

SENATE SUBSTITUTE TO HB 1145

AS PASSED SENATE

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 change provisions relating to disposition of certain cases in
3 juvenile court; to change provisions relating to mental health proceedings; to provide for
4 definitions; to reorganize certain provisions of the article for clarity; to require a child to be
5 represented by an attorney if the child is being evaluated for competency; to change certain
6 provisions relating to the content of an evaluator's report; to provide for least restrictive
7 environments, where possible; to provide certain information to victims; to provide for
8 disposition where a child will not become competent; to provide for a short title; to change
9 certain provisions relating to disposition for certain delinquent acts; to change provisions
10 relating to a juvenile court judge's authority in setting a commitment disposition for certain
11 delinquency cases; to provide for the manner in which the Department of Juvenile Justice
12 may discharge certain juveniles; to amend Chapter 4A of Title 49 of the Official Code of
13 Georgia Annotated, relating to the Department of Juvenile Justice, so as to change certain
14 provisions relating to commitment of delinquent or unruly children and their discharge from
15 commitment; to provide for related matters; to repeal conflicting laws; and for other
16 purposes.

17 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

PART I

SECTION 1.

20 Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to juvenile
21 proceedings, is amended by striking Article 4, relating to mental health, and inserting in lieu
22 thereof the following:

"ARTICLE 4

1 15-11-149.

2 (a) *Study and report.* If, at any time, the evidence indicates that a child may be suffering
3 from mental retardation or mental illness, the court may commit the child to an appropriate
4 institution, agency, or individual for study and report on the child's mental condition.

5 (b) *Determination of disability.* The juvenile court judge shall determine whether a child
6 has been determined to be handicapped as defined in 20 U.S.C. Sections 1401(a)(1) and
7 1401(a)(15). If there is an Individualized Education Program (IEP) as defined in 20 U.S.C.
8 Section 1401(a)(20), it shall be made a part of the dispositional hearing record.

9 (c) *Commitment.* If it appears from the study and report undertaken pursuant to subsection
10 (a) of this Code section that the child is committable under the laws of this state as a
11 mentally retarded or mentally ill child, the court shall order the child detained and shall
12 proceed within ten days to commit the child to the Division of Mental Health,
13 Developmental Disabilities, and Addictive Diseases of the Department of Human
14 Resources.

15 (d) *Other disposition or transfer.* If the child is found not to be committable, the court
16 shall proceed to the disposition or transfer of the child as otherwise provided by Article 1.

17 (e) *Applicability of Code Section 15-11-62.* The provisions of Code Section 15-11-62 shall
18 not apply to any child 13 to 15 years of age who is found to be suffering from mental
19 illness or mental retardation. Any such child shall not be committed to the Department of
20 Corrections but shall be committed to the Division of Mental Health, Developmental
21 Disabilities, and Addictive Diseases of the Department of Human Resources as provided
22 in this Code section.

23 15-11-150.

24 (a) The purpose of this article is to:

25 (1) Set forth procedures for a determination of mental incompetency and a declaration
26 of dependency for any child while the child is determined to be not mentally competent;
27 and

28 (2) Provide a mechanism for the development and implementation of a mental
29 competency plan for treatment, habilitation, support, or supervision, within current
30 resources, for any child who is determined to be not mentally competent to participate in
31 an adjudication or disposition hearing and is adjudicated dependent upon the court.

32 (b) The provisions of this article shall not apply to any case in which the superior court has
33 jurisdiction pursuant to Code Section 15-11-62.

34 15-11-151.

35 As used in this article, the term:

1 (1) 'Dependent' means a child who is alleged to have committed a delinquent or unruly
2 act, is found not mentally competent to stand trial by the court, and has charges pending
3 which have not been dismissed by the court.

4 (2) 'Judge' means any judge, associate judge, or judge pro tempore of the court exercising
5 jurisdiction over juvenile matters.

6 (3) 'Mental competency plan' means an interagency treatment, habilitation, support, or
7 supervision plan developed at an interagency meeting of state or local agency
8 representatives, parties, and other interested persons, which is achievable within the limits
9 of current resources, following a court's finding that a child is not mentally competent
10 and dependent upon the court and submitted to the court for approval as part of the
11 disposition of the dependency case. The goal of a mental competency plan is supervision,
12 to bring or restore the child to mental competency such that he or she is able to participate
13 in adjudication, a disposition hearing for delinquency or unruliness, or a proceeding
14 regarding transfer to superior court.

15 (4) 'Mental competency proceedings' means hearings conducted to determine whether
16 a child is mentally competent to participate in adjudication, a disposition hearing, or a
17 transfer proceeding held pursuant to this chapter.

18 (5) 'Mentally competent' means having sufficient present ability to understand the nature
19 and objectives of the proceedings, against himself or herself, to comprehend his or her
20 own situation in relation to the proceedings, and to render assistance to the defense
21 attorney in the preparation and presentation of his or her case in all adjudication,
22 disposition, or transfer hearings held pursuant to this chapter. The child's age or
23 immaturity may be used as the basis for determining the child's competency.

24 (6) 'Mentally ill' means having a disorder of thought or mood which significantly impairs
25 judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary
26 demands of life.

27 (7) 'Mental retardation' means a state of significant subaverage general intellectual
28 functioning existing concurrently with deficits in adaptive behavior and originating in the
29 developmental period.

30 (8) 'Plan manager' means a person who is under the supervision of the court and is
31 appointed by the court to convene a meeting of all relevant parties for the purpose of
32 developing a mental competency plan. Said person is responsible for collecting all
33 previous histories of the child including evaluations, assessments, and school records.

34 (9) 'Qualified examiner' means a licensed psychologist or psychiatrist who has
35 expertise in child development and has received training in forensic evaluation
36 procedures through formal instruction, professional supervision, or both.

1 15-11-152.

2 (a) If at any time after the filing of a petition alleging delinquency or unruliness the court
3 has reason to believe that the child named in the petition may not be mentally competent,
4 the court on its own motion or on the motion of the attorney representing the child, any
5 guardian ad litem for the child, the child's parent or legal guardian, or the attorney
6 representing the state may stay all delinquency or unruly conduct proceedings relating to
7 that petition and order an evaluation of the child's mental condition. Prior to the
8 administration of any such evaluation, the court shall appoint an attorney to represent the
9 child if the child is not yet represented by counsel. All time limits under Article 1 of this
10 chapter for adjudication and disposition of that petition are tolled during the evaluation,
11 adjudication, and disposition phases of the mental competency proceeding.

12 (b) An evaluation ordered under subsection (a) of this Code section shall be conducted by
13 a qualified examiner who shall consider whether the child is mentally competent. If the
14 qualified examiner determines that the child is not competent, the qualified examiner shall
15 complete a full mental health evaluation, study, and report pursuant to Code Section
16 15-11-149. If the basis for questioning the child's mental competency concerns a problem
17 with intellectual functioning, mental retardation, mental illness, maturity, or a learning
18 disability, the qualified examiner must be a psychiatrist or licensed psychologist. The
19 ~~probation officers of~~ juvenile court shall provide the qualified examiner with any law
20 enforcement or court records necessary for understanding the petition alleging delinquency
21 or unruliness. The attorney for the child may provide the qualified examiner with any
22 records from any other available sources that are deemed necessary for the mental
23 competency evaluation.

24 (c) A qualified examiner who conducts an evaluation under subsection (b) of this Code
25 section shall submit a written report to the court, within 30 days from receipt of the court
26 order requiring the evaluation, which report shall contain the following:

- 27 (1) The reason for the evaluation;
- 28 (2) The evaluation procedures used, including any psychometric instruments
29 administered, any records reviewed, and the identity of any persons interviewed;
- 30 (3) Any available pertinent background information;
- 31 (4) The results of a mental status exam, including the diagnosis and description of any
32 psychiatric symptoms, cognitive deficiency, or both;
- 33 (5) A description of abilities and deficits in the following mental competency functions:
- 34 (A) The ability to understand and appreciate the nature and object of the proceedings;
- 35 (B) The ability to comprehend his or her situation in relation to the proceedings; and
- 36 (C) The ability to render assistance to the defense attorney in the preparation of his or
37 her case;

1 (6) An opinion regarding the potential significance of the child's mental competency,
2 strengths, and deficits; ~~and~~

3 (7) An opinion regarding whether or not the child should be considered mentally
4 competent; and

5 (8) A specific statement for the basis for a determination of incompetence.

6 (d) If, in the opinion of the qualified examiner, the child should not be considered mentally
7 competent, the qualified examiner shall complete a full mental health evaluation and report
8 pursuant to Code Section 15-11-149, and such report shall also include the following:

9 (1) A diagnosis made as to whether there is a substantial probability that the child will
10 attain mental competency to participate in adjudication, a disposition hearing, and a
11 transfer hearing in the foreseeable future;

12 (2) A recommendation as to the appropriate treatment setting and whether residential or
13 nonresidential treatment is required or appropriate;

14 (3) Where appropriate, recommendations Recommendations for the general level and
15 type of remediation necessary for significant deficits; and

16 ~~(3)~~(4) Where appropriate, recommendations Recommendations for modifications of
17 court procedure which may help compensate for mental competency weaknesses.

18 (e) The court in its discretion may grant the qualified examiner an extension in filing the
19 evaluation report.

20 (f) Copies of the written evaluation report shall be provided by the court to the attorney
21 representing the child, the attorney representing the state, the ~~district attorney~~ prosecuting
22 attorney or a member of his or her staff, and any guardian ad litem for the child no later
23 than five working days after receipt of the report by the court.

24 (g) Upon a showing of good cause by any party or upon the court's own motion, the court
25 may order additional examinations by other qualified examiners. In no event shall more
26 than one examination be conducted by a qualified examiner employed by the Department
27 of Human Resources.

28 (h) No statement made by a child or information obtained in the course of an evaluation,
29 hearing, or other proceeding provided for in this Code section, whether the evaluation is
30 with or without the consent of the child, shall be admitted into evidence against the child
31 in any future proceeding in the state's case-in-chief.

32 15-11-153.

33 (a) A hearing ~~of~~ to determine mental competency shall be conducted within 60 days after
34 the initial court order for evaluation. At least ten days' prior written notice of the hearing
35 shall be transmitted to the child, any parent, guardian, or other legal custodian of the child,
36 any guardian ad litem for the child, the attorney representing the child, and the attorney

1 representing the state. Ten days' prior written notice of the hearing shall be served on the
 2 ~~district attorney, prosecuting attorney~~ for all mental competency proceedings in which the
 3 ~~district attorney prosecuting attorney~~, or a member of the ~~district attorney's~~ prosecuting
 4 attorney's staff, may participate. The hearing may be continued by the court for good cause
 5 shown.

6 (b) The burden of proving that the child is not mentally competent shall be on the child.
 7 The standard of proof necessary for proving mental incompetency shall be a preponderance
 8 of the evidence.

9 (c) At the hearing of to determine mental competency, the attorney representing the child
 10 and the attorney representing the state shall have the right to:

- 11 (1) Present evidence;
- 12 (2) Call and examine witnesses;
- 13 (3) Cross-examine witnesses; and
- 14 (4) Present arguments.

15 The qualified examiner appointed by the court shall be considered the court's witness and
 16 shall be subject to cross-examination by both the attorney representing the child and the
 17 attorney representing the state.

18 ~~(c)(d)~~ The court's findings of fact shall be based on any evaluations of the child's mental
 19 condition conducted by qualified examiners appointed by the court and any evaluations of
 20 the child's mental condition conducted by independent evaluators hired by the parties and
 21 any additional evidence presented. ~~The burden of proving that the child is not mentally~~
 22 ~~competent shall be on the child. The standard of proof necessary for proving mental~~
 23 ~~incompetency shall be a preponderance of the evidence. Copies of the court's findings shall~~
 24 ~~be transmitted to the same parties to whom notice of the hearing was provided within ten~~
 25 ~~days following the issuance of those findings.~~

26 ~~(d)(e)~~ If the court finds that the child is mentally competent, the proceedings which have
 27 been suspended shall be resumed and the time limits under Article 1 of this chapter for
 28 adjudication and disposition of the petition shall begin to run from the date of the order
 29 finding the child mentally competent.

30 ~~(e)(f)~~ If the court finds that the child is not mentally competent, the child ~~may~~ shall be
 31 adjudicated dependent by the court. ~~If the court determines that a child alleged to have~~
 32 ~~committed an act which is a misdemeanor if committed by an adult or an unruly act is not~~
 33 ~~mentally competent, and the child is adjudicated dependent, the court may dismiss the~~
 34 ~~petition without prejudice. A child who is thus found not to be mentally competent shall~~
 35 ~~not be subject to discretionary transfer to superior court, adjudication, disposition, or~~
 36 ~~modification of disposition as long as such mental incompetency exists. At the time the~~
 37 child is adjudicated dependent upon the court, the court shall appoint a guardian ad litem

1 to represent the best interests of the child if a guardian ad litem has not been appointed
2 previously.

3 (g) All court orders determining incompetency shall include specific written findings by
4 the court as to the nature of the incompetency and whether the child requires a secure or
5 nonsecure treatment.

6 (h) Copies of the court's findings shall be transmitted to the same parties to whom notice
7 of the hearing was provided within ten days following the issuance of those findings.

8 15-11-153.1.

9 (a) If the court determines that a child is mentally incompetent, is dependent, is alleged to
10 have committed an unruly act or an act which would be a misdemeanor if committed by
11 an adult, the court may dismiss the petition without prejudice.

12 (b) A child who is found to be mentally incompetent shall not be subject to discretionary
13 transfer to superior court, adjudication, disposition, or modification of disposition provided
14 that the mental incompetency exists.

15 15-11-153.2.

16 (a) If at any time following an adjudication of dependency, the court determines that the
17 child is a resident of a county of this state other than the county in which the court sits, the
18 court may transfer the proceeding to the county of the child's residence unless the act
19 alleged would be a felony if committed by an adult.

20 (b) When any case is transferred pursuant to this Code section, certified copies of all legal,
21 social history, health, or mental health records pertaining to the case on file with the clerk
22 of the court shall accompany the transfer. Compliance with this Code section shall
23 terminate jurisdiction in the sending court and initiate jurisdiction in the receiving court.

24 (c) If the child's mental competency is restored, jurisdiction of the case may be returned
25 to the sending court.

26 15-11-154.

27 ~~(a) If at any time following an adjudication of dependency, the court determines that the~~
28 ~~child is a resident of a county of this state other than the county in which the court sits, the~~
29 ~~court may transfer the proceeding to the county of the child's residence unless the act~~
30 ~~alleged would be a felony if committed by an adult. When any case is transferred pursuant~~
31 ~~to this Code section, certified copies of all legal, social history, health, or mental health~~
32 ~~records pertaining to the case on file with the clerk of the court shall accompany the~~
33 ~~transfer. Compliance with this Code section shall terminate jurisdiction in the sending court~~

1 ~~and initiate jurisdiction in the receiving court. If the child's mental competency is restored,~~
 2 ~~jurisdiction of the case may be returned to the sending court.~~

3 (b) Upon an adjudication of dependency, the court having jurisdiction of the case shall
 4 appoint a plan manager who may be any guardian ad litem for the child or may be any
 5 other person who is under the supervision of the court. The person so appointed shall
 6 submit a mental competency plan to the court within 30 days of the court's adjudication
 7 of dependency. That plan shall include the following:

8 (1) The specific deficits the plan is attempting to address, including supervision, mental
 9 competency, or mental competency restoration;

10 (2) An outline of the specific provisions for supervision of the child for protection of the
 11 community and the child;

12 (3) An outline of a plan designed to provide for treatment, habilitation, support, or
 13 supervision services in the least restrictive environment achievable within the limits of
 14 current resources; ~~and~~

15 (4) If the plan recommends treatment in a secure environment, certification by the plan
 16 manager that all other appropriate community based treatment options have been
 17 exhausted; and

18 ~~(4)~~(5) Identification of all parties, including the child, agency representatives, and other
 19 persons responsible for each element of the plan.

20 The court in its discretion may grant the plan manager an extension in filing the mental
 21 competency plan.

22 ~~(e)~~(b)(1) The mental competency plan shall be developed at a meeting of all relevant
 23 parties convened by the plan manager. The plan manager shall request that the following
 24 persons attend the meeting:

25 (A) Any parent, guardian, or other legal custodian of the child;

26 (B) The attorney representing the child;

27 (C) The attorney representing the state;

28 (D) Any guardian ad litem of the child;

29 (E) Mental health or mental retardation representatives;

30 (F) Any probation officer or caseworker who works with the child; ~~and~~

31 (G) A representative from the child's school; and

32 (H) Any family member of the child who has shown an interest and involvement in the
 33 child's well-being.

34 (2) The plan manager may request that other relevant persons attend the mental
 35 competency plan meeting including but not limited to the following:

36 (A) A representative from the division of public health;

37 (B) A child protective services worker; and

1 (C) Representatives of the public and private resources to be utilized in the plan; and
 2 ~~(D) Any family member of the child who has shown an interest and involvement in the~~
 3 ~~child's well-being.~~

4 (3) The plan manager shall be responsible for collecting all previous histories of the
 5 child, including but not limited to previous evaluations, assessments, and school records,
 6 and for making such histories available for consideration by the persons at the meeting.

7 (4) Before the disposition hearing and review hearings, the plan manager shall be
 8 responsible for convening a meeting of all parties and representatives of all agencies.

9 (5) The plan manager and persons enumerated in paragraph (1) of subsection (b) of this
 10 Code section shall identify to the court any person who should provide testimony at such
 11 hearing.

12 (6) The plan manager shall be responsible for monitoring the competency plan,
 13 presenting to the court amendments to such plan as needed, and presenting evidence to
 14 the court for the reapproval of such plan at subsequent review hearings.

15 15-11-155.

16 (a) The court shall hold a disposition hearing for the purpose of approving the mental
 17 competency plan within 30 days after the mental competency plan has been submitted to
 18 the court. Thereafter, the court shall hold a hearing for the purpose of reviewing the child's
 19 condition and approving the mental competency plan every six months during the child's
 20 dependency. ~~Before the disposition hearing and any review hearings, the plan manager~~
 21 ~~shall be responsible for convening a meeting of all parties, representatives of all agencies,~~
 22 ~~and other persons responsible for the plan and for identifying to the court any persons who~~
 23 ~~should provide testimony at such hearing.~~

24 (b) The persons required to be notified of the mental competency disposition hearing and
 25 witnesses identified by the plan manager shall be given at least ten days' prior notice of the
 26 disposition hearing and any subsequent hearing to review the child's condition and shall
 27 be afforded an opportunity to be heard at any such hearing. The victim, if any, of the
 28 child's delinquent or unruly act shall also be provided with the same ten days' prior notice
 29 regarding any such hearing and shall be afforded an opportunity to be heard and to present
 30 a victim impact statement to the court at any such hearing. The judge shall make a
 31 determination regarding sequestration of witnesses in order to protect the privileges and
 32 confidentiality rights of the child.

33 (c) At the disposition hearing, the court shall enter an order incorporating a mental
 34 competency plan as part of the disposition. At the time of disposition, a child who has been
 35 adjudicated a dependent of the court shall be placed in an appropriate treatment setting.
 36 If a dependent child is housed in a detention or youth development facility at the time of

1 disposition, such child shall be moved to an appropriate treatment setting within five
 2 business days.

3 (d) If the court determines at any time that the child will not become competent to proceed,
 4 the court may dismiss the delinquency petition. If, at the end of the two-year period
 5 following the date of the order of incompetence, the child has not attained competence and
 6 there is no substantial evidence that the child will attain competence within a year, the
 7 court shall dismiss the delinquency petition. If appropriate, the court may order that civil
 8 commitment proceedings be initiated. Such proceedings shall be instituted not less than
 9 60 days prior to the dismissal of the delinquency petition.

10 ~~If, upon subsequent review, the court determines that the child may be mentally competent,~~
 11 ~~the court shall proceed as provided in Code Sections 15-11-152, 15-11-153, and 15-11-154~~
 12 ~~and enter findings of fact as to the child's mental competency.~~

13 ~~(f)(e) The prosecuting attorney or a member of the prosecuting attorney's staff may seek~~
 14 ~~civil commitment pursuant to Chapters 3 and 4 of Title 37. If, during the disposition~~
 15 ~~hearing or any subsequent review hearing, the court determines that the child meets criteria~~
 16 ~~for commitment and that services are available under the relevant laws for commitment to~~
 17 ~~any agency or agencies for treatment, habilitation, support, or supervision, the court may~~
 18 ~~commit the child to an appropriate agency or agencies for services under applicable law.~~

19 ~~(d)(f) At any time, in the event of a change in circumstances regarding the child, the court~~
 20 ~~on its own motion or on the motion of the attorney representing the child, any guardian ad~~
 21 ~~litem for the child, the attorney for the state, or the plan manager may set a hearing for~~
 22 ~~review of the mental competency plan and any proposed amendments to that plan. The~~
 23 ~~court may issue an appropriate order incorporating an amended mental competency plan.~~

24 ~~(e)(g) At the disposition hearing and at every review hearing, the court shall consider~~
 25 ~~whether the petition alleging delinquency or unruliness should be withdrawn, maintained,~~
 26 ~~or dismissed, without prejudice, upon grounds other than the child's not being mentally~~
 27 ~~competent. If the court dismisses the petition, the state may seek to refile petitions alleging~~
 28 ~~felonies if the child is later determined to be mentally competent. The state may also seek~~
 29 ~~transfer to superior court if the child is later determined to be mentally competent.~~

30 ~~(f) The district attorney or a member of his or her staff may seek civil commitment~~
 31 ~~pursuant to Chapters 3 and 4 of Title 37. If, during the disposition hearing or any~~
 32 ~~subsequent review hearing, the court determines that the child meets criteria for~~
 33 ~~commitment and that services are available under the relevant Code provisions for~~
 34 ~~commitment to any agency or agencies for treatment, habilitation, support, or supervision,~~
 35 ~~the court may commit the child to an appropriate agency or agencies for services under~~
 36 ~~applicable law.~~

1 ~~(g)~~(h)(1) If the court determines that a child alleged to have committed an act which is
 2 a felony if committed by an adult is not mentally competent and the child is adjudicated
 3 as a dependent, the court shall retain jurisdiction of the child for up to two years after the
 4 date of the order of adjudication. The order may be extended for additional two-year
 5 periods as provided in subsection (a) of Code Section 15-11-58.1.

6 (2) If the court determines that a child alleged to have committed an act which is a
 7 misdemeanor if committed by an adult or an unruly act is not mentally competent and the
 8 child is adjudicated as a dependent, the court shall retain jurisdiction of the child for up
 9 to 120 days following the disposition order incorporating the mental competency plan.
 10 The order may not be extended by the court.

11 ~~(h)~~(i) If the court finds that a child is not mentally competent to stand trial, any party may
 12 file at any time a motion for a rehearing on the issue of the child's mental incompetency.
 13 The court shall grant such motion upon a showing by the moving party that there are
 14 reasonable grounds to believe that the child is now mentally competent. If this motion is
 15 granted, the court shall proceed as provided in Code Sections 15-11-152, 15-11-153,
 16 15-11-153.1, 15-11-153.2, 15-11-154, and this Code section and shall enter findings of fact
 17 as to the child's mental competency.

18 ~~(i)~~(j) If a child is under a mental competency plan when the child reaches the age of 18,
 19 the plan manager shall make a referral to appropriate adult services."
 20

21 **PART II**
 22 **SECTION 2.**

23 This part shall be known and may be cited as the "Amy's Law."

24 **SECTION 3.**

25 Said chapter is further amended by striking Code Section 15-11-70, relating to duration and
 26 termination of orders of disposition for delinquent or unruly children and extensions of such
 27 orders, and inserting in lieu thereof the following:

28 "15-11-70.

29 (a) Except as ~~otherwise provided by law~~ in subsection (b) of this Code section, an order
 30 of disposition committing a delinquent or unruly child to the Department of Juvenile
 31 Justice continues in force for two years or until the child is sooner discharged by the
 32 Department of Juvenile Justice. The court which made the order may extend its duration
 33 for an additional two years subject to like discharge, if:

34 (1) A hearing is held upon motion of the Department of Juvenile Justice prior to the
 35 expiration of the order;

1 (2) Reasonable notice of the factual basis of the motion and of the hearing and an
 2 opportunity to be heard are given to the child and the parent, guardian, or other custodian;
 3 and

4 (3) The court finds that the extension is necessary for the treatment or rehabilitation of
 5 the child.

6 (b) If the court commits a delinquent child to the Department of Juvenile Justice for a
 7 delinquent act which if done by an adult would be the crime of murder, then the court's
 8 commitment may continue until the child's twenty-first birthday. The court shall
 9 determine whether any or all of the child's commitment should include an order for
 10 restrictive custody by making specific written findings of fact using the elements set forth
 11 in paragraphs (1) through (5) of subsection (c) of Code Section 15-11-63. Any child
 12 committed to the Department of Juvenile Justice under the provisions of this subsection
 13 shall not be released from confinement or discharged from the custody of the Department
 14 of Juvenile Justice unless a motion for early release is granted by the court. The court
 15 which made the order of commitment may shorten the duration of its order if:

16 (1) A hearing is held prior to the expiration of the order upon motion of a party or on the
 17 court's own motion;

18 (2) Reasonable notice of the factual basis of the motion and of the hearing and an
 19 opportunity to be heard are given to the parties affected; and

20 (3) The court finds that the discharge is necessary to accomplish the purposes of the
 21 original order and for the treatment or rehabilitation of the child.

22 ~~(b)~~(c) Except as otherwise provided by law, in subsection (b) of this Code section, any
 23 other order of disposition in a proceeding involving delinquency or unruliness, except an
 24 order involving the appointment of a guardian of the person or property of a child,
 25 continues in force for not more than two years. The court may sooner terminate its order
 26 or extend its duration for further periods. An order of extension may be made if:

27 (1) A hearing is held prior to the expiration of the order upon motion of a party or on the
 28 court's own motion;

29 (2) Reasonable notice of the factual basis of the motion and of the hearing and
 30 opportunity to be heard are given to the parties affected;

31 (3) The court finds that the extension is necessary to accomplish the purposes of the
 32 order extended; and

33 (4) The extension does not exceed two years from the expiration of the prior order.

34 ~~(c)~~(d) The court may terminate an order of disposition of a child adjudicated as delinquent
 35 or unruly or an extension of such a disposition order prior to its expiration, on or without
 36 an application of a party, if it appears to the court that the purposes of the order have been
 37 accomplished.

1 ~~(d)~~(e) Unless otherwise provided by law, when a child who has been adjudicated as
 2 delinquent or unruly reaches 21 years of age all orders affecting him or her then in force
 3 terminate and he or she is discharged from further obligation or control."

4 **SECTION 4.**

5 Chapter 4A of Title 49 of the Official Code of Georgia Annotated, relating to the Department
 6 of Juvenile Justice, is amended by striking subsection (e) of Code Section 49-4A-8, relating
 7 to commitment of delinquent or unruly children and their discharge from commitment, and
 8 inserting in lieu thereof the following:

9 "(e) Except as provided by subsection (e.1) of this Code section and subsection (b) of Code
 10 Section 15-11-70, when a delinquent or unruly child has been committed to the department
 11 for detention and a diagnostic study for the purpose of determining the most satisfactory
 12 plan for the child's care and treatment has been completed, the department may:

13 (1) Permit the child liberty under supervision and upon such conditions as the department
 14 may believe conducive to acceptable behavior;

15 (2) Order the child's confinement under such conditions as the department may believe
 16 best designed to serve the child's welfare and as may be in the best interest of the public;

17 (3) Order reconfinement or renewed release as often as conditions indicate to be
 18 desirable;

19 (4) Revoke or modify any order of the department affecting the child, except an order
 20 of final discharge, as often as conditions indicate to be desirable; or

21 (5) Discharge the child from control of the department pursuant to subsection (a) of Code
 22 Section 15-11-70 when it is satisfied that such discharge will best serve the child's
 23 welfare and the protection of the public."

24 **SECTION 5.**

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