

The Senate Children and Youth Committee offered the following substitute to SB 236:

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 provide for additional placement options; to change certain
3 provisions regarding definitions; to change certain provisions regarding reunification efforts;
4 to change certain provisions regarding child placement following termination orders; to
5 provide for related matters; to provide an effective date; to repeal conflicting laws; and for
6 other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

8 Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to juvenile
9 proceedings, is amended by striking paragraph (5) of Code Section 15-11-2, relating to
10 definitions, and inserting in its place the following:

11 "(5) 'Custodian' means:

12 (A) A person ~~a person~~, other than a parent or legal guardian, who stands in loco
13 parentis to the child or a person to whom legal custody of the child has been given by
14 order of a court, ~~and who has the rights and duties provided in Code Section 15-11-13;~~
15 or

16 (B) A public or private agency or other private organization licensed or otherwise
17 authorized by law to receive and provide care for a child to which legal custody of the
18 child has been given by order of a court."
19

SECTION 2.

20 Said chapter is further amended by striking paragraph (2) of subsection (a) of Code Section
21 15-11-55, relating to disposition of deprived child, and inserting in its place the following:

22 "(2) Subject to conditions and limitations as the court prescribes, transfer temporary legal
23 custody to any of the persons or entities described in this paragraph. Without limiting the
24 generality of the foregoing, such conditions and limitations shall include a provision that
25 the court shall approve or direct the retransfer of the physical custody of the child back
26

1 to the parents, guardian, or other custodian either upon the occurrence of specified
 2 circumstances or in the discretion of the court. Any such retransfer of physical custody
 3 may be made subject to such further conditions and limitations as the court prescribes,
 4 including supervision for the protection of the child. The persons or entities to whom or
 5 which temporary legal custody may be transferred shall include the following:

6 (A) Any individual including a putative father who, after study by the probation officer
 7 or other person or agency designated by the court, is found by the court to be qualified
 8 to receive and care for the child;

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

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

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

14 Except for dispositions pursuant to paragraph (1) of subsection (a) of Code Section
 15 15-11-66 and Code Section 15-11-67, before transferring temporary legal custody in an
 16 order of disposition under this paragraph a reasonably diligent search for a parent or
 17 relative of the child or other persons who have demonstrated an ongoing commitment to
 18 the child shall be conducted by the court and the Department of Human Resources. Such
 19 search shall be completed within 90 days from the date on which the child was removed
 20 from the home. During such 90 day period, the child may be placed in the temporary
 21 legal custody of the Department of Human Resources or any other appropriate entity or
 22 person; or"

23 SECTION 3.

24 Said chapter is further amended by striking subsections (b), (d), (i), (k), (l), and (o) of Code
 25 Section 15-11-58, relating to reunification efforts, and inserting in their place new
 26 subsections (b), (d), (i), (k), (l), and (o), respectively, to read as follows:

27 "(b) Within 30 days of the date a child who is placed in the custody of the Department of
 28 Human Resources is removed from the home and at each subsequent review of the
 29 disposition order, the Division of Family and Children Services of the Department of
 30 Human Resources must submit a written report to the court which shall either include a
 31 case plan for a reunification of the family or include a statement of the factual basis or
 32 bases for determining that a plan for reunification is not appropriate. Such report shall
 33 become a discrete part of the case record in a format determined by the Division of Family
 34 and Children Services of the Department of Human Resources and shall be made available
 35 to the parents or guardian of the foster child. The contents of the report shall be determined
 36 at a meeting to be held by the Division of Family and Children Services of the Department

1 of Human Resources in consultation with the judicial citizen review panel, if one is
2 designated by the court for such purpose, and the parents and children, when available. The
3 parents shall be given written notice of the meeting at least five days in advance and shall
4 be advised that the report will be submitted to ~~become an order of the court~~ for
5 consideration to become an order of the court. The report submitted to the court shall also
6 contain any dissenting recommendations of the judicial citizen review panel, if applicable,
7 and any recommendations of the parents, if such are available."

8 "(d) If the submitted report contains a proposed plan for reunification services, and no
9 hearing is requested as provided in this Code section, the court shall enter a dispositional
10 order or supplemental order incorporating all elements of the plan for reunification services
11 which the court finds essential to reunification of the child with his or her family,
12 specifying what must be accomplished by all parties before reunification of the family can
13 be achieved. If the report contains a plan for reunification services, a copy of the report
14 must be transmitted to the parents at the same time the report is transmitted to the court,
15 along with written notice that the report will be ~~made the order of~~ considered by the court
16 without a hearing unless, within five days from the date the copy of the report was
17 received, the parents request a hearing before the court to review the report. The Division
18 of Family and Children Services of the Department of Human Resources shall provide the
19 custodian of the child, the foster parents of the child, and any preadoptive parents or
20 relatives providing care for the child with a copy of those portions of the court approved
21 plan that involve the permanency goal and the services to be provided to the child. The
22 provisions of subsection (p) of this Code section concerning notice, opportunity to be
23 heard, authority of the court, and content of the court's order are applicable to proceedings
24 under this subsection."

25 "(i)(1) ~~If, after a judicial hearing in which the court finds that reunification is not in the~~
26 ~~best interests of the child and custody is granted to a relative, the custody order shall~~
27 ~~remain in effect until the child's eighteenth birthday unless modified following a petition~~
28 ~~for modification by a party pursuant to Code Section 15-11-40. Within 36 months of the~~
29 ~~custody order and every 36 months thereafter, a probation officer, judicial citizen review~~
30 ~~panel established by the court, or other person or agency designated by the court shall,~~
31 ~~after study or review, submit a report to the court addressing whether the relative with~~
32 ~~custody continues to be qualified to receive and care for the child. A copy of the report~~
33 ~~shall be mailed to the parents at their last known address. If the court has entered an order~~
34 ~~finding that reasonable efforts to reunify a child with his or her family would be~~
35 ~~detrimental to the child in accordance with subsection (h) of this Code section and if the~~
36 ~~court finds that referral for termination of parental rights and adoption is not in the best~~

1 interest of the child, the court may, upon proper petition, enter a custody order which
 2 shall remain in effect until the child's eighteenth birthday:

3 (A) Placing the child in the custody of a relative of the child if such a person is willing
 4 and, after study by the probation officer or other person or agency designated by the
 5 court, is found by the court to be qualified to receive and care for the child;

6 (B) Placing the child in the custody of any nonrelative individual who, after study by
 7 the probation officer or other person or agency designated by the court, is found by the
 8 court to be qualified to receive and care for the child;

9 (C) Placing the child in the custody of a suitable individual custodian in another state
 10 pursuant to the provisions of Code Section 15-11-89; or

11 (D) In the case where the court has found a compelling reason that a placement
 12 pursuant to subparagraph (A), (B), or (C) of this paragraph is not in the child's best
 13 interest, placing the child in the custody of an agency or organization licensed or
 14 otherwise authorized by law to receive and provide care for the child which is operated
 15 in a manner that provides such care, guidance, and control as would be provided in a
 16 family home as defined in the court's order.

17 Such order may be modified following a petition for modification by a party or upon
 18 motion of the court pursuant to Code Section 15-11-40.

19 (2) A probation officer, judicial citizen review panel established by the court, or other
 20 person or agency designated by the court shall, after study or review, submit a report to
 21 the court addressing whether the custodian to whom custody of a child has been given
 22 pursuant to this Code section continues to be qualified to receive and care for the child
 23 within:

24 (A) Thirty-six months of an order placing a child in the custody of a relative pursuant
 25 to subparagraph (A) of paragraph (1) of this subsection and every 36 months thereafter;
 26 or

27 (B) Twelve months of an order placing a child in the custody of a nonrelative, an
 28 out-of-state custodian, or an agency or organization licensed or otherwise authorized
 29 by law to receive and provide care for the child pursuant to subparagraph (B), (C), or
 30 (D) of paragraph (1) of this subsection and every 12 months thereafter.

31 (3) Whenever a child is placed in the custody of an agency or organization licensed or
 32 otherwise authorized by law to receive and provide care for the child pursuant to
 33 subparagraph (D) of paragraph (1) of this subsection, such agency or organization shall
 34 be charged with the responsibility of notifying the court within ten days in the event its
 35 license is placed on probation, suspended, revoked, or surrendered and, in such event, the
 36 court shall conduct a judicial review within ten days of such notification to determine
 37 whether another placement should be made for the child."

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

1 a party to such a review or hearing solely on the basis of such notice and opportunity to be
2 heard. The provisions of subsection (p) of this Code section concerning notice, opportunity
3 to be heard, authority of the court, and content of the court's order are applicable to
4 proceedings under this subsection.

5 (l) If no hearing is requested or scheduled by the court on its own motion, the court shall
6 review the proposed revised plan and enter a supplemental order incorporating a revised
7 plan as part of its disposition in the case. In the event that a hearing is held, the court shall,
8 after hearing evidence, enter a supplemental order incorporating all elements that the court
9 finds essential in the proposed revised plan. The provisions of subsection (p) of this Code
10 section concerning notice, opportunity to be heard, authority of the court, and content of
11 the court's order are applicable to proceedings under this subsection. The judge's
12 supplemental order shall be entered within a reasonable time from the conclusion of the
13 hearing or expiration of the time for the hearing to be requested and shall also provide one
14 of the following:

15 (1) That the child return to the home of his or her parents, legal guardian, or custodian
16 with or without court imposed conditions;

17 (2) That the child continue in the current custodial placement and that the current
18 placement is appropriate for the child's needs; or

19 (3) That the child continue in the current custodial placement but that the current
20 placement plan is no longer appropriate for the child's needs and direct the department
21 to devise another plan within available resources. The new plan must be submitted within
22 ten days for court approval. Copies of any court approved revised plan shall be furnished
23 to all parties. The Division of Family and Children Services of the Department of Human
24 Resources shall provide the custodian of the child, the foster parents of the child, and any
25 preadoptive parents or relatives providing care for the child with a copy of those portions
26 of the court approved revised plan that involve the permanency goal and the services to
27 be provided to the child.

28 In the event that the judicial citizen review panel determines that the parents have
29 unjustifiably failed to comply with the ordered plan designed to reunite the family and that
30 such failure is significant enough to warrant consideration of termination of parental rights,
31 the panel may make a recommendation to the guardian ad litem of the child, the Division
32 of Family and Children Services of the Department of Human Resources, and the intake
33 officer of the court that a petition for termination of parental rights should be prepared. Any
34 such party or officer of the court shall file a petition if, upon examination, they find
35 sufficient evidence. In the event that no guardian ad litem has been appointed when the
36 judicial citizen review panel recommends that a petition to terminate parental rights be

1 filed, the court shall have the authority to appoint a guardian ad litem who shall have the
2 duty to determine whether termination proceedings should be commenced."

3 "(o)(1) With respect to each child in the custody of the Department of Human Resources,
4 a permanency hearing shall be held no later than 30 days after the Division of Family and
5 Children Services of the Department of Human Resources has submitted a written report
6 to the court which does not contain a plan for reunification services as provided in
7 subsection (j) of this Code section, or no later than 12 months after the child is considered
8 to have entered foster care, whichever comes first. Thereafter, a permanency hearing
9 shall be held not less frequently than every 12 months during the time the child continues
10 in the custody of the Department of Human Resources. A permanency hearing may be
11 held by the court at the time of the hearing on a motion to extend custody permitted by
12 subsection (n) of this Code section. The provisions of subsection (p) of this Code section
13 concerning notice, opportunity to be heard, authority of the court, and content of the
14 court's order are applicable to proceedings under this paragraph.

15 ~~(1)~~(2) At the time of the permanency hearing, the Division of Family and Children
16 Services of the Department of Human Resources shall submit for the court's
17 consideration a report recommending a permanency plan for the child which shall include
18 whether and, if applicable, when the child shall be returned to the parent or parents;
19 referred for termination of parental rights and adoption; referred for legal guardianship;
20 placed permanently with a fit and willing relative; or, in the case where the division has
21 provided a compelling reason that ~~one~~ none of the foregoing options would ~~not~~ be in the
22 best interest of the child, placed in another planned permanent living arrangement. The
23 report shall include documentation of the steps to be taken by the Division of Family and
24 Children Services of the Department of Human Resources to finalize the permanent
25 placement of the child. When the permanency plan recommended is referral for
26 termination of parental rights and adoption, such report shall include child specific
27 recruitment efforts such as the use of state, regional, and national adoption exchanges,
28 including electronic exchange systems. The provisions of subsection (p) of this Code
29 section concerning notice, opportunity to be heard, authority of the court, and content of
30 the court's order are applicable to proceedings under this paragraph.

31 ~~(2)~~(3) The permanency hearing may be conducted as the court directs by the juvenile
32 court judge or by an associate juvenile court judge or judge pro tempore. The court may
33 also direct that the permanency hearing be conducted by a judicial citizen review panel
34 established by the court in the manner provided in subsection (k) of this Code section,
35 unless the permanency hearing is one required under subsection (j) of this Code section
36 as a result of a recommendation that reunification services are not appropriate. The
37 judicial citizen review panel may conduct its hearing in the same manner as it conducts

1 a case review under subsection (k) of this Code section. The provisions of subsection (p)
 2 of this Code section concerning notice, opportunity to be heard, authority of the court,
 3 and content of the court's order are applicable to proceedings under this paragraph.

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

18 (B) If a permanency hearing is held before the court, the court shall, after hearing
 19 evidence, enter a supplemental order incorporating all elements of the proposed
 20 permanency plan required by paragraphs ~~(4)~~ (5) and ~~(5)~~ (6) of this subsection that the
 21 court finds essential in the proposed permanency plan.

22 ~~(3)(4)~~ The parents, the custodian of the child, the foster parents of the child, any
 23 preadoptive parent or relative providing care for the child, and other parties shall be given
 24 written notice of a permanency hearing at least five days in advance and shall be advised
 25 that the permanency plan recommended by the Division of Family and Children Services
 26 of the Department of Human Resources will be submitted to ~~become an order~~ of the court
 27 for consideration to become an order of the court. Procedural safeguards shall be applied
 28 with respect to parental rights pertaining to the removal of the child from the home of his
 29 or her parents, to a change in the child's placement, and to any determination affecting
 30 visitation privileges of parents. The provisions of subsection (p) of this Code section
 31 concerning notice, opportunity to be heard, authority of the court, and content of the
 32 court's order are applicable to proceedings under this paragraph. ~~In addition, the foster~~
 33 ~~parents, if any, of a child and any preadoptive parent or relative providing care for the~~
 34 ~~child shall receive written notice of the permanency hearing at least five days in advance~~
 35 ~~and shall be given an opportunity to be heard; provided, however, that this provision shall~~
 36 ~~not be construed to require a foster parent, preadoptive parent, or relative caring for the~~

1 ~~child to be made a party to the hearing solely on the basis of such notice and opportunity~~
 2 ~~to be heard.~~

3 ~~(4)~~(5) The permanency plan incorporated in the court's order shall include whether and,
 4 if applicable, when the child shall be returned to the parent or parents, referred for
 5 termination of parental rights and adoption, referred for legal guardianship, or placed
 6 permanently with a fit and willing relative. If the court finds that there is a compelling
 7 reason that it would not be in the child's best interests to be returned to the parent or
 8 parents, referred for termination of parental rights and adoption, referred for legal
 9 guardianship, or placed permanently with a fit and willing relative, then the court's order
 10 shall document the compelling reason and provide that the child should be placed in
 11 another planned permanent living arrangement as defined in the court's order. The
 12 provisions of subsection (p) of this Code section concerning notice, opportunity to be
 13 heard, authority of the court, and content of the court's order are applicable to
 14 proceedings under this paragraph.

15 ~~(5)~~(6) The court or judicial citizen review panel which conducts the permanency hearing
 16 shall determine, as a finding of fact, whether the Division of Family and Children
 17 Services of the Department of Human Resources has made reasonable efforts to finalize
 18 the permanency plan which is in effect at the time of the hearing. Further, the court or
 19 the judicial citizen review panel, if applicable, shall determine as a finding of fact
 20 whether, in the case of a child placed out of the state, the out-of-state placement continues
 21 to be appropriate and in the best interest of the child and, in the case of a child who has
 22 attained the age of 14, shall determine the services needed to assist the child to make a
 23 transition from foster care to independent living. Such findings of fact shall be made a
 24 part of the report of the judicial citizen review panel to the court and any supplemental
 25 order entered by the court. The provisions of subsection (p) of this Code section
 26 concerning notice, opportunity to be heard, authority of the court, and content of the
 27 court's order are applicable to proceedings under this paragraph.

28 ~~(6)~~(7) A supplemental order of the court adopting the permanency plan must be entered
 29 within 30 days after the court has determined that reunification efforts will not be made
 30 by the Division of Family and Children Services of the Department of Human Resources,
 31 if applicable, or within 12 months after the child is considered to have entered foster care,
 32 whichever is first, and at least every 12 months thereafter while the child is in foster care,
 33 unless the court finds good cause why such order cannot be entered by that time."

34 SECTION 4.

35 Said chapter is further amended by adding a new subsection (p) to Code Section 15-11-58,
 36 relating to reunification efforts, to read as follows:

1 permanent custody or who is granted an adoption of the child agreeing to abide by the
 2 terms and conditions of the order of the court. ~~A placement shall be made under the terms~~
 3 ~~of this paragraph only if such a placement is in the best interest of the child.~~

4 (2) If no placement of the child is effected under paragraph (1) of this subsection, the
 5 court may ~~make any of the following dispositions:~~ commit the child to the custody of the
 6 Department of Human Resources or to a licensed child-placing agency willing to accept
 7 custody for the purpose of placing the child for adoption ~~or, in the absence of an~~
 8 ~~adoption, in a foster home, or, if the court determines such placement is most appropriate~~
 9 for the child.

10 (3) If no placement of the child is effected under paragraph (1) or (2) of this subsection,
 11 the court may commit the child to a suitable individual on the condition that the person
 12 becomes the guardian of the person of the child pursuant to the court's authority under
 13 Code Section 15-11-30.1, if the court determines such placement is most appropriate for
 14 the child.

15 (4) If no placement of the child is effected under paragraph (1), (2), or (3) of this
 16 subsection, the court may commit the child to the custody of the Department of Human
 17 Resources or to a licensed child-placing agency willing to accept custody for the purpose
 18 of placing the child in a foster home, if the court determines such placement is most
 19 appropriate for the child.

20 (5) If no placement of the child is effected under paragraph (1), (2), (3), or (4) of this
 21 subsection, the court may commit the child to the custody of an agency or organization
 22 authorized by law to receive and provide care for children which is operated in a manner
 23 that provides such care, guidance, and control as would be provided in a family home as
 24 defined in the court's order, if the court determines that such placement is most
 25 appropriate for the child.

26 (6) If no placement of the child is effected under paragraph (1), (2), (3), (4), or (5) of this
 27 subsection, the court may take other suitable measures for the care and welfare of the
 28 child.

29 (b) A placement may be made under the terms of this Code section only if the court finds
 30 that such placement is in the best interest of the child.

31 ~~(b)~~(c) The court shall transmit a copy of every final order terminating the parental rights
 32 of a parent to the ~~Division of Family and Children Services Adoption Unit~~ Office of
 33 Adoptions of the Department of Human Resources within 15 days of the filing of such
 34 order.

35 ~~(c)~~(d) The custodian has authority to consent to the adoption of the child, the child's
 36 marriage, the child's enlistment in the armed forces of the United States, and surgical and
 37 other medical treatment for the child.

1 ~~(d)~~(e) If Except in those cases where the child was placed pursuant to paragraph (3) or (5)
2 of subsection (a) of this Code section, if a petition seeking the adoption of the child is not
3 filed within one year after the date of the disposition order, the court shall then, and at least
4 yearly thereafter as long as the child remains unadopted, review the circumstances of the
5 child to determine what efforts have been made to assure that the child will be adopted. The
6 court may then enter such orders as it deems necessary to further the adoption, including
7 but not limited to another placement. In those cases where the child was placed with a
8 guardian of the child's person pursuant to paragraph (3) of subsection (a) of this Code
9 section, the guardian shall report to the court in the same manner and at the same frequency
10 as is required for guardians of the person of minors appointed by the judge of the probate
11 court. In those cases where the child was placed pursuant to paragraph (5) of subsection (a)
12 of this Code section, the court shall, at least yearly thereafter as long as the child remains
13 subject to the jurisdiction of the court, review the circumstances of the child to determine
14 that placement in the family home-like setting continues to be in the child's best interests."

15 **SECTION 6.**

16 This Act shall become effective on July 1, 2003.

17 **SECTION 7.**

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