

Senate Bill 428

By: Senators Tanksley of the 32nd and Meyer von Bremen of the 12th

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to
2 juvenile proceedings, so as to change the provisions relating to reasonable efforts to preserve
3 and reunify families, case plans, motions to extend, permanency plans and permanency
4 hearings; to provide that reasonable efforts to preserve and reunify families shall be made
5 when a child is placed in the custody of the Department of Human Resources; to provide that
6 the Department of Human Resources shall submit 30 day case plans for children in its
7 custody; to provide for court review of the efforts of the Division of Family and Children
8 Services to finalize permanency plans; to provide an effective date; to repeal conflicting
9 laws; and for other purposes.

10 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

11 **SECTION 1.**

12 Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to juvenile court
13 proceedings, is amended by striking in their entirety subsections (a), (b), (e), (g), (j), (n), (o),
14 (p), and (q) of Code Section 15-11-58, relating to reasonable efforts regarding reunification
15 of family, reports and plans, custody orders when reunification found not to be in child's best
16 interest, duration of orders, review of determinations, hearings, and supplemental orders, and
17 inserting in their respective places the following:

18 "(a) A court's order removing a child from the child's home shall be based upon a finding
19 by that court that continuation in the home would be contrary to the welfare of the child.
20 The court shall also determine as a finding of fact whether reasonable efforts were made
21 by the Division of Family and Children Services of the Department of Human Resources
22 and any other appropriate agencies to preserve and reunify families prior to the placement
23 of a child in ~~foster care~~ the custody of the Department of Human Resources, to prevent or
24 eliminate the need for removal of the child from that child's home, and to make it possible
25 for the child to return safely to the child's home. Such findings shall also be made at every
26 subsequent review of the court's order under this chapter.

1 (1) In determining reasonable efforts to be made with respect to a child, as described in
2 this subsection, and in making such reasonable efforts, the child's health and safety shall
3 be the paramount concern;

4 (2) Except as provided in paragraph (4) of this subsection, reasonable efforts shall be
5 made to preserve and reunify families:

6 (A) Prior to the placement of a child in ~~foster care~~ the custody of the Department of
7 Human Resources, to prevent or eliminate the need for removing the child from the
8 child's home; and

9 (B) To make it possible for a child to return safely to the child's home;

10 (3) If continuation of reasonable efforts of the type described in paragraph (2) of this
11 subsection is determined to be inconsistent with the permanency plan for the child,
12 reasonable efforts shall be made to place the child in a timely manner in accordance with
13 the permanency plan and to complete whatever steps are necessary to finalize the
14 permanent placement of the child;

15 (4) Reasonable efforts of the type described in paragraph (2) of this subsection shall not
16 be required to be made with respect to a parent of a child if a court of competent
17 jurisdiction has determined that:

18 (A) The parent has subjected the child to aggravated circumstances which may include
19 but need not be limited to abandonment, torture, chronic abuse, and sexual abuse;

20 (B) The parent has:

21 (i) Committed murder of another child of the parent;

22 (ii) Committed voluntary manslaughter of another child of the parent;

23 (iii) Aided or abetted, attempted, conspired, or solicited to commit murder or
24 voluntary manslaughter of another child of the parent; or

25 (iv) Committed a felony assault that results in serious bodily injury to the child or
26 another child of the parent; or

27 (C) The parental rights of the parent to a sibling have been terminated involuntarily;

28 (5) If reasonable efforts of the type described in paragraph (2) of this subsection are not
29 made with respect to a child as a result of a determination made by a court of competent
30 jurisdiction in accordance with paragraph (4) of this subsection:

31 (A) A permanency hearing in accordance with subsection (o) of this Code Section shall
32 be held for the child within 30 days after such determination; and

33 (B) Reasonable efforts shall be made to place the child in a timely manner in
34 accordance with the permanency plan and to complete whatever steps are necessary to
35 finalize the permanent placement of the child; and

1 (6) Reasonable efforts to place a child for adoption or with a legal guardian may be made
2 concurrently with reasonable efforts of the type described in paragraph (2) of this
3 subsection.

4 (b) Within 30 days of the date ~~of removal of the child from the home~~ a child who is placed
5 in the custody of the Department of Human Resources is removed from the home and at
6 each subsequent review of the disposition order, the Division of Family and Children
7 Services of the Department of Human Resources must submit a written report to the court
8 which shall either include a case plan for a reunification of the family or include a
9 statement of the factual basis or bases for determining that a plan for reunification is not
10 appropriate. Such report shall become a discrete part of the case record in a format
11 determined by the Division of Family and Children Services of the Department of Human
12 Resources and shall be made available to the parents or guardian of the foster child. The
13 contents of the report shall be determined at a meeting to be held by the Division of Family
14 and Children Services of the Department of Human Resources in consultation with the
15 judicial citizen review panel, if one is designated by the court for such purpose, and the
16 parents and children, when available. The parents shall be given written notice of the
17 meeting at least five days in advance and shall be advised that the report will be submitted
18 to become an order of the court. The report submitted to the court shall also contain any
19 dissenting recommendations of the judicial citizen review panel, if applicable, and any
20 recommendations of the parents, if such are available."

21 "(e) If the report submitted to the court does not contain a plan for reunification services,
22 upon proper notice being provided to the parents, the court shall, no later than 30 days
23 following the filing of the report, hold a ~~permanency~~ hearing to review the report and the
24 determination that a plan for reunification services is not appropriate."

25 "(g) At ~~permanency~~ the hearing held for the purpose of reviewing the determination by the
26 Division of Family and Children Services of the Department of Human Resources that a
27 reunification plan is not appropriate, the representative of the Division of Family and
28 Children Services shall notify the court whether and when it intends to proceed with
29 termination of parental rights at that time. If the Division of Family and Children Services
30 indicates that it does not intend to petition for the termination of parental rights, the court
31 may appoint a guardian ad litem and charge such guardian with the duty of determining
32 whether termination proceedings should be commenced."

33 "(j) ~~Whenever the permanency plan is adoption or placement in another permanent home,~~
34 ~~the report submitted to the court shall document the steps to be taken by the Division of~~
35 ~~Family and Children Services of the Department of Human Resources to find an adoptive~~
36 ~~family or other permanent living arrangement for the child, to place the child with an~~

1 adoptive family, a fit and willing relative, a legal guardian, or in another planned
2 permanent living arrangement; and to finalize the adoption or legal guardianship. At a
3 minimum, such documentation shall include child specific recruitment efforts such as the
4 use of state, regional and national adoption exchanges including electronic exchange
5 systems. At the hearing required by subsection (e) of this Code section, the court shall hold
6 a permanency hearing in accordance with subsection (o) of this Code section and shall
7 consider and incorporate a permanency plan for the child in its order which shall comply
8 with subsection (o) of this Code section."

9 "(k) Except as otherwise provided by law, an order of disposition placing a deprived child
10 in foster care under the supervision of the Division of Family and Children Services of the
11 Department of Human Resources shall continue in force for 12 months after the date the
12 child is considered to have entered foster care or until sooner terminated by the court. For
13 the purposes of this subsection Code section, the date the child is considered to have
14 entered foster care shall be the date of the first judicial finding that the child has been
15 subjected to child abuse or neglect, or the date that is 60 days after the date on which the
16 child is removed from the home, whichever is earlier. All cases of children in foster care
17 in the custody of the Division of Family and Children Services of the Department of
18 Human Resources shall be initially reviewed within 90 days of the entering of the
19 dispositional order but no later than six months following the child's placement and shall
20 be conducted by the juvenile court judge, by an associate juvenile court judge or judge pro
21 tempore, or by judicial citizen review panels established by the court, as the court directs,
22 meeting such standards and using such procedures as shall be established by court rule by
23 the Supreme Court of Georgia, with the advice and consent of the Council of Juvenile
24 Court Judges. At the time of each review of every case of a child in foster care in the
25 custody of the Division of Family and Children Services of the Department of Human
26 Resources, a representative of the Division of Family and Children Services shall notify
27 the court whether such division intends to proceed with the termination of parental rights
28 at that time. If such division indicates that it does not intend to petition for the termination
29 of parental rights at that time, the court may appoint a guardian ad litem and charge such
30 guardian with the duty of determining whether termination proceedings should be
31 commenced. In the event the review is conducted by judicial citizen review panels, the
32 panel shall transmit its report, including its findings and recommendations and those of
33 such division, along with such division's proposed revised plan for reunification or other
34 permanency plan, if necessary, to the court and the parents within five days after the
35 review. Any party may request a hearing on the proposed revised plan in writing within
36 five days after receiving a copy of such plan. Following such initial review, additional

1 periodic reviews shall be held at six-month intervals. The foster parents, if any, of a child
2 and any preadoptive parent or relative providing care for the child shall be provided with
3 notice of and an opportunity to be heard in any review or hearing to be held with respect
4 to the child, except that this provision shall not be construed to require that any foster
5 parent, preadoptive parent, or relative providing care for the child be made a party to such
6 a review or hearing solely on the basis of such notice and opportunity to be heard.

7 "(n) The court which made the order may extend its duration for not more than 12 months
8 if:

9 (1) A hearing is held upon motion of the Division of Family and Children Services of the
10 Department of Human Resources prior to the expiration of the order; ~~which hearing shall,~~
~~after the making of appropriate findings of fact, determine the permanency plan of the~~
~~child. Such a permanency plan shall state whether and if applicable, when the child shall~~
~~be returned to the parent or referred for termination of parental rights and placed for~~
~~adoption or referred for legal guardianship. In cases where the Division of Family and~~
~~Children Services of the Department of Human resources has documented to the court~~
~~a compelling reason for determining that it would not be in the best interest of the child~~
~~to return home, be referred for termination of parental rights, be placed for adoption, or~~
~~be placed with a fit and willing relative or with a legal guardian, the permanency plan~~
~~shall state that the child shall be placed in another planned permanent living arrangement.~~
~~The permanency plan shall also state whether reunification services, if an effect, should~~
~~be continued. With respect to a child placed out of state, procedural safe guards shall be~~
~~applied as to whether the out-of-state placement continues to be appropriate and in the~~
~~best interest of the child, and in the case of a child who has attained age 16, the services~~
~~needed to assist the child to make a transition from foster care to independent living.~~
~~Procedural safeguards shall also be applied with respect to parental rights pertaining to~~
~~the removal of the child from he home of his or her parents, to a change in the child's~~
~~placement, and to any determination affecting visitation privileges of parents;~~

28 (2) Reasonable notice of the factual basis of the motion and of the hearing and
29 opportunity to be heard are given to the parties affected, ~~including foster parents, if any,~~
30 ~~of a child and any preadoptive parent or relative providing care for the child except that~~
31 ~~this provision shall not be construed to require that any foster parent, preadoptive parent,~~
32 ~~or relative providing care for the child be made a party to such a review or hearing solely~~
33 ~~on the basis of such notice and opportunity to be heard; and~~

34 (3) The court finds that the extension is necessary to accomplish the purposes of the
35 order extended.

1 (o) With respect to each child in the custody of the Department of Human Resources, a
2 permanency hearing shall be held by the juvenile court no later than 30 days after the
3 Division of Family and Children Services of the Department of Human Resources has
4 submitted a written report to the court which does not contain a plan for reunification
5 services as provided in subsection (e) of this Code section, or no later than 12 months after
6 the child is considered to have entered foster care, whichever comes first. Thereafter, a
7 permanency hearing shall be held not less frequently than every 12 months during the time
8 the child continues in the custody of the Department of Human Resources.

9 (1) At the time of the permanency hearing, the Division of Family and Children Services
10 of the Department of Human Resources shall submit for the court's consideration a report
11 recommending a permanency plan for the child which shall include whether and, if
12 applicable, when the child shall be returned to the parent or parents; referred for
13 termination of parental rights and adoption; referred for legal guardianship; placed
14 permanently with a fit and willing relative; or placed in another planned permanent living
15 arrangement. The report shall document the steps to be taken by the Division of Family
16 and Children Services of the Department of Human Resources to finalize the permanency
17 plan for the child. If the report recommends that the child be placed in another planned
18 permanent living arrangement, excluding a return to the parent or parents, a referral for
19 termination of parental rights and adoption, or a referral for legal guardianship or
20 permanent placement with a fit and willing relative, then the division shall also provide
21 the court with a compelling reason for such recommendation which is in the best interest
22 of the child. When the permanency plan recommended is referral for termination of
23 parental rights and adoption, such report shall include child specific recruitment efforts
24 such as the use of state, regional, and national adoption exchanges, including electronic
25 exchange systems.

26 (2) With the exception of the permanency hearing required under subsection (j) of this
27 Code section, a permanency hearing may be conducted as the court directs by the juvenile
28 court judge, by an associate juvenile court judge or judge pro tempore, or by a judicial
29 citizen review panel established by the court in the manner provided in subsection (k) of
30 this Code section except that a permanency hearing required under subsection (j) of this
31 Code section shall not be conducted by a judicial citizen review panel. A permanency
32 hearing may be held by the court at the time of the hearing on a motion to extend custody
33 permitted by subsection (n) of this Code section. The judicial citizen review panel may
34 conduct its hearing in the same manner as it conducts a case review under subsection (k)
35 of this Code section.

1 (A) In the event that the permanency hearing is conducted by a judicial citizen review
2 panel, the panel shall transmit its report, including its findings and recommendations
3 and those of the Division of Family and Children Services, to the court and the parties
4 within five days after the review. The report of the judicial citizen review panel shall
5 include all the elements required in paragraphs (4) and (5) of this subsection. Any party
6 may request a hearing on the proposed permanency plan within five days of receiving
7 a copy of such plan. If a hearing is not requested, the court shall review the proposed
8 permanency plan and enter a supplemental order incorporating all elements required by
9 paragraphs (4) and (5) of this subsection. In the event a hearing is requested on the
10 report transmitted by the judicial citizen review panel, the court shall, after hearing
11 evidence, enter a supplemental order incorporating all the elements required in
12 paragraphs (4) and (5) of this subsection.

13 (B) If a permanency hearing is held before the court, the court shall, after hearing
14 evidence, enter a supplemental order incorporating all elements of the proposed
15 permanency plan required by paragraphs (4) and (5) of this subsection.

16 (3) The parents and other parties shall be given written notice of a permanency hearing
17 at least five days in advance and shall be advised that the permanency plan recommended
18 by the Division of Family and Children Services of the Department of Human Resources
19 will be submitted to become an order of the court. Procedural safeguards, if any, shall
20 be applied with respect to parental rights pertaining to the removal of the child from the
21 home of his or her parents, to a change in the child's placement, and to any determination
22 affecting visitation privileges of parents. In addition, the foster parents, if any, of a child
23 and any preadoptive parent or relative providing care for the child, and the child, if of
24 appropriate age, shall receive written notice of the permanency hearing at least five days
25 in advance and shall be given an opportunity to be heard; provided, however, that this
26 provision shall not be construed to require a child, foster parent, preadoptive parent, or
27 relative caring for the child to be made a party to the hearing solely on the basis of such
28 notice and opportunity to be heard.

29 (4) The permanency plan incorporated in the court's order shall include whether and, if
30 applicable, when the child shall be returned to the parent or parents, referred for
31 termination of parental rights and adoption, referred for legal guardianship, placed
32 permanently with a fit and willing relative, or placed in another planned permanent
33 living arrangement. If the judicial citizen review panel reports that the child should be
34 placed in another planned permanent living arrangement, excluding a return to the parent
35 or parents, a referral for termination of parental rights and adoption, or a referral for legal
36 guardianship or permanent placement with a fit and willing relative, then the court must

1 also find that there is a compelling reason for the child to be placed in another such
2 planned permanent living arrangement which is in the best interests of the child. If the
3 court finds that the child should be placed in another planned living arrangement then the
4 court must include a compelling reason for such placement which is in the best interest
5 of the child in its supplemental order.

6 (5) The court or judicial citizen review panel, if applicable, which conducts the
7 permanency hearing shall determine, as a finding of fact, whether the Division of Family
8 and Children Services of the Department of Human Resources has made reasonable
9 efforts to finalize the permanency plan which is in effect at the time of the hearing.
10 Further, the court or the judicial citizen review panel, if applicable, shall determine as a
11 finding of fact whether, in the case of a child placed out of the state, the out-of-state
12 placement continues to be appropriate and in the best interest of the child and, in the case
13 of a child who has attained the age of 14, the services needed to assist the child to make
14 a transition from foster care to independent living. Such findings of fact shall be made a
15 part of the report of the judicial citizen review panel to the court and any supplemental
16 order entered by the court.

17 (6) A supplemental order of the court adopting the permanency plan must be entered
18 within 30 days after the court has determined that reunification efforts will not be made
19 by the Division of Family and Children Services of the Department of Human Resource,
20 if applicable, or within 12 months after the child is considered to have entered foster care,
21 whichever is first, and at least every 12 months thereafter while the child is in foster care,
22 unless the court finds good cause why such order cannot be entered by that time.

23 (e)(p) Except as otherwise provided by law, any other order of disposition in a proceeding
24 involving delinquency, unruliness, or deprivation, except in an order involving the
25 appointment of a guardian of the person or property of a child, continues in force for not
26 more than two years. The court may sooner terminate its order or extend its duration for
27 further periods. An order of extension may be made if:

- 28 (1) A hearing is held prior to the expiration of the order upon motion of a party or on the
29 court's own motion.
- 30 (2) Reasonable notice of the factual basis of the motion and of the hearing and
31 opportunity to be heard are given to the parties affected;
- 32 (3) The court finds that the extension is necessary to accomplish the purposes of the
33 order extended; and
- 34 (4) The extension does not exceed two years from the expiration of the prior order.

(p)(q) Except as provided in Code Section 15-11-70, the court may terminate an order of disposition or extension prior to its expiration, on or without an application of a party, if it appears to the court that the purposes of the order have been accomplished.

4 (q) Unless otherwise provided by law, when the child reaches 21 years of age all orders
5 affecting him or her then in force terminate and he or she is discharged from further
6 obligation or control."

SECTION 2.

8 This Act shall become effective upon its approval by the Governor or upon its becoming
9 law without such approval.

SECTION 3.

11 All laws and parts of laws in conflict with this Act are repealed.