

Senate Bill 326

By: Senator Hamrick of the 30th

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 1 of Chapter 9 of Title 19 of the Official Code of Georgia Annotated,  
2 relating to child custody in general, so as to change provisions relating to the right of children  
3 of certain ages who are the subject of custody cases to influence the selection of the custodial  
4 parent; to provide for related matters; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Article 1 of Chapter 9 of Title 19 of the Official Code of Georgia Annotated, relating to child  
8 custody in general, is amended by striking paragraph (3) of subsection (a) of Code Section  
9 19-9-1, relating to determination of child custody, and inserting in its place a new paragraph  
10 to read as follows:

11 ~~"(3)(A) In all cases in which the child has reached the age of 14 years, the child shall~~  
12 ~~have the right to select the parent with whom he or she desires to live. The child's~~  
13 ~~selection shall be controlling, unless the parent so selected is determined not to be a fit~~  
14 ~~and proper person to have the custody of the child.~~

15 ~~(B)~~ In all cases in which the child has reached the age of at least 11 but not ~~14~~ 18  
16 years, the court shall consider the desires, if any, and educational needs of the child in  
17 determining which parent shall have custody. The court shall have complete discretion  
18 in making this determination, and the child's desires are not controlling. The court shall  
19 further have broad discretion as to how the child's desires are to be considered,  
20 including through the report of a guardian ad litem. The best interest of the child  
21 standard shall be controlling.

22 ~~(C)~~(B) The desire of a child who has reached the age of 11 years but not ~~14~~ 18 years  
23 shall not, in and of itself, constitute a material change of conditions or circumstances  
24 in any action seeking a modification or change in the custody of that child.

25 ~~(D)~~(C) The court may issue an order granting temporary custody to the selected parent  
26 for a trial period not to exceed six months regarding the custody of a child who has

1 reached the age of at least 11 years where the judge hearing the case determines such  
2 a temporary order is appropriate."

3 **SECTION 2.**

4 Said article is further amended by striking paragraphs (4) and (4.1) of subsection (a) of Code  
5 Section 19-9-3, relating to discretion of the court in custody cases, and inserting in their place  
6 a new paragraph (4) to read as follows:

7 "~~(4) In all custody cases in which the child has reached the age of 14 years, the child~~  
8 ~~shall have the right to select the parent with whom he or she desires to live. The child's~~  
9 ~~selection shall be controlling unless the parent so selected is determined not to be a fit and~~  
10 ~~proper person to have the custody of the child.~~

11 ~~(4.1)~~ In all custody cases in which the child has reached the age of at least 11 but not ~~14~~  
12 18 years, the court shall consider the desires and educational needs of the child in  
13 determining which parent shall have custody. The child's selection shall not be  
14 controlling. The best interests of the child standard shall apply."

15 **SECTION 3.**

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