

Senate Bill 428

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

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 style="text-align:center">**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), (k), (n),
14 (o), (p), and (q) of Code Section 15-11-58, relating to reasonable efforts regarding
15 reunification of family, reports and plans, custody orders when reunification found not to be
16 in child's best interest, duration of orders, review of determinations, hearings, and
17 supplemental orders, and 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~~ If the court places custody of the child in the Division of Family and Children Services
21 of the Department of Human Resources, the court shall also determine as a finding of fact
22 whether reasonable efforts were made by the Division of Family and Children Services of
23 the Department of Human Resources and any other appropriate agencies to preserve and
24 reunify families prior to the placement of a child in foster care the custody of the
25 Department of Human Resources, to prevent or eliminate the need for removal of the child
26 from that child's home, and to make it possible for the child to return safely to the child's

1 home. Such findings shall also be made at every subsequent review of the court's order
2 under this chapter.

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

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

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

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

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

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

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

22 (B) The parent has:

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

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

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

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

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

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

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

35 (B) Reasonable efforts shall be made to place the child in a timely manner in
36 accordance with the permanency plan and to complete whatever steps are necessary to
37 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~~
37 ~~adoptive family, a fit and willing relative, a legal guardian, or in another planned~~

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

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

1 notice of and an opportunity to be heard in any review or hearing to be held with respect
 2 to the child, except that this provision shall not be construed to require that any foster
 3 parent, preadoptive parent, or relative providing care for the child be made a party to such
 4 a review or hearing solely on the basis of such notice and opportunity to be heard.

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

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

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

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

34 (o) With respect to each child in the custody of the Department of Human Resources, a
 35 permanency hearing shall be held no later than 30 days after the Division of Family and
 36 Children Services of the Department of Human Resources has submitted a written report
 37 to the court which does not contain a plan for reunification services as provided in

1 subsection (j) of this Code section, or no later than 12 months after the child is considered
2 to have entered foster care, whichever comes first. Thereafter, a permanency hearing shall
3 be held not less frequently than every 12 months during the time the child continues in the
4 custody of the Department of Human Resources. A permanency hearing may be held by
5 the court at the time of the hearing on a motion to extend custody permitted by subsection
6 (n) of this Code section.

7 (1) At the time of the permanency hearing, the Division of Family and Children Services
8 of the Department of Human Resources shall submit for the court's consideration a report
9 recommending a permanency plan for the child which shall include whether and, if
10 applicable, when the child shall be returned to the parent or parents; referred for
11 termination of parental rights and adoption; referred for legal guardianship; placed
12 permanently with a fit and willing relative; or, in the case where the division has provided
13 a compelling reason that one of the foregoing options would not be in the best interest of
14 the child, placed in another planned permanent living arrangement. The report shall
15 include documentation of the steps to be taken by the Division of Family and Children
16 Services of the Department of Human Resources to finalize the permanent placement of
17 the child. When the permanency plan recommended is referral for termination of parental
18 rights and adoption, such report shall include child specific recruitment efforts such as
19 the use of state, regional, and national adoption exchanges, including electronic exchange
20 systems.

21 (2) The permanency hearing may be conducted as the court directs by the juvenile court
22 judge or by an associate juvenile court judge or judge pro tempore. The court may also
23 direct that the permanency hearing be conducted by a judicial citizen review panel
24 established by the court in the manner provided in subsection (k) of this Code section,
25 unless the permanency hearing is one required under subsection (j) of this Code section
26 as a result of a recommendation that reunification services are not appropriate. The
27 judicial citizen review panel may conduct its hearing in the same manner as it conducts
28 a case review under subsection (k) of this Code section.

29 (A) In the event that the permanency hearing is conducted by a judicial citizen review
30 panel, the panel shall transmit its report, including its findings and recommendations
31 and those of the Division of Family and Children Services, to the court and the parties
32 within five days after such hearing. The report of the judicial citizen review panel shall
33 include all the elements required in paragraphs (4) and (5) of this subsection. Any party
34 may request a hearing on the proposed permanency plan by submitting a request in
35 writing within five days of receiving a copy of such plan. If a hearing is not requested,
36 the court shall review the proposed permanency plan and enter a supplemental order
37 incorporating all elements required by paragraphs (4) and (5) of this subsection. In the

1 event a hearing before the court is requested on the report transmitted by the judicial
2 citizen review panel, the court shall, after hearing evidence, enter a supplemental order
3 incorporating all the elements required in paragraphs (4) and (5) of this subsection.

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

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

19 (4) The permanency plan incorporated in the court's order shall include whether and, if
20 applicable, when the child shall be returned to the parent or parents, referred for
21 termination of parental rights and adoption, referred for legal guardianship, or placed
22 permanently with a fit and willing relative. If the court finds that there is a compelling
23 reason that it would not be in the child's best interests to be returned to the parent or
24 parents, referred for termination of parental rights and adoption, referred for legal
25 guardianship, or placed permanently with a fit and willing relative, then the court's order
26 shall document the compelling reason and provide that the child should be placed in
27 another planned permanent living arrangement.

28 (5) The court or judicial citizen review panel which conducts the permanency hearing
29 shall determine, as a finding of fact, whether the Division of Family and Children
30 Services of the Department of Human Resources has made reasonable efforts to finalize
31 the permanency plan which is in effect at the time of the hearing. Further, the court or the
32 judicial citizen review panel, if applicable, shall determine as a finding of fact whether,
33 in the case of a child placed out of the state, the out-of-state placement continues to be
34 appropriate and in the best interest of the child and, in the case of a child who has attained
35 the age of 14, shall determine the services needed to assist the child to make a transition
36 from foster care to independent living. Such findings of fact shall be made a part of the

1 report of the judicial citizen review panel to the court and any supplemental order entered
 2 by the court.

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

9 ~~(o) Except as otherwise provided by law, any other order of disposition in a proceeding~~
 10 ~~involving delinquency, unruliness, or deprivation, except in an order involving the~~
 11 ~~appointment of a guardian of the person or property of a child, continues in force for not~~
 12 ~~more than two years. The court may sooner terminate its order or extend its duration for~~
 13 ~~further periods. An order of extension may be made if:~~

14 ~~(1) A hearing is held prior to the expiration of the order upon motion of a party or on the~~
 15 ~~court's own motion;~~

16 ~~(2) Reasonable notice of the factual basis of the motion and of the hearing and~~
 17 ~~opportunity to be heard are given to the parties affected;~~

18 ~~(3) The court finds that the extension is necessary to accomplish the purposes of the~~
 19 ~~order extended; and~~

20 ~~(4) The extension does not exceed two years from the expiration of the prior order.~~

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

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

27 SECTION 2.

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

30 SECTION 3.

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