attachment relationship.”<sup>42</sup>
- “[F]or families in which reunification is the main goal, children who visit their parents more consistently have stronger attachments than children with sporadic contact.”<sup>43</sup>
- “[C]hildren who continue to visit their biological parents tend to form new relationships with fewer relationship difficulties.”<sup>44</sup>
- Children with more secure attachments are less likely to be prescribed psychiatric medications and less likely to be developmentally delayed than children with insecure attachments. “[T]hese results reinforce the assertion that if a positive relationship between the child and the parent can be maintained after removal from the home, the child will more likely adapt to his or her current situation.”<sup>45</sup>

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<sup>38</sup> Lina M. Munoz, *Preserving the Bond: Child Welfare Professionals' Perspectives on the Opportunities and Challenges of Parent-Child Visitation*, Dissertation, Loyola University Chicago, 2013.

<sup>39</sup> North Carolina Division of Social Services and the Family and Children's Resource Program, *Making the Most of Visitation*, 5 Children's Services Practice Notes No. 4 (2000).

<sup>40</sup> *A Framework for Family Visiting*, supra note 34; *Handbook of Infant Mental Health, Third Edition*. Guilford Press (Charles H. Zeanah, Jr., ed., 2009); *Parental Visiting and Foster Care Reunification*, supra note 29; *Understanding Birthparent Involvement*, supra note 34; *Improving the Lives of Children in Foster Care*, supra note 34; *The Impact of Continued Contact*, supra note 34; W.L. Haight, et al., *Enhancing parent-child interaction during foster care visits: Experimental assessment of an intervention*, 84 *Child Welfare*, 459 (2005).

<sup>41</sup> Margaret Smariga, *Visitation with Infants and Toddlers in Foster Care: What Judges and Attorneys Need to Know*. American Bar Association and ZERO TO THREE, 5 (2007).

<sup>42</sup> *Handbook of Infant Mental Health*, supra note 40. Sheri Hill & Joanne Solchany, *Mental Health Assessments for Infants and Toddlers*, 24 *American Bar Association Child Law Practice No. 9*, 139 (2005).

<sup>43</sup> *Preserving the Bond*, supra note 38.

<sup>44</sup> *The Impact of Continued Contact*, supra note 34; B. Egeland and L.A. Sroufe, *Attachment and Early Maltreatment*, 52 *Child Development*, 44 (1981); R. Finzi et al., *Attachment styles and aggression in physically abused and neglected children*, 30 *Journal of Youth and Adolescence*, 769 (2001); C. Wekerle and D.A. Wolfe, *The role of child maltreatment and attachment style in adolescent relationship violence*, 10 *Development and Psychopathology* 571 (1998); G. McCarthy and A. Taylor, *Avoidant/Ambivalent attachment style as a mediator between abusive childhood experiences and adult relationships*, 40 *Journal of Child Psychology and Psychiatry*, 465 (1999).

<sup>45</sup> *The Impact of Continued Contact*, supra note 34.

### 3. Family Time Moderates the Damage from Separation

Removing a child from a home, even for reasons of safety and well-being, has a negative impact on children. Consistent, frequent visits with parents can ameliorate those effects.

- “Visitation helps children adapt to being in care, cope with feelings of loss and abandonment, and improve overall emotional well-being.”<sup>46</sup>
- “Consistent, frequent contact between the young child and the parent provides an opportunity to heal damaged relationships and mediates the trauma of removal.”<sup>47</sup>
- “Visits matter because they help children express their feelings and relate better to foster parents, calm some of children’s separation fears, and give foster children and foster parents continuing opportunities to see the parents realistically.”<sup>48</sup>
- Children who saw their parents less than once a month felt they suffered as a result of not maintaining contact with their birth parents.<sup>49</sup>
- “The younger the child and the longer the period of uncertainty and separation from the primary caregiver, the greater the risk of emotional and developmental harm to the child.”<sup>50</sup>

### 4. Family Time Supports Children’s Emotional and Behavioral Health

Children in foster care who maintain regular contact with their parents have fewer behavior problems and mental health concerns.

- “Children who are visited frequently by their parents...have less (sic) behavior problems.”<sup>51</sup>
- Ongoing contact with biological parents along with the perceived support from the child’s environment were protective factors against behavioral and emotional problems.<sup>52</sup>
- “[C]hildren who had consistent visitation with parents were rated as exhibiting fewer behavior issues mainly those of an internalizing nature (i.e., withdrawal, depression, anxiety) in comparison to children who were visited sporadically or not at all.”<sup>53</sup>

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<sup>46</sup> *Parent-Child Visiting*, supra note 29.

<sup>47</sup> *Handbook of Infant Mental Health*, supra note 40.

<sup>48</sup> *Making the Most of Visitation*, supra note 39; Arthur Cantos, et al., *Behavioral Correlates of Parental Visiting during Family Foster Care*, 76 *Child Welfare* No. 2 (March/April 1997).

<sup>49</sup> *Making the Most of Visitation*, supra note 39; Kathleen Kufeldt, et al., *How Children in Care View Their Own and Their Foster Families: A Research Study*, 74 *Child Welfare* No. 3, 695 (1995).

<sup>50</sup> American Academy of Pediatrics Committee on Early Childhood, Adoption and Dependent Care, *Developmental Issues for Young Children in Foster Care*, 105 *Pediatrics* 5, 1146 (2000).

<sup>51</sup> Rose Marie Wentz, *Frequency of Visits: Are one-hour weekly visits enough to achieve reasonable effort to reunify children and parents?*, Training Guide (January 2013); Robert Borgman, *The Influence of Family Visiting Upon Boys’ Behavior in a Juvenile Correctional Institution*, 64 *Child Welfare* 6, 629 (1985).

<sup>52</sup> Zeynep Simsek, et al, *Prevalence and predictors of emotional and behavioral problems reported by teachers among institutionally reared children and adolescents in Turkish orphanages compared with community controls*, 29 *Children and Youth Services Review* No. 7, 883 (February 2007).

<sup>53</sup> *Preserving the Bond*, supra note 38.

- In a study of 49 children in foster care, those who visited with their parents once a week or once every two weeks showed fewer behavioral problems and less anxiety and depression than children who had visits once a month or not at all.<sup>54</sup>
- In a study of 2,080 families, researchers found that separating a mother and child younger than two for a week or longer was associated with early and lasting elevated levels of child negativity and aggression.<sup>55</sup>
- “Results suggest that supporting frequent, consistent, visitation may impact the levels of depression and externalizing problems children in foster care exhibit.” This study found that more frequent contact with the biological mother was marginally associated with lower levels of depression and significantly associated with lower externalizing problem behaviors. The lowest levels of depression and externalizing problems were found in children who visited with their biological parents at least weekly.<sup>56</sup>

## 5. Family Time Improves Children’s Well-Being

Frequent, consistent visits with at least one biological parent improve child well-being, facilitate successful adjustment to foster care, and contribute to a more positive self-image.

- “Some studies show that continued contact between children involved in the foster care system and at least one biological parent is positively correlated to children’s current well-being.”<sup>57</sup>
- “Frequent parent-child visiting while children are in care promotes child well-being and positive adjustment to placement.”<sup>58</sup>
- At least one study supports “the assertion that if a positive relationship between the child and the parent can be maintained after removal from the home, the child will more likely adapt to his or her current situation.”<sup>59</sup>
- “The psychological well-being and developmental progress of most children who experience separation from a parent is enhanced by frequent contact with both of his/her parents. It is rare that having NO contact of any type with a parent is in the best interest of the child.”<sup>60</sup>
- “Frequent contact with parent(s) reassures the child that the parent wants to see him/her and misses the child, and this enhances the child’s well-being.”<sup>61</sup>

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<sup>54</sup> *Behavioral Correlates of Parental Visiting*, supra note 48.

<sup>55</sup> A. Nesmith, *Factors Influencing the Regularity of Parental Visits with Children in Foster Care*, 32 *Child and Adolescent Social Work Journal*, 3, 219 (2014).

<sup>56</sup> *The Impact of Continued Contact*, supra note 34.

<sup>57</sup> *The Impact of Continued Contact*, supra note 34; *Behavioral Correlates of Parental Visiting*, supra note 48; *Improving the Lives of Children in Foster Care*, supra note 34; *Prevalence and Predictors*, supra note 52.

<sup>58</sup> *The Impact of Continued Contact*, supra note 34; *Children in Foster Care: A Longitudinal Investigation*, supra note 30.

<sup>59</sup> *Improving the Lives of Children in Foster Care*, supra note 34.

<sup>60</sup> *Children in Foster Care: A Longitudinal Investigation*, supra note 30; Eugene A. Weinstein, *The Self-Image of the Foster Child*, New York: Russell Sage Foundation (1960); *Frequency of Visits*, supra note 51.

<sup>61</sup> *Children in Foster Care: A Longitudinal Investigation*, supra note 30, pp. 487-488; Peg McCartt Hess, *Visits: Critical to the Well-Being and Permanency of Children and Youth in Care*, *Child Welfare for the Twenty-First Century: A Handbook of Practices, Policies, and Programs* (Gerald P. Mallon and Peg McCartt Hess, editors, New

- A researcher in 1975, who is seen as “the first to stress the importance of attachment to biological parents for youth in foster care, proposed that youth in foster care who are not able to visit their families could develop an unrealistic image of their biological parents which could damage their self-esteem and ability to relate to others. He declared, ‘For better or worse, they are his roots to the past, his support and foundation. When he is separated from them, he feels that he has lost a part of himself.’”<sup>62</sup>

## 6. Possible Negative Impacts of Family Time

While extensive and persuasive research shows positive outcomes from consistent, frequent Family Time, some research finds otherwise. These findings are shared to illustrate that while most research indicates positive outcomes for children and parents, this is an area of emerging study. The impact of Family Time is individualized and the variables are many, including the age, temperament, and developmental stage of the child and parent; the circumstances leading to removal; the parent-child relationship prior to removal; the protective factors present in the family and in the individual family members; how Family Time is initiated and facilitated by the agency; and so much more.

- One study “observed that at least one-third of children in foster care seemed to be experiencing stress associated with contact with their biological parents.”<sup>63</sup>
- Another study “found that 56% of adolescents in foster care felt that either some or most of their contacts with their parents were unhelpful to them.”<sup>64</sup>
- One researcher “found that children who had strong relationships with both biological parents and foster parents experienced greater loyalty conflict. She concluded that the results of her research were consistent with other studies that failed to detect an association between parental visiting and the positive adaptation of children in foster care.”<sup>65</sup>
- Several studies also document caseworker and foster parent perceptions of Family Time as disruptive, causing or exacerbating behavioral problems, interfering with children’s ability to adapt to foster care, and not in the child’s best interest.<sup>66</sup>

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York: Columbia University Press, 2005), 548-557; *Family Visiting in Out-of-Home Care*, supra note 30; *The Self-Image of the Foster Child*, supra note 60; *Frequency of Visits*, supra note 51.

<sup>62</sup> *The Impact of Continued Contact*, supra note 34.

<sup>63</sup> *The Impact of Continued Contact*, supra note 34; Elsbeth Neil, et al., *Thinking about and Managing Contact in Permanent Placements: The Differences and Similarities between Adoptive Parents and Foster Carers*, 8 *Clinical Child Psychology and Psychiatry* No. 3, 401 (July 2003).

<sup>64</sup> *The Impact of Continued Contact*, supra note 34; Elaine Farmer and Sue Pollock, *Sexually Abused and Abusing Children in Substitute Care*, Wiley (1998).

<sup>65</sup> *The Impact of Continued Contact*, supra note 34.

<sup>66</sup> *The Impact of Continued Contact*, supra note 34; W.L. Haight, et al., *Understanding and supporting parent-child relationships during foster care visits: Attachment theory and research*, 48 *Social Work* 195 (2003); F.E. Mennen and M. O’Keefe, *Informed decisions in child welfare: The use of attachment theory*, 27 *Children and Youth Services Review* 577 (2005); S. Moyers, et al., *Contact with family members and its impact on adolescents and their foster placements*, 36 *British Journal of Social Work* 541 (2006); A. Sanchirico and K. Jablonka, *Keeping foster children connected to their biological parents: The impact of foster parent training and support*, 17 *Child and Adolescent Social Work*, 185 (2000).

## C. Family Time Supports Parents

In addition to benefits such as an increased likelihood of lasting reunification, Family Time provides benefits to parents such as the following:

- Reduces the negative impact of separation and eases the pain of separation and loss.<sup>67</sup>
- Strengthens the parent-child relationship.<sup>68</sup>
- “Keeps hope alive for the parent and enhances parents’ motivation to change.”<sup>69</sup>
- “Involves parents in their child’s everyday activities and keeps them abreast of the child’s development.”<sup>70</sup>
- “Helps parents gain confidence in their ability to care for their child and allows parents to learn and practice new skills.”<sup>71</sup>
- Helps improve parenting abilities by providing “a setting for the caseworker or parenting coach to suggest how to improve parent-child interactions.”<sup>72</sup>

Maintaining parent-child connections while children are in foster care and improving parenting skills through Family Time may make it easier for the family to prepare for and adjust to being together again after reunification.<sup>73</sup>

## IV. Presumptive Family Time Provisions

The Presumptive Family Time Provisions (hereinafter “Presumptive Provisions”) specify the minimum amount of time needed to (a) promote reunification by strengthening the parent-child relationship, and (b) mitigate the negative impact of separation. They are based on children’s developmental needs and provide a *starting point* for developing plans; whenever possible, children should see family members more often. When less time is provided than recommended, the variance should be fact-driven, appropriately documented, approved by the court, and articulated to all parties.

The Presumptive Provisions are drawn from the wisdom of Georgia stakeholders, extensive social sciences research, and practice, protocols, and recommendations from more than 20 states and local jurisdictions. These Provisions flow from beliefs eloquently articulated by Judge Edwards:

“The frequency and duration of visitation should be measured by the needs of the child and family and not by the capacity of the Agency or the convenience of Agency personnel. Child development principles should become the starting point for any analysis of how frequent visitation should be, how long it should last, where it should

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<sup>67</sup> *Visitation with Infants and Toddlers in Foster Care*, supra note 41; Susan Dougherty, *Promising Practices in Reunification*, Practice Brief, The National Resource Center for Foster Care & Permanency Planning, Hunter College School of Social Work (April 2004).

<sup>68</sup> *Promising Practices in Reunification*, supra note 67.

<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

<sup>71</sup> *Id.*

<sup>72</sup> *Id.*

<sup>73</sup> *Family Reunification*, supra note 34; *Children in Foster Care: A Longitudinal Investigation*, supra note 30.

take place, and who should be present. After the court has determined the optimum visitation quantity and quality, the next question is what can be done to approximate that level of contact.”<sup>74</sup>

The original workgroup used age to develop the framework of the Presumptive Provisions because age is present in every case and provides an objective beginning point. The Family Time Guide continues this framework, as seen in the summary chart below (intentionally kept short for ease of use). Following the chart is a discussion which breaks each age bracket into developmental stages. To illustrate how child development research has influenced policy and practice over the years, the original Family Time Protocol Presumptive Provisions are included in footnotes.

## **A. When Family Time Begins**

Children should visit with their parent(s) in person no later than five calendar days after removal.<sup>75</sup> Social-sciences research and practices around the country recommend visits as soon as possible, usually no later than 48-72 hours; five days is the longest amount of time that should pass, and the younger the child, the more quickly the visit should occur.<sup>76</sup> Providing a face-to-face visit with parents as soon as possible brings many benefits, including reassuring children that their parent is OK and still loves them, and that they were not removed for doing something wrong.<sup>77</sup> When visits cannot occur in person, video, telephone, or other communication should be arranged. If contact with a parent cannot occur, a child should be assisted in contacting another person who could help her with emotions around the removal, such as a sibling, other relative, or attorney.

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<sup>74</sup> *Judicial Oversight of Parental Visitation*, supra note 1 at 11.

<sup>75</sup> DFCS policy requires a face-to-face visit between parents and children within seven calendar days of removal (*Georgia DFCS Policy Number 10.19: Visitation*, June 2016).

<sup>76</sup> Even Georgia DFCS, in its visitation policy, recommends that the initial parent-child visits occur within 24 hours of removal (see *Georgia DFCS Policy Number 10.19 “Procedures,”* # 3, page 2). This time frame is based on other states’ practices and research about the importance of maintaining a child’s contact with a parent during traumatic times and how the initial visit can relieve a child’s anxiety about the uncertainty of being removed. For example, “To reduce the trauma of sudden separation, the first parent-child visit should occur as soon as possible and no later than 48 hours after the child is removed from the home” (*Visitation with Infants and Toddlers in Foster Care*, supra note 41, pp. 10-11).

<sup>77</sup> One expert on Family Time provides this example of how delaying the initial visit can set a case on a path toward nonreunification before any evidence is heard. “For example, a five-year-old who goes a week with no contact with his family is likely to feel forgotten, lost, worried or have other negative emotions. He will not automatically view the foster family as people he can trust so he is not likely to ask for the comfort and reassurance he needs. He will experience grief and loss, and this can lead to emotions such as anger and depression. He is likely to act on these emotions and could harm others, himself or objects. When the first visit does finally occur, he is likely to blame his parents (as five years old believe their parents are all powerful and therefore they are to blame for the lack of contact) and act on his emotions during the visit. In this case there is a higher chance that the first visit will be more than uncomfortable; it may be traumatic for everyone. The birth parent is likely to view the child’s new behaviors as being caused by the foster parent and the foster parent to view the behaviors as a result of the child visiting his parents. The worker and others are uncertain how to evaluate the visit and are likely to decrease or stop visits thereby intensifying the child’s sense of being forgotten or blamed.” *Frequency of Visits*, supra note 51.



At the preliminary protective hearing, the court should ensure that a meaningful Family Time Plan is in place that, at a minimum, provides Family Time substantially in accordance with the Presumptive Provisions unless special circumstances justifying a variance are established during the hearing. Court-ordered Family Time should be unsupervised unless the court makes a specific evidentiary finding that unsupervised visits pose a safety threat and are therefore not in a child's best interests.<sup>78</sup>

DFCS policy details the time frames for developing written visitation plans, from the initial visit through the life of the case.<sup>79</sup> The DFCS Practice Guidance for implementing the visitation policy reflects research and best practices around Family Time. Visitation plans are part of the Case Plan and may be developed at a Family Team Meeting.<sup>80</sup> DFCS policy sets a minimum frequency for Family Time (unless another is specified by the Court) and recommends greater frequency in cases with a reunification permanency plan. The policy does not specify how long each visit should last.<sup>81</sup>

## B. Presumptive Frequency and Duration by Age

| Presumptive Family Time |  |
|-------------------------|--|
| Age                     | Presumptive Family Time Frequency and Duration   |
| Birth to 3 years        | 1 ½ to 2 hours three times per week  |
| 3 years to 12 years     | 2 or more hours at least two times per week  |
| 12 years to 18 years    | 1 or more hours one or two times per week, with consideration for the youth's scheduled activities |

The Presumptive Provisions are based on

- child development research about attachment
- level of involvement and support children need from their parents at different ages and stages
- ways Family Time positively influences permanency
- children's understanding of time and permanence
- expertise of original workgroup and stakeholders involved in CII
- practice and policy around the country.

<sup>78</sup> O.C.G.A. § 15-11-112(b), Court Ordered Visitation.

<sup>79</sup> *Georgia DFCS Policy Number 10.19: Visitation* (June 2016).

<sup>80</sup> *Georgia DFCS Policy Number 19.3: Family Team Meetings* (December 2016); *DFCS Family Team Meeting Protocol* (August 2016), page 4.

<sup>81</sup> *Georgia DFCS Policy Number 10.12: Psychological and Behavioral Health Needs*, (June 2018); *Georgia DFCS Policy Number 10.10: Foster Care: Comprehensive Child and Family Assessment* (August 2016).

The Presumptive Provisions are anchored to a child's chronological age, which provides an objective starting point. However, every family's needs are unique, and children develop at different speeds, so flexibility is required. For example, for children whose development is atypical, developmental age may be a more useful measure than chronological age.

Children's perceptions of separations and their sense of permanence are important factors in determining Family Time frequency. Rose Wentz, an expert on Family Time, explains children's perceptions of how long of a separation from their parents equates to a permanent separation:<sup>82</sup>

- Infants: As soon as separation occurs, it feels permanent.
- Toddlers: A separation of days feels permanent.
- Pre-schoolers: A separation of weeks feels permanent.
- Grade school: A separation of months feels permanent.
- Adolescents generally have an adult understanding of permanence.

The summary chart includes three age brackets, each with a minimum recommended frequency and duration of Family Time. Each age bracket, however, covers several developmental stages in children's lives. The reasons each developmental stage needs the recommended amount of Family Time are detailed below.

#### 1. Birth to six months: 1 ½ - 2 hours, 3 times per week<sup>83</sup>

DFCS policy requires at least two visits per week, with Practice Guidance recommending three.<sup>84</sup>

#### **Research Basis:**

By 6 months of age, infants can recognize caregivers and may exhibit some uneasiness around strangers. When separated from primary caregivers, infants may show signs of distress, such as irregular or problematic eating or sleeping patterns or excessive crying, withdrawal, irritability, and depression. In infancy, weekly or other sporadic visits overwhelm a child's sense of time and do not allow for a psychologically meaningful relationship with the biological parents. Because infants cannot retain memory over time, they must have frequent contact on a predictable and regular schedule in order to bond. Rituals and routines are important, so disruptions in the schedule should be avoided.

In terms of attachment, children from birth to 6 months of age show some ability to discriminate between caregivers and strangers and establish attachments accordingly. Social smiling, beginning between 3 and 6 months, is the primary way a child demonstrates a differential response among caregivers. Children do not generally show a clear preference for attachment figures until somewhere between 8 months and 2 years. At that point, they begin to seek contact

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<sup>82</sup> Rose Marie Wentz, *Visitation - The Key to Children's Safety, Permanence, and Well-Being*, Training Materials, National Resource Center for Family-Centered Practice and Permanency Planning at the Hunter College School of Social Work (2012).

<sup>83</sup> The *Original Protocol* recommended 30-60 minutes three times per week for children birth to 6 months.

<sup>84</sup> *Georgia DFCS Policy Number 10.19: Visitation* (June 2016).

with their primary attachment figures and use this figure as a secure base from which to explore the world. Unpredictable visitation times increase infants' stress; therefore, stable daycare should be maintained, and overnight visits are not recommended.

At this age, children's behaviors originate from their need for emotional and physiological regulation, which includes experiences of stabilization, positive emotions, and control of negative emotions learned from caregivers. Because the child is exclusively focused on the parent, parents need to recognize and seek support to help control their own anxieties, anger, fear and other negative emotions as a model for the child. The parent-child relationship is also strengthened by the parent's ability to reduce the infant's stress by being responsive to the infant's cues, so parents need to demonstrate emotional availability by being sensitive to the infant, taking turns with the infant, and showing consistency. Through these and other acts of relating, the parent will start bonding with the child, and the child will begin attaching to the parents, which is critical for the child's ability to create future attachments.

Consistent locations and frequent short visits help the parent learn what stabilizes the infant and are much better for infants than less frequent, longer visits. Daily contact is ideal. Although practical considerations of parents' and case manager's schedules may prohibit daily visitation, the ideal should be implemented when feasible. For example, when the child is placed with a supportive relative or foster parent and there are no safety concerns, short but frequent visits may be practical. In any event, for all infants in this age range, several days should not go by without a visit.

## 2. Six months to eighteen months: 1 ½ - 2 hours, 3 times per week<sup>85</sup>

DFCS policy requires at least two visits per week with Practice Guidance for DFCS recommending three.<sup>86</sup>

### **Research Basis:**

True attachment to parental figures begins around 6 months of age. The foremost consideration for a child at this age is the formation of a healthy attachment to the parent. The parent must be available for the child and responsive to the child's needs for a healthy relationship to develop. Between 6 and 12 months, infants often show apprehension or cry when exposed to a new caregiver because an infant recognizes the strangeness of a situation and his powerlessness to change it. Babies may show more stress when a primary caregiver is separated from them; however, a child this age can attach to several caregivers.

From 6-18 months, children develop attachment to and trust in primary caregivers, the ability to experience a wide range of emotions, intrigue to explore the world, and self-control. Parents must provide a caring, consistent, and safe environment. Children will share with their parents their experience of positive and negative emotions, including wonder and disappointment. Importantly, parents need to set clear limits and control their own emotions. They must be firm but fair in order to avoid power struggles. Family Time with children in this age range should

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<sup>85</sup> The *Original Protocol* recommended 60 minutes three times per week for children 6-18 months.

<sup>86</sup> *Georgia DFCS Policy Number 10.19: Visitation* (June 2016).

support the parent-child relationship and facilitate the identification of any negative or harmful emotions.

### 3. Eighteen months to three years: 1 ½ - 2 hours, 3 times per week<sup>87</sup>

DFCS policy requires at least two visits per week, with Practice Guidance recommending three visits until 2 years old, and then two visits a week from age 2 to 5.<sup>88</sup>

#### **Research Basis:**

In this age range, an important consideration for Family Time decisions is the child's temperament because that affects how much contact or lack of contact the child can tolerate.

After eighteen months of age, children can better understand and use language, allowing them to express their needs and understand parental responses to those needs. They develop autonomy and a sense of control over themselves and others. However, they still may cling to their caregiver and resist separation from their primary caregivers, and they may still be fearful of unfamiliar people or activities. Young children cannot remember people they do not see very often. Predictability, routine, and structure are needed to reassure the child that a loving caregiver is always available, and the world is a safe place. Common signs of distress for children of this age include withdrawal, crying and clinging that lasts more than a few minutes, changes in eating or toileting, and delays in development.

From the child's perspective, a healthy attachment exists when the child feels safe in relationships and continues to use his caregivers as a secure base for exploring the environment. A not-so-popular developmental milestone for children of this age is their tendency to throw tantrums. However, a child's ability to recover from loss of control teaches the child that anger and despair do not have to lead to a collapse. Proper development of impulse control requires appropriate modeling and support by parents. Inasmuch as parents provide consistency and safety and promote self-reliance in terms of the child's locomotion, choices and exploration, the parent will be rewarded by the child's willingness to share his delight in objects and people.

For healthy child development, parents must remain emotionally available while staying firm in their parenting position. They should demonstrate empathy and open and honest communication for their child, control their own impulses, and continue to structure the environment to be a safe place for their child. Family Time offers a valuable opportunity for parents to learn their child's routines and the child's preferences. It is specifically helpful for parents to know what children's favorite objects are and to provide these for the child during Family Time.

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<sup>87</sup> The *Original Protocol* recommended 1 ½ hours of Family Time two times per week for children ages 18 months to 3 years.

<sup>88</sup> *Georgia DFCS Policy Number 10.19: Visitation* (June 2016).

#### 4. Three years to five years: 2 or more hours, at least 2 times per week<sup>89</sup>

DFCS policy requires at least one visit per week<sup>90</sup> with Practice Guidance recommending two.

##### **Research Basis:**

A significant developmental milestone for a child in this age range is starting school. Because of this, the span of this age bracket could extend to age 6. Additionally, for some children who are well-developed and begin pre-kindergarten early, this age range may appropriately end at age 4.

By ages 3 to 5, children are firmly attached to their regular caregivers, may occasionally experience discomfort when separated from caregivers, and are better able to remember people when separated. Children may fear unfamiliar activities and objects and may start fearing imaginary dangers like monsters. Most children benefit from time with peers, which helps them learn social skills and builds their confidence. Engaging with the outside world gives them a greater perspective and helps them understand limits set by caregivers. They still need continued predictability, routine, and structure, as well as consistent discipline between caregivers whenever possible.

Signs of distress during this time tend to take the form of regressive activity, such as problems in toileting, sleeping, or eating where there were not problems previously, as well as irritability and clinging behavior. Children this age can frequently have problems with anger and will start acting out.

The child's developmental focus during these years is regulation of fears, anxieties, jealousies and rivalries. Children begin to take initiative and experience mastery at activities. They play more with peers and adults and begin to construct a positive view of themselves as valued and competent. They also begin to progress in moral development such as assuming responsibility for their acts, conforming to rules of society, and identifying with caregivers. Notably, children this age are beginning to develop sex role identification, so parental modeling is particularly influential.

Parents should provide predictable and regular routines and accept and describe the child's feelings. They should express genuine approval as well as providing guidelines and expectations, modeling respect and problem-solving, and enforcing consequences. Children at this age can understand honest explanations and accept reasons for why a parent is not visiting. They can generally tolerate more time between visits with parents and can benefit from longer periods of time together as a family unit. Family Time activities must include meaningful interactions and should be planned with children based on their interests and routines to signal to the child that he is a full, valued, and equal participant.

#### 5. Five years to twelve years: 2 or more hours, at least 2 times per week<sup>91</sup>

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<sup>89</sup> The *Original Protocol* recommended 2 hours or more once a week for children ages 3-5 years.

<sup>90</sup> *Georgia DFCS Policy Number 10.19: Visitation* (June 2016).

<sup>91</sup> The *Original Protocol* recommended 2 or more hours once a week for children aged 5-12 years.

DFCS policy requires at least one visit a week for children aged 3 to 5 and at least two visits per month for children age 6 and older. The accompanying Practice Guidance recommends two visits per week for children aged 3 to 5 and weekly visits for children age 6 and older.<sup>92</sup>

**Research Basis:**

During this age range, the child’s development is centered on continuing to learn, with learning primarily occurring in school. The primary influence shifts from caregivers to peers. Children begin to develop their identity through genuine accomplishment and continue their moral development. The parent’s job includes maintaining consistency and fairness and arranging and structuring experiences to promote friendships and success in school and life. Peer relationships help youth see the world from another’s perspective. Parents should affirm effort and accomplishments of their children as well as providing rules and responsibilities.

Children in this age range may worry that a parent does not love them or that they will lose a parent. They also may experience intense longing for an absent parent, and they will frequently fantasize that the biological parents will get them back, even when this is an unrealistic expectation.

In the younger years of this age range, children begin to understand the difference between fantasy and reality. They also deepen attachments to people such as teachers and they start to notice gender differences. They have a strong belief in fairness and tend to look at people with a “good guy/bad guy” mentality. They need to be reminded that the family situation and problems are not their fault. They also need support for their expanding peer relationships.

By the time children have reached age 6 or 7 years, they usually have developed a strong attachment to particular caregivers. For many children in the child welfare system, this attachment may not be as strong as in other cases because of disruptions in the relationship. Depending on the degree of attachment, separation can lead to considerable anxiety, stress, self-doubt, blame, guilt, shame, and fear. A child who has a strong connection with a caregiver (be it a parent or another adult) likely will experience severe distress if that attachment is disrupted. Because separation for children of this age can be extremely traumatic, infrequent short visits are unlikely to mitigate the distress.

Signs of distress in children in the younger years of this age range are physical complaints such as stomachaches and headaches, sleep problems, continuing behavior problems, often with acting out behavior worsening around the caregiver with whom they have the closest attachment. They can also have regressive behavior such as bedwetting or use of baby talk.

Some children, as they get closer to ages 10 to 12, will want more independence from caregivers and become more attached to friends. As peer acceptance becomes more important, they may become embarrassed by family problems.

In the later years of this age range, children begin to develop positive feelings about peer relationships as well as their own physical development, and they will test their values and beliefs while they continue to develop self-esteem. As peer relationships continue to develop and

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<sup>92</sup> *Georgia DFCS Policy Number 10.19: Visitation* (June 2016).

assume a prominent role, teens become more connected to school and community. However, they continue to need consistency and predictability in schedules and routines. Sometimes they have more open communication with caregivers.

Signs of distress in the older ages in this range are loss of interest in friends and other close relationships and a tendency toward isolation. They can also experience depression or rebellion. Some children will become extremely good students with good behavior, which can be a warning sign if this is a coping mechanism for internal distress.

Family Time should still occur on a regular basis, planned with input from the youth. Whenever possible, Family Time arrangements should consider extracurricular activities and peer interactions. In addition to regularly scheduled Family Time, parents should attend children's school-based and community-based activities.

#### 6. Twelve years to fifteen years: 1 or more hours, 1 or 2 times per week<sup>93</sup>

DFCS policy requires at least two visits per month, with Practice Guidance recommending weekly visits.<sup>94</sup>

#### **Research Basis:**

During adolescence, children develop greater independence and separation from their family. As they develop their sense of morality, their values may change. Rebelliousness may occur. Although they can see things from another's perspective, they are also quite self-centered. They need flexibility and understanding from caregivers regarding time with friends and extracurricular activities. They usually want to have strong input into their schedule, including Family Time. They need positive role models, especially those who firmly set guidelines for behavior that are fair and reasonable.

The critical developmental milestone of adolescence is the development of a healthy, consistent identity. Successes in peer friendships and school are also important. The parent needs to allow the child to separate and become increasingly independent while continuing to consistently reinforce desired values. Parents should recognize that some children can fear changes occurring during adolescence and need reassurance from caregivers while still being allowed independence. Parents commonly need help controlling and addressing their own emotions during this time, particularly if the adolescent is rebellious.

Signs of distress in teens are frequently seen as extreme anger or isolation and depression. Adolescents may have difficulty with school or peers and may manifest behavioral problems such as alcohol abuse, drug abuse, and sexual promiscuity.

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<sup>93</sup> The *Original Protocol* contained no specific duration or frequency recommendation for children aged 12-15 years because "the presumptive Family Time schedule for children in this age group cannot be quantified." The document cautioned, "[h]owever, the failure to specify a specific presumptive Family Time should not be construed in any way to minimize the importance of frequent, meaningful periods of Family Time," page 14.

<sup>94</sup> *Georgia DFCS Policy Number 10.19: Visitation* (June 2016).

Separation of a teen from biological parents during adolescence can present unique difficulties because a forced separation at the exact time when, developmentally, the teen needs to initiate separation from the parent can cause severe emotional trauma and confusion.

Teens may be highly ambivalent about their relationships with their parents, and as a result, may not want to see their parents at all. They may be relieved if they don't have to participate in Family Time. However, child development research indicates that the parent-child relationship is arguably the most important during this developmental phase. What may appear as indifference toward a parent may actually be an attempt to mask or avoid feelings of pain or fear. That is, a young teen may want to forego visitation to avoid the fear engendered by seeing a distraught parent. On the other hand, young teens sometimes begin to fantasize intensely about parents who have been absent from their lives, and Family Time may help the child to have more realistic expectations.

Teens should not be allowed to cancel visits because they don't want to see their parents. If they refuse to participate, best practice is for DFCS to notify the court. Teens should be reminded that changes in Family Time plans must be approved by the court, so if teens decide to stop seeing their parents, they need to explain to the judge the reason for the change. Other parties also have a say in requests to modify Family Time plans. The system's obligation is to preserve lifelong connections for a child, not just meet the child's short-term wants or needs.

Teenagers don't need to spend a lot of time with parents, so an hour of Family Time once or twice a week may be sufficient. Parents should attend the teen's school and community activities.

#### 7. Fifteen years to eighteen years: 1 or more hours, 1 or 2 times per week<sup>95</sup>

DFCS policy requires at least two visits per month, with Practice Guidance recommending weekly visits.<sup>96</sup>

#### **Research Basis:**

Children's connections with their primary caregivers are as important in later teenage years as in childhood. Therefore, consistent Family Time must be maintained. At the same time, older teens can experience protracted separations without undue feelings of loss or despair and their activities and schedules should be given great weight in developing Family Time Plans. Parents should continue to attend the teen's school and community activities. Family Time should be supplemented with other forms of contact such as text, email, phone, letters, and social media when appropriate. To the extent possible and desirable, older teens should have a greater voice in developing and implementing a Family Time Plan that meets their needs and the needs of their family.

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<sup>95</sup> The *Original Protocol* contained no specific duration or frequency recommendation for children aged 15-18 years because "the presumptive Family Time schedule for children in this age group cannot be quantified." The document cautioned, "[h]owever, the failure to specify a specific presumptive Family Time should not be construed in any way to minimize the importance of frequent, meaningful periods of Family Time," page 14.

<sup>96</sup> *Georgia DFCS Policy Number 10.19: Visitation* (June 2016).



## C. Sibling Visitation

Federal and state law, as well as DFCS policy, require siblings to be placed together unless it is contrary to the safety or well-being of one or more of the siblings.<sup>97</sup> When they cannot be placed together, “DFCS shall provide for frequent visitation or other ongoing interaction between siblings, unless DFCS documents that such frequent visitation or other ongoing interaction would be contrary to the safety or well-being of any of the siblings.”<sup>98</sup> The growing body of literature on sibling relationships throughout the lifespan indicates that sibling bonds are important to all of us, but they are particularly vital to children from disorganized or dysfunctional families.<sup>99</sup>

Georgia law defines a sibling as “a person with whom a child shares a biological father or one or both parents in common by blood, adoption, or marriage, even if the marriage was terminated by death or dissolution.”<sup>100</sup>

For siblings who are not placed together, DFCS policy states that “siblings shall maintain weekly face-to-face contact with each other, except...when contrary to the safety or well-being of any of the siblings,” or when siblings are placed in separate states.<sup>101</sup> Separated siblings are to have at least phone contact within 48 hours of being separated and a face-to-face visit within five days of separation.<sup>102</sup> Sibling contacts can occur during formal Family Time or informal opportunities like sporting events, family gatherings, school, or church.

## D. Visits With Other Important People

Healthy relationships build resilience in children and children with a greater number of healthy relationships with other people have greater resiliency. Resiliency not only helps children overcome the negative effects of foster care; it helps them thrive. Therefore, the state should preserve children’s healthy relationships with family and friends whenever possible.

DFCS policy allows family members, friends, or fictive kin with whom the child has a significant, positive relationship to serve as “visiting resources” for the child, which means they

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<sup>97</sup> The Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351 § 471(a)) addresses the issue of sibling placement and contact by providing that “reasonable efforts shall be made (A) to place siblings removed from their home in the same foster care, kinship guardianship, or adoptive placement, unless the State documents that such a joint placement would be contrary to the safety or well-being of any of the siblings; and (B) in the case of siblings removed from their home who are not so jointly placed, to provide for frequent visitation or other ongoing interaction between the siblings, unless the State documents that frequent visitation or other ongoing interaction would be contrary to the safety or well-being of any of the siblings.” The Preventing Sex Trafficking and Strengthening Families Act of 2014 (P.L. 113-183 § 475(1)(D) and (5)(C)(i)) requires that the case plan for all children age 14 and older includes a “rights document” that specifically addresses their rights to “education, health, visitation, and court participation.”

<sup>98</sup> O.C.G.A. § 15-11-135(e).

<sup>99</sup> NCJFCJ *Enhanced Guidelines*, page 85.

<sup>100</sup> O.C.G.A. §15-11-2(71).

<sup>101</sup> *Georgia DFCS Policy Number 10.20: Preserving Sibling Connections* (October 2015).

<sup>102</sup> *Georgia DFCS Policy Number 10.20: Preserving Sibling Connections* (October 2015).

can spend time with the child after being assessed and approved by DFCS.<sup>103</sup> The child’s case plan must include plans for visits with adults who are important to the child or include an explanation of why such visits are not occurring.<sup>104</sup>

Georgia law allows some family members to seek court-ordered visitation in some circumstances when children are not living with both parents. These petitions and orders occur in superior court, completely separate from juvenile court dependency proceedings, but can impact DFCS’s responsibilities to facilitate Family Time. Under O.C.G.A Title 19, grandparents have “the right to file an original action for visitation rights to a minor child,” except when the child is living with both parents.<sup>105</sup> A child’s grandparents, great-grandparents, and aunts and uncles have a right to seek visitation with the child by intervening in an action involving custody or visitation, divorce, termination of parental rights, or adoption by the child’s blood relative or a stepparent.<sup>106</sup> The superior court may grant visitation after finding “by clear and convincing evidence that the health or welfare of the child would be harmed unless such visitation is granted and if the best interests of the child would be served by such visitation.”<sup>107</sup>

## **E. Reasons to Deviate From Presumptive Family Time Provisions**

Presumptions establish an accepted starting point for decision-making. Implementing the Practice Guide means that judges and DFCS agree that unless special circumstances dictate, Family Time Plans will follow the Presumptive Provisions. In every case, however, judges must make fact-based, individualized decisions about appropriate Family Time, including what is considered a “special circumstance” allowing or requiring deviation from the Presumptive Provisions.

Section V. “Special Circumstances,” discusses nine special circumstances that may require deviations from the Presumptive Provisions. Notably, resource limitations are not one of them. Resources include the availability of staff to schedule and facilitate visits or to provide transportation and supervision. Adequate resources are essential for successful Family Time. Nonetheless, a lack of resources does not impact the statutory requirement for “reasonable visitation that is consistent with the age and developmental needs of a child if the court finds that it is in a child’s best interests” or for the case plan to include a visitation schedule.<sup>108</sup> It also does not negate DFCS’ responsibility to comply with its own visitation policy.<sup>109</sup>

DFCS’ failure to provide timely and meaningful Family Time, early and throughout the life of the case, may constitute a failure to make reasonable efforts.<sup>110</sup> This is true even if the reason is a lack of resources or no foster homes within a reasonable distance from a parent. Furthermore, the

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<sup>103</sup> *Georgia DFCS Policy Number 10.19: Visitation* (June 2016).

<sup>104</sup> O.C.G.A. § 15-11-201(b)(8).

<sup>105</sup> O.C.G.A. § 19-7-3(b)(1)(A).

<sup>106</sup> O.C.G.A. § 19-7-3(b)(1)(B).

<sup>107</sup> O.C.G.A. § 19-7-3(c)(1).

<sup>108</sup> O.C.G.A. § 15-11-112 and §15-11-201(b)(8).

<sup>109</sup> *Georgia DFCS Policy Number 10.19: Visitation* (June 2016).

<sup>110</sup> NCJFCJ *Child Abuse and Neglect Institute: Improving Outcomes for Children and Families, Module 4: Making Reasonable Efforts*, Training Materials adapted from R. Michael Key, LaGrange, GA (2018).

failure to monitor the impact of resource limitations on Family Time and to take reasonable steps to overcome that barrier is a failure to make reasonable efforts at an agency or system level.<sup>111</sup> All participants should understand that the Family Time Plan “should be driven by the identified needs of the family and not by the readily available resources of the Agency and community.”<sup>112</sup>

## V. Considerations for Family Time

Meaningful Family Time that leads to the benefits listed in Section II requires planning. This section discusses the many factors that must be considered when planning Family Time. “The golden rule of all visits should be: Visits will always be safe, non-traumatizing and encourage healthy attachments.”<sup>113</sup>

Those who develop Family Time Plans should always be mindful of the purposes of Family Time:

- “Promote reunification by strengthening the parent-child relationship and reducing the potentially damaging effects of separation.”<sup>114</sup>
- “Help children maintain and enhance their attachment with their parents, siblings and others with whom they have emotional connections.”<sup>115</sup>
- Uphold parents’ and children’s rights to continue their relationship when separated.
- Enable parents to practice newly learned parenting skills and demonstrate safe and appropriate parent-child interactions.<sup>116</sup>

### A. Permanency Plan

Most visitation protocols and Family Time guidelines contemplate reunification as the permanency plan. When reunification is the goal, the case plan and Family Time Plan should facilitate a successful, permanent reunification. The reasons the child entered care shape the goals for Family Time. The legal timeframe for permanency guides the family’s progression through levels of supervision, which often culminates with unsupervised overnight visits and/or a trail home placement just before reunification.

Family Time is equally important in cases with a permanency goal other than reunification. The Family Time goals may be different, but the parent-child interactions are important for the child to maintain family connections and develop healthy attachments. Also, in most cases, parents and children have a right to continue their relationship until (and sometimes beyond) termination of parental rights (TPR). Furthermore, youth who age out of foster care often reconnect with family even if parental rights were terminated.

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<sup>111</sup> *Id.*

<sup>112</sup> *Id.*

<sup>113</sup> *Visitation - The Key to Children's Safety*, supra note 82.

<sup>114</sup> *NCJFCJ Enhanced Guidelines*, page 85.

<sup>115</sup> *Visitation - The Key to Children's Safety*, supra note 82.

<sup>116</sup> *Id.*

When the permanency plan goal is a concurrent plan, Family Time is an important factor in determining which goal will be achieved.<sup>117</sup> Frequent, well-planned Family Time can help parents successfully accomplish their case plan goals. Especially in cases with concurrent permanency plans, frequent Family Time can increase parents' motivation to complete their case plans successfully. A parent's pattern of behavior related to Family Time can be critical to the outcome of the case. If parents visit whenever possible and engage positively with their children, this can provide evidence supporting reunification. Similarly, when parents regularly miss visits and have unhealthy interactions with their children during Family Time, that can provide evidence favoring an outcome other than reunification.

Because of this, DFCS and other providers must schedule frequent Family Time and ensure the conditions for successful visits are in place. Failing to provide frequent Family Time moves a case away from reunification through no fault of the parent. DFCS' support for or lack of support for Family Time should not be a determining factor in the case outcome.

In cases with a permanency goal of TPR and adoption, Family Time can support a child's transition to an adoptive home. For example, Maine's visitation policy says that when adoption is the permanency plan, visitation allows the child and parent to say goodbye.<sup>118</sup> Visits also provide an opportunity for the parent to communicate responsibility for the behavior that prevents reunification, and for the parent to support the child's transition to a new family.<sup>119</sup> Some states facilitate Family Time after TPR if the children are not yet adopted. For example, in Alabama, "children retain the right to visit with their parents and families even when the rights of the parents have been terminated."<sup>120</sup>

Children with a permanency plan of Another Permanent Planned Living Arrangement or Permanent Guardianship retain their right to visit with family. Most children who are not reunified with their families and who are not adopted have contact with their families after they age out of care. Almost half are in touch with their parents.<sup>121</sup> Family Time is important because children benefit when these family connections are uninterrupted. In addition, if family relationships may be harmful, a child can benefit from help in navigating those relationships and learning to have contact in a way that is safe.<sup>122</sup> Such help can be provided while a child is in foster care.

## **B. Other Court Orders**

All court orders affecting a family should be shared with the juvenile court and considered when planning Family Time. Parents may be involved in civil or criminal proceedings with orders that

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<sup>117</sup> *Making the Most of Visitation*, supra note 39.

<sup>118</sup> Peg Hess, *Visiting Between Children in Care and Their Families: A Look at Current Policy*, for the National Resource Center for Foster Care & Permanency Planning, Hunter College School of Social Work, page 3 (October 2003).

<sup>119</sup> *Parent-Child Visiting*, supra note 29.

<sup>120</sup> Ala. Admin. Code, Rule 660-5-50-.05(b).

<sup>121</sup> Trudy Festinger, *No One Ever Asked Us...A Postscript to Foster Care*, New York: Columbia University Press, 1983; *Visitation - The Key to Children's Safety*, supra note 82.

<sup>122</sup> *Visitation - The Key to Children's Safety*, supra note 82.

could prohibit or restrict contact with a child or the other parent, or limit times or locations for Family Time. If other orders impact the Family Time plan approved by the juvenile court judge, the parents' lawyers should request modification to allow the contact approved by the juvenile court. Alternatively, the juvenile court can consider modifying the Family Time Plan to match the restrictions in other court orders.

### **C. Location of Visits**

Georgia DFCS visitation policy does not say where Family Time can or must occur.<sup>123</sup> The Enhanced Guidelines say "Efforts should be made to ensure that family time takes place in the most natural setting or least restrictive setting that can assure the child's safety and well-being."<sup>124</sup> Several jurisdictions include information about location in their policies or guidance on Family Time.<sup>125</sup>

Many research studies have found that the location and environment for Family Time are critical to positive parent-child interactions.<sup>126</sup> Studies show that reunification occurs more quickly and is more likely to last when parents engage in nurturing and typical parenting activities during visits.<sup>127</sup> This includes things like feeding, diapering, bathing, playing, reading, and helping with homework. Home or homelike environments facilitate these activities. Some Georgia counties have visitation centers set up for this purpose.<sup>128</sup>

Furthermore, agency offices can create an uncomfortable environment and may interfere with natural family interactions. This is especially true if visits are supervised and/or take place in a small space.

### **D. Activities During Family Time**

When developing a Family Time Plan, the parent(s) and case manager should identify the Family Time goals. These might include bonding with the child, promoting positive attachment with an infant, or practicing nonviolent communication skills with a teenager. Parents may need to

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<sup>123</sup> *Georgia DFCS Policy Number 10.19: Visitation* (June 2016).

<sup>124</sup> *NCJFCJ Enhanced Guidelines*, page 88.

<sup>125</sup> For example, the Wisconsin Family Interaction Standards include a list of "guidelines to assist with making the determination about location of family interaction" and states "[t]he optimum environment for face-to-face family interaction is in the home of the child's parent, if it is a safe environment for all participants. When this cannot occur, interaction should occur in the most natural setting as possible such as the home of the out-of-home care provider." The Iowa Visitation Standard also contains a list of factors to consider when choosing a location for Family Time. The New York State parent visitation policy says to "avoid office visits unless there is a real concern for the child's safety or there is a need to control or structure parent-child intervention during the visit.

<sup>126</sup> *Visitation - The Key to Children's Safety*, supra note 82.

<sup>127</sup> *Id.*

<sup>128</sup> For example, the Ralph Stephens Visitation Center, which serves Athens-Clarke and Oconee Counties provides a neutral, home-like setting for Family Time. Georgia's guide to opening a community supervised visitation center contains additional information about visitation centers (*Community Supervised Visitation Centers: A Guide to Opening Your Own Center*, <http://cj4c.georgiacourts.gov/sites/default/files/cj4c/publications/VisitationCenterManual.pdf>).

practice specific parenting skills like setting and enforcing limits for a toddler or engaging a school-age child in activities they can do together.

Whatever the goals may be, the location and activities should help the parent achieve the goals. Supervised visits may allow a worker to guide the parent through activities. If not, a worker or coach should help the parent prepare for each visit, and ideally debrief with the parent afterward.

Family Time preparations can include discussing how parents will manage their strong feelings about the situation and how they will help their children share and process their feelings. Experts in visitation suggest planning out visits from beginning to end to maintain stability and predictability for the children. Advance preparation helps the visit flow smoothly, and the parent will know what refreshments, toys, or other items to bring.

## 1. Facilitating Smooth Beginnings and Endings

An important part of Family Time preparation is planning smooth transitions for the beginning and end of the visit. Beginning each visit with a reconnection ritual and ending with a leave-taking ritual can help facilitate less stressful transitions. Strategies for smooth endings include parents engaging the child in a clean-up routine, giving the child an object, sharing a special handshake or dance, talking about the next visit, talking positively or neutrally about the foster home, taking a picture together, and saying good-bye. If every visit winds down and ends the same way, the child is better prepared for the moment when it ends.

At the end of Family Time or shortly thereafter, children may express strong emotions, often through undesirable behavior. Children typically react to separation with grief. Every separation from a beloved adult, including every visit with parents, can feel traumatic to a child and cause the child to express grief and feelings of loss. As explained in section “I” below, children’s grief may be expressed in ways that adults don’t recognize as grief.

## 2. Activities in Addition to Scheduled Family Time

In most cases where reunification is the goal, parents are encouraged to participate in activities such as their children’s medical appointments; school meetings, performances and assemblies; and sports activities. When children are placed with relatives, parents may be invited to family gatherings which include their children.

All of these are a form of observed or monitored visits that occur in natural settings and often supplement regularly scheduled Family Time. Parents’ participation in these activities is enhanced when they receive some coaching on what to expect during the activity and what is expected of them. In general, these activities should supplement and not replace regularly scheduled Family Time.

### 3. Supporting Parents During Family Time

The following excerpt about facilitating visits provides a helpful reminder that many parents are likely to need coaching and support in order to reap the full benefits of Family Time.<sup>129</sup> Because of this,, one goal of Family Time should be for parents to improve their abilities with the help of a supportive parenting coach, mentor, or parent educator.

“Successful visitation also relies on accurate assessment of birth parents’ strengths and needs. In “Making Visits Work,” Loar (1998) points out that most visitation plans assume that birth parents understand what their child goes through if they don’t show up for a visit, and that parents have leisure and recreation skills independent of drugs, alcohol, sex, danger, and violence. Other common assumptions are that birth parents know how to do the following:

- Play with their children
- Talk politely with their children
- Enjoy their children’s company
- Separate from the visit their frustration, shame, and humiliation over losing custody
- Read to children or read and understand court reports, contracts, priorities, major and minor requirements.

Yet these assumptions do not always hold true. By overestimating parents’ abilities, visitation planners can unwittingly undermine family reunification.”<sup>130</sup>

Courts and DFCS consider a parent’s history of participation in Family Time when developing and modifying Family Time Plans. The extent to which a parent takes advantage of Family Time and the interactions that occur during Family Time are factors in future Family Time decisions. Therefore, supporting parents’ successful participation in Family Time is essential to promoting child well-being and minimizing the time a child spends in foster care.

#### **E. Levels of Supervision**

Georgia DFCS policy and the Juvenile Code both state “There shall be a presumption that visitation will be unsupervised unless the court finds that unsupervised visitation is not in a child’s best interest.”<sup>131</sup> The presumption can be rebutted with specific, objective evidence that the child will not be safe in an unsupervised setting. Absent an evidentiary finding that unsupervised visits pose a safety risk, the presumption should be followed.<sup>132</sup>

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<sup>129</sup> *Making the Most of Visitation*, supra note 39.

<sup>130</sup> L. Loar, *Making Visits Work*, 77 Child Welfare No. 1, 41 (1998); *Making the Most of Visitation*, supra note 39.

<sup>131</sup> *Georgia DFCS Policy Number 10.19: Visitation* (June 2016), referencing O.C.G.A § 19-7-3, O.C.G.A § 15-11-2(33), O.C.G.A § 15-11-26, O.C.G.A § 15-11-112, “When a child is removed from his or her home, the court shall order reasonable visitation that is consistent with the age and developmental needs of a child if the court finds that it is in a child’s best interest. The court’s order shall specify the frequency, duration, and terms of visitation including whether or not visitation shall be supervised or unsupervised. NOTE: There shall be a presumption that visitation will be unsupervised unless the court finds that unsupervised visitation is not in a child’s best interest.”

<sup>132</sup> NCJFCJ *Enhanced Guidelines*, page 141.

Monitoring or supervising visitation allows case managers to ensure a child’s safety, observe parent-child interactions, and gather information about the parent’s parenting abilities. Watching visits allows case managers to assess whether parenting skills are improving and reunification is still the most appropriate goal. Observation can lead to adjustments in parenting services to better meet the parents’ needs and abilities. If needed, the case manager can testify in court about her observations. Despite these benefits, supervised visits can interfere with natural parent-child interactions because the parent and/or child is uncomfortable with having a third party present or observing.

Several states have progressive levels of supervision that correlate to the stages of a case moving toward permanency.<sup>133</sup> In progressive supervision, the initial visit or visits may be supervised or monitored to ensure the child’s safety and to assess parent-child interactions. Once the Family Time Plan is developed, visits progress to reduced levels of supervision, consistent with the parent’s abilities and the permanency plan. As reunification nears, unsupervised overnight visits should occur.

## 1. Presumptions Around Supervision

Many state statutes, child welfare agency policies and court orders include a presumption of either supervised or unsupervised visitation. If a presumption is not written into a guiding document, oftentimes the historical practice of the agency becomes the unwritten presumption.

Both Georgia’s juvenile code and DFCS Policy explicitly state, “There shall be a presumption that visitation shall be unsupervised unless the court finds that unsupervised visitation is not in a child’s best interests.”<sup>134</sup> Notwithstanding the clear statements of law and policy, stakeholders report that in the six years following the passage of HB242, which created this presumption, practice has not changed much. Supervised visitation is still the norm and in most court discussions of Family Time, the safety risks necessitating supervised visits are not articulated. In fact, the issue of unsupervised visits is often not addressed at all.

Every decision about Family Time should be tailored to the needs of the individual family, using the presumption as the starting point. A presumption always allows for a contrary decision to be made if evidence is presented in and a judge finds that following the presumption would not be in the child’s best interests. Evidence allowing a deviation from the presumption includes articulation of a direct safety threat posed by each level of supervision that is being excluded. This means that when DFCS requests supervised visits, evidence must be presented showing the specific safety threat from both unsupervised Time and observed/monitored Family Time.

The Enhanced Guidelines recommend unsupervised visits unless the child’s safety may be at risk:

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<sup>133</sup> See, e.g., Hawaii (Child Welfare Services Manual Part III Casework Services, 4.6.4 Visitation / ‘Ohana Time), Minnesota (Child and Family Visitation: A Practice Guide to Support Lasting Reunification and Preserving Family Connections for Children in Foster Care), Oregon (Child Welfare Services Manual Chapter IV- Services to Children, 26. Family visitation and contact), Pennsylvania (2012 Visitation Frequency and Duration Guide), Texas (2015 Texas Department of Family and Protective Services Child and Family Visitation Best Practice Guide).

<sup>134</sup> O.C.G.A. § 15-11-112(b); *Georgia DFCS Policy Number 10.19: Visitation*, June 2016).



“At the initial hearing, supervision of parent-child contact should not be imposed unless there is objective evidence suggesting that the child will not be safe in an unsupervised setting. In many jurisdictions, supervised visitation is the norm. It is critical that the court make a vigorous inquiry as to why supervised visits are necessary. To truly preserve the child’s attachment to the parent, visitation should be as unrestricted as possible while ensuring the child’s safety.”<sup>135</sup>

## 2. Types of Supervision

The following definitions for levels of supervision, listed from least restrictive to most restrictive, are provided by Rose Wentz, an expert in visitation.<sup>136</sup> These terms and descriptions are widely accepted across the country.

**Unsupervised:** Parent and child are allowed time alone, from one hour to overnight. They have resources available if they need help and there is a safety plan that is known by all the parties.

**Observed/Monitored:** A responsible adult other than the parent provides some level of contact during the visit to ensure the plan is followed. The level of involvement of the non-parent varies depending on the plan. For example, a relative or caregiver could remain nearby during the visit or visits can occur in a public setting without a designated observer (in settings like school events, children’s sports, or parks and restaurants).

**Supervised:** The parent and child are in sight and sound distance of an objective person who can ensure the safety of the child and that the visitation plan is followed. The family is not allowed alone time unless specifically approved.

**Therapeutic:** A professional with clinical or therapeutic skills supervises the visit, which usually has a clinical purpose such as play therapy, parent/child counseling sessions, or monitoring a parent with severe mental illness.<sup>137</sup>

Visit coaching is important to mention, as it is a type of supervised visitation that helps parents optimize their visits with children and improve their parenting skills.<sup>138</sup> Visit coaching uses Family Time to support families and build on parents’ strengths while helping them meet their children’s unique needs.

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<sup>135</sup> NCJFCJ *Enhanced Guidelines*, page 139.

<sup>136</sup> *Visitation - The Key to Children's Safety*, supra note 82.

<sup>137</sup> *Id.*

<sup>138</sup> *Parent-Child Visits as an Opportunity for Change*, supra note 34.

### 3. Progressive Family Time Plans

Many jurisdictions use some form of a progressive or graduated Family Time Plan.<sup>139</sup> Some places, like Troup County, Georgia, provide a framework and benchmarks indicating when a family should be at the level of unsupervised Family Time. Other places, like Hawaii, have policies describing how a family moves from one level of supervision to another, and what to do if there is a setback in progressing between levels.

The Enhanced Guidelines recommend unsupervised Family Time. At the same time, the Guidelines support the use of progressive Family Time Plans, when needed, because “[j]udges should ensure the plan for Family Time is individualized and promotes permanency.”<sup>140</sup> The Key Principles underlying the Enhanced Guidelines state, “[f]amily time should be liberal and presumed unsupervised unless there is a demonstrated safety risk to the child.”<sup>141</sup> The document later clarifies that the presumption of unsupervised Family Time exists “unless the state can prove that a safety risk exists.”<sup>142</sup>

#### a. Troup County, Georgia

Troup County, Georgia, uses progressive visitation to ensure a family is ready for reunification. Family Time is presumptively unsupervised, in accordance with statute and DFCS policy. The standing court order for implementation of the Visitation Protocol states, “[t]he presumption may be rebutted based on evidence presented at the Preliminary Protective Hearing or any other subsequent hearing where Family Time is addressed.”<sup>143</sup>

In cases where supervision is initially required, the expectation is that the family will move to unsupervised visitation by the Initial Review Hearing or by the review hearing held three months after that. If the case cannot move to unsupervised visitation at least by the three-month review hearing, then at that hearing the Court will consider whether reunification is still an appropriate permanency goal, given ASFA timeframes.

The case plan filed with the court must include visitation milestones, which guide a family’s progression from supervised visitation (where applicable) to unsupervised daytime visits, extended daytime visits, overnight visits, and then to a trial home visit. Progression is conditioned on parental compliance with and progress on the case plan as it relates to child safety. The milestones are reviewed at each hearing or review.

#### b. Hawaii

Hawaii’s Child Welfare Services (CWS) policy provides for individualized, progressive Family Time. This is referred to as ‘Ohana Time because the Hawaiian word for family is ‘ohana.

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<sup>139</sup> For an example, see Oregon Department of Human Services Policies, Chapter 4, Section 26, *Family Visitation and Contact*, [https://www.dhs.state.or.us/caf/safety\\_model/procedure\\_manual/ch04/ch4-section26.pdf](https://www.dhs.state.or.us/caf/safety_model/procedure_manual/ch04/ch4-section26.pdf).

<sup>140</sup> NCJFCJ *Enhanced Guidelines*, page 87.

<sup>141</sup> *Id.*, at 16.

<sup>142</sup> *Id.*, at 87.

<sup>143</sup> O.C.G.A § 15-11-112(b), “Court ordered visitation”; *Georgia DFCS Policy Number 10.19: Visitation*, June 2016). It may be worth noting that presumptively unsupervised Family Time was the practice in Troup County for many years prior to the 2013 codification of this requirement (Troup County Standing Order Establishing Local Rule Implementing the Visitation Protocol,” December 2006).

Hawaii’s CWS policy lists the levels of supervision as “Highly Structured Supervision,” “Moderate Supervision,” “Intermittent Supervision,” and “Unsupervised.”

The policy states:

“The supervision level of ‘Ohana Time shall be developed and individualized for each child based on the safety concerns and goals for the family. It should be thought of as a continuum that ensures safety while allowing healthy family interactions. ‘Ohana Time plans are meant to be fluid and shall become less or more restrictive as safety concerns are eliminated or arise. As the parent demonstrates increased protective capacities and decreased diminished capacities, the level of supervision shall decrease as a natural transition to the return home process.”<sup>144</sup>

#### “Transition In Supervision Levels

1. The goal is to slowly increase the parent’s responsibility and move towards unsupervised ‘Ohana Time in the parent’s home while safely assessing the parent’s ability. When the parent and child are interacting successfully during ‘Ohana Time, the plan should generally change one element of the ‘Ohana Time at a time, such as increasing the length of the ‘Ohana Time or changing the location to allow more liberal conditions. If there is a setback or repeated problems, the plan should go back to the last successful ‘Ohana Time plan.
2. In order to have safe transitions in the level of supervision of the ‘Ohana Time, observations and assessments of the parent, child and ‘Ohana Time are needed.

The following steps shall be taken:

- a. Assess parent’s ability to provide for their child’s safety;
  - b. Assess parent’s parenting capacity;
  - c. Assess parent’s demonstration of new skills that improved their capacity to provide a safe home for their child; and,
  - d. Assess child and parent’s bonding and attachment before, during and after ‘Ohana Time.
3. Key questions shall be considered when determining transition between the supervision levels....”<sup>145</sup>

The key questions in the Hawaii policy are similar to key questions in many jurisdictions. They are incorporated into the section just below, “Considerations when determining the level of supervision.”

#### 4. Considerations when determining the level of supervision

The following factors are important to consider when determining the level of supervision needed for Family Time.<sup>146</sup>

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<sup>144</sup> Hawaii CWS Policy 4.6.4 Visitation/‘Ohana Time, C “Determining the Level of Supervision Needed.”

<sup>145</sup> Hawaii CWS Policy 4.6.4 Visitation/‘Ohana Time, F “Transition in Supervision Levels.”

<sup>146</sup> Partners for Our Children, *Family Visitation in Child Welfare: Helping Children Cope with Separation while in Foster Care*, From Evidence to Practice Policy Brief, a collaborative effort of the University of Washington School of Social Work, Washington State Department of Social and Health Services and private funders (April 2011); *Visitation - The Key to Children’s Safety*, supra note 82; Hawaii CWS policy, supra note 133.

- Age and vulnerability of the child
- Type of maltreatment the child experienced
- Risk to child's safety
- Parent's history of family violence
- Potential for abduction of child
- Child's reaction to visits
- Location of Family Time
- Who will be present at Family Time
- Progress parent is making to improve parenting skills
- Parents' responsiveness to child's behaviors, including developmental, age appropriate expectations
- Parental concerns such as addiction and mental illness

When considering changes in the level of supervision for Family Time, the following questions can be helpful.<sup>147</sup>

- Have there been positive changes in the child's or parent's behavior?
- Have there been changes towards positive communication between parent and child?
- Have parents utilized their individual strengths to enhance the attachment and bond to their child?
- Is the child comfortable during Family Time?
- Have parents demonstrated they are able to care for their child safely?
- Have parents demonstrated that they have an enhanced capacity and skills to safely meet their child's day-to-day needs?
- Do safety threats still exist to warrant the current level of supervision?
- Can safety threats be managed in a less restrictive way that would be safe and appropriate?
- Does the level of Family Time match the permanency plan?
- Have the parents been consistent in following the current Family Time Plan?
- Do the parents understand Family Time expectations?
- Have relatives, fictive kin, or other natural supports been explored as visitation supervisors?
- Can Family Time be extended or more visits added?
- Can the current Family Time schedule be supplemented in any way?

## **F. Scheduling Visits**

Research shows that frequent, consistent Family Time is needed to reap the benefits described in Section II, "Why Family Time is Important." Some studies have even indicated that inconsistent

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<sup>147</sup> See Oregon Child Welfare Services Manual Chapter IV- Services to Children, 26. Family visitation and contact, and Hawaii Child Welfare Services Policy 4.6.4 Visitation/'Ohana Time, C "Determining the Level of Supervision Needed."

visits can be more traumatic for children than no visits, particularly if the permanency plan is not reunification.<sup>148</sup>

Scheduling can be one of the most challenging aspects of Family Time. Despite the very real challenges inherent in scheduling Family Time, children need and deserve frequent, consistent visits with their parents.

## 1. Specific considerations for scheduling

All of the following must be considered when developing a Family Time Plan:

- Geographic location of child and parents: The Family Time location must be chosen with consideration for how easy it is for everyone to get there; travel time may affect the frequency, time, and length of visits.
- Children's ages and activities: A child's age also weighs into considerations of travel time, distance and mode of transportation. Younger children may not do well with frequent long commutes, and extended travel time may interfere with a child's schedule, regardless of age. Children's ages and abilities affect how easy it is for them to use public transportation. Finally, the older children are, the more important it is to consider their schedules and activities when planning Family Time. Missing activities because of Family Time can cause resentment and undermine the purposes and benefits of Family Time.
- Parent obligations and schedules: Parents are usually expected to participate in programs and services in order to reunify with their children. In addition, they may have jobs or school and may have limited transportation options. Therefore, their schedules must be considered in developing the Family Time Plan.
- Transportation: This is an important practical consideration and should not be viewed solely as a parent's responsibility. A parent's inability to secure transportation should not automatically be equated with a lack of desire or commitment to see their children. Agencies should try creative strategies to overcome transportation barriers.

To a lesser extent, Family Time planning should take into account DFCS and foster parent schedules, as discussed under Core Values #9, "Family Time planning should consider the practical realities of the people and agencies involved." At the same time, reasonable efforts requires the system to overcome barriers that prevent it from meeting its legal obligations to children and families.

Any of the above considerations may require deviation from the Presumptive Provisions. When a variance is necessary, the Family Time schedule should still be designed to achieve the stated goals. For example, when transportation is a barrier to frequent Family Time, a variance might be less frequent but longer visits. This may be necessary when a child is placed out of county or out of state.

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<sup>148</sup> *Contact with family members*, supra note 66; *Prevalence and Predictors*, supra note 52; *The Impact of Continued Contact*, supra note 34.

The reasons for deviating from the Presumptive Provisions should be explained to all participants, documented, and approved by the court.<sup>149</sup> In addition, it is helpful to restate the Family Time goals with an explanation of how they will be achieved with a Family Time Plan that does not follow the Presumptive Provisions.

All parties have a stake in successful Family Time so removing barriers should be a collaborative, iterative process, with DFCS and the family addressing barriers each time they arise.

## 2. Making changes to the Family Time schedule

All parties should aim for consistency with visits. Last minute cancellations and changes should be avoided whenever possible. At the same time, flexibility is important. For example, when a child is having a difficult time, more Family Time may be needed. New York State's agency policy on visiting says, "If a child is experiencing a crisis, the caseworker should arrange additional parenting time, when so doing will not place the child at risk of physical or emotional harm."<sup>150</sup>

Parents' work schedules, housing, or transportation arrangements change, as do children's activities. Flexibility prevents these changes from reducing Family Time or interfering with its benefits. Planning for the realities of life (including illnesses and cars breaking down) can help keep Family Time Plans running smoothly. For example, when a parent attends children's activities, regularly scheduled Family Time may need to move to an alternate day or time.

Family Time Plan should address how everyone involved will handle unexpected changes, prevent cancellations, and minimize changes. Family Time Plans should also explain what will happen when parents consistently miss visits. One suggestion for preventing no-shows is for the case manager or transporter to communicate with the parents and the child's caregiver the day before the visit. Other suggestions include having parents confirm visits before final arrangements are made and/or having the child call the parent to see if the parent will attend. The strategies utilized should be specific to each situation, including the child's response to canceled visits.

When parents miss Family Time, children are disappointed, and this is likely to be seen through their behavior. The burden on facilitating Family Time is on the system, at least initially. If reunification is the case plan goal, the system needs to make reasonable efforts to accomplish that goal. Offering opportunities for Family Time is often not enough; facilitating parents' participation requires more hands-on assistance. A failure to engage parents at the beginning and support and encourage their participation in Family Time is a common reason parents miss visits, along with scheduling and transportation barriers.

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<sup>149</sup> "The court's order shall specify the frequency, duration, and terms of visitation including whether or not visitation shall be supervised or unsupervised." O.C.G.A § 15-11-112(a).

<sup>150</sup> New York State Family Visiting Policy for Children in Foster Care (Transmittal 17-OCFS-ADM-14, 10/05/2017).

Georgia DFCS visitation policy explains that parents may miss visits because of the emotional difficulty of the situation, and offers suggestions on how workers can support the parent:

“The parent who misses visits, shows up late, seems disinterested, etc., may be experiencing great discomfort at having to continually face the reality of having the child taken away. The parent may respond to a better understanding of how important visitation is to the child when encouraged by the SSCM. Visits should be planned to allow meaningful parent/child interaction and the development of a positive relationship between the family and the resource parents. Open dialogue around the issue of visitation needs to be maintained among all parties involved.”<sup>151</sup>

## **G. Family Dynamics**

Relationships can greatly influence the development and implementation of Family Time Plans. Case managers, transporters, birth families, and foster parents must keep in mind the role that family dynamics plays in a dependency case, and in particular, how those dynamics affect Family Time.<sup>152</sup> The dynamics between the people listed below can have a positive, neutral, or negative effect on Family Time planning and implementation. A discussion of how to address these dynamics is beyond the scope of this Practice Guide. However, this document would be incomplete if it did not mention this topic.

- Parent/child relationship
- Parent/caregiver (foster parent) relationship
- Child/caregiver relationship
- Parent relationship with relatives and other important figures
- Child relationship with relatives and other important figures

In addition to family dynamics, the relationships between a parent, the case manager, other service providers, and/or the court can also impact Family Time. If these relationships are difficult, the professionals involved with the system must be mindful not to allow their personal feelings and interactions with the parent reduce their support for Family Time.

## **H. Roles of Participants**

Successful planning and collaboration lead to successful Family Time. The list of people and agencies with a stake in ensuring meaningful Family Time includes but is not limited to case managers, agency supervisors, judges, citizens panel review members, agency attorneys, parent

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<sup>151</sup> *Georgia DFCS Policy Number 10.19: Visitation* (June 2016).

<sup>152</sup> *See, e.g.,* David E. Arrendondo and Leonard P. Edwards, *Attachment, Bonding and Reciprocal Connectedness: Limitations of Attachment Theory in the Juvenile and Family Court*, *Journal of the Center for Families, Children & the Courts*, Judicial Council of California, Administrative Office of the Center for Families, Children & the Courts, Volume 2 (2000).

attorneys, attorneys for children, guardians ad litem, CASAs, nonprofit organizations, foster parents, and the parents and children themselves.

## 1. Case Manager

Case managers play a pivotal role in Family Time. Their responsibilities, which are sometimes delegated to other staff, nonprofits, or foster parents, include

- Scheduling Family Time
- Arranging the logistics of Family Time (location, activities, transportation)
- Transporting children
- Supervising or observing visits
- Helping parents prepare for Family Time
- Documenting Family Time

Research indicates that a case manager's approach to these responsibilities influences the frequency, quality, and benefits from Family Time. Studies have found that birth parents see their children more frequently when case managers see the birth parents more frequently.<sup>153</sup> And children who see their birth parents more frequently tend to have shorter stays in foster care.<sup>154</sup> Children spend less time in care when their case managers encourage parents to visit, help parents with problem-solving, and arrange for family-friendly venues outside the DFCS office.

Case managers should encourage as much Family Time as possible, given the schedules of everyone involved, and should arrange for locations and times that are convenient for birth parents, children, foster parents, and any staff involved. An important aspect of Family Time scheduling is ensuring that a formal, written, court-approved Family Time schedule is documented in the case plan.<sup>155</sup> This requirement is supported by research showing that parents with regularly scheduled Family Time have a better participation rate than parents who must request visits.<sup>156</sup> Furthermore, one study concluded that parents who complied with court-recommended Family Time schedules were more likely to be reunified with their children than parents who did not adhere to their visitation schedule.<sup>157</sup> Consistency is important because young children have difficulty adjusting to sporadic visitation schedules and have an easier time bonding with parents when they see them regularly and frequently.<sup>158</sup>

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<sup>153</sup> *Factors in Length of Foster Care*, supra note 33; *Making the Most of Visitation*, supra note 39; *Family reunification with high-risk children*, supra note 35 (Family reunification appears to be facilitated by more frequent caseworker contact); John R. Schuerman and Julia H. Littell, *A Synthesis of Research on Family Preservation and Family Reunification Programs*, a part of the National Evaluation of Family Preservation Services, produced by Westat, Inc., in association with James Bell Associates, and the Chapin Hall Center for Children at the University of Chicago (2004).

<sup>154</sup> *Parent-Child Visits as an Opportunity for Change*, supra note 34; Mary Benedict and Roger B. White, *Factors Associated with Foster Care Length of Stay*, 70 *Child Welfare* 1, 45 (1991); *Children in Foster Care: A Longitudinal Investigation*, supra note 30; *Factors in Length of Foster Care*, supra note 33.

<sup>155</sup> *Georgia DFCS Policy Number 10.19: Visitation* (June 2016).

<sup>156</sup> *Parent-Child Visits as an Opportunity for Change*, supra note 34; *Parental Visiting of Children in Foster Care*, supra note 34; *Developmental Issues*, supra note 50.

<sup>157</sup> *Family Reunification*, supra note 34.

<sup>158</sup> *Parent-Child Visits as an Opportunity for Change*, supra note 34; *Parental Visiting of Children in Foster Care*, supra note 34; *Developmental Issues*, supra note 50.



Since case managers are responsible for scheduling Family Time, they are the primary determinant of how much time birth parents and their children spend together when children are in foster care. This is true even when a court orders a set amount of Family Time because implementing the plan depends in part on staffing and resources. When agency resources are stretched thin and/or case managers' caseloads are high, case managers and supervisors prioritize how limited resources are deployed. This often results in a reduction in Family Time.

Case managers' predictions about the likelihood of reunification influence their commitment to Family Time, and therefore their prioritization of resources. So, if a case manager is skeptical about the likelihood of reunification, she may not provide the maximum number of visits possible and may not provide the level of support needed for successful Family Time. This can result in a case worker's preconceived ideas unduly influencing the case outcome because the frequency of visitation greatly influences the likelihood of reunification.<sup>159</sup>

In addition to handling the mechanics of Family Time and providing supervision if needed, case managers are a critical source of support, assistance, and role modeling for birth parents. "Social workers are advised to use visits as a way 'to support parents and children as they learn to reach out and respond to each other and develop a relationship that meets the children's needs.'" Some researchers "observed greater parental involvement when social workers and foster parents seemed to have a positive attitude towards parental participation and towards the parents themselves."<sup>160</sup> Based on multiple research studies, it appears that the better the relationship is between the case manager and the parent, and the more frequently they interact, the greater the likelihood of successful Family Time and reunification.

Case managers also provide critical support for foster parents. Engaging foster parents in supporting Family Time begins with recruiting and training foster parents. It is the agency's responsibility to educate foster parents about the benefits of Family Time and why it is critical to children's well-being. In addition, case managers must help foster parents recognize, understand, and respond to children's behavior after Family Time, which can include acting out or withdrawal. While challenging, these behaviors often "indicate healthy attachment and distress over separation and are not necessarily indications that the visits are harmful for the child."<sup>161</sup>

Case Managers' Family Time responsibilities may be delegated to or shared with other DFCS staff and community agencies. For example, some counties have community visitation centers or contracted providers who schedule and facilitate Family Time and transport children to and from Family Time.<sup>162</sup> The role and potential influence of these providers is similar to that of DFCS case managers.

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<sup>159</sup> *Parental Visiting and Family Reunification*, supra note 33.

<sup>160</sup> *Understanding and supporting parent-child relationships*, supra note 66; Marie-Andrée Poirier and Marie Simard, *Parental Involvement During the Placement of a Child in Family Foster Care: Factors Associated with the Continuation of Parental Roles*, 35 Child and Youth Care Forum No. 3, 277 (2006).

<sup>161</sup> *Family Visiting in Out-of-Home Care*, supra note 30.

<sup>162</sup> For example, the Ralph Stephens Visitation Center, which serves Athens-Clarke and Oconee Counties provides a neutral, home-like setting for Family Time. Georgia's guide to opening a community supervised visitation center contains additional information about visitation centers (*Supervised Visitation Centers*, supra note 128).

## 2. The Court

The Enhanced Guidelines provide guidance to judges about the role of the court regarding Family Time. The Guidelines, informed by research about the importance and benefits of Family Time, include recommendations for how judges can create conditions through which families can reap the maximum benefits from Family Time.

One of the “Key Principles for Permanency Planning,” cited in the Enhanced Guidelines, says “Consistent with child safety, relationships between and among children, parents, and siblings are vital to child well-being. Judges must ensure that quality Family Time is an integral part of every case plan. Family time should be liberal and presumed unsupervised unless there is a demonstrated safety risk to the child. Sibling Family Time apart from parental Family Time should be considered. Family Time should not be used as a case compliance reward or consequence.”<sup>163</sup>

The Enhanced Guidelines state that “the goal of Family Time is to promote reunification by strengthening the parent-child relationship and reducing the potentially damaging effects of separation. Based on the individual needs of the child and the circumstances of the family, the court should consider all options available to maximize safe and nurturing Family Time.”<sup>164</sup>

To achieve this goal, the Guidelines say that “judges should review the current frequency, duration, and type of Family Time at each court hearing in order to determine if the best interests, health, and safety of the children require any change in the frequency and supervision of visits in order to be compliant with statutory obligations regarding Family Time. Judges should inquire about parental participation and engagement in Family Time and address and remove any barriers that exist to their participation.”<sup>165</sup> After each hearing, judges should issue a “clear, written, enforceable visitation order.”<sup>166</sup>

The Guidelines include judicial benchcards for each hearing, which outline “both the legal requirements of each hearing as well as non-legal considerations based on the latest scientific and promising practice knowledge. The benchcards provide essential information a judge needs on the bench to facilitate conducting thorough and meaningful hearings designed to achieve optimal results.” The hearing benchcards address the judge’s responsibilities regarding Family Time.

In counties or circuits where periodic reviews are conducted by Citizen Panel Reviews rather than the court, the Panels are obligated to review the case plan and ensure that the Family Time schedule and arrangements are still appropriate or recommend improvements to the schedule.<sup>167</sup>

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<sup>163</sup> NCJFCJ *Enhanced Guidelines*, page 16.

<sup>164</sup> NCJFCJ *Enhanced Guidelines*, page 85.

<sup>165</sup> NCJFCJ *Enhanced Guidelines*, page 87.

<sup>166</sup> *Judicial Oversight of Parental Visitation*, supra note 1, page 11.

<sup>167</sup> O.C.G.A. § 15-11-216.

### 3. Guardian Ad Litem (GAL), Court Appointed Special Advocate (CASA) and/or Child’s Attorney

Children in dependency proceedings have “the right to an attorney at all stages of the proceedings.” The child and her attorney have an attorney-client relationship.<sup>168</sup> A child shall also have a GAL, who may be a CASA and may also be the child’s attorney, when there is no conflict in the roles.<sup>169</sup>

“A GAL shall advocate for a child’s best interests.”<sup>170</sup> The role of the GAL and/or CASA is to conduct an independent assessment to present recommendations for the court’s consideration. The statutory duties include evaluating a list of factors to determine the child’s best interests and then advocating for what is best for the child.<sup>171</sup> Child development research on the link between frequent visitation and child well-being and shorter stays in foster care indicate that an appropriate Family Time Plan is essential to a child’s best interests. Therefore, a GAL must advocate for a Family Time Plan that will meet the child’s individualized needs and will help move the case to the stated permanency plan. Once a Family Time is in place, the GAL and/or CASA monitors compliance.

CASA volunteers can be especially helpful in implementing Family Time plans because they can work with parents, caregivers, DFCS, and the court to overcome barriers affecting the frequency, occurrence, and/or quality of Family Time. CASA volunteers are prohibited from supervising Family Time, but they are encouraged to observe and document both supervised and unsupervised Family Time, and to use that observation to inform their best interests analysis. In addition, if a Visitation Center is utilized, CASA’s appointment order allows them to talk with the Visitation Center Supervisor about Family Time and to see the Supervisor’s report.

A child’s attorney’s obligations regarding Family Time are similar to those of the GAL. One difference, however, is that the child’s wishes should guide the development of the Family Time Plan if there is a difference between what is in the child’s best interests and what the child wants. Given the importance of family relationships to children, it is unlikely that there would be a conflict between what is best for a child and what the child wants. One area where a conflict could arise is when a licensed clinician says sibling visitation would be contrary to the safety or well-being of the child and the child client wants to see the sibling. Final decisions about Family Time, and any modifications to existing plans, are made by the judge.

### 4. Special Assistant Attorney General

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<sup>168</sup> O.C.G.A. § 15-11-103(a) and (c).

<sup>169</sup> O.C.G.A. § 15-11-104.

<sup>170</sup> O.C.G.A. § 15-11-105.

<sup>171</sup> In fulfilling their duties and determining a child’s best interests, GALs and CASAs must consider factors including a child’s familial ties; sense of attachment, security, familiarity, and continuity of relationships; the love, affection, bonding, and emotional ties that exist between the child and his or her family; and the capacity and disposition of the parent to care for the child. O.C.G.A. § 15-11-26 and § 15-11-105.

The SAAG representing DFCS should ensure that DFCS is meeting its obligations under Georgia law and DFCS policy. The SAAG may advise DFCS in developing Family Time Plans and may present evidence in court related to Family Time Plans. The SAAG can also advise DFCS on the possible consequences of failing to provide Family Time required by a court order and failing to address systemic barriers to Family Time.

## 5. Parent's Counsel

A parent's attorney should advocate for a Family Time Plan that will best protect and nurture the parent-child relationship and complies with Georgia law and DFCS policy. The parent's attorney should ensure that a Family Time plan is doable and is tailored to the needs of the parent. If DFCS requests supervised Family Time and the parent wants it unsupervised, the parent's attorney should push the agency to prove why unsupervised visits would not be in the child's best interests. Parent's counsel should advocate for the Family Time Plan to follow the Presumptive Provisions or provide more Family Time than the provisions recommend. If DFCS wants to deviate from the Presumptive Provisions, parent's counsel should ask DFCS to provide evidence supporting the request to deviate. Parent's counsel should also advocate for Family Time to occur in the least restrictive, most family-like setting possible and should recommend creative approaches to ensure that parents have as much high-quality time with their children as possible. Finally, in cases where a parent is a victim of intimate partner violence, that parent's attorney should advocate for the Family Time Plan to include provisions that will ensure the safety of that parent and the children.

In many ways, parent attorneys serve as a check on the system, particularly when resources are limited. For example, a parent's attorney is the most likely person to force DFCS to submit evidence supporting deviations from the Presumptive Provisions. In jurisdictions where zealous parent attorneys are appointed early in the case, children spend less time in foster care, and while in foster care, they see their parents more often.<sup>172</sup>

Through their role as parent advocate, attorneys can assist parents in complying with Family Time plans. For example, stakeholder express significant concerns about scheduling Family Time, finding a suitable location, and parents not showing up. Parent attorneys and their clients can often identify solutions for these concerns that DFCS and others may not have considered.

Parent attorneys should be appointed as early in the case as possible, preferably before the Preliminary Protective Hearing. Representation before, or at least at the first hearing is essential because “[o]ften the decision to remove at the initial hearing creates the status quo that can be difficult to change in subsequent hearings. As noted in the Resource Guidelines, ‘Once a child is removed it becomes logistically and practically more difficult to help a family resolve its problems.’”<sup>173</sup>

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<sup>172</sup> See, e.g., “Over 50% of CFR’s clients children never entered foster care and for those that did, their length of stay was significantly shorter than City and State medians,” and “for children in foster care, CFR obtained improved visitation arrangements in 1512 instances,” from the results of the Center for Family Representation in New York, <https://www.cfrny.org/about-us/our-results/>.

<sup>173</sup> Leonard Edwards, *Representation of Parents and Children in Abuse and Neglect Cases: The Importance of*

## 6. Foster Parents

Georgia foster parents have “the right to participate in the planning of visitation with the child and the child’s biological family with the foster parents recognizing that visitation with his or her biological family is important to the child.”<sup>174</sup> According to the Georgia Foster Parent Bill of Rights, and child welfare and child development experts, foster parents are an important part of the team serving and supporting the child. As such, they should be involved in decisions about when and where Family Time occurs. “For example, ‘if a foster parent is expected to comfort a child following a visit, the plan must assure that he or she is home when the child returns from a visit.’”<sup>175</sup> DFCS Visitation Policy Practice Guidance says, “Involving foster parents in developing the parent-child visits further promotes supportive relationships with the child and birth family.”<sup>176</sup> At the same time, the rights and needs of the child and parents take precedence over the convenience or needs of foster parents.

Foster parents’ roles in Family Time can vary widely. Sometimes foster parents are asked to provide transportation for Family Time and/or to help supervise Family Time.<sup>177</sup> Sometimes they host Family Time at their home and serve as a role model and support for birth parents. At a minimum, foster parents are asked to support the child before and after visits with family members. While foster parents are asked to play many roles, an area they should not be involved in is holding birth parents accountable for compliance with Family Time or case plans.

Regarding the role of supporting the child, the American Academy of Pediatrics (AAP) provides suggestions for foster parents to help children and teens prepare for visits and re-enter the foster home after visits. Suggestions include understanding how children and teens express distress and grief, engaging positively and calmly with the birth parents, allowing a supportive re-adjustment period for the child after the visit, and ensuring the child understands when the next visit will occur.<sup>178</sup> The AAP recommends that children be transported to and from Family Visits “by someone who cares about them and can be a source of comfort during the transition in and out of visits—ideally their parent (foster or kin).”<sup>179</sup> In counties where transporters are used, it is best practice for children to be transported by the same person each time and for the transporters to be trained in child engagement and child grief.

## 7. Parents and Children

Parents and children are the central figures in dependency proceedings, and Family Time is their time together. Their role is to participate and commit to maintaining a healthy relationship with each other. For parents, this usually means working their case plan, making the most of Family

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*Early Appointment*, NCJFCJ Juvenile and Family Court Journal, Spring 2012, page 26, citing *Enhanced Guidelines* at page 30.

<sup>174</sup> “Foster Parent Bill of Rights,” O.C.G.A. § 49-5-281(14).

<sup>175</sup> *Family Visiting in Out-of-Home Care*, supra note 30.

<sup>176</sup> *Georgia DFCS Policy Number 10.19: Visitation* (June 2016).

<sup>177</sup> *Id.*

<sup>178</sup> American Academy of Pediatrics, *Tips for Helping Children and Teens Before and After Visitation: For Parents (Foster & Birth) and Kin*, 2012, last Updated 11/21/2015.

<sup>179</sup> *Id.*

Time, and working to preserve and enhance their relationship with their children. For children, especially teens, it's participating even when it's hard or inconvenient.

## **I. Attachment**

Although attachment is mentioned throughout the Practice Guide, a specific section is included here because attachment is such a critical issue for children who are removed from their biological parents.

“Attachment” usually means the formation of a close emotional connection from the child to the parents, in contrast to “bonding,” which refers to the close emotional connection formed from a parent to a child. However, these terms are frequently used interchangeably by researchers and the public. Some researchers prefer using the term “reciprocal connectedness” to imply a comprehensive picture of the relationship between parents and child as opposed to using the two individual unidirectional terms.

Reciprocal connectedness can be defined as “mutual interrelatedness that is characterized by two-way interaction between a child and an adult caregiver and by the caregiver’s sensitivity to the child’s developmental needs.” This term indicates that the phenomenon of attachment and bonding does not rest with the child alone but depends on an adult who can interact with the child appropriately. It takes more than just an adult being available to the child; it takes the adult’s positive interactions with the child, which are essential for the child to develop normal capacities for compassion, empathy, social skills, and other emotions.

Parents can foster this connectedness by using eye contact with the child, affectionately touching the child, responding to the child’s needs and desires, understanding the child’s temperament, talking to the child, and participating in interactive play such as singing and reading. Parents can foster connectedness with older children by recognizing the child’s individuality and valuing the child for whom he is becoming. It is also important for the parent to recognize the child’s developmental stage and be responsive to the needs and abilities unique to each stage. The parent should look at the world from the child’s perspective and try to cultivate growth and maturation by setting appropriate boundaries. The biological parent can look to the daily caregiver, such as the foster parent, to learn about the unique needs and abilities of the child and to seek guidance on parenting the child.

Few children in foster care receive adequate help in handling the grief they experience when separated from their birth families. Until this grief is resolved, forming new attachments with future caregivers is extremely difficult. However, once a child has experienced a healthy attachment, it is more likely that the child can form additional attachments.

Research clearly shows that the first attachments the child develops provide the basis for further attachments.<sup>180</sup> All of a child’s needs for affection and intimacy throughout life are based on this early building block. The important question is whether the parent is meeting the child’s needs for reciprocal connectedness.

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<sup>180</sup> *Visitation with Infants and Toddlers in Foster Care*, supra note 41.

When a child's needs are not met by a parent, the child does not develop the foundation for healthy functioning in society. A critical opportunity for prevention and intervention is missed if these early attachment years are ignored. Children without secure attachments to primary caregivers are at a much greater risk of developing delinquent and violent behaviors.<sup>181</sup> Many studies have indicated insecure attachment patterns are related to depression and/or aggression.<sup>182</sup> Child development research points to attachment as the key building block for healthy emotional development in children.

## **J. Grief and Child Behavior**

A child's reactions to Family Time often inform critical decisions about the child's future relationship with parents and siblings because the child's behavior before, during, and after Family Time is considered during deliberations about case plans and permanency plans, and whether to continue, increase, or decrease Family Time. Therefore, everyone involved with Family Time should understand what the child's behavior might indicate and be cautious about interpreting the behaviors without the help of child or adolescent development experts.

The Enhanced Guidelines provide specific guidance to judges, saying "it is important for the court to actively inquire about the facts to support any conclusion drawn. For example, reports often state that 'the child acts out after visits; therefore, the visits need to continue to be supervised.' The court must explore the fact that the child, in fact, may be acting out because he or she misses and needs more time with the parent."<sup>183</sup>

Many children appear to be upset by Family Time. This is most likely due to grief and possibly anger over the situation. It is unlikely to be caused by the visit itself or the parent-child interactions/relationship.

In younger children, tantrums, nightmares, bedwetting or toilet accidents, clinging to comfort objects, withdrawal, or defiance may be particularly pronounced around the time of visits. Older children may exhibit some of these behaviors and may engage in risk-taking or self-harming activities. Other behaviors that may be seen in older children and teens include fighting and arguing with youth and adults, depression, excessive sleeping or trouble sleeping, physical symptoms such as headaches and digestive problems, crying, ignoring schoolwork, and disobeying rules.<sup>184</sup>

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<sup>181</sup> *Id.*, *Developmental Issues*, supra note 50.

<sup>182</sup> *Visitation with Infants and Toddlers in Foster Care*, supra note 41; *Developmental Issues*, supra note 50; *Attachment and Early Maltreatment*, supra note 44; *Understanding and supporting parent-child relationships*, supra note 66.

<sup>183</sup> NCFJCJ *Enhanced Guidelines*, page 139.

<sup>184</sup> Although contact with biological parents may be beneficial for children in foster care, it is not uncommon to also hear concern that visits with biological parents may be emotionally distressing for children and lead to displays of emotional and behavioral problems. *Contact with family members*, supra note 66; David Fanshel, et al., Stephen J. Finch, John F. Grundy, *Foster children in a life course perspective*, New York: Columbia University Press (1990).

Many adults interpret these undesirable behaviors as indicators that visitation is not good for the child. Visits are then viewed as traumatic and causing havoc in the child's life and in the life of the caregiver. A common reaction is to move toward reducing or ending visits. Instead, adults need to support children and help them experience and deal with their feelings in the healthiest way possible, given the children's abilities and situation.

Experts in child and adolescent mental health identify the behaviors listed above as expressions of grief.<sup>185</sup> These behaviors are normal ways that children react to the loss of their family unit, the loss of their parent's role in their daily lives, the loss of siblings, and anger at their lack of agency in the situation. In addition to losing their families and homes, youth also lose friends, activities, teachers, and other adults who care about them because they are moved away from their schools and communities. Many children and youth feel powerless as their lives are completely upended by adults. The feelings of loss and helplessness can compound the impact of the trauma that brought the children into DFCS care.

Strong feelings of grief, loss, and anger are normal and healthy in children who are involved with DFCS. Rose Wentz, an expert in visitation, says "Children's reactions to visits have been well documented in divorce research. More than half were openly tearful, moody, and pervasively sad. A third or more show signs of acute depression, sleeplessness, restlessness, difficulties concentrating, deep sighing, feelings of emptiness, inhibitions, compulsive overeating and other symptoms. Children are overwhelmed by their anxiety. Very young children return to the use of security blankets, using toys they have outgrown, regress in toilet training and increase masturbatory activities."<sup>186</sup>

If children behave "better" when Family Time does not occur, that does not mean that Family Time is "the cause" of the undesirable behaviors. While skipping visits may make daily life flow more smoothly, the children's feelings of grief and loss still exist and will show up in other ways at other times.<sup>187</sup> Focusing on the symptoms of the feelings, such as eliminating Family Time to reduce tantrums or nightmares, will harm the child in the long-run. Instead, adults in the child's life should help the child learn healthy ways to process and express grief, distress, anger and other strong feelings.

Children in foster care should receive help from experienced mental health providers whenever indicated. Every child entering care receives a Comprehensive Child and Family Assessment, and every child age 5 and older receives a comprehensive trauma assessment.<sup>188</sup> These assessments should screen for depression and other mental health concerns. The assessments ought to recommend actions DFCS should take to meet the child's needs, including recommendations or advice about the Family Time Plan. If the assessments, the case manager, the Multi-Disciplinary Team, or others involved with the child such as the foster parents or

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<sup>185</sup> *Visitation - The Key to Children's Safety*, supra note 82, pp. 3, 12.

<sup>186</sup> *Id.*

<sup>187</sup> *Visitation - The Key to Children's Safety*, supra note 82, pp. 3, 12; *Parent-Child Visits as an Opportunity for Change*, supra note 34.

<sup>188</sup> *Georgia DFCS Policy Number 10.12: Psychological and Behavioral Health Needs*, (June 2018); *Georgia DFCS Policy Number 10.10: Foster Care: Comprehensive Child and Family Assessment* (August 2016).



school personnel identify any behavioral or mental health needs, DFCS should follow up by obtaining appropriate assessments and any recommended services.<sup>189</sup>

Everyone involved in planning and implementing Family Time Plans must be aware of the positive and negative impact of Family Time on children. They should also understand how children may express their feelings of grief and loss, which is often through different behaviors than adults might expect. Family Time Plans can include strategies for helping children and adults learn to regulate their emotions. Section IV(C), “Activities During Family Time,” includes suggestions for making Family Time a positive experience and for easing the pain of separation at the end of Family Time.

## **K. Virtual Visits**

Technology should not replace in-person Family Time. However, creative use of technology can *supplement* in-person Family Time. Additionally, when geography, transportation, or special circumstances raise seemingly insurmountable barriers, “virtual visits” may be an appropriate temporary strategy to overcome those barriers.

“Virtual visits” to maintain family connections are used in many settings. The military effectively uses them when parents are deployed.<sup>190</sup> Many jails and prison systems around the country use virtual visits when parents are incarcerated.<sup>191</sup> Virtual visits and other uses of technology are becoming more common in custody orders, with several states enacting laws allowing courts to order virtual visits.<sup>192</sup> Lessons learned from all of these settings may be instructive to the child welfare system.

Tele-medicine, including mental health treatment, also provides lessons for child welfare’s use of virtual visits. The growing body of research into the efficacy of telemedicine identifies many benefits, finds it is often as effective as other approaches, and supports its expansion.<sup>193</sup>

In circumstances such as when a child is placed hours away from a parent, less frequent yet longer Family Time might be appropriate. In those cases, parents and children can use technology to stay connected between in-person visits. Technology is also a great way for

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<sup>189</sup> *Georgia DFCS Policy Number 10.12: Psychological and Behavioral Health Needs*, (June 2018); *Georgia DFCS Policy Number 10.10: Foster Care: Comprehensive Child and Family Assessment* (August 2016).

<sup>190</sup> See, e.g., Jennifer Van Pelt, *Parental deployment and child mental health*, 11 *Social Work Today* 30 (2011); “Parent’s guide to the military child during deployment and reunion,”

[http://www.usarak.army.mil/crisisassistance/Documents/Parents\\_Guide\\_Deployment\\_Reunion.pdf](http://www.usarak.army.mil/crisisassistance/Documents/Parents_Guide_Deployment_Reunion.pdf);

<https://militarykidsconnect.dcoe.mil/military-life>; <https://www.militaryonesource.mil/family-relationships/parenting-and-children/parenting-through-deployment/deployment-resources-for-families>.

<sup>191</sup> Susan D. Phillips, *Video Visits for Children Whose Parents Are Incarcerated: In Whose Best Interest?*, The Sentencing Project (October 2012).

<sup>192</sup> *Virtual Visitation: the Who, the What, the How, & the Where - Long-Distance Parenting in the Digital Age*, online article through HG.org Legal Resources, <https://www.hg.org/legal-articles/virtual-visitation-the-who-the-what-the-how-and-the-where-long-distance-parenting-in-the-digital-age-6580>.

<sup>193</sup> Donald M. Hilty, et al., *The Effectiveness of Telemental Health: A 2013 Review*, 19 *Telemedicine and e-Health* No. 6 (2013); Mostafa Langarizadeh, et al., *Telemental Health Care, an Effective Alternative to Conventional Mental Care: a Systematic Review*, 25 *Acta Inform Medica* 4, 240 (2017).

parents and teens to stay in touch, particularly when the teen’s schedule makes frequent Family Time difficult.

Technology options for enhancing family ties include social media sites, photo-sharing sites, video calling (FaceTime, Skype, Zoom, and others), and texting platforms. Ideas for how parents can interact with children during virtual visits include

- Reading to children
- Helping with homework
- Singing or dancing together
- A child showing a parent missing teeth, artwork, an award or other recognition
- Sharing a special occasion like a birthday or other holiday.

At least one study looked at social workers’ opinions about virtual visits and found that while social workers appreciate the advantages, they have concerns including the appropriateness for different ages of children and whether virtual visits might be seen as a replacement for in-person visits.<sup>194</sup>

## VI. Special Circumstances

Presumptive Provisions should establish the minimal starting point for all Family Time Plans. Plans should be individualized, though, with consideration for the attendant circumstances in the case. Where evidence proves the existence of a special circumstance, that special circumstance should be considered in determining whether and how to vary from the Presumptive Provisions.

Special circumstances do not negate parents’ or children’s rights to visit or maintain a relationship. Therefore, DFCS must still facilitate Family Time. Most special circumstances do not necessitate deviation from the Presumptive Provisions; appropriate accommodations can often be made to continue frequent visits.

Common special circumstances are discussed below. A full exploration of each special circumstance is beyond the scope of this document; however, helpful resources are mentioned where more information can be obtained.

### A. Incarcerated Parent

A parent’s incarceration adds logistical barriers to a typical Family Time Plan. The most obvious considerations include the facility location and visitation rules and the child’s age. Virtual visits and other means of maintaining the parent-child relationship like phone calls, video calls, and

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<sup>194</sup> Andrew Quinn, et al., *An Exploration of Child Welfare Workers’ Opinions of Using Video Assisted Visitation (VAV) in the Family Reunification Process*, husITA, published online (Feb. 17, 2015), <http://www.husita.org/husita14-programme/an-exploration-of-child-welfare-workers-opinions-on-using-video-assisted-visitation-to-support-family-reunification/>.

letters should be utilized, especially since visits at a prison may not be feasible as often as the Presumptive Provisions recommend.

Suggestions for facilitating Family Time when parents are incarcerated include the following:<sup>195</sup>

- If possible, case managers should assess the parent-child attachment and relationship prior to incarceration.
- If the parent's incarceration is related to child abuse, a mental health professional should evaluate the parent before visits are arranged.
- If the case plan goal is reunification, a regular visitation schedule should be established.
- Case managers, transporters or foster parents must
  - prepare children for the visit by describing the facility, the visitation room, and the rules for the visit.
  - let the child know the length of the visit, and if age appropriate, suggest activities for starting and ending the visit.
  - prepare the child for the possibility of a visit being cut short or canceled because of unexpected things happening at the facility.
  - plan for the child's needs by bringing food and drink, activities to do while waiting, plenty of diapers, extra clothes, etc.
  - debrief with the child after the visit.

Having an incarcerated parent is not a unique situation; in 2010, 2.7 million U.S. children had a parent in jail or prison.<sup>196</sup> So many children are affected that in 2013, Sesame Street introduced a new character, a child whose father is in prison, and the Girl Scouts and 4-H have programs for youth with incarcerated parents.<sup>197</sup> Significant research shows that “maintaining contact with one's incarcerated parent appears to be one of the most effective ways to improve a child's emotional response to the incarceration and reduce the incidence of problematic behavior.”<sup>198</sup> In addition to benefits for the child, incarcerated parents whose children visit are more likely to complete their case plans and be successfully reunified with their children after release.<sup>199</sup>

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<sup>195</sup> See, e.g., Nancy La Vigne, et al., *Broken Bonds: Understanding and Addressing the Needs of Children with Incarcerated Parents*, Urban Institute (February 2008); *Visiting Between Children in Care and Their Families*, supra note 118; *Minnesota Guide: Child and Family Visitation: A Practice Guide to Support Lasting Reunification and Preserving Family Connections for Children in Foster Care*, <http://www.ourkids.us/SiteCollectionDocuments/Handbooks/Visitation%20Minnesota's%20Guide.pdf>; *Family Visiting in Out-of-Home Care*, supra note 30.

<sup>196</sup> Institute for Research on Poverty Fact Sheet, University of Wisconsin-Madison, <https://www.irp.wisc.edu/publications/factsheets/pdfs/Factsheet7-Incarceration.pdf>.

<sup>197</sup> <https://sesamestreetincommunities.org/topics/incarceration/>. 3.6% of American children have an incarcerated parent. <https://www.pewresearch.org/fact-tank/2013/06/21/sesame-street-reaches-out-to-2-7-million-american-children-with-an-incarcerated-parent/>. *Broken Bonds*, supra note 195, page 15.

<sup>198</sup> *Broken Bonds*, supra note 195.

<sup>199</sup> *Advocating for Children with Incarcerated Parents*, citing National Council of State Legislatures, presentation by Jerry Bruce, on file with author.

## **B. Parent in a treatment facility or hospital**

A parent's stay in a hospital or treatment facility poses obstacles similar to those arising when a parent is incarcerated. Strategies for overcoming those obstacles are the same in both circumstances.

If a parent is in a mental health treatment facility or a substance abuse treatment facility, the sections that address those special circumstances contain suggestions for smooth visits when a parent suffers from mental illness or substance addiction.

## **C. Parent with mental illness**

While a parent's mental illness most likely will not affect the frequency of Family Time, accommodations may need to be made around the duration and location of visits, as well as the level of supervision needed. Those involved with developing and implementing the Family Time Plan must remember that a mental illness is a physical and psychological condition that affects the parent. Like cancer or asthma, mental illness has symptoms, ameliorating and aggravating factors, and treatments.

Everyone involved should understand that suffering from a mental illness has nothing to do with choice, willpower, or character. This is particularly important when the symptoms and manifestations of mental illness negatively affect Family Time Plans. When age appropriate, this understanding should be communicated to the children.

Suggestions for ensuring safe, meaningful Family Time when a parent suffers from mental illness include the following actions to be taken by the caseworker, transporter, and/or others involved with developing and implementing the Family Time Plan:

- Work with a mental health professional to understand how the illness might affect Family Time.
- Recognize warning signs and problems that could negatively affect Family Time and what to do in these situations.
- Understand how medication may affect the parent.
- In age-appropriate ways, talk to children about the illness.
- Develop a safety plan for the child and the parent.

## **D. Parent with substance addiction**

Parents' addictions to drugs or alcohol impact their behavior, and often negatively impact their parenting. Addiction recovery can also negatively impact parenting, as parents learn to function without the help of drugs and alcohol. However, over time, any negative effects from the struggles of recovery are usually replaced with positive improvements in functioning and parenting.

Recovery occurs along a continuum that is not always linear. Parents trying to overcome addictions may still be using drugs or alcohol; a large majority of people who enter a recovery program experience a relapse.

Suggestions for ensuring safe, successful Family Time when a parent suffers from addiction include the following actions to be taken by the caseworker, transporter, and/or others involved with developing and implementing the Family Time Plan:

- Involve the parent’s substance abuse treatment professional in developing and implementing the Family Time Plan.
- Ensure that any deviations from the Presumptive Provisions are based on accurate information about the parent’s specific addiction and how it impacts the parent’s behaviors and the child’s needs.
- Ensure the parent has a relapse plan and share that with those involved with planning and supervising Family Time.
- Create a safety plan for the child.
- In the Family Time Plan, be specific about what is and is not allowed during visits. For example, work with a treatment professional to identify specific behaviors or indicators that a parent is high or drunk during a visit and prohibit those during visits. Saying “parent must be sober” is not specific enough.
- In the Family Time Plan, explain what will happen if a parent violates the Family Time rules. Use a graduated approach to addressing violations.<sup>200</sup>
- If the child is ever in danger, stop the visit immediately and know that the child may not get to say goodbye to the parent that day. Explain to the child why the visit had to stop.
- Whenever possible, meet with the parent before the visit to assess the parent’s ability to participate and to help the parent prepare for seeing the child. Ideally, also meet with the parent after the visit to process the visit, share feedback, and immediately address any problems.
- Choose the most natural setting possible to help everyone feel at ease and facilitate normal interactions.
- If needed, check the visitation location for safety and drugs.
- Know that most children of parents with an addiction will be reunified so plan ahead for supervised and then unsupervised visits in the parent’s home.
- With the parent’s treatment team, develop a list of milestones the parent must achieve to move from supervised to unsupervised visits.
- The level of supervision needed during Family Time is connected to the child’s safety and the parent’s demonstration of improved parenting abilities. Supervision level should not be related to the parent’s progress in drug treatment. This means that if a parent is sober, but still cannot safely parent, visits should still be supervised.

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<sup>200</sup> *Visitation - The Key to Children's Safety*, supra note 82.

## **E. Parent with special needs (cognitive or intellectual disability, physical disability, developmental delay, special health needs)**

Many parents have special needs that must be accommodated for Family Time to be successful. Federal law prevents discrimination by child welfare agencies and court systems (inside and outside of court) against qualified individuals with a disability. Section 504 of the Rehabilitation Act pertains to all programs or activities that receive federal financial assistance, while Title II of the Americans with Disabilities Act applies to all state and local government programs, services and activities, whether federally funded or not.

Accommodations may be required to ensure parents with disabilities receive full and equal opportunities to participate in case planning, permanency planning, court hearings, and Family Time, and that they have the same opportunities to receive services and support that any other parent involved with the child welfare system would receive. Suggestions for ensuring successful Family Time when a parent has special needs include the following:

- Working with the parent and the parent's treatment providers to understand the parent's abilities, challenges, and needs.
- Choosing a location and activities that accommodate a parent's needs.
- Ensuring that the Family Time Plan allows the parent to truly be involved with the children.
- Ensuring that the parent has appropriate services to improve parenting skills, given the parent's needs.
- In age-appropriate ways, talking to children about the parent's special needs.
- Helping the parent develop a support system for successful Family Time and successful reunification.

## **F. Parent detained by U.S Immigration and Customs Enforcement (ICE)**

When a parent of a child in foster care is detained by ICE, barriers arise that are like those facing an incarcerated parent. ICE has a specific policy addressing this: "ICE Directive on Detention and Removal of Alien Parents or Legal Guardians" (ICE Policy Number 11064.2). This policy directs ICE to facilitate parents' or guardians' participation in family court or child welfare proceedings and to facilitate visitation between parents/guardians and children if a court has ordered such visitation in a child welfare case.<sup>201</sup> This policy does not apply to Customs and Border Protection Operations. The policy may apply to parents in ICE detention who were separated from their children at the border. Since ICE policies and practices are rapidly changing, always check to see if any ICE policies have changed.

Each ICE Field Office is supposed to have a child welfare coordinator who is designated as the point of contact for all child welfare matters related to detained parents. Parents should be placed at a facility where children can visit that is near enough to their child(ren) that visitation can occur and should be allowed to participate in all court proceedings related to the child's dependency case. "If it is impracticable to transport the detained alien parent or legal guardian to

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<sup>201</sup> ICE Policy Number 11064.2: *Detention and Removal of Alien Parents or Guardians* (August 29, 2017).

appear in-person in a family court or child welfare proceeding,” the Field Office Director should arrange for the parent to participate in the court proceeding by video or teleconferencing. The court or child welfare authority must grant permission for the parent to participate by audio or video; the court can require a parent to appear in person.

ICE should allow visits to occur at least monthly for at least 30 minutes, and perhaps more if a court order requires more frequent visits. The ICE Fact Sheet on this topic encourages more frequent visits for longer times, whenever possible.<sup>202</sup> The ICE directive is intended to provide internal policy guidance, does not create any rights or benefits, and is not legally enforceable.

When parents are detained by ICE, courts can promote parent-child relationships by ordering as much Family Time as possible for children and by requiring parents to appear at all court proceedings.<sup>203</sup>

### **G. Youth in a detention facility, treatment facility, hospital, or congregate care setting**

Whenever a child is placed in an institutional setting, barriers to Family Time arise, including the facility’s location, visitation times, and rules, and the youth’s ability to meaningfully participate in Family Time. Facilities should never condition Family Time on a child’s behavior or use Family Time as a threat or reward. Children and parents have a right to visit.

Suggestions for smooth Family Time planning and implementation for youth in facilities are similar to suggestions when parents are in facilities:

- Involve the child’s treatment professionals in developing and implementing the Family Time Plan.
- Ensure that any deviations from the Family Time Guidelines are based on accurate information about the child’s individual situation.
- If the child is receiving mental health treatment, the child’s provider should assess the child’s ability to participate in Family Time before each visit, work with the child to prepare for the visit, and debrief the visit after it ends.
- If a child is addicted to drugs or alcohol, the child should have a relapse plan and a safety plan.
- If needed, mental health and/or substance abuse treatment providers should help develop a list of rules for Family Time, including acceptable and unacceptable behaviors and what will happen if the child’s or parent’s behavior is unacceptable. Everyone involved in the visits should understand these rules and be expected to follow them.
- The child’s treatment professionals should determine, with the child and possibly the parent, the extent to which the parent should be involved in the child’s treatment.

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<sup>202</sup> ICE Policy Number 11064.2: *Detention and Removal of Alien Parents or Guardians* (August 29, 2017); U.S. Immigration and Customs Enforcement Fact Sheet: *Policies and Procedures Involving Detained Parents and Legal Guardians*, March 2018.

<sup>203</sup> See Women’s Refugee Commission, *FAQ on ICE Directive on Detention and Removal of Alien Parents or Guardians* (2017).

## **H. Child with special needs (cognitive or intellectual disability, physical disability, developmental delay, special health needs)**

Children's special needs and related treatment plan(s) should be considered when developing the Family Time Plan. The Family Time Plan should be developed according to the child's development, rather than chronological age. The plan should also accommodate a child's needs so the child can participate as fully as possible in the visits. For example, the location must be accessible to the child and able to accommodate any equipment the child needs. Supervision level should include consideration of the parent's ability to care for the child's special needs.

The Family Time Plan should be informed by the child's treatment providers. The plan should identify developmental milestones for the child and should help the parent help the child achieve those milestones. In addition, the parent should be involved in decisions about the child's treatment plan. If at all possible, the parent should participate in medical appointments, treatment or rehabilitation activities, and educational planning meetings, and this should be considered when developing the Family Time Plan.

## **I. Family with domestic violence/intimate partner violence**

The presence of domestic violence in a home raises specific concerns for the Family Time Plan. The most important concern is the safety of the child and all other participants – their safety must be assured. Other concerns include holding the offending parent responsible for his or her behavior, and not allowing Family Time to be used in a manipulative manner.

Family Time Plans will be crafted differently, depending on whether the parents (or parent and partner) are still together or are separated. In cases with domestic violence, experts in domestic violence should be consulted in developing a safe and appropriate Family Time Plan, regardless of whether the domestic violence was a contributing factor to the child's removal. A child's therapist or other mental health provider may also help inform the Family Time plan.

Most experts on family violence agree that there is no longer one term for intimate partner violence (IPV) and that IPV occurs on a continuum from dysregulated bilateral interactions with verbal aggression (such as both parents yelling obscenities at each other on a regular basis) to unilateral power and control situations with deadly violence (a batterer who murders his partner).<sup>204</sup> The most recent research on child outcomes after exposure to IPV indicates that child outcomes do not vary based on whether the violence is verbal or physical or whether it is bilateral or unilateral: all forms of aggression between adult partners negatively impact children exposed to the aggression.<sup>205</sup>

In situations with partner battering, power and control dynamics, or physical and psychological abuse, experts must assess the perpetrator's likelihood of continued violence, control, and manipulation of the other partner. A formal evaluation of the perpetrator, including a lethality

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<sup>204</sup> Diana J. English et. al, *At-Risk and Maltreated Children Exposed to Intimate Partner Aggression/Violence*, 14 *Child Maltreatment* No. 2, 157 (2009).

<sup>205</sup> Diana English presentation at a state social services team meeting, July 15, 2010, on file with author.



assessment, should inform the judge’s decisions about whether the Family Time Plan should include the abuser, whether the Family Time Plan promotes the mental health and best interest of the child, the extent to which contact with the abuser is safe for the child, whether and under what circumstances Family Time can safely occur, and a host of other issues.

Expert assessments are also needed in situations involving bidirectional intimate partner aggression and violence (IPAV) and unilateral IPAV involving non-physical verbal aggression and/or behavior that may be termed minor violence, such as slapping. Experts may provide opinions about the likelihood of continued aggression or violence, the impact on the child of Family Time with one or both partners, whether and under what circumstances Family Time can safely occur, what services may help the partners interact in appropriate ways, and whether the partners can participate in Family Time together.

The Enhanced Guidelines recommend that in all cases where violence or aggression occurs between adults in the home, judges should review all relevant information, including “current and previous injunctions, police reports, and stalking behavior to enhance decision-making when determining supervised, unsupervised, and therapeutic visitation.”<sup>206</sup>

Common situations that must be considered in developing Family Time Plans include the following:

- Parents or partners live together, and both are working with treatment professionals with the goal of remaining together peacefully.
- Parents or partners live together and minimize or deny the existence of IPV.
- The parents or partners are living separately because the victim wants the violence to stop and may or may not want the relationship to end.

The differences in these situations affect everything from the level of supervision needed during Family Time to the location of Family Time to the specifics of how the child and adults arrive at and leave the Family Time location.

Many excellent resources exist for understanding the dynamics of domestic violence and how it impacts the development and implementation of Family Time Plans. The DFCS “Intimate Partner Violence (Domestic Violence) Guidelines & Protocol” should be consulted whenever developing a Family Time with parents experiencing IPV. Because domestic violence is so prevalent in dependency cases, everyone involved with these cases should be adequately trained in the dynamics of domestic violence, the impact of IPV on children, behaviors common to abusers and how these behaviors manifest in supervised visitation settings.

## **J. Parents with Limited English Proficiency**

Parents’ proficiency in English should not affect their parent/child relationship or child welfare case. Parents whose first language is not English have a right to an interpreter to participate in court proceedings. The Supreme Court of Georgia defines “Non-English Speaker” as “any party or witness who cannot readily understand or communicate in spoken English and who consequently cannot equally participate in or benefit from the proceedings unless an interpreter

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<sup>206</sup> NCJFCJ *Enhanced Guidelines*, page 88.

is available to assist him or her.”<sup>207</sup> The Court says, “The fact that a person for whom English is a second language knows some English should not prohibit that individual from being allowed to have an interpreter.”

The system should take necessary steps to ensure that families with limited English proficiency receive all needed supports and services for successful Family Time. This may include translating the case plan and Family Time Plan into the parent’s native language and/or using an interpreter to plan and implement the Family Time Plan.

The Georgia Department of Human Services has a state Plan for Client Services for Persons with Limited English Proficiency and Sensory Impairment.<sup>208</sup> The DHS Limited English Proficiency/Sensory Impaired program helps DHS provide meaningful and equal access to programs and activities for clients with limited English Proficiency. In 2011, client services or documents were provided in 64 languages.<sup>209</sup> DFCS case managers have access to interpreters through the DFCS Client Language Service Coordinator and training on working with families with limited English proficiency. Best practice recommends avoiding using family members, relatives, and friends to translate in child welfare cases.

## VII. Georgia Perspectives and Recommendations

### A. Survey Findings

To inform this Practice Guide, a survey was conducted among participants in CII convenings where Family Time was discussed.<sup>210</sup> The survey questions are attached as Appendix B. Thirty-nine judges and seven court stakeholders completed the survey, which informed conversations about Family Time at both meetings. In addition to informing in-person conversations and this document, the survey results provide information that will assist the Practice Guide implementation.

Approximately 53% of survey respondents know about the Original Protocol Project documents. Twelve of the respondents (27%) have read one or both final documents from the 2004 Georgia Visitation Protocol Project (“Guide to Providing Appropriate Family Time,” now referred to as the Original Protocol, and “Decision Model”). Respondents find the information helpful and share two caveats about implementing the Protocol: first, the individual needs of the case before the judge often requires modification of the Protocol; and second, DFCS resource limitations

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<sup>207</sup> Supreme Court of Georgia order “Use of Interpreters for Non-English Speaking and Hearing Impaired Persons,” July 3, 2012, <http://coi.georgiacourts.gov/sites/default/files/coi/GA-%20Supreme%20Court%20Rule%20on%20Use%20of%20Interpreters.pdf>.

<sup>208</sup> <https://dhs.georgia.gov/language-access>, <https://dhs.georgia.gov/dhs-lepsi-program-bright-idea-delivering-services-georgians>.

<sup>209</sup> Katherine Cadena PowerPoint Presentation to Board of Human Services, March 21, 2012. [http://sbwc.georgia.gov/sites/dhs.georgia.gov/files/imported/DHR/DHR\\_CommonFiles/Limited%20English%20Board%20Presentation\\_3.12-FINAL.pdf](http://sbwc.georgia.gov/sites/dhs.georgia.gov/files/imported/DHR/DHR_CommonFiles/Limited%20English%20Board%20Presentation_3.12-FINAL.pdf)

<sup>210</sup> March 2018 CII meeting, Savannah, Georgia.

prevent implementation of the Protocol. The majority of respondents believe that a presumptive Family Time schedule for children based on age would provide helpful guidance for juvenile court judges.

Several survey questions asked about current Family Time practices. Judges said that in cases where a child has been in foster care for one to six months and the judge orders visitation, 50-60% of those cases have supervised visits. However, most respondents disagreed with this statement: “I believe there should be a presumption that Family Time is supervised unless good reasons are presented that it should not be supervised.”<sup>211</sup>

Respondents were asked to complete this sentence, “in my jurisdiction, Family Time most often occurs....” Of the 36 respondents who stated how often Family Time occurs, 36% (13) said two to three times per month, 50% (18) said once a week, and 14% (5) said more than once a week. Since the question only allowed one frequency to be listed, it appears that respondents in jurisdictions where frequency is related to a child’s age responded with a text comment. The ten text comments indicated that children younger than three visit one or more times a week and older children visit two to three times per month.

When asked about their beliefs rather their practice, 60% of respondents said children should see their parents more than once a week, 29% said weekly, and 11% said two to three times a month. No one checked options for once a month or less frequently.

**Chart 1: Responses to survey questions about Family Time practice and Family Time beliefs**

|                            | “In my jurisdiction, Family Time most often occurs...” | “I believe that to best support the emotional development of children in foster care, most children should see their parents...” |
|----------------------------|--|--|
| More than once a week      | 14%  | 60%  |
| Once a week                | 50%  | 30%  |
| 2-3 times per month        | 36%  | 11%  |
| Once a month or less often | 0  | 0  |

The practicality of implementing the Practice Guide concerns many respondents. Despite this, 82% agreed that it would be possible in their jurisdiction for Family Time to occur at least once a week for most families. Forty-eight percent of respondents strongly agreed and 34% agreed that once a week would be possible.

<sup>211</sup> Respondents were asked to respond to the statement on a sliding scale from “Completely agree” to “Completely disagree.” Answers were calculated on a scale of 0 (completely agree) to 50 (completely disagree). The average of the 45 responses was 35.

The final survey question asked what would need to happen for a visitation practice guide to be successfully implemented statewide. Thirty-six people answered the question, and several provided multiple responses. The responses were grouped into topic areas.

**Chart 2: Needs Related to Successful Statewide Implementation of Practice Guide**

| <b>Topic the comment addressed</b>   | <b>Percentage of respondents submitting a comment on this topic</b> |
|--|---|
| Need for increased resources (funding and/or other) to support frequent visits             | 47%   |
| Need for children to be placed closer to parents so frequent visits are possible           | 26%   |
| Need for stronger mandates around Family Time and enforcement of Family Time requirements. | 26%   |
| Need for buy-in by DFCS, service providers, and/or judges                                  | 11%   |
| Need for judicial and/or DFCS training   | 8%  |
| Other  | 11%   |

## **B. Survey Implications**

The survey results indicate that this Practice Guide will be welcomed by juvenile court judges and that the Presumptive Family Time Provisions are aligned with judges’ beliefs about how often children need to see their parents. In addition, while the Presumptive Provisions recommend that visits occur more frequently than is happening in most jurisdictions, the increase would be incremental for most jurisdictions – from once or twice a week to two or three times a week, for example, rather than from once a month to three times a week. Furthermore, most respondents agreed that weekly Family Time is possible in their jurisdiction.

The Presumptive Provisions are also aligned with DFCS policy, although the Presumptions recommend more frequent Family Time than the minimum Family Time required by DFCS policy. Unless the court specifies another arrangement, DFCS policy requires a minimum of two visits per week for children ages 0-2, and a minimum of one visit per week for children ages 3-5.<sup>212</sup> The visitation policy also says “Increase the frequency of parent-child visitation for young children (birth to five years of age) when reunification is the permanency plan in order to facilitate bonding and child well-being.”<sup>213</sup> Additionally, Practice Guidance for the DFCS Visitation Policy recommends three visits per week until a child is 2 years old, and two visits a week from age 2 to 5. For children age 6 and older, DFCS policy requires a minimum of two visits per month; Practice Guidance recommends weekly visits for children age 6 and older.<sup>214</sup>

<sup>212</sup> *Georgia DFCS Policy Number 10.19: Visitation* (June 2016).

<sup>213</sup> *Id.*

<sup>214</sup> *Id.*

**Chart 3: Comparison of how often Family Time occurs by:  
Presumptive Provisions, what actually happens, what respondents believe should happen,  
what DFCS requires, what DFCS recommends**

| <b>Family Time Frequency</b> | <b>Presumptive Family Time Provisions</b> | <b>Survey responses: what we do</b> | <b>Survey responses: what we believe</b> | <b>DFCS Policy Minimum</b> | <b>DFCS Practice Guidance</b> |
|------------------------------|---|-------------------------------------|--|----------------------------|-------------------------------|
| <b>3 times per week</b>      | Birth to 3 years                          |                                     |  |                            | 0-2 years                     |
| <b>2 times per week</b>      | 3-18 years                                |                                     |  | 0-2 years                  | 2-5 years                     |
| <b>More than once a week</b> |   | 14%                                 | 60%                                      |                            |                               |
| <b>Once a week</b>           | 12-18 years                               | 50%                                 | 30%                                      | 3-5 years                  | 6-18 years                    |
| <b>2-3 times per month</b>   |   | 36%                                 | 11%                                      | 6-18 years                 |                               |

Most respondents agree with Georgia’s statutory requirement and DFCS Policy that Family Time is presumptively unsupervised “unless the court finds that unsupervised visitation is not in a child's best interests.”<sup>215</sup> Despite this belief, it appears that visits are supervised in at least half the cases where children have been in care for six months or less. Given that survey respondents identified the need for more resources as the primary barrier to implementing a visitation protocol, perhaps resources could be reallocated from supervising visits to facilitating more frequent Family Time.

### **C. CII / J4C Recommendations**

The original workgroup envisioned statewide implementation of a Family Time Protocol. In 2019, J4C recommends that child welfare system stakeholders agree on research-based best practices for Family Time, as documented in this Family Time Practice Guide, and commit to implementing them to the best of their abilities.

Everyone involved in this initiative, from 2004 to the present, agrees that logistics, funding, and other systemic barriers are likely to impede full implementation of best practices. At the same time, most stakeholders agree that the child welfare system should strive to provide families with the best possible reunification services and supports and that stakeholders should continue to push for system improvements to meet the needs of children and families.

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<sup>215</sup> O.C.G.A. § 15-11-112. Court ordered visitation. “When a child is removed from his or her home, the court shall order reasonable visitation that is consistent with the age and developmental needs of a child if the court finds that it is in a child’s best interest. The court’s order shall specify the frequency, duration, and terms of visitation including whether or not visitation shall be supervised or unsupervised. NOTE: There shall be a presumption that visitation will be unsupervised unless the court finds that unsupervised visitation is not in a child’s best interest” (*Georgia DFCS Policy Number 10.19: Visitation* (June 2016)).

J4C and the judges of its CII agree that the Presumptive Family Time Provisions state the minimum amount of Family Time that should occur, and all participants in the system should strive to provide more.

J4C is committed to providing training and technical support to help Georgia jurisdictions implement the Family Time Practice Guide. Regarding the implementation of this Family Time Practice Guide, J4C and the judges of its CII are mindful of the Enhanced Guidelines key principle “advance the development of adequate resources,” and of the reason for the foundational principles:

“Juvenile court judges, as the gatekeepers to the foster care system and guardians of the original problem-solving court, must engage families, professionals, organizations, and communities to effectively support child safety, permanency, and well-being. Judges must encourage the court system to respond to children and their families with both a sense of urgency and dignity. These key principles provide a foundation for courts to exercise the critical duties entrusted to them by the people and the laws of the land.”<sup>216</sup>

Family Time Practice Guide, June 2, 2019 Version.

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<sup>216</sup> NCJFCJ *Enhanced Guidelines*, page 14.



## VIII. Appendices

### A. Original Workgroup Members

#### Visitation Protocol Project Workshop Participants

|                   |   |
|-------------------|---|
| Kim Adams         | Program Coordinator, Children's Advocacy Center of Troup County, GA   |
| Christine Bailey* | Asst. Director for Training, Technical Assistance and Special Projects, Permanency Planning for Children Department, NCJFCJ |
| Michelle Barclay  | Director, Georgia Supreme Court Committee on Justice for Children   |
| Robert Bassett    | Training Director, Council of Juvenile Court Judges of Georgia  |
| Ken Borelli       | Deputy Director, Dept. of Family & Children's Services, San Jose, CA  |
| Lori Bramlett*    | Coordinator, GA Court Improvement Initiative  |
| Lynn Brewer       | Staff Attorney, Council of Juvenile Court Judges of GA  |
| Mary Carden       | Judge, Juvenile Courts of Hall & Dawson Counties, GA  |
| Melissa Carter*   | Training Director, Georgia Supreme Court Committee on Justice for Children  |
| Connie Cohen      | Judge, Polk County (Des Moines), IA; National Model Court Site  |
| Leonard Edwards   | Judge, Superior Court of California, County of Santa Clara  |
| Vivian Egan       | Legal Services Manager, GA Dept. of Family & Children Services  |
| Tyra Farmer       | Director, WinShape Homes; Chick-Fil-A Foundation  |
| Deb Farrell       | Senior Technical Advisory, Promoting Safe & Stable Families Program   |
| Liz Ferguson      | Service Coordinator, Prevent Child Abuse Georgia  |
| Sallyanne Floria  | Lead Judge, Superior Court of New Jersey, Essex County; National Model Court Site   |
| Edna Foster       | Faith Based Coordinator, GA Dept. of Family & Children Services   |
| Rep. Pat Gardner  | State Representative, District 57, Georgia  |
| Sandy Gober       | Adoption Supervisor, Cobb County GA Dept. of Family & Children Services   |
| Susan Grant       | Regional Program Specialist, National CASA  |
| Duaine Hathaway   | Executive Director, Georgia CASA  |
| Mary Hermann      | Child Advocate Attorney, DeKalb County Child Advocacy Center, GA  |
| Kathy Herren      | Social Services Program Director, DeKalb County GA Dept. of Family & Children Services                                      |
| Betsy Hyder       | Executive Director, Fostering Court Improvement   |
| Sammy Jones       | Judge, Fulton County Juvenile Court, GA   |
| Michael Key*      | Judge, Juvenile Court of Troup County, GA, Chairman of Court Improvement Initiative, Co-chair Visitation Project            |
| Vicky Kimbrell    | Family Violence Program Director, Georgia Legal Services Program  |
| Dale Koch*        | Presiding Judge, Multnomah County Circuit Court (Portland), OR; National Model Court Site                                   |
| Dawn Koehler      | Staff Attorney, Council of Juvenile Court Judges of Georgia   |
| Christine Lamble  | Project Manager, American Public Human Services Association   |
| J. Dean Lewis     | National CASA; Past-President NCJFCJ  |
| Yolanda Lewis     | Court Services Officer, GA Administrative Office of the Courts  |



|                        |  |
|------------------------|--|
| Lauren Litton          | Family Violence Dept., National Council of Juvenile and Family Court Judges                                      |
| Beth Locker            | Director, Measures for Courts Project, Committee on Justice for Children   |
| Kristine McCarthy      | Commissioner, Santa Clara Superior Court, CA; National Model Court Site  |
| Nancy McGarrah         | Psychologist, Cliff Valley Psychologists   |
| Ann McNeer             | Psychologist   |
| Jane Martin            | Program Manager, Grants & Performance Outcomes, Administrative Office of the Courts of Georgia                   |
| Sandra Miller          | Judge, Paulding County Juvenile Court, GA  |
| Janet Oliva            | (Fmr.) Director, GA DHR/Division of Family and Children Services   |
| First Lady Mary Perdue | Office of the Governor, GA   |
| Julia Perilla          | Assistant Research Professor, Georgia State University Dept. of Psychology                                       |
| Ann Pope               | Promoting Safe & Stable Families Program Consultant, GA Dept. of Family and Children Services                    |
| Dianne Scoggins        | Director, Appalachian CASA Program, GA   |
| Maureen Sheeran        | Co-Director, Family Violence Dept., National Council of Juvenile and Family Court Judges                         |
| Melinda Shephard       | Child Advocate Attorney; Fulton County Juvenile Court, GA  |
| Dee Simms              | Child Advocate, GA Office of the Child Advocate for the Protection of Children                                   |
| Kim Taitano            | Manager, Training & Technical Assistance Resource Division, National Council of Juvenile and Family Court Judges |
| Velma Tilley           | Judge, Juvenile Court of Bartow County, GA   |
| William Tribble        | Judge, Juvenile Court of the Dublin Judicial Circuit, GA   |
| Karen Worthington      | Co-Director, Barton Child Law & Policy Clinic Emory Univ. School of Law  |

\* Members of the VPP Planning Team

## B. Survey Questions

1. What is your name, job title and agency/organization?
2. Do you know about the Georgia Visitation Protocol Project documents: A Guide to Providing Appropriate Family Time for Children in Foster Care and/or the Georgia Family Time Decision Model?
3. If you answered no to question 1, please skip to question 4. If you answered yes to question 1, please check all that apply:
  - I have heard of the Guide to Providing Appropriate Family Time.
  - I have heard of the Decision Model.
  - I have read the Guide to Providing Appropriate Family Time.
  - I have read the Decision Model.
  - I find the Guide to Providing Appropriate Family Time helpful in my decision-making in dependency cases.
  - I find the Decision Model helpful in my decision-making in dependency cases.
  - I disagree with the suggestions and/or presumptions in the Guide to Providing Appropriate Family Time, so it is not helpful in my decision-making in dependency cases.
  - I disagree with the suggestions and/or presumptions in the Decision Model, so it is not helpful in my decision-making in dependency cases.
  - Comments?
4. I believe that a presumptive family time schedule for children based on age would be helpful guidance for juvenile court judges. For example, “children age 3-5 years should see their parents for x number of hours x number of times per month.”  
(sliding scale response from “not helpful at all” to “very helpful”)
5. In cases where the child has been in foster care for 1-6 months and you order visitation, what proportion of the cases have supervised visits?  
(sliding scale response from “No cases have supervised visits” to “About half the cases have supervised visits” to “All cases have supervised visits”)
6. I believe there should be a presumption that family time is supervised unless good reasons are presented that it should not be supervised.  
(sliding scale response from “completely disagree” to “completely agree”)
7. In my jurisdiction, family time most often occurs:
  - Less than once a month
  - Once a month
  - 2-3 times a month
  - Once a week
  - More than once a week.
  - Comments?
8. It would be possible in my jurisdiction for family time to occur at least once a week for most families.  
(sliding scale response from “completely disagree” to “completely agree”)
9. I believe that to best support the emotional development of children in foster care, most children should see their parents:
  - Less than once a month

- Once a month
- 2-3 times a month
- Once a week
- More than once a week
- Comments?

10. In order for a visitation protocol to be successfully implemented statewide, this needs to happen: (open text box)

## C. Resources and References

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