

House Bill 1632 (AS PASSED HOUSE AND SENATE)

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 amend Code Section 19-9-3 of the Official
6 Code of Georgia Annotated, relating to discretion of court in custody disputes, right of child
7 14 years old or older to select custodial parent, right of visitation rights, grandparent
8 visitation, and policy, so as to provide for limited civil liability for a court appointed custody
9 evaluator or court appointed guardian ad litem under certain circumstances; to provide for
10 related matters; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

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

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) Been convicted of the murder of the other parent of the child;

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

1 section, the court shall presume that termination of parental rights is in the best interest of
 2 the child.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 SECTION 3.

22 Code Section 19-9-3 of the Official Code of Georgia Annotated, relating to discretion of
23 court in custody disputes, right of child 14 years old or older to select custodial parent, right
24 of visitation rights, grandparent visitation, and policy, is amended by striking paragraph (6)
25 of subsection (a) of said Code section and inserting in its place the following:

26 "(6) The court is authorized to order a psychological custody evaluation of the family or
27 an independent medical evaluation. In addition to the privilege afforded a witness,
28 neither a court appointed custody evaluator nor a court appointed guardian ad litem shall
29 be subject to civil liability resulting from any act or failure to act in the performance of
30 his or her duties unless such act or failure to act was in bad faith."

31 SECTION 4.

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