

House Bill 1040

By: Representatives Lindsey of the 54th, Oliver of the 83rd, Tumlin of the 38th, and Teilhet of the 40th

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 3 of Article 1 of Chapter 11 of Title 15 of the Official Code of Georgia
2 Annotated, relating to jurisdiction and venue of juvenile court proceedings, so as to grant
3 jurisdiction to juvenile courts for the appointment of a permanent guardian for a deprived
4 child under certain circumstances; to provide for required findings; to provide for duration
5 of orders; to provide for modification, vacation, or revocation of orders; to provide for notice
6 and a hearing; to provide for rights and duties of the permanent guardians; to provide for an
7 oath; to provide for related matters; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Part 3 of Article 1 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated,
11 relating to jurisdiction and venue of juvenile court proceedings, is amended by revising Code
12 Section 15-11-30.1, relating to appointment of guardian and transfer of custody and child
13 support questions from superior court, as follows:

14 "15-11-30.1.

15 (a)(1) The court is vested with jurisdiction to appoint a guardian of the person or
16 property of any child and with jurisdiction over proceedings involving any child whose
17 custody is the subject of controversy. Any such appointment shall be made pursuant to
18 the same requirements of notice and hearing as are provided for appointments of
19 guardians of the persons and properties of minors by the judge of the probate court.

20 (2)(A) In addition to the jurisdiction to appoint guardians pursuant to paragraph (1) of
21 this subsection, the juvenile court shall be vested with jurisdiction to appoint a
22 permanent guardian for a child whose custody is a subject of controversy before the
23 court as a result of an adjudication that the child is deprived in accordance with Part 6
24 of this article. Prior to the entry of such an order, the court shall:

25 (i) Find that reasonable efforts to reunify the child with his or her family would be
26 detrimental to the child in accordance with subsection (h) of Code Section 15-11-58

1 or find that the living parents or parent of the child have consented to the permanent
 2 guardianship;

3 (ii) Find that termination of parental rights and adoption and, if the proposed
 4 guardian is not a relative of the child, that placement with a fit and willing relative,
 5 is not in the best interest of the child;

6 (iii) Find that the proposed permanent guardian can provide a safe and permanent
 7 home for the child;

8 (iv) Find that the appointment of a permanent guardian for the child is in the best
 9 interest of the child and that the individual chosen as the child's permanent guardian
 10 is the individual most appropriate to be the child's permanent guardian taking into
 11 consideration the best interest of the child; and

12 (v) If the child is 14 years of age or older, find that the child has consented to the
 13 appointment of the individual as his or her permanent guardian.

14 The juvenile court may also enter an order of support on behalf of the minor child
 15 against the parents of the child in accordance with paragraph (2) of subsection (c) of
 16 Code Section 15-11-28.

17 (B) Orders under subparagraph (A) of this paragraph shall:

18 (i) Remain in effect until the child reaches the age of majority; and

19 (ii) Not be subject to review by the court except as provided in subparagraph (C) of
 20 this paragraph.

21 (C) The court shall retain jurisdiction over a guardianship action under this paragraph
 22 for the sole purpose of entering an order following the filing of a petition to modify,
 23 vacate, or revoke the guardianship and to appoint a new guardian. The superior courts
 24 shall have concurrent jurisdiction for enforcement or modification of any child support
 25 order entered pursuant to this Code section. The guardianship shall be modified,
 26 vacated, or revoked based upon a finding, by clear and convincing evidence, that there
 27 has been a material change in the circumstances of the child or the guardian and that
 28 such modification, vacation, or revocation of the guardianship order and the
 29 appointment of a new guardian is in the best interest of the child. Appointment of a
 30 new guardian shall be subject to the provisions of this paragraph.

31 (D) Notice of a guardianship petition pursuant to this paragraph shall be given in
 32 accordance with subsection (c) of Code Section 29-2-17 except that, if the parents have
 33 consented to the guardianship, notice of the petition shall not be required to be given
 34 to the individuals listed in division (vii) of subparagraph (E) of this paragraph. The
 35 hearing shall be conducted in accordance with Code Section 29-2-18, except as
 36 otherwise provided in subparagraph (A) of this paragraph.

1 (E) The petition for the appointment of a permanent guardian pursuant to this
2 paragraph shall set forth:

3 (i) A statement of the facts upon which the court's jurisdiction is based;

4 (ii) The name and date of birth of the minor;

5 (iii) The name, address, and county of domicile of the petitioner and the petitioner's
6 relationship to the child, if any, and, if different from the petitioner, the name,
7 address, and county of domicile of the individual nominated by the petitioner to serve
8 as guardian and that individual's relationship to the minor, if any;

9 (iv) A statement that:

10 (I) Reasonable efforts to reunify the child with his or her family would be
11 detrimental to the child in accordance with subsection (h) of Code Section 15-11-58
12 or that the living parents or parent of the child have consented to the permanent
13 guardianship;

14 (II) Termination of parental rights and adoption and, if the proposed guardian is not
15 a relative of the child, that placement with a fit and willing relative is not in the best
16 interest of the child;

17 (III) The proposed guardian can provide a safe and permanent home for the child;

18 (IV) The appointment of a permanent guardian for the child is in the best interest
19 of the child and that the individual chosen as the child's guardian is the individual
20 most appropriate to be the child's permanent guardian taking into consideration the
21 best interest of the child; and

22 (V) If the child is 14 years of age or older, that the child has consented to the
23 appointment of the individual as his or her guardian.

24 (v) A statement of whether the child was born out of wedlock and, if so, the name
25 and address of the biological father, if known;

26 (vi) Whether, to the petitioner's knowledge, there exists any notarized or witnessed
27 document made by a parent of the minor that deals with the guardianship of the minor
28 and the name and address of any designee named in the document;

29 (vii) In addition to the petitioner and the nominated guardian and, if the parents have
30 not consented to the permanent guardianship, the names and addresses of the
31 following relatives of the minor whose whereabouts are known:

32 (I) The adult siblings of the minor; provided, however, that not more than three
33 adult siblings need to be listed;

34 (II) If there is no adult sibling of the minor, the grandparents of the minor;
35 provided, however, that not more than three grandparents need to be listed; or

