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INTRODUCTION TO SPECIAL SECTION ON ISSUES IN CHILDREN'S LAW

"If help and salvation are to come, they can only come from the children, for the children are the makers of men."

—Maria Montessori

Children—fragile, yet strong; easily discouraged, yet inspiring; worthy of attention, yet so often ignored—are arguably denied the protection and guidance they deserve under the law. While the state is not the appropriate entity to raise a child, the state should, through its laws, strive to create a safe environment and to foster the protection of children. The state should also work to provide the best solutions for children who find themselves in the legal system. Often, however, society fails, despite the best intentions. With this recognition, the effects of the law on children should be under constant scrutiny by lawmakers, commentators, and scholars to ensure that application of the law consistently results in the consideration and promotion of the child's development, safety, and happiness. While this is a tall order, children deserve no less. Therein lies the inspiration for this special section of the Mississippi College Law Review.

This section will highlight several areas of state and federal law affecting children, prompting, it is hoped, discussion and debate about how to further of the best interests of the child. Because children are affected by nearly every area of the law, this issue does not attempt to comment on all of the children's issues that need attention; rather, it spotlights a few topics of interest.

In her article *Best Practices in Response to Child Abuse*, Catherine Dixon, Ph.D., Clinical Director of the Mississippi Children's Advocacy Center in Jackson, discusses a rather new approach to dealing with child abuse: multidisciplinary teams of professionals. Dr. Dixon's article provides some shocking statistical data on child maltreatment. It discusses how society has finally begun to recognize the destructive effects of child abuse and provides hope that the law can respond positively to child victims to ease rather than aggravate the traumatic effects of abuse and of the stresses inflicted by the system of investigating and prosecuting such cases. While Mississippi was one of the first jurisdictions to employ a multidisciplinary approach and great strides have been made, Dr. Dixon argues that the current model is not the best practice available. Building on this model and based on successful ones developed by other jurisdictions, Dr. Dixon suggests an approach that will bring Mississippi back to the forefront of this important arena. She concludes, "There is no reason for another generation of Mississippi's children to suffer, when a better way is possible. . . . We now know a better way." This article should prove to be an

invaluable resource to lawyers and other professionals who deal with child-abuse victims.

Professor Lisa S. Nored, another leading authority on children's issues, examines the United States Supreme Court's decision in *Crawford v. Washington*; its effect on the interplay between hearsay exceptions and the Sixth Amendment's Confrontation Clause; and the opinion's potential implications on child testimony in Mississippi. As Nored explains, hearsay exceptions are invaluable in the prosecution of child-abuse cases due to the sensitive nature of the crime, the traumatized victim, and paucity of physical evidence. The exceptions, however, are always balanced against the rights of defendants to confront their accusers. Before *Crawford*, testimony admissible through a hearsay exception satisfied the Confrontation Clause of the Sixth Amendment. In *Crawford* the Court changed the analysis, adding to the requirements needed to satisfy the Confrontation Clause. Professor Nored not only provides an examination of the Court's opinion, but also educates the reader on the landscape of the law pre-*Crawford* and forecasts potential implications of the decision on child testimony in Mississippi.

America's struggle to balance the freedom of speech with protecting children from pornographic material on the internet—an issue with which families nationwide struggle—is explored in student author Adam Gates's Case Note, *Should Shielding Children from Internet Pornography and Protecting Free Speech Be Mutually Exclusive?* *Ashcroft v. American Civil Liberties Union*. The United States Supreme Court affirmed a preliminary injunction against enforcement of the Child Online Protection Act (COPA), concluding that the government failed to carry its burden of proving that the COPA restrictions were the least restrictive means to accomplish the compelling government interest of protecting children from Internet pornography. Gates's Note provides a thorough background of First Amendment precedent leading up to the Court's decision in *Ashcroft*; details the majority, concurring, and dissenting opinions; and concludes with a thoughtful analysis of the Court's decision and its potential effects.

Children often find themselves in Mississippi's chancery court system, whether involved in the domestic disputes of their parents, in adoption proceedings, or in seeking approval of settlements for injuries. Joshua Gianola, a 2005 graduate of Mississippi College School of Law, examines a line of recent Mississippi Supreme Court opinions in which the court focused on the jurisdictional basis of the chancery court. Gianola's Comment, *Changing Jurisdiction in Chancery Court*, describes how the cumulative effect of these opinions has been to limit the scope of chancery court jurisdiction to cases involving pure equity and domestic matters. Gianola argues that this line of cases results in an erosion of the chancery court's power of pendent jurisdiction. While Gianola does not advocate abolishing Mississippi's dual court system, he suggests it may be appropriate for the state to limit chancery court jurisdiction to family/domestic issues, such as divorces,

child custody, and probate matters. Gianola's analysis of the Mississippi Supreme Court's recent limitations on chancery court jurisdiction in Mississippi will be of great value to family law practitioners in Mississippi.

