

Senate Bill 278

By: Senators Schaefer of the 50th, Brown of the 26th, Shafer of the 48th, Rogers of the 21st, Pearson of the 51st 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 that juvenile deprivation hearings shall not be closed
3 except upon the written application of the parents, guardians, or custodians of the child or
4 children who are the subject of the hearing; to provide that efforts shall be made to place
5 children with relatives prior to transferring custody of such children to the Department of
6 Human Resources; to provide for notices and procedures; to provide for trial by jury in cases
7 involving the termination of parental rights; to provide for the manner of selection of such
8 juries; to provide for waiver; to provide for related matters; to repeal conflicting laws; and
9 for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to juvenile
13 proceedings, is amended by revising subsection (a) of Code Section 15-11-58, relating to
14 reasonable efforts regarding reunification of family, as follows:

15 "(a) A court's order removing a child from the child's home shall be based upon a finding
16 by that court that continuation in the home would be contrary to the welfare of the child.

17 If the court places custody of the child in the Division of Family and Children Services of
18 the Department of Human Resources, the court shall also determine as a finding of fact
19 whether reasonable efforts were made by the Division of Family and Children Services of
20 the Department of Human Resources and any other appropriate agencies to preserve and
21 reunify families prior to the placement of a child in the custody of the Department of
22 Human Resources, to prevent or eliminate the need for removal of the child from that
23 child's home, and to make it possible for the child to return safely to the child's home.
24 Prior to being placed in foster care, the child must be placed in a relative's care unless there
25 is no relative who is willing and able to care for the child. The Division of Family and
26 Children Services must show that a registered letter requesting family placement was

1 mailed to each and every relative that the parent, guardian, or custodian of the child
 2 provided to the division and whether reasonable efforts were made to place the child in a
 3 relative's home prior to the placement of that child in the custody of the Department of
 4 Human Resources. Such findings shall also be made at every subsequent review of the
 5 court's order under this chapter.

6 (1) In determining reasonable efforts to be made with respect to a child, as described in
 7 this subsection, and in making such reasonable efforts, the child's health and safety shall
 8 be the paramount concern;

9 (2) Except as provided in paragraph (4) of this subsection, reasonable efforts shall be
 10 made to preserve and reunify families:

11 (A) Prior to the placement of a child in the custody of the Department of Human
 12 Resources, to prevent or eliminate the need for removing the child from the child's
 13 home; and

14 (B) To make it possible for a child to return safely to the child's home;

15 (3) If continuation of reasonable efforts of the type described in paragraph (2) of this
 16 subsection is determined to be inconsistent with the permanency plan for the child,
 17 reasonable efforts shall be made to place the child in a timely manner in accordance with
 18 the permanency plan and to complete whatever steps are necessary to finalize the
 19 permanent placement of the child;

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

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

25 (B) The parent has:

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

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

28 (iii) Committed voluntary manslaughter of another child of the parent;

29 (iv) Aided or abetted, attempted, conspired, or solicited to commit murder or
 30 voluntary manslaughter of another child of the parent; or

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

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

34 (5) If reasonable efforts of the type described in paragraph (2) of this subsection are not
 35 made with respect to a child as a result of a determination made by a court of competent
 36 jurisdiction in accordance with paragraph (4) of this subsection:

1 (A) A permanency hearing in accordance with subsection (o) of this Code section shall
2 be held for the child within 30 days after such determination; and

3 (B) Reasonable efforts shall be made to place the child in a timely manner in
4 accordance with the permanency plan and to complete whatever steps are necessary to
5 finalize the permanent placement of the child; and

6 (6) Reasonable efforts to place a child for adoption or with a legal guardian ~~may~~ shall
7 not be made concurrently with reasonable efforts of the type described in paragraph (2)
8 of this subsection."

9 SECTION 2.

10 Said chapter is further amended by revising Code Section 15-11-78, relating to exclusion of
11 public from juvenile hearing and exceptions, as follows:

12 "15-11-78.

13 (a) Except as otherwise provided by subsection (b) of this Code section, the general public
14 shall be excluded from hearings involving delinquency, ~~deprivation~~, or unruliness. Only
15 the parties, their counsel, witnesses, persons accompanying a party for his or her assistance,
16 and any other persons as the court finds have a proper interest in the proceeding or in the
17 work of the court may be admitted by the court. The court may temporarily exclude the
18 child from the hearing except while allegations of his or her delinquency or unruly conduct
19 are being heard.

20 (b) The general public shall be admitted to:

21 (1) An adjudicatory hearing involving an allegation of a designated felony pursuant to
22 Code Section 15-11-63;

23 (2) An adjudicatory hearing involving an allegation of delinquency brought in the
24 interest of any child who has previously been adjudicated delinquent; provided, however,
25 the court shall close any delinquency hearing on an allegation of sexual assault ~~or any~~
26 ~~delinquency hearing at which any party expects to introduce substantial evidence related~~
27 ~~to matters of deprivation;~~

28 (3) Any child support hearing;

29 (4) Any hearing in a legitimation action filed pursuant to Code Section 19-7-22; ~~or~~

30 (5) At the court's discretion, any dispositional hearing involving any proceeding under
31 this article; or

32 (6) Any deprivation hearing except upon the written application of the parents, guardian,
33 or custodian of the child or children who are the subject of the hearing."

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

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

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

6 (B) In determining whether the child is without proper parental care and control, the
7 ~~court~~ trier of fact shall consider, without being limited to, the following:

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

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

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

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

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

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

24 (C) In addition to the considerations in subparagraph (B) of this paragraph, where the
25 child is not in the custody of the parent who is the subject of the proceedings, in
26 determining whether the child is without proper parental care and control, the ~~court~~ trier
27 of fact shall consider, without being limited to, whether the parent without justifiable
28 cause has failed significantly for a period of one year or longer prior to the filing of the
29 petition for termination of parental rights:

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

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

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

36 (5) The trier of fact finds that the parent has been convicted of the murder of the child's
37 other parent.

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

4 (d) If the trier of fact does not find that a parent's parental rights should be terminated,
5 another action to terminate such parent's parental rights shall not be brought unless the
6 action relates to a new allegation or new information."

7 **SECTION 4.**

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