

Senate Bill 128

By: Senator Carter of the 13th

AS PASSED

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 confidentiality of records held by the Office of the
3 Child Advocate for the Protection of Children; to provide specifically for the consideration
4 of in-state and out-of-state placements for children at permanency plan hearings; to provide
5 for procedural safeguards to assure that in a permanency hearing there is consultation with
6 the child, in an age appropriate manner, regarding the proposed permanency and transition
7 plan for the child; to require that foster parents, preadoptive parents, and relative caregivers
8 are given notice of their right to be heard at certain hearings and proceedings; to provide that
9 foster parents, preadoptive parents, and relative caregivers must be provided notice of their
10 right to be heard at all court proceedings held pursuant to Article 2 of said chapter; to amend
11 Chapter 5 of Title 49, relating to programs and protections for children and youth; to provide
12 that the Department of Human Resources shall not disclose or use information from child
13 abuse and neglect registries obtained from other states outside the department for any
14 purpose other than conducting background checks to be used in foster care and adoptive
15 placements; to permit the department to provide health and education records to children who
16 leave foster care as a result of reaching the age of majority; to provide for related matters;
17 to provide for an effective date; to repeal conflicting laws; and for other purposes.

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

19 **SECTION 1.**

20 Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to juvenile
21 proceedings, is amended in Code Section 15-11-174, relating to the rights and powers of the
22 advocate, by revising paragraph (2) of subsection (a) as follows:

23 "(2) To have access to all records and files of the division concerning or relating to a
24 child, and to have access, including the right to inspect, copy, and subpoena records held
25 by clerks of the various courts, law enforcement agencies, service providers, including

1 medical and mental health, and institutions, public or private, with whom a particular
 2 child has been either voluntarily or otherwise placed for care or from whom the child has
 3 received treatment within the state. To the extent any such information provides the
 4 names and addresses of individuals who are the subject of any confidential proceeding
 5 or statutory confidentiality provisions, such names and addresses or related information
 6 which has the effect of identifying such individuals shall not be released to the public
 7 without the consent of such individuals. The Office of the Child Advocate for the
 8 Protection of Children is bound by all confidentiality safeguards provided in Code
 9 Sections 49-5-40 and 49-5-44. Anyone wishing to obtain records held by the Office of
 10 the Child Advocate shall petition the original agency of record where such records exist;"

11 **SECTION 2.**

12 Said chapter is further amended by adding a new Code section to read as follows:

13 "15-11-55.1.

14 In advance of any hearing or other proceeding to be held with respect to a child pursuant
 15 to Code Section 15-11-55 or a deprivation hearing to be held with respect to a child
 16 pursuant to paragraph (3) of subsection (c) of Code Section 15-11-49 and Code Sections
 17 15-11-39 and 15-11-39.2, the court shall provide notice or shall direct that a party shall
 18 provide notice of such hearing or other proceeding, including their right to be heard at such
 19 hearing or other proceeding, to the foster parents of the child, and to any preadoptive
 20 parents or relatives providing care for the child, consistent with the form and timing of
 21 notice to parties; provided, however, that this provision shall not be construed to require
 22 a foster parent, preadoptive parent, or relative caring for the child to be made a party to the
 23 hearing solely on the basis of such notice and right to be heard."

24 **SECTION 3.**

25 Said chapter is further amended in Code Section 15-11-58, relating to case plans,
 26 permanency plans, and other court proceedings regarding deprived juveniles, by revising
 27 paragraph (4) of subsection (o) as follows:

28 "(4) The parents, the custodian of the child, the foster parents of the child, any
 29 preadoptive parent or relative providing care for the child, and other parties shall be given
 30 written notice of a permanency hearing at least five days in advance and shall be advised
 31 that the permanency plan recommended by the Division of Family and Children Services
 32 of the Department of Human Resources will be submitted to the court for consideration
 33 to become an order of the court. Procedural safeguards shall be applied with respect to
 34 parental rights pertaining to the removal of the child from the home of his or her parents,
 35 to a change in the child's placement, and to any determination affecting visitation

1 privileges of parents. Procedural safeguards shall also be applied to assure that the court
 2 or the judicial citizen review panel conducting a permanency hearing, including any
 3 hearing regarding transition of the child from foster care to independent living, shall
 4 consult, in an age-appropriate manner, with the child regarding the proposed permanency
 5 or transition plan for such child. The provisions of subsection (p) of this Code section
 6 concerning notice, opportunity to be heard, authority of the court, and content of the
 7 court's order are applicable to proceedings under this paragraph."

8 SECTION 4.

9 Said chapter is further amended in Code Section 15-11-58, relating to case plans,
 10 permanency plans, and other court proceedings regarding deprived juveniles, by revising
 11 paragraph (6) of subsection (o) as follows:

12 "(6) The court or judicial citizen review panel which conducts the permanency hearing
 13 shall determine, as a finding of fact, whether the Division of Family and Children
 14 Services of the Department of Human Resources has made reasonable efforts to finalize
 15 the permanency plan which is in effect at the time of the hearing. Further, the court or the
 16 judicial citizen review panel, if applicable, shall determine as a finding of fact whether,
 17 in the case of a child placed out of the state, the out-of-state placement continues to be
 18 appropriate and in the best interest of the child and, in the case of a child who has attained
 19 the age of 14, shall determine the services needed to assist the child to make a transition
 20 from foster care to independent living. Also, in the case of a child whose permanency
 21 plan provides that the child will not be returned to the parent, the court or judicial citizen
 22 review panel, if applicable, shall consider in-state and out-of-state placement options for
 23 such child. Such findings of fact shall be made a part of the report of the judicial citizen
 24 review panel to the court and any supplemental order entered by the court. ~~The provisions~~
 25 ~~of subsection (p) of this Code section concerning notice, opportunity to be heard,~~
 26 ~~authority of the court, and content of the court's order are applicable to proceedings under~~
 27 ~~this paragraph."~~

28 SECTION 5.

29 Said chapter is further amended in Code Section 15-11-58, relating to case plans,
 30 permanency plans, and other court proceedings regarding deprived juveniles, by revising
 31 subsection (p) as follows:

32 "(p) In advance of each review, ~~or hearing, or other proceeding~~ to be held with respect to
 33 a child pursuant to this Code section, the court shall provide written notice or shall direct
 34 that a party shall provide written notice of such review, ~~or hearing, or other proceeding,~~
 35 including their right to be heard at such review, ~~or hearing, or other proceeding~~ to the

1 custodian of the child, to the foster parents of the child, and to any preadoptive parents or
 2 relatives providing care for the child, consistent with the form and timing of notice to
 3 parties; provided, however, that this provision shall not be construed to require a custodian,
 4 foster parent, preadoptive parent, or relative caring for the child to be made a party to the
 5 review, hearing, or other proceeding solely on the basis of such notice and opportunity to
 6 be heard. At each such review, hearing, or proceeding, the court in its discretion, based
 7 upon the evidence, may enter an order accepting or rejecting any report of the Division of
 8 Family and Children Services of the Department of Human Resources, ordering an
 9 additional evaluation, appointing a guardian ad litem, or undertaking such other review as
 10 it deems necessary and appropriate to determine the disposition that is in the child's best
 11 interest. The court's order may incorporate all or part of the report of the Division of
 12 Family and Children Services of the Department of Human Resources. In its order the court
 13 shall include findings of fact which reflect the court's consideration of the oral and written
 14 testimony offered by the parents, the custodian of the child, the foster parents of the child,
 15 any preadoptive parents or relatives providing care for the child who are required to be
 16 provided with notice and a right to be heard in any review, or hearing, or proceeding to be
 17 held with respect to the child, and the Division of Family and Children Services of the
 18 Department of Human Resources. A disposition may be made under the terms of this Code
 19 section only if the court finds that such disposition is in the best interest of the child."

20 SECTION 6.

21 Said chapter is further amended by revising Code Section 15-11-104, relating to the
 22 applicability of Article 1 of Chapter 11 of Title 15 to Article 2, to read as follows:

23 "15-11-104.

24 In a proceeding under this article, the provisions of Article 1 of this chapter shall apply
 25 unless in conflict with this article. In advance of any hearing or other proceeding to be held
 26 with respect to a child pursuant to this article, the court shall provide written notice or shall
 27 direct that a party shall provide written notice of such hearing or other proceeding,
 28 including their right to be heard at such hearing or other proceeding, to the foster parents
 29 of the child and to any preadoptive parents or relatives providing care for the child,
 30 consistent with the form and timing of notice to parties; provided, however, that this
 31 provision shall not be construed to require a foster parent, preadoptive parent, or relative
 32 caring for the child to be made a party to the hearing solely on the basis of such notice and
 33 right to be heard."

SECTION 7.

Chapter 5 of Title 49 of the Official Code of Georgia Annotated, relating to programs and protections for children and youth, is further amended by adding a new subsection (c) to Code Section 49-5-40, relating to definitions and confidentiality of records, to read as follows:

"(c) Each and every record concerning child abuse or neglect which is received by the department from the child abuse and neglect registry of any other state shall not be disclosed or used outside the department for any other purpose other than conducting background checks to be used in foster care and adoptive placements."

SECTION 8.

Said chapter is further amended by adding a new paragraph (12) to subsection (c) of Code Section 49-5-41, relating to persons and agencies permitted access to records, to read as follows:

"(12) An individual, at the time such individual is leaving foster care by reason of having attained the age of majority, but such access shall be limited to providing such individual with a free copy of his or her health and education records, including the most recent information available."

SECTION 9.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 10.

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