

House Bill 3

By: Representatives Sailor of the 93rd, Ehrhart of the 36th, Talton of the 145th, Jones of the 44th, Mosby of the 90th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 9 of Title 19 of the Official Code of Georgia Annotated, relating to child
2 custody proceedings, so as to provide for definitions; to provide that, when an unmarried
3 mother desires to surrender her parental rights to her newborn child, the child cannot be
4 transferred to the custody of a third party without the consent of the biological father; to
5 provide for notice; to provide for exceptions; to provide for remedies and attorney fees and
6 expenses of litigation; to provide for related matters; to repeal conflicting laws; and for other
7 purposes.

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

9 **SECTION 1.**

10 Chapter 9 of Title 19 of the Official Code of Georgia Annotated, relating to child custody
11 proceedings, is amended by adding a new Code Section 19-9-2.1 to read as follows:

12 "19-9-2.1.

13 (a) As used in this Code section, the term:

14 (1) 'Biological father' means the male who impregnated the biological mother resulting
15 in the birth of the child.

16 (2) 'Newborn child' means a child from the moment of birth to 30 days old.

17 (3) 'Third party' means an individual other than the mother or the biological father of the
18 child, a child adoption agency, or a child placement agency. Such term shall not include
19 the Department of Human Resources when acting under a valid court order authorizing
20 the Department of Human Resources to take temporary custody of a child due to a
21 finding that the child is deprived or without proper parental care or control pursuant to
22 Code Section 15-11-94.

23 (b) When an unmarried mother desires to surrender her parental rights to her newborn
24 child and transfer custody of the newborn child to a third party for adoption or placement
25 for adoption and the mother knows the identity of the biological father of the newborn
26 child, the mother shall provide notice in writing of such intent to the biological father

1 personally or by registered or certified mail or statutory overnight delivery at the biological
2 father's last known address. Such notice shall state the mother's intent to surrender her
3 parental rights to the newborn child and to place the newborn child for adoption.

4 (c) The biological father shall have three days after receiving notice of the mother's intent
5 to object in writing to the transfer of custody of such newborn child to a third party. Such
6 objection shall be delivered to the mother personally or by statutory overnight delivery.
7 Except as provided in this Code section, the mother shall not transfer custody of the
8 newborn child to a third party unless and until the biological father has consented in writing
9 to the transfer of custody or has surrendered his parental rights to such newborn child as
10 provided in Chapter 8 of this title.

11 (d) If the biological father objects to the transfer of custody to the third party and the
12 mother does not desire to maintain custody of the newborn child, the father shall assume
13 custody of the newborn child.

14 (e) If the biological father does not object to the transfer of custody to a third party within
15 the three-day period as provided in subsection (c) of this Code section, the biological father
16 shall be presumed to have consented to such transfer of custody.

17 (f) If the mother does not know the identity of the biological father or the whereabouts of
18 the biological father or, after receiving notice, the biological father does not file a written
19 objection to the transfer of custody within the time period specified in subsection (c) of this
20 Code section, the mother may proceed with the transfer of custody to the third party.

21 (g) Until the parental rights of the biological father are surrendered or terminated as
22 provided in Chapter 8 of this title or the court determines pursuant to Code Section 19-8-10
23 that surrender or termination is not necessary, the third party to whom custody has been
24 transferred shall not remove the newborn child from this state.

25 (h) If custody of a newborn child is transferred in violation of this Code section, the
26 biological father shall have a right of action to obtain custody of the newborn child against
27 the third party having custody of the newborn child and, if successful, the biological father
28 shall be awarded attorney fees and expenses of litigation incurred in such action.

29 (i) This Code section shall be supplementary to the provisions of law concerning the
30 surrender or termination of parental rights and adoption contained in Chapter 8 of this title."

31 SECTION 2.

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