

House Bill 41

By: Representative Oliver of the 56th, Post 2

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 15-11-55 of the Official Code of Georgia Annotated, relating to
2 disposition of a deprived child, so as to change certain provisions relating to whom
3 temporary legal custody may be transferred; to provide a preference for transferring
4 temporary legal custody to certain persons; to provide for conditions and procedures; to
5 provide for searches for certain persons; to provide for a rebuttable presumption; to repeal
6 conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Code Section 15-11-55 of the Official Code of Georgia Annotated, relating to disposition of
10 a deprived child, is amended by striking subsection (a) and inserting in lieu thereof the
11 following:

12 "(a) If the child is found to be a deprived child, the court may make any of the following
13 orders of disposition best suited to the protection and physical, mental, and moral welfare
14 of the child:

15 (1) Permit the child to remain with his or her parents, guardian, or other custodian,
16 including a putative father without limitation a biological father who is not a legal father,
17 subject to conditions and limitations as the court prescribes, including supervision as
18 directed by the court for the protection of the child;

19 (2) Subject to conditions and limitations as the court prescribes, transfer temporary legal
20 custody to any of the persons or entities described in this paragraph. Without limiting the
21 generality of the foregoing, such conditions and limitations shall include a provision that
22 the court shall approve or direct the retransfer of the physical custody of the child back
23 to the parents, guardian, or other custodian either upon the occurrence of specified
24 circumstances or in the discretion of the court. Any such retransfer of physical custody
25 may be made subject to such further conditions and limitations as the court prescribes,

1 including supervision for the protection of the child. The persons or entities to whom or
2 which temporary legal custody may be transferred shall include the following:

3 (A)(i) Any individual, including a putative father without limitation a biological
4 father who is not a legal father, who, after study by the probation officer or other
5 person or agency designated by the court, is found by the court to be qualified to
6 receive and care for the child.

7 (ii) The court shall first attempt to transfer temporary legal custody of the child to a
8 person related to the child by blood or marriage or an unrelated person or custodian
9 who has demonstrated an ongoing commitment to the child before transferring
10 temporary legal custody to any other person or entity described in this paragraph.

11 (iii) Before transferring temporary legal custody under this paragraph, a reasonably
12 diligent search for a parent or relative of the child or other persons who have
13 demonstrated an ongoing commitment to the child shall be conducted by the court and
14 the Department of Human Resources. Such a search shall be completed within 90
15 days from the date on which the child entered custody and shall include the
16 documented efforts of a social service agency to identify and locate persons including,
17 but not limited to, the child's biological mother, biological father, legal father,
18 maternal grandparents, paternal grandparents, maternal aunts and uncles, paternal
19 aunts and uncles, maternal great-grandparents, and paternal great-grandparents and
20 other persons identified during the process of the search, including any unrelated
21 person or custodian who has demonstrated an ongoing commitment to the child.

22 (iv) A placement effected under this subparagraph shall be conditioned upon the
23 person who is given temporary legal custody agreeing to abide by the terms and
24 conditions of the order of the court.

25 (v) A placement shall be made under the terms of this subparagraph only if such a
26 placement is in the best interest of the child.

27 (vi) In effecting a transfer of temporary legal custody under this paragraph, there
28 shall be a rebuttable presumption that it is in the best interest of the child for him or
29 her to be placed with a person related to the child by blood or marriage. Such
30 presumption may be rebutted upon a finding by the court that the child's interest,
31 considering his or her age, emotional well-being, any attachment and bonding issues,
32 and the opportunity for the child to be placed with his or her bonded siblings, is better
33 served by granting custody to another suitable individual or custodian. If such a
34 finding is made, placement shall be made as provided in this paragraph with an
35 individual or custodian who has had physical custody of the child for at least six of
36 the last 24 months or half the child's life, whichever period is less, or an individual
37 who has previously adopted a sibling or an individual or custodian who presently has

1 custody of a sibling, provided that there is a demonstrated sibling bond in need of
2 protection for the best interest of the child;

3 (B) An agency or other private organization licensed or otherwise authorized by law
4 to receive and provide care for the child;

5 (C) Any public agency authorized by law to receive and provide care for the child; or

6 (D) An individual in another state with or without supervision by an appropriate officer
7 under Code Section 15-11-89; or

8 (3) Without making any of the orders specified in paragraphs (1) and (2) of this
9 subsection, transfer custody of the child to the court of another state exercising
10 jurisdiction over children if authorized by and in accordance with Code Section 15-11-87
11 if the child is or is about to become a resident of that state."

12 **SECTION 2.**

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