

The Senate Judiciary Committee offered the following substitute to HB 254:

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 the Department of Human Resources shall attempt
3 to locate the adult relatives of a child removed from the custody of his or her parents; to
4 provide for notice; to provide that the court shall order the disclosure of adult relatives of
5 such child; to provide conditions for the placement of a child following a termination order;
6 to provide for findings of fact; to amend Code Section 19-8-5 of the Official Code of Georgia
7 Annotated, relating to surrender or termination of parental or guardian's rights where child
8 to be adopted by a third party, so as to require home studies for third-party adoptions; to
9 provide for related matters; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

11 Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to juvenile
12 proceedings, is amended by revising paragraph (2) of subsection (a) of Code Section
13 15-11-55, relating to disposition of deprived child and policy favoring stable placements, as
14 follows:
15

16 "(2)(A) Subject to conditions and limitations as the court prescribes, transfer temporary
17 legal custody to any of the persons or entities described in this paragraph. Without
18 limiting the generality of the foregoing, such conditions and limitations shall include
19 a provision that the court shall approve or direct the retransfer of the physical custody
20 of the child back to the parents, guardian, or other custodian either upon the occurrence
21 of specified circumstances or in the discretion of the court. Any such retransfer of
22 physical custody may be made subject to such further conditions and limitations as the
23 court prescribes, including supervision for the protection of the child. The persons or
24 entities to whom or which temporary legal custody may be transferred shall include the
25 following:

26 ~~(A)~~(i) Any individual including a putative father who, after study by the probation
 27 officer or other person or agency designated by the court, is found by the court to be
 28 qualified to receive and care for the child;

29 ~~(B)~~(ii) An agency or other private organization licensed or otherwise authorized by
 30 law to receive and provide care for the child;

31 ~~(C)~~(iii) Any public agency authorized by law to receive and provide care for the
 32 child; provided, however, that for the purpose of this Code section, the term 'public
 33 agency' shall not include the Department of Juvenile Justice; or

34 ~~(D)~~(iv) An individual in another state with or without supervision by an appropriate
 35 officer under Code Section 15-11-89.

36 (B) Except for dispositions pursuant to paragraph (1) of subsection (a) of Code Section
 37 15-11-66 and Code Section 15-11-67, ~~before transferring temporary legal custody in~~
 38 ~~an order of disposition under this paragraph a reasonably diligent search for~~ within 30
 39 days after the removal of a child from the custody of the parent or parents of the child,
 40 the department shall exercise due diligence to identify a parent or relative of the child
 41 or other persons who have demonstrated an ongoing commitment to the child shall be
 42 conducted by the court and the Department of Human Resources. Such search shall be
 43 completed within 90 days from the date on which the child was removed from the
 44 home, the. All identified adult relatives of the child, subject to exceptions due to family
 45 or domestic violence, shall be provided with notice:

46 (i) Specifying that the child has been or is being removed from parental custody;

47 (ii) Explaining the options the relative has to participate in the care and placement of
 48 the child and any options that may be lost by failing to respond to the notice;

49 (iii) Describing the process for becoming an approved foster family home and the
 50 additional services and supports available for children placed in approved foster
 51 homes; and

52 (iv) Describing any financial assistance for which the relative may be eligible.

53 (C) The results of such search and notification shall be documented in writing and filed
 54 with the court at by the time of the first review. During such 90 30 day period, the
 55 court may order that the child may be placed in the temporary legal custody of the
 56 Department of Human Resources or any other appropriate entity or person.

57 (D) The court shall order in its preliminary disposition that the parent or other legal
 58 guardian of the child shall provide within ten days the names and addresses of all
 59 relatives and other persons who might be considered as possible placements for the
 60 child. The parties shall have an ongoing duty to supplement this information during the
 61 course of the case at each judicial review or citizen panel review. The court shall
 62 include in all published summons a notice that this information must be provided.

63 (E) The Council of Juvenile Court Judges shall be authorized to create uniform rules
 64 and forms to implement the provisions of this paragraph; or"

65 **SECTION 2.**

66 Said chapter is further amended by revising Code Section 15-11-103, relating to placement
 67 of child following termination order, custodial authority, and review of placement, as
 68 follows:

69 "15-11-103.

70 (a)(1) ~~If, upon the entering of an order terminating the parental rights of a parent, there is~~
 71 ~~no parent having parental rights, the court shall first attempt to place the child with a person~~
 72 ~~related to the child by blood or marriage or with a member of the child's extended family~~
 73 ~~if such a person is willing and, after study by the probation officer or other person or~~
 74 ~~agency designated by the court, is found by the court to be qualified to receive and care for~~
 75 ~~the child, if the court determines such placement is the most appropriate for and in the best~~
 76 ~~interest of the child. A placement effected under this paragraph shall be conditioned upon~~
 77 ~~the family member who is given permanent custody or who is granted an adoption of the~~
 78 ~~child agreeing to abide by the terms and conditions of the order of the court.~~

79 (2) ~~If no placement of the child is effected under paragraph (1) of this subsection, the~~
 80 ~~court may commit the child to the custody of the Department of Human Resources or to~~
 81 ~~a licensed child-placing agency willing to accept custody for the purpose of placing the~~
 82 ~~child for adoption, if the court determines such placement is the most appropriate for and~~
 83 ~~in the best interest of the child.~~

84 (3) ~~If no placement of the child is effected under paragraph (1) or (2) of this subsection,~~
 85 ~~the court may commit the child to a suitable individual on the condition that the person~~
 86 ~~becomes the guardian of the person of the child pursuant to the court's authority under~~
 87 ~~Code Section 15-11-30.1, if the court determines such placement is the most appropriate~~
 88 ~~for and in the best interest of the child.~~

89 (4) ~~If no placement of the child is effected under paragraph (1), (2), or (3) of this~~
 90 ~~subsection, the court may commit the child to the custody of the Department of Human~~
 91 ~~Resources or to a licensed child-placing agency willing to accept custody for the purpose~~
 92 ~~of placing the child in a foster home, if the court determines such placement is the most~~
 93 ~~appropriate for and in the best interest of the child.~~

94 (5) ~~If no placement of the child is effected under paragraph (1), (2), (3), or (4) of this~~
 95 ~~subsection, the court may commit the child to the custody of an agency or organization~~
 96 ~~authorized by law to receive and provide care for children which is operated in a manner~~
 97 ~~that provides such care, guidance, and control as would be provided in a family home as~~

98 ~~defined in the court's order, if the court determines that such placement is the most~~
99 ~~appropriate for and in the best interest of the child.~~

100 ~~(6) If no placement of the child is effected under paragraph (1), (2), (3), (4), or (5) of this~~
101 ~~subsection, the court may take other suitable measures for the care and welfare of the~~
102 ~~child. Upon the entering of an order terminating the parental rights of a parent, a~~
103 ~~placement may be made only if the court finds that such placement is in the best interest~~
104 ~~of the child and in accordance with the child's court approved permanency plan created~~
105 ~~pursuant to Code Section 15-11-58. In determining which placement is in the child's best~~
106 ~~interest, the court shall enter findings of fact reflecting its consideration of the following:~~
107 ~~(1) The child's need for a placement that offers the greatest degree of legal permanence~~
108 ~~and security;~~
109 ~~(2) The least disruptive placement alternative for the child;~~
110 ~~(3) The child's sense of attachment and need for continuity of relationships; and~~
111 ~~(4) Any other factors the court deems relevant to its determination.~~

112 ~~(b) A placement effected under the provisions of this Code section shall be conditional~~
113 ~~upon the person who is given permanent custody or who is granted an adoption of the child~~
114 ~~agreeing to abide by the terms and conditions of the order of the court. A placement may~~
115 ~~be made under the terms of this Code section only if the court finds that such placement~~
116 ~~is in the best interest of the child.~~

117 ~~(c) The court shall transmit a copy of every final order terminating the parental rights of~~
118 ~~a parent to the Office of Adoptions of the Department of Human Resources within 15 days~~
119 ~~of the filing of such order.~~

120 ~~(d) The custodian has authority to consent to the adoption of the child, the child's marriage,~~
121 ~~the child's enlistment in the armed forces of the United States, and surgical and other~~
122 ~~medical treatment for the child.~~

123 ~~(e) In those cases in which the court has placed the child pursuant to a permanency plan~~
124 ~~of adoption, Except in those cases where the child was placed pursuant to paragraph (3) or~~
125 ~~(5) of subsection (a) of this Code section, if a petition seeking the adoption of the child is~~
126 ~~not filed within six months after the date of the disposition order, the court shall then, and~~
127 ~~at least every six months thereafter as long as the child remains unadopted, review the~~
128 ~~circumstances of the child to determine what efforts have been made to assure that the child~~
129 ~~will be adopted. The court may then enter such orders as it deems necessary to further the~~
130 ~~adoption, including but not limited to another placement. ~~In those cases where the child~~~~
131 ~~was placed with a guardian of the child's person pursuant to paragraph (3) of subsection (a)~~
132 ~~of this Code section, the guardian shall report to the court in the same manner and at the~~
133 ~~same frequency as is required for guardians of the person of minors appointed by the judge~~
134 ~~of the probate court. In those cases where the child was placed pursuant to paragraph (5)~~

135 ~~of subsection (a) of this Code section~~ parental rights to the child were terminated without
136 the designation of a permanent guardian or adoptive family, the court shall, at least every
137 six months thereafter as long as the child remains subject to the jurisdiction of the court,
138 review the circumstances of the child to determine that placement in the family home-like
139 setting continues to be in the child's best ~~interests~~ interest."

140 **SECTION 3.**

141 Code Section 19-8-5 of the Official Code of Georgia Annotated, relating to surrender or
142 termination of parental or guardian's rights where child to be adopted by a third party, is
143 amended by adding a new subsection to read as follows:

144 "(j.1) No third-party adoption shall occur prior to a home study of the prospective family
145 conducted by the Department of Human Resources or a child-placing agency in
146 accordance with rules and regulations of the Department of Human Resources. Such
147 rules and regulations shall provide that any such home study is conducted in a similar
148 manner to those required of child-placing agencies. This subsection shall not apply
149 when:

- 150 (1) The adoption is by a stepparent of the child pursuant to Code Section 19-8-6; or
151 (2) The adoption is by a relative of the child pursuant to Code Section 19-8-7."

152 **SECTION 4.**

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