

House Bill 1632

By: Representatives Butler of the 88th, Post 1, Oliver of the 56th, Post 2, Bordeaux of the 125th, Stokes of the 72nd, Harper of the 88th, Post 2, and others

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 certain matters relating to a child under
3 circumstances where one parent has been convicted of the murder of the child's other parent;
4 to amend certain provisions relating to reunification; to amend certain provisions relating to
5 grounds for termination of parental rights; to provide for related matters; to repeal conflicting
6 laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to juvenile
10 proceedings, is amended by striking paragraph (4) of subsection (a) and subsection (m) of
11 Code Section 15-11-58 of the Official Code of Georgia Annotated, relating to reunification
12 plans, and inserting in lieu thereof the following:

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

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

18 (B) The parent has:

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

20 (ii) Been convicted of the murder of the other parent of the child;

21 ~~(ii)~~(iii) Committed voluntary manslaughter of another child of the parent;

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

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

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

1 "(m) In the event that a child has been in foster care under the responsibility of the
 2 Division of Family and Children Services of the Department of Human Resources for 15
 3 of the most recent 22 months, or, if the court has determined a child to be an abandoned
 4 infant, as set forth in subsection (b) of Code Section 15-11-94, or has made a determination
 5 that the parent has committed murder of another child of the parent; been convicted of the
 6 murder of the other parent of the child; committed voluntary manslaughter of another child
 7 of the parent; aided or abetted, attempted, conspired, or solicited to commit murder or
 8 voluntary manslaughter of another child of the parent, or committed felony assault that has
 9 resulted in serious bodily injury to the child or to another child of the parent, the
 10 department shall file a petition to terminate the parental rights of the child's parents or, if
 11 such a petition has been filed by another party, seek to be joined as a party to the petition,
 12 and, concurrently, to identify, recruit, process, and approve a qualified family for an
 13 adoption, unless, at the option of the Division of Family and Children Services of the
 14 Department of Human Resources, the child is being cared for by a relative; the case plan
 15 documents a compelling reason for determining that filing such a petition would not be in
 16 the best interests of the child; or the Division of Family and Children Services of the
 17 Department of Human Resources has not provided to the family of the child, consistent
 18 with the specific time frames for the accomplishment of the case plan goals, such services
 19 deemed necessary for the safe return of the child to the child's home."

20

SECTION 2.

21 Said chapter is further amended by striking Code Section 15-11-94, relating to grounds for
 22 termination of parental rights, and inserting in lieu thereof the following:

23 "15-11-94.

24 (a) In considering the termination of parental rights, the court shall first determine whether
 25 there is present clear and convincing evidence of parental misconduct or inability as
 26 provided in subsection (b) of this Code section. If there is clear and convincing evidence
 27 of such parental misconduct or inability, the court shall then consider whether termination
 28 of parental rights is in the best interest of the child, after considering the physical, mental,
 29 emotional, and moral condition and needs of the child who is the subject of the proceeding,
 30 including the need for a secure and stable home. If the court finds clear and convincing
 31 evidence of the circumstance provided in paragraph (5) of subsection (b) of this Code
 32 section, the court shall presume that termination of parental rights is in the best interest of
 33 the child.

34 (b) Except as provided in subsections (e) through (h) of Code Section 15-11-96, the court
 35 by order may terminate the parental rights of a parent with respect to the parent's child if:

1 (1) The written consent of the parent, acknowledged before the court, has been given;
 2 provided, however, that acknowledgment before the court is not necessary where the
 3 parent or parents voluntarily surrender the child for adoption as provided by subsection
 4 (e) of Code Section 19-8-4, 19-8-5, 19-8-6, or 19-8-7;

5 (2) A decree has been entered by a court of competent jurisdiction of this or any other
 6 state ordering the parent, guardian, or other custodian to support the child, and the parent,
 7 guardian, or other custodian has wantonly and willfully failed to comply with the order
 8 for a period of 12 months or longer;

9 (3) The parent has abandoned the child or the child was left under circumstances that the
 10 identity of the parent is unknown and cannot be ascertained despite diligent searching,
 11 and the parent has not come forward to claim the child within three months following the
 12 finding of the child; or

13 (4)(A) The court determines parental misconduct or inability by finding that:

14 (i) The child is a deprived child, as such term is defined in Code Section 15-11-2;

15 (ii) The lack of proper parental care or control by the parent in question is the cause
 16 of the child's status as deprived;

17 (iii) Such cause of deprivation is likely to continue or will not likely be remedied; and

18 (iv) The continued deprivation will cause or is likely to cause serious physical,
 19 mental, emotional, or moral harm to the child.

20 (B) In determining whether the child is without proper parental care and control, the
 21 court shall consider, without being limited to, the following:

22 (i) A medically verifiable deficiency of the parent's physical, mental, or emotional
 23 health of such duration or nature as to render the parent unable to provide adequately
 24 for the physical, mental, emotional, or moral condition and needs of the child;

25 (ii) Excessive use of or history of chronic unrehabilitated abuse of intoxicating
 26 liquors or narcotic or dangerous drugs or controlled substances with the effect of
 27 rendering the parent incapable of providing adequately for the physical, mental,
 28 emotional, or moral condition and needs of the child;

29 (iii) Conviction of the parent of a felony and imprisonment therefor which has a
 30 demonstrable negative effect on the quality of the parent-child relationship;

31 (iv) Egregious conduct or evidence of past egregious conduct of the parent toward
 32 the child or toward another child of a physically, emotionally, or sexually cruel or
 33 abusive nature;

34 (v) Physical, mental, or emotional neglect of the child or evidence of past physical,
 35 mental, or emotional neglect of the child or of another child by the parent; and

36 (vi) Injury or death of a sibling under circumstances which constitute substantial
 37 evidence that such injury or death resulted from parental neglect or abuse.

1 (C) In addition to the considerations in subparagraph (B) of this paragraph, where the
2 child is not in the custody of the parent who is the subject of the proceedings, in
3 determining whether the child is without proper parental care and control, the court
4 shall consider, without being limited to, whether the parent without justifiable cause has
5 failed significantly for a period of one year or longer prior to the filing of the petition
6 for termination of parental rights:

7 (i) To develop and maintain a parental bond with the child in a meaningful,
8 supportive manner;

9 (ii) To provide for the care and support of the child as required by law or judicial
10 decree; and

11 (iii) To comply with a court ordered plan designed to reunite the child with the parent
12 or parents; or

13 (5) The parent has been convicted of the murder of the child's other parent.

14 (c) If the court does not make an order of termination of parental rights, it may grant an
15 order under Code Section 15-11-55 if the court finds from clear and convincing evidence
16 that the child is a deprived child."

17 SECTION 3.

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