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MATTHEW  BENDER

Preface

The juvenile court in this country began as a social welfare institution to provide appropriate remedial care for juvenile offenders and children at risk. The Illinois Juvenile Court Act of 1899 signaled that juvenile delinquency and child protection proceedings were to be handled under one statutory umbrella. During the first half of the last century, however, while continuing to trumpet *parens patriae*, juvenile courts began to emphasize the importance of a child's rights in delinquency cases. The view emerged that the child who had no rights and who received no paternal care from the court needed the law's protection. The due process landscape of delinquency proceedings was radically changed by *In re Gault*, 387 U.S. 1 (1967), and cases which followed, together with federal legislation focused on the rights of status offenders. The juvenile court of the post-*Gault* era, which insured the child with most of the rights of an adult defendant in criminal court, was a far cry from the first juvenile court in Cook County, Illinois.

Understandably, most of the juvenile law and juvenile justice process books written in the wake of *Gault* focused primarily upon procedural due process in delinquency proceedings and other emerging issues concerning the increase in violence among juvenile offenders, e.g., new approaches to waiver of juvenile court jurisdiction, special laws for juvenile gang members, blended sentencing schemes and the death penalty for children. These course materials devoted less attention to the child welfare side of the juvenile justice system, which developed its own branch of law concerned with the balance between parents' fundamental rights of autonomy and privacy in making decisions about their children and the state's compelling interest in protecting children. With increasing frequency, the courts relied upon federal and state constitutional law in child welfare cases, particularly in termination of parental rights proceedings. Also, we witnessed a shift in emphasis from family preservation to protection of the child's health and safety and earlier permanency decisions. Guidelines for courts and state agencies were provided by the Adoption Assistance and Child Welfare Act of 1980 and the Adoption and Safe Families Act of 1997.

The Second Edition of this book provides teachers of juvenile law and process with a comprehensive set of course materials to examine both the delinquency and child welfare systems. Arranged in sixteen chapters, the book is roughly divided equally between delinquency and child welfare. Most footnotes have been removed from the cases and those retained have the original footnote numbers retained in brackets at the beginning of the footnote. There are separate chapters on children's rights in public schools, special advocacy for children, mental health commitment of children, and alternative systems of dispute resolution in children's cases. Each chapter contains notes and questions, which follow the case opinions and statutes, intended to supplement this material and stimulate discussion. Some chapters contain problems, which put the student in a practical setting to analyze possible legal solutions. The first and last chapters of the book contain material which encourages an examination of the history and philosophical underpinnings of the juvenile court and a critical analysis of the future of the juvenile court. No attempt is made to advocate a blueprint for the juvenile court; rather various possibilities are offered for discussion at the end of term.

I'm most grateful to my juvenile law students who over the years have provided thoughtful insights, which prompted my further investigation of the ever-changing

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juvenile justice system. In particular, I thank former students Jeff Eyerman and Jina Jang for their assistance. Special thanks go to my research assistant, Wileen Leu, and my assistant, Kim Daniels, for their help on the book.

J. Eric Smithburn

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