



**RESOLUTION REGARDING THE ADOPTION OF POLICY STATEMENTS AND  
PRACTICES RECOMMENDED IN REVISED CHAPTER FOUR OF THE MODEL  
CODE ON DOMESTIC AND FAMILY VIOLENCE**

WHEREAS, the National Council of Juvenile and Family Court Judges has a long-established policy of encouraging the judiciary to engage in practices that foster the effective administration of justice as it pertains to the safety of victims of violence and their children; and

WHEREAS, in 1994, the National Council of Juvenile and Family Court Judges adopted and approved as its official policy the statements made and practices recommended in its publication, *Model Code on Domestic and Family Violence (Model Code)*; and

WHEREAS, the National Council of Juvenile and Family Court Judges' *Model Code* is comprehensive and provides a framework for promoting effective responses to domestic violence by criminal, civil, and family courts, encourages consistency across the country, and consists of five chapters: general provisions (definitions), criminal penalties and procedures, civil orders for protection, family and children, and prevention and treatment; and

WHEREAS, the National Council of Juvenile and Family Court Judges' Chapter Four of the *Model Code*, the family and children chapter, has the most potential impact, is the most far-reaching because family courts process tens of thousands of contested custody cases each year with a significant number involving domestic violence, and elevates the safety of the abused parent and child above all other best interest of the child (BIC) factors and includes a rebuttable presumption against awarding sole custody, joint legal custody, or joint physical custody to a perpetrator of domestic violence; and

WHEREAS, the provisions of the National Council of Juvenile and Family Court Judges' Chapter Four, the family and children chapter, of the *Model Code* have been adopted, in whole or in part, in most states, with all states and the District of Columbia (D.C.) requiring domestic violence to be considered in the BIC analysis, with 26 states and D.C. giving domestic violence extra weight, and with 28 states and D.C. providing a statutory presumption against awarding custody to a perpetrator of domestic violence; and

WHEREAS, the National Council of Juvenile and Family Court Judges, in partnership with the American Bar Association's Commission on Domestic and Sexual Violence, convened a National Working Group comprised of judges and judicial officers, attorneys, advocates, academicians, researchers, and family court practitioners to revise Chapter Four of the *Model Code*; and

WHEREAS, the National Council of Juvenile and Family Court Judges' National Working Group met once in-person and more than 25 times virtually (due to the COVID-19 pandemic) over three years (2019-2022) to provide an intensive reexamination of Chapter Four of the *Model*

*Code* because despite three decades of statutory reform and implementation work, many court-ordered parenting plans continue to subject children to unsafe and unworkable parenting arrangements; and

WHEREAS, the National Council of Juvenile and Family Court Judges' *Revised Chapter Four of the Model Code* focuses on an approach that requires a careful analysis and tailored response, which means that adequate information is obtained (safely and ethically) and provided to the court, allowing for a comprehensive assessment of the context, nature, and effects of domestic abuse on the abused parent and children, and that supports the constitutional requirement of due process and the principles of procedural fairness, ensuring parties have meaningful opportunities to be heard and fully participate in the legal proceeding; and

WHEREAS, the National Council of Juvenile and Family Court Judges' *Revised Chapter Four of the Model Code* drives family courts to account for the fact that domestic abuse can vary widely in its nature, context, and effects on adult and child victims, including the level of risk of lethality, physical harm, and other types of danger, recognizes that domestic abuse can co-occur with child abuse, can signal problematic parenting by the parent who is abusive, and can also harm children by compromising the parenting of the parent who is abused, and calls upon courts and practitioners to examine and account for the many contexts (individual, social, and cultural) within which parents commit or experience abuse; and

WHEREAS, the National Council of Juvenile and Family Court Judges' *Revised Chapter Four of the Model Code* incorporates provisions that require family courts to recognize and account for a range of abusive behaviors beyond the inflicted or attempted physical violence to which many statutory definitions of domestic violence (including that found in the existing *Model Code*) are limited; and

WHEREAS, the National Council of Juvenile and Family Court Judges' *Revised Chapter Four of the Model Code* stands alone, unlike the original Chapter Four of the *Model Code*, and reflects the understanding that the family court response to domestic abuse must be part of an integrated system, which includes criminal and civil protection order courts and the child welfare system; and

**NOW, THEREFORE, BE IT RESOLVED THAT** the National Council of Juvenile and Family Court Judges hereby approves and adopts as its official policy the statements made and practices recommended in its publication, *Revised Chapter Four of the Model Code* (December 2022).