

House Bill 369 (RULES COMMITTEE SUBSTITUTE)

By: Representatives Rice of the 51<sup>st</sup>, Lindsey of the 54<sup>th</sup>, Ehrhart of the 36<sup>th</sup>, Manning of the 32<sup>nd</sup>, Butler of the 18<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To provide for legislative findings; to amend Article 2 of Chapter 6 of Title 5, Code Section  
2 9-11-133, and Chapter 9 of Title 19 of the Official Code of Georgia Annotated, relating to  
3 appellate practice, forms meeting requirements for civil case filing and disposition, and child  
4 custody proceedings, respectively, so as to provide for changes in child custody proceedings;  
5 to provide for direct appeals in certain domestic relations cases; to change certain provisions  
6 relating to cases requiring application for appeal; to add information to filing and  
7 dispositional forms in domestic relations cases; to provide for a parenting plan in child  
8 custody cases and the procedure therefor; to provide factors in determining the best interests  
9 of the child; to provide for written findings of fact in child custody proceedings; to provide  
10 for attorney's fees and expenses of litigation in child custody proceedings; to provide for  
11 binding arbitration; to amend Code Section 19-7-22 of the Official Code of Georgia  
12 Annotated, relating to petition for legitimation of child, so as to correct a cross-reference; to  
13 provide for related matters; to provide for an effective date and applicability; to repeal  
14 conflicting laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 **SECTION 1.**

17 The General Assembly of Georgia declares that it is the policy of this state to assure that  
18 minor children have frequent and continuing contact with parents who have shown the ability  
19 to act in the best interests of their children and to encourage parents to share in the rights and  
20 responsibilities of rearing their children after the parents have separated or dissolved their  
21 marriage or relationship.

22 **SECTION 2.**

23 Article 2 of Chapter 6 of Title 5 of the Official Code of Georgia Annotated, relating to  
24 appellate practice, is amended by revising subsection (a) of Code Section 5-6-34, relating to  
25 judgments and rulings deemed directly appealable, as follows:

H. B. 369 (SUB)

1 "(a) Appeals may be taken to the Supreme Court and the Court of Appeals from the  
 2 following judgments and rulings of the superior courts, the constitutional city courts, and  
 3 such other courts or tribunals from which appeals are authorized by the Constitution and  
 4 laws of this state:

5 (1) All final judgments, that is to say, where the case is no longer pending in the court  
 6 below, except as provided in Code Section 5-6-35;

7 (2) All judgments involving applications for discharge in bail trover and contempt cases;

8 (3) All judgments or orders directing that an accounting be had;

9 (4) All judgments or orders granting or refusing applications for receivers or for  
 10 interlocutory or final injunctions;

11 (5) All judgments or orders granting or refusing applications for attachment against  
 12 fraudulent debtors;

13 (6) Any ruling on a motion which would be dispositive if granted with respect to a  
 14 defense that the action is barred by Code Section 16-11-184;

15 (7) All judgments or orders granting or refusing to grant mandamus or any other  
 16 extraordinary remedy, except with respect to temporary restraining orders;

17 (8) All judgments or orders refusing applications for dissolution of corporations created  
 18 by the superior courts;

19 (9) All judgments or orders sustaining motions to dismiss a caveat to the probate of a  
 20 will; ~~and~~

21 (10) All judgments or orders entered pursuant to subsection (c) of Code Section  
 22 17-10-6.2; and

23 (11) All judgments or orders in child custody cases including, but not limited to,  
 24 awarding or refusing to change child custody or holding or declining to hold persons in  
 25 contempt of such child custody judgment or orders."

### 26 SECTION 3.

27 Said article is further amended by revising subsection (a) of Code Section 5-6-35, relating  
 28 to cases requiring application for appeal, as follows:

29 "(a) Appeals in the following cases shall be taken as provided in this Code section:

30 (1) Appeals from decisions of the superior courts reviewing decisions of the State Board  
 31 of Workers' Compensation, the State Board of Education, auditors, state and local  
 32 administrative agencies, and lower courts by certiorari or de novo proceedings; provided,  
 33 however, that this provision shall not apply to decisions of the Public Service  
 34 Commission and probate courts and to cases involving ad valorem taxes and  
 35 condemnations;

- 1 (2) Appeals from judgments or orders in divorce, alimony, ~~child custody~~, and other
- 2 domestic relations cases including, but not limited to, granting or refusing a divorce or
- 3 temporary or permanent alimony, ~~awarding or refusing to change child custody~~, or
- 4 holding or declining to hold persons in contempt of such alimony ~~or child custody~~
- 5 judgment or orders;
- 6 (3) Appeals from cases involving distress or dispossessory warrants in which the only
- 7 issue to be resolved is the amount of rent due and such amount is \$2,500.00 or less;
- 8 (4) Appeals from cases involving garnishment or attachment, except as provided in
- 9 paragraph (5) of subsection (a) of Code Section 5-6-34;
- 10 (5) Appeals from orders revoking probation;
- 11 (6) Appeals in all actions for damages in which the judgment is \$10,000.00 or less;
- 12 (7) Appeals, when separate from an original appeal, from the denial of an extraordinary
- 13 motion for new trial;
- 14 (8) Appeals from orders under subsection (d) of Code Section 9-11-60 denying a motion
- 15 to set aside a judgment or under subsection (e) of Code Section 9-11-60 denying relief
- 16 upon a complaint in equity to set aside a judgment;
- 17 (9) Appeals from orders granting or denying temporary restraining orders;
- 18 (10) Appeals from awards of attorney’s fees or expenses of litigation under Code Section
- 19 9-15-14; ~~and~~
- 20 (11) Appeals from decisions of the state courts reviewing decisions of the magistrate
- 21 courts by de novo proceedings so long as the subject matter is not otherwise subject to
- 22 a right of direct appeal; and
- 23 (12) Appeals from orders terminating parental rights.”

**SECTION 4.**

24  
25 Code Section 9-11-133 of the Official Code of Georgia Annotated, relating to forms meeting  
26 requirements for civil case filing and disposition, is amended by revising subsections (c) and  
27 (e) as follows:

28 *“(c) Domestic Relations Case Filing Information Form.*

29 DOMESTIC RELATIONS CASE FILING  
30 INFORMATION FORM

31 Court  
 32 \_\_\_ Superior County \_\_\_\_\_ Date filed \_\_\_\_\_  
 33 mm-dd-yyyy  
 34 Docket no. \_\_\_\_\_

1	Plaintiff(s)	Defendant(s)
2	(last, suffix, first, middle initial, maiden)	(last, suffix, first, middle initial, maiden)
3	1. _____	1. _____
4	2. _____	2. _____

5	Plaintiff/Petitioner's attorney	
6	_____	___ Pro Se
7	Bar #	
8	_____	

CONTEMPT

10		___ Contempt - Custody,
11		and/or Visitation, <u>or</u>
12	CHECK CASE TYPE:	<u>Parenting Time</u>
13	(one or more)	___ Contempt - Child
14	___ Divorce (includes	Support and Alimony
15	annulment)	___ Contempt - Child Support
16	<u>Contested?</u> <u>Yes</u> <u>No</u>	___ Contempt - Alimony
17	<u>Child Custody</u>	___ Other Domestic Contempt
18	<u>issue?</u> <u>Yes</u> <u>No</u>	
19	<u>Child Support</u>	
20	<u>issue?</u> <u>Yes</u> <u>No</u>	FAMILY VIOLENCE

21	___ Separate Maintenance	Additional information -
22	___ Adoption	Ex Parte Relief
23	___ Paternity (includes	_____
24	legitimation)	Did the initial pleading
25	___ Interstate Support	include a request for
26	Enforcement Action	relief:
27	___ Domestication of	1. From alleged family
28	Foreign Custody Decree	violence?            ___ Yes ___ No
29	___ Family Violence Act	2. Was ex parte relief
30	Petition	requested?            ___ Yes ___ No
31		3. Was ex parte relief
32		granted?              ___ Yes ___ No



1 Defendant/respondent's attorney  
 2 \_\_\_\_\_  
 3 Bar #  
 4 \_\_\_\_\_

\_\_\_ Pro Se

RELIEF GRANTED (Check all that apply)

- 1. \_\_\_ Ex Parte Relief
- 2. \_\_\_ Temporary Relief
- 3. \_\_\_ Final Relief

9 TYPE OF DISPOSITION

- 10 1. Dismissed Without
- 11 Final Order
- 12 A. \_\_\_ Voluntary (by
- 13 parties)
- 14 B. \_\_\_ Involuntary (by
- 15 court)
- 16 2. \_\_\_ Pretrial Settlement
- 17 3. \_\_\_ Judgment on the
- 18 Pleadings
- 19 4. \_\_\_ Summary Judgment
- 20 5. \_\_\_ Trial
- 21 A. Bench Trial
- 22 B. Jury Trial
- 23 1. \_\_\_ Dismissal after
- 24 jury selected
- 25 2. \_\_\_ Settlement
- 26 during trial
- 27 3. \_\_\_ Judgment on
- 28 Verdict
- 29 4. \_\_\_ Directed
- 30 Verdict or
- 31 JNOV

- A. \_\_\_ Divorce/Annulment/  
Separate Maintenance
- B. \_\_\_ Child Custody
- (i) Parenting plan  
included?            Yes    No
- (ii) Custodial arrangement:  
Joint custody  
Joint legal custody  
Joint physical custody  
Sole custody  
to: \_\_\_\_\_
- (iii) Fourteen year old  
made parental  
selection?            Yes    No
- C. Visitation or parenting time  
Approximate percentage  
of parenting time per  
year (or number of days)  
for: \_\_\_\_\_ Mother \_\_\_\_\_ Father  
Parenting time was  
contested?            Yes    No
- D. \_\_\_ Child Support
- (i) Forms attached?    Yes    No
- E. \_\_\_ Legitimation/  
Paternity
- F. \_\_\_ Alimony



1 ~~(A) The court shall consider as primary the safety and well-being of the child and of~~  
2 ~~the parent who is the victim of family violence;~~

3 ~~(B) The court shall consider the perpetrator's history of causing physical harm, bodily~~  
4 ~~injury, assault, or causing reasonable fear of physical harm, bodily injury, or assault to~~  
5 ~~another person;~~

6 ~~(C) If a parent is absent or relocates because of an act of domestic violence by the other~~  
7 ~~parent, such absence or relocation for a reasonable period of time in the circumstances~~  
8 ~~shall not be deemed an abandonment of the child or children for the purposes of~~  
9 ~~custody determination; and~~

10 ~~(D) The court shall not refuse to consider relevant or otherwise admissible evidence~~  
11 ~~of acts of family violence merely because there has been no previous finding of family~~  
12 ~~violence. The court may, in addition to other appropriate actions, order supervised~~  
13 ~~visitation pursuant to Code Section 19-9-7.~~

14 ~~(3)(A) In all cases in which the child has reached the age of 14 years, the child shall~~  
15 ~~have the right to select the parent with whom he or she desires to live. The child's~~  
16 ~~selection shall be controlling, unless the parent so selected is determined not to be a fit~~  
17 ~~and proper person to have the custody of the child.~~

18 ~~(B) In all cases in which the child has reached the age of at least 11 but not 14 years,~~  
19 ~~the court shall consider the desires, if any, and educational needs of the child in~~  
20 ~~determining which parent shall have custody. The court shall have complete discretion~~  
21 ~~in making this determination, and the child's desires are not controlling. The court~~  
22 ~~shall further have broad discretion as to how the child's desires are to be considered,~~  
23 ~~including through the report of a guardian ad litem. The best interest of the child~~  
24 ~~standard shall be controlling.~~

25 ~~(C) The desire of a child who has reached the age of 11 years but not 14 years shall~~  
26 ~~not, in and of itself, constitute a material change of conditions or circumstances in any~~  
27 ~~action seeking a modification or change in the custody of that child.~~

28 ~~(D) The court may issue an order granting temporary custody to the selected parent for~~  
29 ~~a trial period not to exceed six months regarding the custody of a child who has reached~~  
30 ~~the age of at least 11 years where the judge hearing the case determines such a~~  
31 ~~temporary order is appropriate.~~

32 ~~(b) In any case in which a judgment awarding the custody of a minor has been entered, on~~  
33 ~~the motion of any party or on the motion of the court, that portion of the judgment effecting~~  
34 ~~visitation rights between the parties and their minor children may be subject to review and~~  
35 ~~modification or alteration without the necessity of any showing of a change in any material~~  
36 ~~conditions and circumstances of either party or the minor, provided that the review and~~  
37 ~~modification or alteration shall not be had more often than once in each two-year period~~  
38 ~~following the date of entry of the judgment. However, this subsection shall not limit or~~



1 ~~restrict the power of the court to enter a judgment relating to the custody of a minor in any~~  
2 ~~new proceeding based upon a showing of a change in any material conditions or~~  
3 ~~circumstances of a party or the minor.~~

4 ~~(c)(1) In any case in which a judgment awarding the custody of a minor has been~~  
5 ~~entered, the court entering such judgment shall retain jurisdiction of the case for the~~  
6 ~~purpose of ordering the custodial parent to notify the court of any changes in the~~  
7 ~~residence of the child.~~

8 ~~(2) In any case in which visitation rights have been provided to the noncustodial parent~~  
9 ~~and the court orders that the custodial parent provide notice of a change in address of the~~  
10 ~~place for pickup and delivery of the child for visitation, the custodial parent shall notify~~  
11 ~~the noncustodial parent, in writing, of any change in such address. Such written~~  
12 ~~notification shall provide a street address or other description of the new location for~~  
13 ~~pickup and delivery so that the noncustodial parent may exercise such parent's visitation~~  
14 ~~rights.~~

15 ~~(3) Except where otherwise provided by court order, in any case under this subsection~~  
16 ~~in which a parent changes his or her residence, he or she must give notification of such~~  
17 ~~change to the other parent and, if the parent changing residence is the custodial parent,~~  
18 ~~to any other person granted visitation rights under this title or a court order. Such~~  
19 ~~notification shall be given at least 30 days prior to the anticipated change of residence and~~  
20 ~~shall include the full address of the new residence.~~

21 ~~(d) In the event of any conflict between this Code section and Article 3 of this chapter,~~  
22 ~~Article 3 shall apply.~~

23 (a) Except when a parent seeks emergency relief for family violence pursuant to Code  
24 Section 19-13-3 or 19-13-4, in all cases in which the custody of any child is at issue  
25 between the parents, each parent shall prepare a parenting plan or the parties may jointly  
26 submit a parenting plan. It shall be in the judge's discretion as to when a party shall be  
27 required to submit a parenting plan to the judge. A parenting plan shall be required for  
28 permanent custody and modification actions and in the judge's discretion may be required  
29 for temporary hearings. The final decree in any legal action involving the custody of a  
30 child, including modification actions, shall incorporate a permanent parenting plan.

31 (b)(1) Unless otherwise ordered by the judge, a parenting plan shall include the  
32 following:

33 (A) A recognition that a close and continuing parent-child relationship and continuity  
34 in the child's life will be in the child's best interest;

35 (B) A recognition that the child's needs will change and grow as the child matures and  
36 demonstrate that the parents will make an effort to parent that takes this issue into  
37 account so that future modifications to the parenting plan are minimized;

1 (C) A recognition that a parent with physical custody will make day-to-day decisions  
 2 and emergency decisions while the child is residing with such parent; and

3 (D) That both parents will have access to all of the child's records and information,  
 4 including, but not limited to, education, health, extracurricular activities, and religious  
 5 communications.

6 (2) Unless otherwise ordered by the judge, or agreed upon by the parties, a parenting  
 7 plan shall include, but not be limited to:

8 (A) Where and when a child will be in each parent's physical care, designating where  
 9 the child will spend each day of the year;

10 (B) How holidays, birthdays, vacations, school breaks, and other special occasions will  
 11 be spent with each parent including the time of day that each event will begin and end;

12 (C) Transportation arrangements including how the child will be exchanged between  
 13 the parents, the location of the exchange, how the transportation costs will be paid, and  
 14 any other matter relating to the child spending time with each parent;

15 (D) Whether supervision will be needed for any parenting time and, if so, the  
 16 particulars of the supervision;

17 (E) An allocation of decision-making authority to one or both of the parents with  
 18 regard to the child's education, health, extracurricular activities, and religious  
 19 upbringing, and if the parents agree the matters should be jointly decided, how to  
 20 resolve a situation in which the parents disagree on resolution; and

21 (F) What, if any, limitations will exist while one parent has physical custody of the  
 22 child in terms of the other parent contacting the child and the other parent's right to  
 23 access education, health, extracurricular activity, and religious information regarding  
 24 the child.

25 (c) If the parties cannot reach agreement on a permanent parenting plan, each party shall  
 26 file and serve a proposed parenting plan on or before the date set by the judge. Failure to  
 27 comply with filing a parenting plan may result in the judge adopting the plan of the  
 28 opposing party if the judge finds such plan to be in the best interests of the child.

29 19-9-1.1.

30 In all proceedings under this article, it shall be expressly permissible for the parents of a  
 31 child to agree to binding arbitration on the issue of child custody and matters relative to  
 32 visitation, parenting time, and a parenting plan. The parents may select their arbiter and  
 33 decide which issues will be resolved in binding arbitration. The arbiter's decisions shall  
 34 be incorporated into a final decree awarding child custody unless the judge makes specific  
 35 written factual findings that under the circumstances of the parents and the child the  
 36 arbiter's award would not be in the best interests of the child. In its judgment, the judge  
 37 may supplement the arbiter's decision on issues not covered by the binding arbitration.

1 19-9-1.2.

2 Pursuant to Code Section 9-11-3, and in addition to the filing requirements contained in  
 3 Code Section 19-6-15, in all proceedings under this article the plaintiff shall file a domestic  
 4 relations case filing information form as set forth in Code Section 9-11-133.

5 19-9-2.

6 Upon the death of either parent, the survivor is entitled to custody of the child; provided,  
 7 however, that the ~~court~~ judge, upon petition, may exercise discretion as to the custody of  
 8 the child, looking solely to the child's best interest and welfare.

9 19-9-3.

10 (a)(1) In all cases in which the custody of any ~~minor child or children~~ is at issue between  
 11 the parents, there shall be no prima-facie right to the custody of the child ~~or children~~ in  
 12 the father or mother. There shall be no presumption in favor of any particular form of  
 13 custody, legal or physical, nor in favor of either parent. Joint custody may be considered  
 14 as an alternative form of custody by the judge and the judge at any temporary or  
 15 permanent hearing may grant sole custody, joint custody, joint legal custody, or joint  
 16 physical custody as appropriate.

17 (2) The ~~court~~ judge hearing the issue of custody, ~~in exercise of its sound discretion, may~~  
 18 shall make a determination of custody of a child and such matter shall not be decided by  
 19 a jury. The judge may take into consideration all the circumstances of the case, including  
 20 the improvement of the health of the party seeking a change in custody provisions, in  
 21 determining to whom custody of the child ~~or children~~ should be awarded. The duty of  
 22 the ~~court~~ judge in all such cases shall be to exercise its discretion to look to and determine  
 23 solely what is for the best interest of the child ~~or children~~ and what will best promote  
 24 ~~their~~ the child's welfare and happiness and to make ~~its~~ his or her award accordingly.

25 (3) In determining the best interests of the child, the judge may consider any relevant  
 26 factor including, but not limited to:

27 (A) The love, affection, bonding, and emotional ties existing between each parent and  
 28 the child;

29 (B) The love, affection, bonding, and emotional ties existing between the child and his  
 30 or her siblings, half siblings, and stepsiblings and the residence of such other children;

31 (C) The capacity and disposition of each parent to give the child love, affection, and  
 32 guidance and to continue the education and rearing of the child;

33 (D) Each parent's knowledge and familiarity of the child and the child's needs;

34 (E) The capacity and disposition of each parent to provide the child with food,  
 35 clothing, medical care, day-to-day needs, and other necessary basic care, with  
 36 consideration made for the potential payment of child support by the other parent;

1 (F) The home environment of each parent considering the promotion of nurturance and  
 2 safety of the child rather than superficial or material factors;

3 (G) The importance of continuity in the child's life and the length of time the child has  
 4 lived in a stable, satisfactory environment and the desirability of maintaining  
 5 continuity;

6 (H) The stability of the family unit of each of the parents and the presence or absence  
 7 of each parent's support systems within the community to benefit the child;

8 (I) The mental and physical health of each parent;

9 (J) Each parent's involvement, or lack thereof, in the child's education, social, and  
 10 extracurricular activities;

11 (K) Each parent's employment schedule and the related flexibility or limitations, if  
 12 any, of a parent to care for the child;

13 (L) The home, school, and community record and history of the child, as well as any  
 14 health or educational special needs of the child;

15 (M) Each parent's past performance and relative abilities for future performance of  
 16 parenting responsibilities;

17 (N) The willingness and ability of each of the parents to facilitate and encourage a  
 18 close and continuing parent-child relationship between the child and the other parent,  
 19 consistent with the best interest of the child;

20 (O) Any recommendation by a court appointed custody evaluator or guardian ad litem;

21 (P) Any evidence of family violence or sexual, mental, or physical child abuse or  
 22 criminal history of either parent; and

23 (Q) Any evidence of substance abuse by either parent.

24 (4) In addition to other factors that a court judge may consider in a proceeding in which  
 25 the custody of a child or visitation or parenting time by a parent is at issue and in which  
 26 the court judge has made a finding of family violence:

27 (A) The court judge shall consider as primary the safety and well-being of the child  
 28 and of the parent who is the victim of family violence;

29 (B) The court judge shall consider the perpetrator's history of causing physical harm,  
 30 bodily injury, assault, or causing reasonable fear of physical harm, bodily injury, or  
 31 assault to another person;

32 (C) If a parent is absent or relocates because of an act of domestic violence by the other  
 33 parent, such absence or relocation for a reasonable period of time in the circumstances  
 34 shall not be deemed an abandonment of the child ~~or children~~ for the purposes of  
 35 custody determination; and

36 (D) The court judge shall not refuse to consider relevant or otherwise admissible  
 37 evidence of acts of family violence merely because there has been no previous finding

1 of family violence. The court judge may, in addition to other appropriate actions, order  
2 supervised visitation or parenting time pursuant to Code Section 19-9-7.

3 ~~(4)~~(5) In all custody cases in which the child has reached the age of 14 years, the child  
4 shall have the right to select the parent with whom he or she desires to live and shall have  
5 the right to determine his or her visitation schedule or parenting time with the  
6 noncustodial parent. The child's selection for purposes of custody, visitation, or  
7 parenting time shall be ~~controlling~~ presumptive unless the parent so selected is  
8 determined not to be a fit and proper person to have the custody of the child in the best  
9 interests of the child. The parental selection by a child who has reached the age of 14  
10 may, in and of itself, constitute a material change of condition or circumstance in any  
11 action seeking a modification or change in the custody of that child; provided, however,  
12 that such selection may only be made once within a period of two years from the date of  
13 the previous selection and the best interests of the child standard shall apply.

14 ~~(4.1)~~(6) In all custody cases in which the child has reached the age of ~~at least~~ 11 but not  
15 14 years, the court judge shall consider the desires and educational needs of the child in  
16 determining which parent shall have custody. ~~The child's selection shall not be~~  
17 ~~controlling.~~ ~~The best interests of the child standard shall apply.~~ The judge shall have  
18 complete discretion in making this determination, and the child's desires shall not be  
19 controlling. The judge shall further have broad discretion as to how the child's desires  
20 are to be considered, including through the report of a guardian ad litem. The best  
21 interests of the child standard shall be controlling. The parental selection of a child who  
22 has reached the age of 11 but not 14 years shall not, in and of itself, constitute a material  
23 change of condition or circumstance in any action seeking a modification or change in  
24 the custody of that child. The judge may issue an order granting temporary custody to  
25 the selected parent for a trial period not to exceed six months regarding the custody of a  
26 child who has reached the age of 11 but not 14 years where the judge hearing the case  
27 determines such a temporary order is appropriate.

28 ~~(5)~~ Joint custody, as defined by Code Section 19-9-6, may be considered as an  
29 alternative form of custody by the court. ~~This provision allows a court at any temporary~~  
30 ~~or permanent hearing to grant sole custody, joint custody, joint legal custody, or joint~~  
31 ~~physical custody where appropriate.~~

32 ~~(6)~~(7) The court judge is authorized to order a psychological custody evaluation of the  
33 family or an independent medical evaluation. In addition to the privilege afforded a  
34 witness, neither a court appointed custody evaluator nor a court appointed guardian ad  
35 litem shall be subject to civil liability resulting from any act or failure to act in the  
36 performance of his or her duties unless such act or failure to act was in bad faith.

37 (8) If requested by any party on or before the close of evidence in a contested hearing,  
38 the permanent court order awarding child custody shall set forth specific findings of fact

1 as to the basis for the judge's decision in making an award of custody including any  
 2 relevant factor relied upon by the judge as set forth in paragraph (3) of this subsection.  
 3 Such order shall set forth in detail why the court awarded custody in the manner set forth  
 4 in the order and, if joint legal custody is awarded, a manner in which final decision  
 5 making on matters affecting the child's education, health, extracurricular activities,  
 6 religion, and any other important matter shall be decided. Such order shall be filed within  
 7 30 days of the final hearing in the case, unless extended by order of the judge with the  
 8 agreement of the parties.

9 (b) In any case in which a judgment awarding the custody of a minor child has been  
 10 entered, on the motion of any party or on the motion of the court judge, that portion of the  
 11 judgment effecting visitation rights between the parties and their minor children child or  
 12 parenting time may be subject to review and modification or alteration without the  
 13 necessity of any showing of a change in any material conditions and circumstances of  
 14 either party or the minor child, provided that the review and modification or alteration shall  
 15 not be had more often than once in each two-year period following the date of entry of the  
 16 judgment. However, this subsection shall not limit or restrict the power of the court judge  
 17 to enter a judgment relating to the custody of a minor child in any new proceeding based  
 18 upon a showing of a change in any material conditions or circumstances of a party or the  
 19 minor child.

20 (c) In the event of any conflict between this Code section and any provision of Article 3  
 21 of this chapter, Article 3 shall apply.

22 (d) It is the express policy of this state to encourage that a minor child has continuing  
 23 contact with parents and grandparents who have shown the ability to act in the best interest  
 24 of the child and to encourage parents to share in the rights and responsibilities of raising  
 25 their children child after such parents have separated or dissolved their marriage or  
 26 relationship.

27 (e) Upon the filing of an action for a change of child custody, the court judge may in its  
 28 his or her discretion change the terms of custody on a temporary basis pending final  
 29 judgment on such issue. Any such award of temporary custody shall not constitute an  
 30 adjudication of the rights of the parties.

31 (f)(1) In any case in which a judgment awarding the custody of a child has been entered,  
 32 the court entering such judgment shall retain jurisdiction of the case for the purpose of  
 33 ordering the custodial parent to notify the court of any changes in the residence of the  
 34 child.

35 (2) In any case in which visitation rights or parenting time has been provided to the  
 36 noncustodial parent and the court orders that the custodial parent provide notice of a  
 37 change in address of the place for pickup and delivery of the child for visitation or  
 38 parenting time, the custodial parent shall notify the noncustodial parent, in writing, of any

1 change in such address. Such written notification shall provide a street address or other  
 2 description of the new location for pickup and delivery so that the noncustodial parent  
 3 may exercise such parent's visitation rights or parenting time.

4 (3) Except where otherwise provided by court order, in any case under this subsection  
 5 in which a parent changes his or her residence, he or she must give notification of such  
 6 change to the other parent and, if the parent changing residence is the custodial parent,  
 7 to any other person granted visitation rights or parenting time under this title or a court  
 8 order. Such notification shall be given at least 30 days prior to the anticipated change of  
 9 residence and shall include the full address of the new residence.

10 (g) Except as provided in Code Section 19-6-2, and in addition to the attorney's fee  
 11 provisions contained in Code Section 19-6-15, the judge may order reasonable attorney's  
 12 fees and expenses of litigation, experts, and the child's guardian ad litem and other costs  
 13 of the child custody action and pretrial proceedings to be paid by the parties in proportions  
 14 and at times determined by the judge. Attorney's fees may be awarded at both the  
 15 temporary hearing and the final hearing. A final judgment shall include the amount  
 16 granted, whether the grant is in full or on account, which may be enforced by attachment  
 17 for contempt of court or by writ of fieri facias, whether the parties subsequently reconcile  
 18 or not. An attorney may bring an action in his or her own name to enforce a grant of  
 19 attorney's fees made pursuant to this subsection.

20 (h) In addition to filing requirements contained in Code Section 19-6-15, upon the  
 21 conclusion of any proceeding under this article, the domestic relations final disposition  
 22 form as set forth in Code Section 9-11-133 shall be filed.

23 19-9-4.

24 (a) On motion of either party in any action or proceeding involving determination of the  
 25 award of child custody between parents of the child, when such motion contains a specific  
 26 recitation of actual abuse, neglect, or other overt acts which have adversely affected the  
 27 health and welfare of the child, the court judge may direct the appropriate family and  
 28 children services agency or any other appropriate entity to investigate the home life and  
 29 home environment of each of the parents. In any action or proceeding involving  
 30 determination of the award of child custody between parents of the child when during such  
 31 proceedings a specific recitation of actual abuse, neglect, or other overt acts which have  
 32 adversely affected the health and welfare of the child has been made the court judge shall  
 33 also have authority on its his or her own motion to order such an investigation if in the  
 34 court's judge's opinion the investigation would be useful in determining placement or  
 35 custody of the child. The court judge may also direct either party to pay to the agency the  
 36 reasonable cost, or any portion thereof, of the investigation. The report of the investigation  
 37 will be made to the court judge directing the investigation. Any report made at the

1 direction of the court judge shall be made available to either or both parties for a reasonable  
 2 period of time prior to the proceedings at which any temporary or permanent custody is to  
 3 be determined. Both parties shall have the right to confront and cross-examine the person  
 4 or persons who conducted the investigation or compiled the report if adequate and legal  
 5 notice is given.

6 (b) This Code section shall apply only with respect to actions or proceedings in which the  
 7 issue of child custody is contested; and this Code section is not intended to alter or repeal  
 8 Code Sections 49-5-40 through 49-5-44.

9 19-9-5.

10 (a) In all proceedings under this article between parents, it shall be expressly permissible  
 11 for the parents of a minor child to present to the court judge an agreement respecting any  
 12 and all issues concerning custody of the minor child. As used in this Code section, the term  
 13 'custody' shall include, without limitation, joint custody as such term is defined in Code  
 14 Section 19-9-6. As used in this Code section, the term 'custody' shall not include payment  
 15 of child support.

16 (b) The court judge shall ratify the agreement and make such agreement a part of the  
 17 court's judge's final judgment in the proceedings unless the court judge makes specific  
 18 written factual findings as a part of the final judgment that under the circumstances of the  
 19 parents and the child in such agreement that the agreement would not be in the best  
 20 interests of the child. The court judge shall not refuse to ratify such agreement and to make  
 21 such agreement a part of the final judgment based solely upon the parents' choice to use  
 22 joint custody as a part of such agreement.

23 (c) In its his or her judgment, the court judge may supplement the agreement on issues not  
 24 covered by such agreement.

25 19-9-6.

26 As used in this article, the term:

27 (1) 'Joint custody' means joint legal custody, joint physical custody, or both joint legal  
 28 custody and joint physical custody. In making an order for joint custody, the court judge  
 29 may order joint legal custody without ordering joint physical custody.

30 (2) 'Joint legal custody' means both parents have equal rights and responsibilities for  
 31 major decisions concerning the child, including the child's education, health care,  
 32 extracurricular activities, and religious training; provided, however, that the court judge  
 33 may designate one parent to have sole power to make certain decisions while both parents  
 34 retain equal rights and responsibilities for other decisions.

35 (3) 'Joint physical custody' means that physical custody is shared by the parents in such  
 36 a way as to assure the child of substantially equal time and contact with both parents.



1 (4) 'Sole custody' means a person, including, but not limited to, a parent, has been  
 2 awarded permanent custody of a child by a court order. Unless otherwise provided by  
 3 court order, the person awarded sole custody of a child shall have the rights and  
 4 responsibilities for major decisions concerning the child, including the child's education,  
 5 health care, extracurricular activities, and religious training, and the noncustodial parent  
 6 shall have the right to visitation or parenting time. A person who has not been awarded  
 7 custody of a child by court order shall not be considered as the sole legal custodian while  
 8 exercising visitation rights or parenting time.

9 19-9-7.

10 (a) A court judge may award visitation by or parenting time to a parent who committed  
 11 one or more acts involving family violence only if the court judge finds that adequate  
 12 provision for the safety of the child and the parent who is a victim of family violence can  
 13 be made. In a visitation or parenting time order, a court judge may:

14 (1) Order an exchange of a child to occur in a protected setting;

15 (2) Order visitation or parenting time supervised by another person or agency;

16 (3) Order the perpetrator of family violence to attend and complete, to the satisfaction  
 17 of the court judge, a certified family violence intervention program for perpetrators as  
 18 defined in Article 1A of Chapter 13 of this title as a condition of the visitation or  
 19 parenting time;

20 (4) Order the perpetrator of family violence to abstain from possession or consumption  
 21 of alcohol, marijuana, or any Schedule I controlled substance listed in Code Section  
 22 16-13-25 during the visitation or parenting time and for 24 hours preceding the visitation  
 23 or parenting time;

24 (5) Order the perpetrator of family violence to pay a fee to defray the costs of supervised  
 25 visitation or parenting time;

26 (6) Prohibit overnight visitation or parenting time;

27 (7) Require a bond from the perpetrator of family violence for the return and safety of  
 28 the child; and

29 (8) Impose any other condition that is deemed necessary to provide for the safety of the  
 30 child, the victim of family violence, or another family or household member.

31 (b) Whether or not visitation or parenting time is allowed, the court judge may order the  
 32 address of the child and the victim of family violence to be kept confidential.

33 (c) The court judge shall not order an adult who is a victim of family violence to attend  
 34 joint counseling with the perpetrator of family violence as a condition of receiving custody  
 35 of a child or as a condition of visitation or parenting time.

1 (d) If a ~~court judge~~ allows a family or household member to supervise visitation or  
2 parenting time, the ~~court judge~~ shall establish conditions to be followed during visitation  
3 or parenting time."

4 **SECTION 6.**

5 Code Section 19-7-22 of the Official Code of Georgia Annotated, relating to petition for  
6 legitimation of a child, is amended by revising subsection (f.1) as follows:

7 "(f.1) The petition for legitimation may also include claims for visitation, parenting time,  
8 or custody. If such claims are raised in the legitimation action, the court may order, in  
9 addition to legitimation, visitation, parenting time, or custody based on the best interests  
10 of the child standard. In a case involving allegations of family violence, the provisions of  
11 paragraph ~~(2)~~ (4) of subsection (a) of Code Section ~~19-9-1~~ 19-9-3 shall also apply."

12 **SECTION 7.**

13 This Act shall become effective on January 1, 2008, and shall apply to all child custody  
14 proceedings and modifications of child custody filed on or after January 1, 2008.

15 **SECTION 8.**

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