

Family and Juvenile Court Judges and the Best Interests of the Child: Current Practices,
Procedures, and Recommendations

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Abstract

Children are involved in the legal system in numerous ways, most often in the child welfare system as victims of abuse or neglect or in the family court arena entangled in divorce and custody proceedings. These courts are guided by “the best interests of the child” standard, which over the last several decades has evolved as the prevailing doctrine impacting the outcome of legal cases involving children in the United States as well as internationally. Generally, the best interests of the child standard refers to the idea that the outcome of the legal action relative to the child should be the outcome that is best for that particular child. However, despite its prevalence, neither the courts nor researchers have yet to develop a comprehensive and uniform definition or method of application of this key legal tenant. Additionally, a gap in the literature exists in that judges are rarely studied directly, despite the high level of judicial discretion that exists in almost all cases involving children. This dissertation addresses these gaps in the literature by studying judges directly regarding the best interests of the child standard. Data collected from twenty-five qualitative interviews of family and juvenile court judges in one state revealed five emergent themes: the lack of related background in family and juvenile issues among the judges, the adequacy of a broadly defined best interest of the child standard, the uniformity of the most important factors in a best interests of the child analysis as identified by

the judges, the varied levels of confidence among the judges in doing best interests of the child analyses, and the varied reliance on Guardians *ad Litem*—the professionals appointed by the court to represent the child in a given case. Findings from this study support numerous recommendations for policy reform, including additional training for judges in child development and family studies, the development of a judicial mentoring program, and the development of an empirically supported hierarchy of factors to consider in a best interest of the child analysis.