



# MAKING REASONABLE EFFORTS FROM INTAKE THROUGH INITIAL REVIEW HEARING

## MD CANI: THE FIRST 75 DAYS

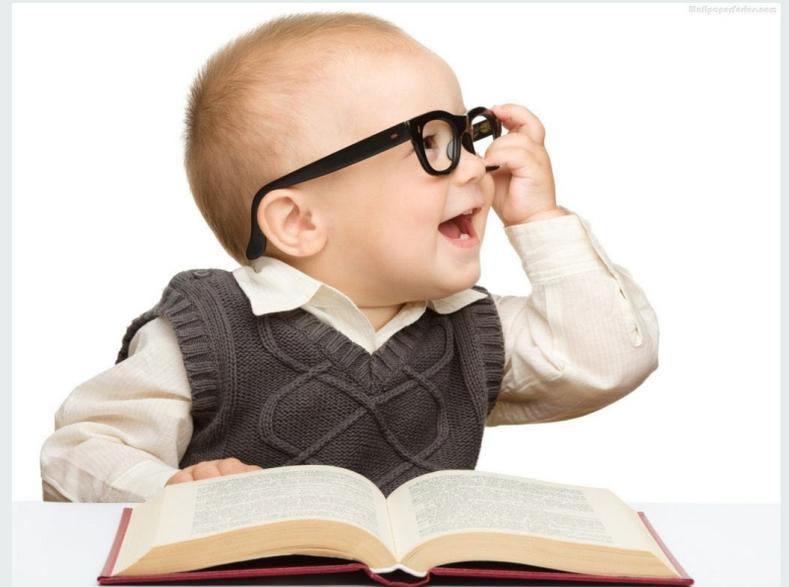
PRESENTED BY JUDGE R. MICHAEL KEY  
TROUP COUNTY, GEORGIA JUVENILE COURT



2022

# LEARNING OBJECTIVES

- Examine the scope of judge's responsibility to determine the adequacy of reasonable efforts at various stages of dependency proceedings.
- Discuss and “define” reasonable efforts.
- Explore some best practices in making reasonable efforts.



# REASONABLE EFFORTS PRE-TEST

- What is the source of the reasonable efforts requirements?
- What are the goals the reasonable efforts requirements are intended to accomplish?
- What are the consequences of a finding that DFCS did not make reasonable efforts to achieve each of those goals?
- What is the “contrary to the welfare finding” and how does it differ from the reasonable efforts finding?
- What are the consequences of a failure to make the “contrary to the welfare finding”?
- Whose responsibility is it to make reasonable efforts and reasonable efforts findings?
- What is the most important consequence of not making reasonable efforts?

# MOST IMPORTANT CONSEQUENCE

A close-up photograph of a young child with light brown hair, looking directly at the camera with a sad or pouting expression. The child is wearing a white short-sleeved shirt under a green vest. The background is a blurred outdoor setting with greenery and a building.

**Children and families suffer!**

This not the time to press  
the



Be difficult!

It should be hard to take or  
keep a six-day old baby girl  
away from her mother!

# WHAT'S THE OBJECTIVE?

- To ensure that every child that should be in care is in care, but ***not a single child more***; and
- To ensure that every child that is in care is in a safe, nurturing placement that is supportive of the permanency plan for the child, and ensures the child's wellbeing.



# THE COURT'S ROLE: JUDICIAL OVERSIGHT

The Court holding the child welfare agency accountable for making reasonable or active efforts is not just a best practice.

**It's the law!**

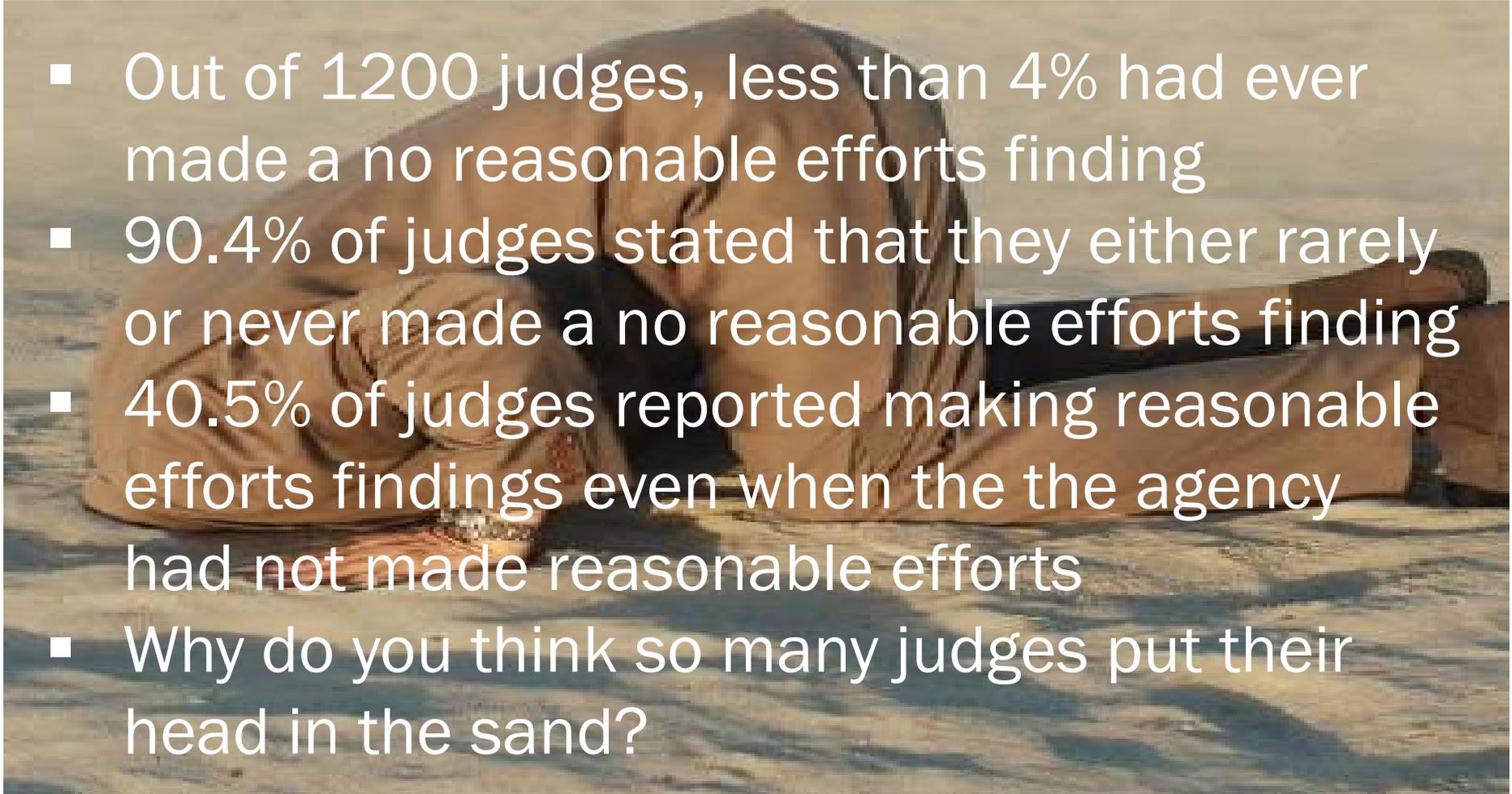


# CONGRESSIONAL INTENT FOR JUDICIAL OVERSIGHT

- Prevent unnecessary removals
- Act as a safeguard against potential inappropriate agency action
- Not become a mere pro forma exercise in paper shuffling to obtain Federal funding
- Unwilling to accept as a general proposition that the judiciaries of the states would so lightly treat a responsibility placed upon them by federal statute for the protection of children



# WHAT JUDICIAL OVERSIGHT IS **NOT!**

- 
- Out of 1200 judges, less than 4% had ever made a no reasonable efforts finding
  - 90.4% of judges stated that they either rarely or never made a no reasonable efforts finding
  - 40.5% of judges reported making reasonable efforts findings even when the the agency had not made reasonable efforts
  - Why do you think so many judges put their head in the sand?

# WHAT HAPPENS WHEN JUDGES PUT THEIR HEAD IN THE SAND?

A close-up photograph of a young child with light brown hair, looking directly at the camera with a sad or pouting expression. The child is wearing a white short-sleeved shirt under a green vest. The background is a blurred outdoor setting with greenery and a building.

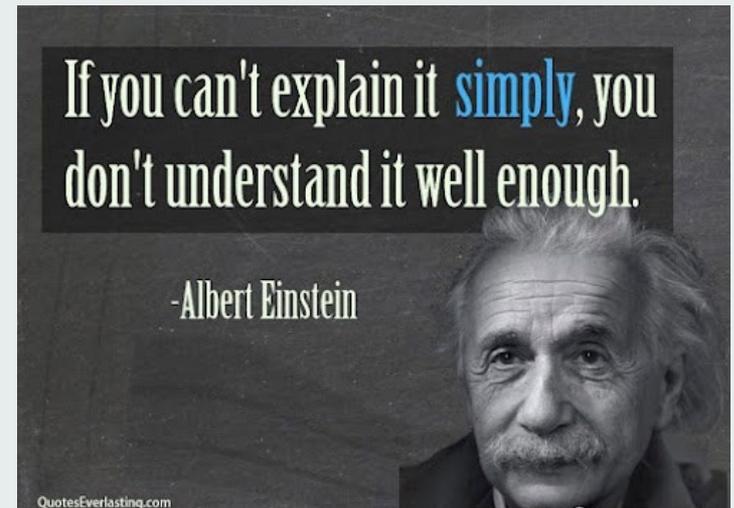
**Children and families suffer!**

# RECENT SURVEY - BETTER BUT NO CIGAR

- 27.27% have made reasonable efforts when evidence did not support that finding
- 89.7% reported having not made or seldom made a no reasonable efforts find in the last year
- Reasons given for not making no reasonable efforts findings: potential loss of funding and/or services (51.61%) and insufficient information (33.87%)
- Most common no reasonable findings made as to reunification (55.22%)
- A lot of work needs to be done about parent and child attorney advocacy around reasonable efforts

# JUDGES NEED TO SET CLEAR EXPECTATIONS/DRAW THE LINE

- It is important for judges to have a structured decision-making process around reasonable efforts findings that is sufficiently developed so that they can articulate that process. And they should consistently maintain fidelity to that process while still making individualized decisions.
- This decision-making process is what was Congress referred to as a “meticulous and impartial decision-making procedure” to prevent overreaching by state agencies.
- Does everyone agree?



# WHAT SHOULD THE DECISION-MAKING PROCESS LOOK LIKE?

You be the judge!



# JUDGE KEY'S DEFINITION

Doing for children and families we serve that which we would want others to do for us and our families if we found ourselves in like circumstance.



# JUDGE KEY'S STRUCTURED DECISION-MAKING MODEL

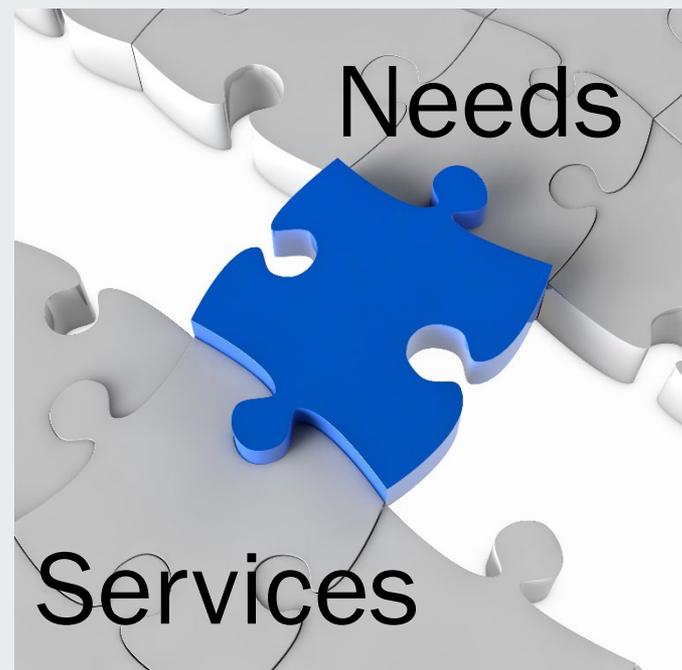
If it is not unreasonable to expect a certain thing to be done in order to keep families together, to reunite the family, or to achieve an alternative permanency goal, then it is reasonable, and the failure to do that thing is a failure to make reasonable efforts.

What factors should be considered in deciding whether it is reasonable or unreasonable to expect a certain thing to be done?

# TWO TIERS OF REASONABLE EFFORTS

- Tier One Reasonable Efforts
  - Reasonable efforts made in each individual case
- Tier Two Reasonable Efforts
  - Reasonable efforts to track needs and develop services to meet the needs

Making Reasonable Efforts: A Permanent Home for Every Child



# TIER ONE REASONABLE EFFORTS

- Assess the family situation
- Determine if any available services will work
- Consider alternative ways other than removal
- Inform family about available services
- Offer services most likely to work
- Give family an opportunity to request other services
- Provide a means for review of agency's failure to provide the services the family believes will work
- Develop an appropriate case plan
- Visitation
- Permanency hearings

# TIER TWO REASONABLE EFFORTS

- Assess need
- Comprehensive plan for prevention and reunification
- Provide all services
- Structure service delivery to keep families together
- Conduct training
- Establish appropriate criteria for services
- Develop written guidelines, procedures and protocols

Making Reasonable Efforts: A Permanent Home for Every Child

# PRACTICE POINTS

Make the equivalent of active efforts.

Examples?

# PRACTICE POINTS

- Conduct a thorough and ongoing investigation
- It is more than just knowing the questions to ask
  - it is the persistent pursuit of the answers to the questions
- Assess and articulate:
  - Safety threat as immediate, significant and clearly observable
  - Vulnerability
  - Controlling interventions or lack thereof
  - Specific harm that might come to a child if the child remains in the home

# PRACTICE POINTS

- Consider all risk mitigation services
- Seek short term safety and ask for expedited hearing
- Can the child go home safely today?
- Would you remove the child today?
- Family time is critical
- Hold one another accountable
- Demonstrate a true sense of urgency

# WHAT IT REALLY COMES DOWN TO IS...

If you do the **right** things

for the **right** people

in the **right** way

at the **right** time,

you get the **right** results.



# REMEMBER THE KIDS WE SERVE ...



- Their belongings in a bag, their hearts on a sleeve, or tucked securely away.
- Their futures not their own, but held in the hands of those who do not know them.
- Their worlds asunder; insecurity and mistrust their constant companions.
- They come to us looking for answers, for understanding, for hope, for resolution.
- What we give them will determine who they are and who they will forever be.
- Equally as important, what they become because of their having passed our way, will define our lives and our place in history.

Hon. R. Michael Key, September 24, 2005

# QUESTIONS

