

Senate Bill 127

By: Senators Hamrick of the 30th, Crosby of the 13th, Cowser of the 46th, Ramsey, Sr. of the 43rd, Fort of the 39th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 15 of the Official Code of Georgia Annotated, relating to courts, so as to
2 substantially revise, supersede, and modernize provisions relating to juvenile proceedings;
3 to provide for purpose statements; to provide for definitions; to provide for general
4 provisions; to provide for juvenile court administration; to provide for dependency
5 proceedings; to provide for venue; to provide for taking children into care; to provide for
6 preliminary protective hearings; to provide for petitions alleging dependency; to provide for
7 summons and service; to provide for preadjudication procedures; to provide for adjudication;
8 to provide for predisposition social study; to provide for family reunification determinations;
9 to provide for disposition of dependent children; to provide for permanency plan hearings
10 for dependent children; to provide for permanent guardianship; to provide for termination of
11 parental rights; to provide for petitions to terminate parental rights and summons; to provide
12 for hearings on such petitions; to provide for grounds for terminating parental rights; to
13 provide for disposition of children whose parental rights have been terminated; to provide
14 for independent living services; to provide for children in need of services; to provide for
15 informal procedures for children in need of services; to provide for formal court proceedings
16 for children in need of services; to provide for preadjudication custody and release of
17 children in need of services; to provide for a petition seeking an adjudication that a child is
18 in need of services; to provide for adjudication, disposition, and reviews; to provide for a
19 permanency plan for children in need of services; to provide for mental health issues; to
20 provide for delinquency; to provide for custody and release of a child; to provide for intake
21 or arraignment; to provide for informal adjustment; to provide for a petition alleging
22 delinquency and summons; to provide for preadjudication procedures for delinquency
23 proceedings; to provide for transfers to superior court; to provide for adjudication of
24 delinquency; to provide for predisposition investigation; to provide for disposition hearings
25 for delinquent children; to provide for permanency plans for delinquent children; to provide
26 for traffic offenses; to provide for competency in delinquency cases; to provide for parental
27 notification of abortions; to provide for access to hearings and records; to provide for
28 emancipation of minors; to provide for the Office of the Child Advocate for the Protection

29 of Children; to amend Article 1 of Chapter 5 of Title 49 of the Official Code of Georgia
 30 Annotated, relating to children and youth services so as to provide for an appeal procedure
 31 when the Division of Family and Children Services of the Department of Human Services
 32 fails to provide aftercare and transitional services to certain children; to provide for the
 33 Department of Human Services to provide for performance measures for an independent
 34 living skills program; to amend the Official Code of Georgia Annotated so as to conform
 35 provisions to the new Chapter 11 of Title 15 and correct cross-references; to provide for
 36 related matters; to provide for an effective date and applicability; to repeal conflicting laws;
 37 and for other purposes.

38 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

39 PART I
 40 JUVENILE CODE
 41 SECTION 1-1.

42 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by revising
 43 Chapter 11, relating to juvenile proceedings, in its entirety as follows:

44 CHAPTER 11
 45 ARTICLE 1

46 15-11-1.

47 The purpose of this chapter is to secure for each child who comes within the jurisdiction
 48 of the juvenile court such care and guidance, preferably in his or her own home, as will
 49 secure the child's moral, emotional, mental, and physical welfare as well as the safety of
 50 both the child and community. It is the intent of the General Assembly to promote a
 51 juvenile justice system that will protect the community, impose accountability for
 52 violations of law, provide treatment and rehabilitation, and equip juvenile offenders with
 53 the ability to live responsibly and productively. It is the intent of the General Assembly
 54 to preserve and strengthen family relationships, countenancing the removal of a child from
 55 his or her home only when state intervention is essential to protect the child and enable him
 56 or her to live in security and stability. In every proceeding, this chapter seeks to guarantee
 57 due process of law, as required by the Constitutions of the United States and the State of
 58 Georgia, through which every child and parent and all other interested parties are assured
 59 fair hearings at which legal rights are recognized and enforced. Above all, this chapter

60 shall be liberally construed to reflect that the paramount child welfare policy of this state
61 is to determine and ensure the best interests of its children.

62 15-11-2.

63 As used in this chapter, the term:

64 (1) 'Abandonment' or 'abandoned' means any conduct on the part of a parent, guardian,
65 or legal custodian showing an intent to forgo parental duties or relinquish parental claims.

66 Intent may be evidenced by:

67 (A) Failure, for a period of at least six months, to communicate meaningfully with a
68 child;

69 (B) Failure, for a period of at least six months, to maintain regular visitation with a
70 child;

71 (C) Leaving a child with another person without provision for the child's support for
72 a period of at least six months;

73 (D) Failure, for a period of at least six months, to participate in any court ordered plan
74 or program designed to reunite the parent, guardian, or legal custodian with a child;

75 (E) Leaving a child without affording means of identifying the child or the parent,
76 guardian, or legal custodian and:

77 (i) The identity of the parent, guardian, or legal custodian cannot be ascertained
78 despite diligent searching; and

79 (ii) The parent, guardian, or legal custodian has not come forward to claim the child
80 within three months following the finding of the child;

81 (F) Being absent from the home for a period of time that creates a substantial risk of
82 serious harm to a child left in the home;

83 (G) Failure to respond, for a period of at least six months, to notice of child protective
84 proceedings; or

85 (H) Any other conduct indicating an intent to forgo parental duties or relinquish
86 parental claims.

87 (2) 'Abuse' means:

88 (A) Any nonaccidental physical injury or physical injury which is inconsistent with the
89 explanation given for it suffered by a child as the result of the acts or omissions of a
90 person responsible for the care of the child;

91 (B) Emotional abuse;

92 (C) Sexual abuse or sexual exploitation;

93 (D) Prenatal abuse; or

94 (E) The commission of an act of family violence as defined in Code Section 19-13-1
95 in the presence of a child. An act includes a single act, multiple acts, or a continuing

- 96 course of conduct. As used in this subparagraph, the term 'presence' means physically
97 present or able to see or hear.
- 98 (3) 'Adult' means any individual who is not a child as defined in paragraph (10) of this
99 Code section.
- 100 (4) 'Affiliate court appointed special advocate program' means a locally operated
101 program operating with the approval of the local juvenile court which screens, trains, and
102 supervises volunteers to advocate for the best interests of an abused and neglected child
103 in dependency proceedings.
- 104 (5) 'Aggravated circumstances' means the parent has:
- 105 (A) Abandoned an infant;
- 106 (B) Attempted, conspired to attempt, or has subjected a child or a sibling of the child
107 to death or great bodily harm;
- 108 (C) Attempted, conspired to attempt, or has subjected a child or a sibling of the child
109 to torture, chronic abuse, sexual abuse, or sexual exploitation; or
- 110 (D) Committed the murder of the other parent of a child.
- 111 (6) 'Biological father' means the male who impregnated the biological mother resulting
112 in the birth of the child.
- 113 (7) 'Business day' means Mondays through Fridays and shall not include weekends or
114 legal holidays.
- 115 (8) 'Caregiver' means any person providing a residence for a child or any person legally
116 obligated to provide or secure adequate care for a child, including a parent, guardian, or
117 legal custodian.
- 118 (9) 'Case plan' means a plan which is designed to ensure that a child receives protection,
119 proper care, and case management and may include services for the child, the child's
120 parent, guardian, or legal custodian, and other caregivers.
- 121 (10) 'Child' means any individual who is:
- 122 (A) Under the age of 18 years;
- 123 (B) Under the age of 17 years if alleged to have committed a delinquent act;
- 124 (C) Under the age of 23 years and receiving independent living services through
125 DFCS; or
- 126 (D) Under the age of 21 years who committed an act of delinquency before reaching
127 the age of 17 years and who has been placed under the supervision of the court or on
128 probation to the court for the purpose of enforcing orders of the court.
- 129 (11) 'Child in need of services' means:
- 130 (A) A child who is found to be in need of care, guidance, counseling, structure,
131 supervision, treatment, or rehabilitation and who is found to be:

- 132 (i) Subject to compulsory school attendance and who is habitually and without good
 133 and sufficient cause truant, as such term is defined in Code Section 15-11-381, from
 134 school;
- 135 (ii) Habitually disobedient of the reasonable and lawful commands of his or her
 136 parent, guardian, or legal custodian and is ungovernable or places himself or herself
 137 or others in unsafe circumstances;
- 138 (iii) A runaway, as such term is defined in Code Section 15-11-381;
- 139 (iv) A child who has committed an offense applicable only to a child;
- 140 (v) A child who wanders or loiters about the streets of any city or in or about any
 141 highway or any public place between the hours of 12:00 Midnight and 5:00 A.M.;
- 142 (vi) A child who disobeys the terms of supervision contained in a court order which
 143 has been directed to such child who has been adjudicated a child in need of services;
 144 or
- 145 (vii) A child who patronizes any bar where alcoholic beverages are being sold,
 146 unaccompanied by his or her parent, guardian, or legal custodian, or who possesses
 147 alcoholic beverages;
- 148 (B) A child who has committed a delinquent act and is found to be in need of
 149 supervision but not of treatment or rehabilitation; or
- 150 (C) A child who is alleged to have committed a delinquent act and is unrestorably
 151 incompetent to stand trial.
- 152 (12) 'Complaint' is the initial document setting out the circumstances that resulted in the
 153 child being brought before the court.
- 154 (13) 'Court' means the juvenile court or the court exercising jurisdiction over juvenile
 155 matters.
- 156 (14) 'Court appointed special advocate' or 'CASA' means a community volunteer who:
- 157 (A) Has been screened and trained regarding child abuse and neglect, child
 158 development, and juvenile court proceedings;
- 159 (B) Has met all the requirements of an affiliate court appointed special advocate
 160 program;
- 161 (C) Is being actively supervised by an affiliate court appointed special advocate
 162 program; and
- 163 (D) Has been sworn in by a judge of the juvenile court in the court or circuit in which
 164 he or she wishes to serve.
- 165 (15) 'Criminal justice purposes' means the performance of any activity directly involving
 166 the investigation, detection, apprehension, detention, pretrial release, post-trial release,
 167 prosecution, adjudication, correctional supervision, or rehabilitation of children or adults

168 who are accused of, convicted of, adjudicated of, or charged with crimes, delinquent acts
 169 or the collection, storage, and dissemination of criminal history record information.

170 (16) 'DBHDD' means the Department of Behavioral Health and Developmental
 171 Disabilities.

172 (17) 'Delinquent act' means:

173 (A) An act committed by a child designated a crime by the laws of this state, or by the
 174 laws of another state if the act occurred in that state, under federal laws, or by local
 175 ordinance, and the crime shall not be an offense applicable only to a child or a juvenile
 176 traffic offense;

177 (B) The act of disobeying the terms of supervision contained in a court order which has
 178 been directed to a child who has been adjudged to have committed a delinquent act; or

179 (C) Failing to appear as required by a citation issued for an act that would be a crime
 180 if committed by an adult.

181 (18) 'Delinquent child' means a child who has committed a delinquent act and is in need
 182 of treatment or rehabilitation.

183 (19) 'Department' means the Department of Human Services.

184 (20) 'Dependent child' means a child who:

185 (A) Has been abused or neglected and is in need of the protection of the court;

186 (B) Has been placed for care or adoption in violation of law; or

187 (C) Is without a parent, guardian, or legal custodian.

188 (21) 'Designated felony act' means a delinquent act committed by a child 13 years of age
 189 or older which, if committed by an adult, would be one or more of the following crimes:

190 (A) Aggravated assault;

191 (B) Aggravated battery or battery in violation of Code Section 16-5-23.1 if the victim
 192 is a teacher or other school personnel;

193 (C) Armed robbery not involving a firearm;

194 (D) Arson in the first or second degree;

195 (E) Attempted murder;

196 (F) Conspiracy in violation of Article 4 of Chapter 7 of Title 16;

197 (G) Escape in violation of Code Section 16-10-52 if the child has previously been
 198 adjudicated to have committed a designated felony;

199 (H) Hijacking a motor vehicle;

200 (I) Kidnapping or attempted kidnapping;

201 (J) Possession, manufacture, or distribution of destructive devices and any other
 202 violation of Code Section 16-7-82 or 16-7-84;

203 (K) Racketeering in violation of Code Section 16-14-4;

204 (L) Robbery;

- 205 (M) Trafficking of certain controlled substances in violation of Code Section 16-13-31;
206 (N) Any violation of Code Section 16-7-2;
207 (O) Any violation of Code Section 16-15-4;
208 (P) Any subsequent violation of Code Sections 16-8-2 through 16-8-9, if the property
209 which was the subject of the theft was a motor vehicle and the child committing the
210 violation has had one or more separate, prior adjudications of delinquency based upon
211 a violation of Code Sections 16-8-2 through 16-8-9, provided that the prior
212 adjudications of delinquency shall not have arisen out of the same transaction or
213 occurrence or series of events related in time and location;
214 (Q) Any subsequent violation of Code Section 16-7-85 or 16-7-87, if the child
215 committing the violation has had one or more separate, prior adjudications of
216 delinquency based upon a violation of Code Section 16-7-85 or 16-7-87, provided that
217 the prior adjudications of delinquency shall not have arisen out of the same transaction
218 or occurrence or series of events related in time and location;
219 (R) Any subsequent violation of subsection (b) of Code Section 16-11-132, if the child
220 committing the violation has had one or more separate, prior adjudications of
221 delinquency based upon a violation of subsection (b) of Code Section 16-11-132,
222 provided that the prior adjudications of delinquency shall not have arisen out of the
223 same transaction or occurrence or series of events related in time and location; or
224 (S) Any other act which, if committed by an adult, would be a felony, if the child
225 committing the act has three times previously been adjudicated delinquent for acts
226 which, if committed by an adult, would have been felonies, provided that the prior
227 adjudications of delinquency shall not have arisen out of the same transaction or
228 occurrence or series of events related in time and location.
- 229 Such term shall also mean an act which constitutes a second or subsequent adjudication
230 of delinquency based on a violation of Code Section 16-11-127.1 or which is a first
231 violation of Code Section 16-11-127.1 involving a firearm as defined in paragraph (2) of
232 subsection (a) of Code Section 16-11-131 or a dangerous weapon or machine gun as
233 defined in Code Section 16-11-121 or any weapon as defined in Code Section
234 16-11-127.1, together with an assault.
- 235 (22) 'Developmental level' is a child's ability to understand and communicate, taking into
236 account such factors as age, maturity, mental capacity, level of education, cultural
237 background, and degree of language acquisition.
- 238 (23) 'DFCS' means the Division of Family and Children Services of the department.
- 239 (24) 'DJJ' means the Department of Juvenile Justice.
- 240 (25) 'Eligible shelter care placement' or 'eligible shelter care' means placement in foster
241 family homes or child care institutions as defined in 42 U.S.C. Section 672(c). Such

242 placement excludes any detention facility or other facility operated primarily for the
243 purpose of detention of a child adjudicated delinquent.

244 (26) 'Emancipation' means termination of the rights of a parent to the custody, control,
245 services, and earnings of a child.

246 (27) 'Emotional abuse' means acts or omissions by a person responsible for the care of
247 the child that cause any mental injury to a child's intellectual or psychological capacity
248 as evidenced by an observable and significant impairment in a child's ability to function
249 within the child's normal range of performance and behavior or create a substantial risk
250 of impairment, if the impairment or substantial risk of impairment is diagnosed and
251 confirmed by a licensed mental health professional or physician qualified to render such
252 diagnosis.

253 (28) 'Evaluation' means a comprehensive, individualized examination of a child by an
254 examiner that may include the administration of one or more assessment instruments.
255 The purpose of an evaluation may include diagnosing the type and extent of a child's
256 behavioral health disorders and needs, making specific recommendations, and assessing
257 a child's legal competencies.

258 (29) 'Examiner' means a licensed psychologist, psychiatrist, or clinical social worker who
259 has expertise in child development specific to severe or chronic disability of children
260 attributable to intellectual impairment or mental illness and has received training in
261 forensic evaluation procedures through formal instruction, professional supervision, or
262 both.

263 (30) 'Guardian ad litem' means an individual, not functioning as an attorney, appointed
264 to assist the court in determining the best interests of a child.

265 (31) 'Guardianship order' means the court judgment that establishes a permanent
266 guardianship and enumerates a permanent guardian's rights and responsibilities
267 concerning the care, custody, and control of a child.

268 (32) 'Identification data' means the fingerprints, name, race, sex, date of birth, and any
269 other unique identifiers of a child.

270 (33) 'Imminent danger' means a determination that present or pending harm precludes
271 less extreme solutions to the problem. In dependency cases, such determination shall be
272 based on the assessment of the following nonexclusive factors:

273 (A) The severity, regularity, and duration of abuse or neglect to the child;

274 (B) The strength of the evidence supporting the allegations of abuse or neglect;

275 (C) The risk that the parent will flee with the child;

276 (D) Any harm to the child that might result in removal; or

277 (E) The time to obtain a court order.

278 (34) 'Indigent person' means a person who, at the time of requesting an attorney, is
279 unable without undue financial hardship to provide for full payment of an attorney and
280 all other necessary expenses for representation. To determine indigence, the court shall
281 follow the standards set forth in Chapter 12 of Title 17.

282 (35) 'Informal adjustment' means the disposition of case other than by formal
283 adjudication and disposition.

284 (36) 'Judge' means the judge of the court exercising jurisdiction over juvenile matters.

285 (37) 'Juvenile court intake officer' means the juvenile court judge, associate juvenile
286 court judge, court service worker, DJJ staff member serving as an intake officer, or
287 person employed as a juvenile probation or intake officer designated by the juvenile court
288 judge or, where there is none, the superior court judge, which person is on duty for the
289 purpose of determining whether any child taken into custody should be released or
290 detained and, if detained, the appropriate place of detention.

291 (38) 'Legal custodian' means:

292 (A) A person to whom legal custody of the child has been given by order of a court;
293 or

294 (B) A public or private agency or other private organization licensed or otherwise
295 authorized by law to receive and provide care for a child to which legal custody of the
296 child has been given by order of a court.

297 (39) 'Legal father' means a male who:

298 (A) Has legally adopted a child;

299 (B) Was married to the biological mother of that child at the time the child was
300 conceived or was born, unless such paternity was disproved by a final order pursuant
301 to Article 3 of Chapter 7 of Title 19;

302 (C) Married the legal mother of the child after the child was born and recognized the
303 child as his own, unless such paternity was disproved by a final order pursuant to
304 Article 3 of Chapter 7 of Title 19;

305 (D) Has been determined to be the father by a final paternity order pursuant to Article
306 3 of Chapter 7 of Title 19; or

307 (E) Has legitimated the child by a final order pursuant to Code Section 19-7-22 or by
308 voluntary acknowledgment of paternity that has not been rescinded pursuant to Code
309 Section 19-7-46.1

310 and who has not surrendered or had terminated his rights to the child.

311 (40) 'Legal mother' means the female who is the biological or adoptive mother of the
312 child and who has not surrendered or had terminated her rights to the child.

313 (41) 'Mediation' means the procedure in which a mediator facilitates communication
 314 between the parties concerning the matters in dispute and explores possible solutions to
 315 promote reconciliation, understanding, and settlement.

316 (42) 'Mediator' means a neutral third party who attempts to focus the attention of the
 317 parties upon their needs and interests rather than upon their rights and positions and who
 318 lacks the authority to impose any particular agreement upon the parties or to recommend
 319 any particular disposition of the case to the court.

320 (43) 'Mentally ill' means having a disorder of thought or mood which significantly
 321 impairs judgment, behavior, capacity to recognize reality, or ability to cope with the
 322 ordinary demands of life.

323 (44) 'Neglect' means:

324 (A) The failure to provide proper parental care or control, subsistence, education as
 325 required by law, or other care or control necessary for the child's physical, mental, or
 326 emotional health or morals;

327 (B) The failure to provide the child with adequate supervision necessary for the child's
 328 well-being; or

329 (C) The abandonment of a child by his or her parent, guardian, or legal custodian.

330 (45) 'Other persons who have demonstrated an ongoing commitment to the child'
 331 includes but shall not be limited to:

332 (A) 'Fictive kin,' meaning a person who is known to a child as a relative, but is not, in
 333 fact, related by blood or marriage to the child and with whom the child has resided or
 334 had significant contact;

335 (B) 'Significant other,' meaning a person who has established a parent-like relationship
 336 with a child and a spouse-like relationship with a parent of the child;

337 (C) 'Other individuals,' including but not limited to, neighbors, teachers, scout masters,
 338 or parents of friends of the child and with whom a child has resided or had significant
 339 contact.

340 (46) 'Parent' means either the legal father or the legal mother of the child.

341 (47) 'Party' means a child, parent, guardian, legal custodian, or other person subject to
 342 any judicial proceeding under this chapter; provided, however, that for purposes of
 343 Article 7 of this chapter, only a child and the state shall be a party.

344 (48) 'Permanency plan' means a specific written plan prepared by DFCS designed to
 345 ensure that a child is reunified with his or her family or ensure that the child quickly
 346 attains a substitute long-term home when return to the child's family is not possible or is
 347 not in the child's best interests.

348 (49) 'Permanent placement' means:

349 (A) Return of the legal custody of a child to the child's parent;

- 350 (B) Placement of a child with an adoptive parent pursuant to a final order of adoption;
 351 or
 352 (C) Placement of a child with a permanent guardian.
- 353 (50) 'Person responsible for the care of the child' means:
 354 (A) A member of the child's household;
 355 (B) A person exercising supervision over a child for any part of the 24 hour day; or
 356 (C) Any adult who, based on relationship to the parent, guardian, or legal custodian or
 357 a member of the child's household, has access to the child.
- 358 (51) 'Preliminary protective hearing' means the hearing held within 72 hours after a child
 359 who is alleged to be abused or neglected is placed in eligible shelter care.
- 360 (52) 'Prenatal abuse' means exposure to chronic or severe use of alcohol or the unlawful
 361 use of any controlled substance, as such term is defined in Code Section 16-13-21, which
 362 results in:
 363 (A) Symptoms of withdrawal in a newborn or the presence of a controlled substance
 364 or a metabolite thereof in the newborn's body, blood, urine, or meconium that is not the
 365 result of medical treatment; or
 366 (B) Medically diagnosed and harmful effects in the newborn's physical appearance or
 367 functioning.
- 368 (53) 'Probation and intake officer' means any probation officer and any personnel of a
 369 juvenile court to whom are delegated the duties of an intake officer under this chapter,
 370 other than a juvenile court judge, associate juvenile court judge, or court service worker.
- 371 (54) 'Probation officer' means any personnel of a juvenile court or staff of DJJ to whom
 372 are delegated the duties of a probation officer under this chapter, other than a juvenile
 373 court judge or associate juvenile court judge.
- 374 (55) 'Prosecuting attorney' means the district attorney of the judicial circuit or county in
 375 which juvenile proceedings are instituted or the solicitor of the juvenile court in which
 376 the juvenile proceedings are instituted or such individuals' designees.
- 377 (56) 'Putative father registry' means the registry established and maintained pursuant to
 378 subsections (d) and (e) of Code Section 19-11-9.
- 379 (57) 'Reasonable efforts' means due diligence and the provision of appropriate services.
- 380 (58) 'Reasonably diligent search' means the efforts of DFCS to identify and locate a
 381 parent whose identity or location is unknown or a relative or other person who has
 382 demonstrated an ongoing commitment to a child. Such search shall be initiated at the
 383 outset of a case under Article 3 of this chapter and shall be conducted throughout the
 384 duration of a case, when appropriate. A reasonably diligent search shall include at a
 385 minimum:

- 386 (A) Interviews with the child's parent during the course of an investigation, while child
 387 protective services are provided, and while the child is in care;
- 388 (B) Interviews with the child;
- 389 (C) Interviews with identified relatives throughout the case;
- 390 (D) Interviews with any other person who is likely to have information about the
 391 identity or location of the person being sought;
- 392 (E) Comprehensive data base searches including, but not limited to, searches of
 393 employment, residence, utilities, vehicle registration, child support enforcement, law
 394 enforcement, corrections records, and any other records likely to result in identifying
 395 and locating the person being sought;
- 396 (F) Appropriate inquiry during the course of hearings in the case; and
- 397 (G) Any other reasonable means that are likely to identify relatives or other persons
 398 who have demonstrated an ongoing commitment to the child.
- 399 (59) 'Relative' means a person related to a child by blood, marriage, or adoption,
 400 including the spouse of any of those persons even if the marriage was terminated by death
 401 or dissolution.
- 402 (60) 'Restitution' means any property, lump sum, or periodic payment ordered to be made
 403 to any victim. Restitution may also be in the form of services ordered to be performed
 404 by a child.
- 405 (61) 'Screening' means a relatively brief process to identify a child who potentially may
 406 have mental health or substance abuse needs, through administration of a formal
 407 screening instrument, to identify a child who may warrant immediate attention or
 408 intervention or a further, more comprehensive evaluation.
- 409 (62) 'Services' means assistance including, but not limited to, care, guidance, education,
 410 counseling, supervision, treatment, and rehabilitation or any combination thereof.
- 411 (63) 'Sexual abuse' means a caregiver or other person responsible for the care of the child
 412 employing, using, persuading, inducing, enticing, or coercing any child to engage in any
 413 act which involves:
- 414 (A) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or
 415 oral-anal, whether between persons of the same or opposite sex;
- 416 (B) Bestiality;
- 417 (C) Masturbation;
- 418 (D) Lewd exhibition of the genitals or pubic area of any person;
- 419 (E) Flagellation or torture by or upon a person who is nude;
- 420 (F) The condition of being fettered, bound, or otherwise physically restrained on the
 421 part of a person who is nude;

422 (G) Physical contact in an act of apparent sexual stimulation or gratification with any
 423 person's clothed or unclothed genitals, pubic area, or buttocks or with a female's clothed
 424 or unclothed breasts;

425 (H) Defecation or urination for the purpose of sexual stimulation; or

426 (I) Penetration of the vagina or rectum by any object except when done as part of a
 427 recognized medical procedure by a licensed health care professional.

428 (64) 'Sexual exploitation' means conduct by a caregiver or other person responsible for
 429 the care of the child who allows, permits, encourages, or requires a child to engage in:

430 (A) Prostitution, in violation of Code Section 16-6-9; or

431 (B) Sexually explicit conduct for the purpose of producing any visual or print medium
 432 depicting such conduct, in violation of Code Section 16-12-100.

433 (65) 'Sibling' means a person with whom the child shares one or both parents in common
 434 by blood, adoption, or marriage, even if the marriage was terminated by death or
 435 dissolution.

436 (66) 'Statutory overnight delivery' means delivery of notice as provided in Code Section
 437 9-10-12.

438 (67) 'Visitation' means a parent, guardian, legal custodian, sibling, or other relative's
 439 period of access to a child in order to maintain parental and familial involvement in the
 440 child's life when the child is not residing with such person.

441 (68) 'Weekend' means Saturday or Sunday.

442 15-11-3.

443 Through direct calendaring, whenever possible, a single judge shall hear all successive
 444 cases or proceedings involving the same child or family.

445 15-11-4.

446 Where procedures are not provided in this chapter, the court shall proceed in accordance
 447 with:

448 (1) Title 17 in a delinquency proceeding; and

449 (2) Chapter 11 of Title 9 in all other matters.

450 15-11-5.

451 (a) When a period of time measured in days, weeks, months, years, or other measurements
 452 of time except hours is prescribed for the exercise of any privilege or the discharge of any
 453 duty, the first day shall not be counted but the last day shall be counted; and, if the last day
 454 falls on a weekend, the party having such privilege or duty shall have through the following
 455 business day to exercise such privilege or discharge such duty.

456 (b) When the last day prescribed for the exercise of any privilege or the discharge of any
457 duty falls on a public and legal holiday as set forth in Code Section 1-4-1, the party having
458 such privilege or duty shall have through the next business day to exercise such privilege
459 or discharge such duty.

460 (c) When the period of time prescribed is less than seven days, intermediate weekends and
461 legal holidays shall be excluded in the computation.

462 15-11-6.

463 (a) Except as provided in subsection (b) of this Code section, a child attains a specified age
464 the first second past midnight on the day of the anniversary of the child's birth.

465 (b) A child born on February 29 attains a specified age on March 1 of any year that is not
466 a leap year.

467 15-11-7.

468 (a) The juvenile court shall have jurisdiction to act as a court of inquiry with all the powers
469 and rights allowed courts of inquiry in this state and to examine or investigate into the
470 circumstances or causes of any conduct or acts of any person 17 or more years of age that
471 may be in violation of the laws of this state whenever such person is brought before the
472 court in the course of any proceeding instituted under this chapter. The court shall cause
473 the person to be apprehended and brought before it upon either a writ of summons, a
474 warrant duly issued, or by arrest.

475 (b) When, after hearing evidence, the court has reasonably ascertained that there is
476 probable cause to believe that the person has committed a misdemeanor or felony as
477 prescribed under the laws of this state, the court shall commit, bind over to the court of
478 proper jurisdiction in this state, or discharge the person. When justice shall require, the
479 court shall cause the person to make such bail as the court shall deem proper under the
480 circumstances and to cause the person to appear before the court of proper jurisdiction in
481 this state to be acted upon as provided by law.

482 15-11-8.

483 The juvenile court is a court of record having a seal. The judge and the judge's duly
484 appointed representatives shall each have power to administer oaths and affirmations.

485 15-11-9.

486 The juvenile court judge, associate juvenile court judge, and judge pro tempore shall have
487 authority to issue a warrant for the arrest of any child for an offense committed against the

488 laws of this state, based either on personal knowledge or the information of others given
 489 under oath.

490 15-11-10.

491 Except as provided in Code Section 15-11-560, the juvenile court shall have exclusive
 492 original jurisdiction over juvenile matters and shall be the sole court for initiating action:

493 (1) Concerning any child who:

494 (A) Is alleged to be delinquent;

495 (B) Is alleged to be a child in need of services;

496 (C) Is alleged to be dependent;

497 (D) Is alleged to be in need of treatment or commitment as a mentally ill or
 498 developmentally disabled child;

499 (E) Is alleged to have committed a juvenile traffic offense as defined in Code Section
 500 15-11-630;

501 (F) Has been placed under the supervision of the court or on probation to the court;
 502 provided, however, that such jurisdiction shall be for the purpose of completing,
 503 effectuating, and enforcing such supervision or a probation begun prior to the child's
 504 seventeenth birthday; or

505 (G) Has remained in foster care after the child's eighteenth birthday or who is receiving
 506 independent living services from DFCS after the child's eighteenth birthday; provided,
 507 however, that such jurisdiction shall be for the purpose of reviewing the status of the
 508 child and the services being provided to the child as a result of the child's independent
 509 living plan or status as a child in foster care; or

510 (2) Involving any proceedings:

511 (A) For obtaining judicial consent to the marriage, employment, or enlistment in the
 512 armed services of any child if such consent is required by law;

513 (B) For permanent guardianship brought pursuant to the provisions of Article 3 of this
 514 chapter;

515 (C) Under Code Section 39-3-2, the Interstate Compact on Juveniles, or any
 516 comparable law, enacted or adopted in this state;

517 (D) For the termination of the legal parent-child relationship and the rights of the
 518 biological father who is not the legal father of the child, other than that in connection
 519 with adoption proceedings under Article 1 of Chapter 8 of Title 19, in which the
 520 superior courts shall have concurrent jurisdiction to terminate the legal parent-child
 521 relationship and the rights of the biological father who is not the legal father of the
 522 child;

523 (E) For emancipation brought pursuant to the provisions of Article 11 of this chapter;

524 (F) Under Article 9 of this chapter, relating to prior notice to a parent, guardian, or
 525 legal custodian relative to an unemancipated minor's decision to seek an abortion; or
 526 (G) Brought by a local board of education pursuant to Code Section 20-2-766.1
 527 relating to court orders requiring that a parent, guardian, or legal custodian attend a
 528 conference or participate in programs or treatment to improve a student's behavior.

529 15-11-11.

530 (a) The juvenile court shall have concurrent jurisdiction to hear:

531 (1) Any legitimation petition filed pursuant to Code Section 19-7-22 concerning a child
 532 who is alleged to be dependant;

533 (2) Any legitimation petition transferred to the court by proper order of the superior
 534 court;

535 (3) The issue of custody and support when the issue is transferred by proper order of the
 536 superior court; and

537 (4) Any petition for the establishment or termination of a temporary guardianship
 538 transferred to the court by proper order of the probate court.

539 (b) If a demand for a jury trial as to support has been properly filed by either parent, then
 540 the case shall be transferred to superior court for the jury trial.

541 15-11-12.

542 (a) Nothing in this chapter shall be construed to prevent a child from being found both
 543 dependent and delinquent or both dependent and a child in need of services if there exists
 544 a factual basis for such a finding.

545 (b) If a child alleged or found to be delinquent or a child in need of services is also alleged
 546 or found to be dependent, dependency proceedings may be consolidated with delinquency
 547 or child in need of services proceedings to the extent consistent with due process of law as
 548 provided in Articles 3, 6, and 7 of this chapter.

549 (c) The time frames and requirements of Article 3 of this chapter shall apply to cases in
 550 which a child alleged or found to be a child in need of services or delinquent is placed in
 551 an eligible shelter care placement and has also been alleged or found to be dependent.

552 15-11-13.

553 The court shall have jurisdiction to appoint a guardian of the person or conservator of the
 554 property of any child in any proceeding authorized by this chapter. Any such appointment
 555 shall be made pursuant to the same requirements of notice and hearing as are provided for
 556 appointments of guardians of the persons and conservators of the properties of any child
 557 by the probate court.

558 15-11-14.

559 (a) The court shall hold a hearing within 30 days of receipt of a case transferred from the
560 probate court pursuant to subsection (f) of Code Section 29-2-6 or subsection (b) of Code
561 Section 29-2-8.

562 (b) After notice and hearing, the court may make one of the following orders:

563 (1) That the temporary guardianship be established or continued if the court determines
564 that the temporary guardianship is in the best interests of the child. The order shall
565 thereafter be subject to modification only as provided in Code Section 15-11-32; or

566 (2) That the temporary guardianship be terminated if the court determines it is in the best
567 interests of the child. The child shall be returned to the parent unless the court determines
568 that there is probable cause to believe the child would be abused, neglected, or abandoned
569 in the custody of the child's parent.

570 (c) A case shall proceed as a dependency matter pursuant to the provisions of Article 3 of
571 this chapter if, after notice and hearing, the court determines:

572 (1) That it is in the best interests of the child that the temporary guardianship not be
573 established or that the temporary guardianship be terminated but there is probable cause
574 to believe the child would be abused, neglected, or abandoned if returned to the parent;
575 or

576 (2) That it is in the best interests of the child that the temporary guardianship be
577 continued over the parent's objection.

578 (d) The court may refer a case transferred from probate court to DFCS for further
579 investigation.

580 15-11-15.

581 (a) In handling divorce, alimony, habeas corpus, or other cases involving the custody of
582 a child, a superior court may transfer the question of the determination of custody, support,
583 or custody and support to the juvenile court either for investigation and a report back to the
584 superior court or for investigation and determination.

585 (b) If the referral is for investigation and determination, then the juvenile court shall
586 proceed to handle the matter in the same manner as though the action originated under this
587 chapter in compliance with the order of the superior court, except that the parties shall not
588 be entitled to obtain an appointed attorney through the juvenile court.

589 (c) At any time prior to the determination of any such question, the juvenile court may
590 transfer the jurisdiction of the question back to the referring superior court.

591 15-11-16.

592 (a) A proceeding under this chapter may be commenced:

593 (1) By an order of transfer of a case from another court as provided in Code Section
594 15-11-11 or 15-11-567 or subsection (f) of Code Section 29-2-6 or subsection (b) of Code
595 Section 29-2-8;

596 (2) By the summons, notice to appear, or other citation in a proceeding charging a
597 juvenile traffic offense or a violation of the laws, rules, and regulations governing the
598 Georgia Department of Natural Resources Game and Fish Division; or

599 (3) By the filing of a petition for adoption or legitimation under Code Section 15-11-11,
600 or in other cases by the filing of a complaint or a petition as provided in Articles 3, 4, 6,
601 7, 9, and 11 of this chapter.

602 (b) The petition and all other documents in the proceeding shall be entitled 'In the interest
603 of _____, a child,' except upon appeal.

604 (c) On appeal, the anonymity of the child, and where appropriate, a victim or witness who
605 is under the age of 18 years, shall be preserved by appropriate use of the child's, victim's,
606 or witness's initials as appropriate.

607 15-11-17.

608 (a) All hearings under this chapter shall be conducted by the court without a jury. Any
609 hearing may be adjourned from time to time within the discretion of the court.

610 (b) Except as otherwise provided, all hearings shall be conducted in accordance with
611 Title 24.

612 (c) The proceedings shall be recorded by stenographic notes or by electronic, mechanical,
613 or other appropriate means capable of accurately capturing a full and complete record of
614 all words spoken during the proceedings.

615 (d) A juvenile court judge, an associate juvenile court judge, a judge pro tempore of the
616 juvenile court, or any person sitting as a juvenile court judge may conduct hearings in
617 connection with any proceeding under this chapter in any county within the judicial circuit.
618 When a superior court judge sits as a juvenile court judge, hearings in connection with any
619 proceeding under this chapter may be heard before such judge in any county within the
620 judicial circuit over which the judge presides.

621 15-11-18.

622 Upon application of a party, the court, or any authorized officer of the court, the clerk of
623 the court shall issue subpoenas in accordance with the provisions of Title 24 requiring
624 attendance and testimony of witnesses and production of papers at any hearing under this
625 chapter.

626 15-11-19.

627 (a) A party has the right to be present, to be heard, to present evidence material to the
628 proceedings, to cross-examine witnesses, to examine pertinent court files and records, and
629 to appeal the orders of the court; provided, however, that the court shall retain the
630 discretion to exclude a child from any part or parts of any proceeding under Article 3 of
631 this chapter if the court determines that it is not in the child's best interests to be present.
632 The attorney for the child shall not be excluded.

633 (b) A person afforded rights under this chapter shall be advised of such rights at that
634 person's first appearance before the court.

635 15-11-20.

636 (a) At any time during a proceeding under this chapter, the court may refer the case for
637 mediation.

638 (b) When referring a case to mediation, the court shall take into consideration the
639 guidelines for the Georgia Commission on Dispute Resolution involving domestic violence
640 cases.

641 (c) A referral order shall recite that while the parties shall attend a scheduled mediation
642 session and shall attempt to mediate in good faith, such parties shall not be required to
643 reach an agreement.

644 (d) Victims in a delinquency case referred to mediation may attend and participate in such
645 mediation.

646 15-11-21.

647 (a) Once an order referring a case for mediation has been signed, the court shall appoint
648 a mediator from a list of court approved mediators who are registered with the Georgia
649 Office on Dispute Resolution and who have trained in mediating juvenile court cases.

650 (b) The court shall appoint a qualified mediator within five days of signing the order
651 referring the case to mediation.

652 15-11-22.

653 (a) The parties shall sign and date a written agreement to mediate. The agreement to
654 mediate shall identify the controversies between the parties, affirm the parties' intent to
655 resolve such controversies through mediation, and specify the circumstances under which
656 mediation may continue. The agreement to mediate shall specify the confidentiality
657 requirements of mediation and the exceptions to confidentiality in mediation as such are
658 set forth in the Supreme Court of Georgia's Uniform Rules for Alternative Dispute
659 Resolution Programs.

660 (b) A mediator shall not knowingly assist the parties in reaching an agreement which
 661 would be unenforceable for reasons such as fraud, duress, the absence of bargaining ability,
 662 unconscionability, or matters outside the court's jurisdiction.

663 (c) The mediator shall advise the parties prior to signing an agreement to mediate that each
 664 of them may obtain review by an attorney of any agreement reached as a result of the
 665 mediation.

666 (d) The mediator shall at all times be impartial.

667 15-11-23.

668 (a) Upon issuing a referral for mediation the court may stay the proceeding.

669 (b) Mediation shall occur within 30 days of the order referring the matter to mediation
 670 unless the time frame is extended by the court.

671 (c) The court may extend mediation for an additional 30 days.

672 15-11-24.

673 (a) Either party may withdraw and terminate further participation in mediation at any time.

674 (b) A mediator shall terminate mediation when:

675 (1) The mediator concludes that the participants are unable or unwilling to participate
 676 meaningfully in the process;

677 (2) The mediator concludes that a party lacks the capacity to perceive and assert his or
 678 her own interests to the degree that a fair agreement cannot be reached;

679 (3) The mediator concludes that an agreement is unlikely; or

680 (4) The mediator concludes that a party is a danger to himself or herself or others.

681 15-11-25.

682 (a) All mediation agreements shall be presented to the juvenile court judge for approval.

683 (b) The mediation agreement shall be made an order of the court unless, after further
 684 hearing, the court determines by clear and convincing evidence that the agreement is not
 685 in the best interests of the child.

686 15-11-26.

687 Whenever a best interests determination is required, the court shall consider and evaluate
 688 all of the factors affecting the best interests of the child in the context of the child's age and
 689 developmental needs. Such factors shall include:

690 (1) The physical safety and welfare of the child, including food, shelter, health, and
 691 clothing;

692 (2) The mental and physical health of all individuals involved;

- 693 (3) Evidence of domestic violence in any current, past, or considered home for the child;
 694 (4) The child's background and ties, including familial, cultural, and religious;
 695 (5) The child's sense of attachments, including the child's sense of security, the child's
 696 sense of familiarity, and continuity of affection for the child;
 697 (6) The least disruptive placement alternative for the child;
 698 (7) The child's wishes and long-term goals;
 699 (8) The child's community ties, including church, school, and friends;
 700 (9) The child's need for permanence which includes the child's need for stability and
 701 continuity of relationships with a parent, siblings, other relatives, and any other person
 702 who has provided significant care of the child;
 703 (10) The uniqueness of every family and child;
 704 (11) The risks attendant to entering and being in substitute care;
 705 (12) The preferences of the persons available to care for the child; and
 706 (13) Any other factors considered by the court to be relevant and proper to its
 707 determination.

708 15-11-27.

709 During the pendency of any proceeding under this chapter, the court may order:

- 710 (1) The child to be examined by outside parties or private providers at a suitable place
 711 by a physician or psychologist; provided, however, that orders to perform an evaluation
 712 shall not be imposed upon DJJ; and
 713 (2) Medical or surgical treatment of a child who is suffering from a serious physical
 714 condition or illness which, in the opinion of a licensed physician, requires prompt
 715 treatment, even if the parent, guardian, or legal custodian has not been given notice of a
 716 hearing, is not available, or without good cause informs the court of his or her refusal to
 717 consent to the treatment.

718 15-11-28.

- 719 (a) No admission, confession, or incriminating information obtained from a child in the
 720 course of any screening that is undertaken in conjunction with proceedings under this
 721 chapter, including but not limited to, court ordered screenings, shall be admitted into
 722 evidence in any adjudication hearing in which the child is accused under this chapter. Such
 723 admission, confession, or incriminating information may be considered by the court at
 724 disposition.
 725 (b) No admission, confession, or incriminating information obtained from a child in the
 726 course of any assessment or evaluation, or any treatment that is undertaken in conjunction
 727 with proceedings under this chapter, including but not limited to court ordered assessments

728 and evaluations, shall be admitted into evidence against the child, except as rebuttal or
729 impeachment evidence, or used as a basis for such evidence, in any future adjudication
730 hearing or criminal proceeding in which the child is accused. Such admission, confession,
731 or incriminating information may be considered by the court at disposition.

732 15-11-29.

733 (a) In any proceeding under this chapter, either on application of a party or on the court's
734 own motion, the court may make an order restraining or otherwise controlling the conduct
735 of a person if due notice of the application or motion and the grounds therefor and an
736 opportunity to be heard thereon have been given to the person against whom the order is
737 directed. Such an order may require any such person:

738 (1) To stay away from the home or the child;

739 (2) To permit a parent to visit the child at stated periods;

740 (3) To abstain from offensive conduct against the child, the child's parent, or any person
741 to whom custody of the child is awarded;

742 (4) To give proper attention to the care of the home;

743 (5) To cooperate in good faith with an agency to which custody of a child is entrusted
744 by the court or with an agency or association to which the child is referred by the court;

745 (6) To refrain from acts of commission or omission that tend to make the home not a
746 proper place for the child;

747 (7) To ensure that the child attends school pursuant to any valid law relating to
748 compulsory attendance;

749 (8) To participate with the child in any counseling or treatment deemed necessary after
750 consideration of employment and other family needs; and

751 (9) To enter into and complete successfully a substance abuse program approved by the
752 court.

753 (b) After notice and opportunity for hearing afforded to a person subject to a protective
754 order, the order may be modified or extended for a further specified period, or both, or may
755 be terminated if the court finds that the best interests of the child and the public will be
756 served thereby.

757 (c) Protective orders may be enforced by citation to show cause for contempt of court by
758 reason of any violation thereof and, where protection of the welfare of the child so requires,
759 by the issuance of a warrant to take the alleged violator into custody and bring him or her
760 before the court.

761 15-11-30.

762 A legal custodian has the right to physical custody of the child, the right to determine the
763 nature of the care and treatment of the child, including ordinary medical care, and the right
764 and duty to provide for the care, protection, training, and education and the physical,
765 mental, and moral welfare of the child, subject to the conditions and limitations of the order
766 and to the remaining rights and duties of the child's parent or guardian.

767 15-11-31.

768 (a) In addition to all other inherent powers of the court to enforce its lawful orders, the
769 court may punish an adult for contempt of court by imprisonment for not more than 20
770 days or a fine not to exceed \$1,000.00 for willfully disobeying an order of the court or for
771 obstructing or interfering with the proceedings of the court or the enforcement of its orders.

772 (b) The court shall restrict and limit the use of contempt powers with respect to
773 commitment of a child to a secure facility and in no event shall a child solely alleged or
774 adjudicated to be dependent be placed in a secure facility.

775 (c) A child may be placed in a secure facility for not more than 72 hours if:

776 (1) He or she is found in contempt of court;

777 (2) Less restrictive alternatives have been considered and are unavailable or
778 inappropriate or if the child has already been ordered to serve a less restrictive alternative
779 sanction but failed to comply with the sanction; and

780 (3) For a child in need of services, the requirements of Code Section 15-11-416
781 regarding the valid court order exception have been met.

782 (d) In addition or as an alternative to the punishment provided in subsection (a) of this
783 Code section, after notice and opportunity to be heard, the court may impose any or all of
784 the following sanctions when a parent, guardian, or legal custodian other than DJJ or DFCS
785 willfully violates any order issued by the court directed to him or her:

786 (1) Require the parent, guardian, or legal custodian of the child to make restitution in an
787 amount not to exceed \$2,500.00 for any damage or loss caused by the child's wrongful
788 act;

789 (2) Reimburse the state for the costs of detention, treatment, or rehabilitation of the child;

790 (3) Require the parent, guardian, or legal custodian of the child to participate in a court
791 approved educational or counseling program designed to contribute to the ability to
792 provide proper parental care and supervision of the child, including, but not limited to,
793 parenting classes; or

794 (4) Require the parent, guardian, or legal custodian of the child to enter into a contract
795 or plan as a part of the disposition of any charges against the child, so as to provide for

796 the supervision and control of the child by the parent, guardian, or legal custodian and
797 reunification with the child.

798 15-11-32.

799 (a) An order of the court shall be set aside if:

800 (1) It appears that it was obtained by fraud or mistake sufficient therefor in a civil action;

801 (2) The court lacked jurisdiction over a necessary party or of the subject matter; or

802 (3) Newly discovered evidence so requires.

803 (b) An order of the court may also be changed, modified, or vacated on the ground that
804 changed circumstances so require in the best interests of the child except an order of
805 dismissal following a contested adjudicatory hearing.

806 (c) An order committing a child to DJJ may only be modified after the child has been
807 transferred to DJJ custody upon motion of DJJ.

808 (d) Any party to the proceeding, the probation officer, or any other person having
809 supervision or legal custody of or an interest in the child may petition the court for the
810 relief provided in this Code section. Such petition shall set forth in clear and concise
811 language the grounds upon which the relief is requested.

812 (e) After a petition seeking relief under this Code section is filed, the court shall fix a time
813 for hearing and shall cause notice to be served on the parties to the proceeding or those
814 affected by the relief sought. After the hearing, the court shall deny or grant relief as the
815 evidence warrants.

816 15-11-33.

817 (a) Whenever an order of disposition incorporates a reunification plan and the residence
818 of the parent is not in the county of the court with jurisdiction or the residence of the parent
819 changes to a county other than the county of the court with jurisdiction, the court may
820 transfer jurisdiction to the juvenile court of the residence of the parent to whom the
821 reunification plan is directed.

822 (b) Within 30 days of the filing of the transfer order, the transferring court shall provide
823 the receiving court with certified copies of the adjudication order, the order of disposition,
824 the order of transfer, the case plan, and any other court documents deemed necessary by
825 the transferring court to enable the receiving court to assume jurisdiction over the matter.

826 (c) The transferring court shall retain jurisdiction until the receiving court acknowledges
827 acceptance of the transfer.

828 (d) Compliance with this Code section shall terminate jurisdiction in the transferring court
829 and confer jurisdiction in the receiving court.

830 15-11-34.

831 A child shall not be committed to an adult correctional facility or other facility used
832 primarily for the execution of sentences of persons convicted of a crime; provided,
833 however, that upon reaching the age of 17 years, a person may be transferred to an adult
834 correctional facility.

835 15-11-35.

836 In all cases of final judgments of the juvenile court, appeals shall be taken to the Court of
837 Appeals or the Supreme Court in the same manner as appeals from the superior court.
838 However, no such judgment or order shall be superseded except in the discretion of the trial
839 court; rather, the judgment or order of the court shall stand until reversed or modified by
840 the reviewing court.

841 15-11-36.

842 (a) The following expenses shall be a charge upon the funds of the county upon
843 certification thereof by the court:

844 (1) The cost of medical and other examinations and treatment of a child ordered by the
845 court;

846 (2) The cost of care and support of a child committed by the court to the legal custody
847 of an individual or a public or private agency other than DJJ, but the court may order
848 supplemental payments, if such are necessary or desirable for services;

849 (3) Reasonable compensation for services and related expenses of an attorney appointed
850 by the court, when appointed by the court to represent the child and when appointed by
851 the court to conduct the proceedings;

852 (4) Reasonable compensation for a guardian ad litem;

853 (5) The expense of service of summons, notices, and subpoenas, travel expenses of
854 witnesses, transportation, subsistence, and detention of the child, and other like expenses
855 incurred in the proceedings under this chapter; and

856 (6) The cost of counseling and counsel and advice required or provided under the
857 provisions of Code Section 15-11-212 or 15-11-601.

858 (b) For a child not committed to the legal custody of DJJ, the county, upon certification
859 by the court, shall reimburse DJJ for reasonable and necessary expenses incurred for a
860 child's subsistence, detention, care, and other like expenses.

861 (c) If, after due notice to the parent or other person legally obligated to care for and
862 support the child and after affording such person an opportunity to be heard, the court finds
863 that such person is financially able to pay all or part of the costs and expenses outlined in
864 subsection (a) of this Code section, the court may order such person to pay the same and

865 prescribe the manner of payment. In addition, the court may order payment from the parent
866 or other legally obligated person or entity to reimburse all or part of the costs and expenses
867 of the department or DJJ for treatment, care, and support of the child. Unless otherwise
868 ordered, payment shall be made to the clerk of the court for remittance to the person or
869 agency, including the department or DJJ, to whom compensation is due or, if the costs and
870 expenses have been paid by the county, to the appropriate officer of the county.

871 15-11-37.

872 (a) The court may collect supervision fees from those who are placed under the court's
873 formal or informal supervision in order that the court may use those fees to expand the
874 provision of the following types of ancillary services:

875 (1) Housing in nonsecure facilities;

876 (2) Educational services, tutorial services, or both;

877 (3) Counseling and diagnostic testing;

878 (4) Mediation;

879 (5) Transportation to and from court ordered services;

880 (6) Truancy intervention services;

881 (7) Restitution programs;

882 (8) Job development or work experience programs;

883 (9) Community services; and

884 (10) Any other additional programs or services needed to meet the best interests,
885 development, and rehabilitation of the child.

886 (b) The juvenile court may order each delinquent child or child in need of services who
887 receives supervision to pay to the clerk of the court:

888 (1) An initial court supervision user's fee of not less than \$10.00 nor more than \$200.00;
889 and

890 (2) A court supervision user's fee of not less than \$2.00 nor more than \$30.00 for each
891 month that the child receives supervision.

892 The child and each parent, guardian, or legal custodian of the child may be jointly and
893 severally liable for the payment of such fee and shall be subject to the enforcement
894 procedure in subsection (c) of Code Section 15-11-36. The judge shall provide that any
895 such fees shall be imposed on such terms and conditions as shall assure that the funds for
896 the payment are from moneys earned by the child. All moneys collected by the clerk under
897 this subsection shall be transferred to the county treasurer, or such other county official or
898 employee who performs duties previously performed by the treasurer, who shall deposit
899 the moneys into a county supplemental juvenile services fund. The governing authority of
900 the county shall appropriate moneys from the county supplemental juvenile services fund

901 to the juvenile court for the court's discretionary use in providing supplemental community
902 based services described in subsection (a) of this Code section to child offenders. These
903 funds shall be administered by the county and the court may draw upon them by submitting
904 invoices to the county. The county supplemental juvenile services fund may be used only
905 for these services. Any moneys remaining in the fund at the end of the county fiscal year
906 shall not revert to any other fund but shall continue in the county supplemental juvenile
907 services fund. The county supplemental juvenile services fund may not be used to replace
908 other funding of services.

909 (c) The clerk of the court shall be responsible for collections of fees as ordered by the
910 court.

911 (d) For the purpose of this Code section, the term 'guardian' or 'legal custodian' shall not
912 be interpreted or construed to include the department or DJJ.

913 15-11-38.

914 (a) Any court may order the establishment of a community based risk reduction program,
915 within the geographical jurisdiction of the court, for the purpose of utilizing available
916 community resources in assessment and intervention in cases of delinquency, dependency,
917 or children in need of services. Subject to the procedures, requirements, and supervision
918 established in the order creating such program, any individual and any public or private
919 agency or entity may participate in the program.

920 (b) As part of a risk reduction program, a court may implement or adopt an early
921 intervention program designed to identify children and families who are at risk of
922 becoming involved with the court. Such early intervention program shall be for the
923 purpose of developing and implementing intervention actions or plans to divert the children
924 and their families from becoming involved in future cases in the court. The court's
925 involvement shall be for the limited purpose of facilitating the development of the program
926 and for the purpose of protecting the confidentiality of the children and families
927 participating in the program.

928 (c) As part of an early intervention program, the court may enter into protocol agreements
929 with school systems within the court's jurisdiction, the county department of family and
930 children services, the county department of health, DJJ, any state or local department or
931 agency, any mental health agency or institution, local physicians or health care providers,
932 licensed counselors and social workers, and any other social service, charitable, or other
933 entity or any other agency or individual providing educational or treatment services to
934 families and children within the jurisdiction of the court. Such protocol agreements shall
935 authorize the exchange of confidential information in the same manner and subject to the
936 same restrictions, conditions, and penalties as provided in Code Section 15-11-40.

937 (d) When any agency or entity participating in a protocol agreement identifies a child who
938 is at risk of becoming delinquent, dependent, or a child in need of services, the agency or
939 entity shall refer the case to a multiagency staffing panel. The panel shall develop a
940 multiagency intervention plan for the child. The child or the parent, or both, may be
941 present during any review of the child's case by the panel. The parent, guardian, or legal
942 custodian of the child shall be notified of the plan by the agency making the referral or by
943 a person or entity designated by the panel to administer the program. The staff of the court,
944 but not the judge, shall work with the other agencies involved to educate the parent and the
945 child on the importance of following the plan and on the consequences if either the parent
946 or the child is referred to the court. If an intervention plan is developed for a child and the
947 parent, guardian, or legal custodian consents to the plan, the failure to comply with the plan
948 or any portion thereof may constitute the basis for a referral to DFCS.

949 15-11-39.

950 (a) In any jurisdiction within which a risk reduction program has been established, when
951 a child comes before the court for disposition, the court may order that an assessment be
952 made of the child and the circumstances resulting in the child being before the court.

953 (b) The assessment shall be developed by assembling existing information and
954 individualized plans of the agencies involved in providing services to the child and his or
955 her parent, guardian, or legal custodian. If the assessment demonstrates a need for a case
956 plan, the court may order that a case plan be developed by a panel representing community
957 agencies as authorized by the court. The case plan shall contain the proposed actions and
958 alternatives for the proper and efficient use of available community resources to assist the
959 child.

960 (c) The case plan shall be served on the child and the child's parent, guardian, or legal
961 custodian. The case plan shall also include a cover letter which contains the following
962 information:

963 (1) Sources to explain the process, procedures, and penalties for not responding to the
964 court order in the prescribed time frame; and

965 (2) The deadline for responding to the court order and stating objections to the case plan
966 or any portion thereof is ten days from the date of service.

967 (d) If no objection is made or if the child, parent, guardian, or legal custodian consents to
968 the case plan, the case plan shall be incorporated into and made a part of the disposition
969 order entered in the case by entry of a supplemental order. The case plan may be modified
970 by the court at any time the child is under the jurisdiction of the court.

971 (e) If a child or a parent, guardian, or legal custodian objects to the case plan, the court
972 shall conduct a hearing. The court may decline to adopt the case plan or may confirm or

973 modify the case plan. In implementing a case plan, the court shall have available all of the
974 protective powers set forth in Code Section 15-11-29, without the necessity of a show
975 cause hearing, unless objection is made to the case plan.

976 15-11-40.

977 (a) Notwithstanding any provision contained in this chapter or in any rule or regulation
978 adopted by any department, board, or agency of the state to the contrary, the court and any
979 individual, public or private agency, or other entity participating in a community based risk
980 reduction program may exchange, as necessary, information, medical records, school
981 records, immigration records, records of adjudication, treatment records, and any other
982 records or information which may aid in the assessment of and intervention with the
983 children and families in the program if such exchange of information is ordered by the
984 court or consented to by the parties. Such information shall be used by such individuals
985 and agencies only for the purposes provided in this chapter and as authorized by the court
986 for the purpose of implementing the case plan and for the purposes permitted under each
987 agency's own rules and regulations. Such information shall not be released to any other
988 individual or agency except as may be necessary to effect the appropriate treatment or
989 intervention as provided in the case plan. Such information shall otherwise remain
990 confidential as required by state and federal law and the court may punish any violations
991 of confidentiality as contempt of court.

992 (b) Any person who authorizes or permits any unauthorized person or agency to have
993 access to confidential records or reports of child abuse shall be guilty of a misdemeanor.
994 Any person who knowingly and under false pretenses obtains or attempts to obtain
995 confidential records or reports of child abuse or information contained therein shall be
996 guilty of a misdemeanor.

997 (c) Confidential records or reports of child abuse and information obtained from such
998 records may not be made a part of any record which is open to the public except that a
999 prosecuting attorney may use and make public that record or information in the course of
1000 any criminal prosecution for any offense which constitutes or results from child abuse.

1001 (d) This Code section shall not abridge the provisions relating to confidentiality of patient
1002 or client records and shall not serve to destroy or in any way abridge the confidential or
1003 privileged character thereof.

1004

ARTICLE 2

1005 15-11-50.

1006 (a) There is created a juvenile court in every county in the state.

1007 (b) Except where election is provided by local law, the judge or a majority of the judges
1008 of the superior court in each circuit in the state may appoint one or more qualified persons
1009 as judge of the juvenile courts of the circuit. Such superior court judge or judges shall
1010 establish the total number of circuit-wide juvenile court judges and shall establish whether
1011 the judge or judges shall be full time or part time, or a combination of full time and part
1012 time. Each circuit-wide judge appointed shall have the authority to act as judge of each
1013 juvenile court in each county of the circuit.

1014 (c) If no person is appointed as a juvenile court judge for a circuit, then a superior court
1015 judge of the circuit shall as part of the duties of the superior court judge assume the duties
1016 of the juvenile court judge in all counties in the circuit in which a separate juvenile court
1017 judgeship has not been established.

1018 (d) All juvenile court judgeships established on or before October 1, 2000, their methods
1019 of compensation, selection, and operation shall continue until such time as one or more
1020 circuit-wide juvenile court judges are appointed. However, in any circuit where a superior
1021 court judge assumes the duties of the juvenile court judge, such circuit shall not be entitled
1022 to the state funds provided for in Code Section 15-11-52.

1023 (e) When one or more circuit-wide juvenile court judges are appointed or elected, any
1024 juvenile court judge in office at that time shall be authorized to fulfill his or her term of
1025 office. The jurisdiction of each judge shall be circuit wide.

1026 (f) After the initial appointments and prior to any subsequent appointment or
1027 reappointment of any part-time or full-time juvenile court judge, the judge or judges
1028 responsible for making the appointment shall publish notice of the vacancy of the juvenile
1029 court judgeship once a month for three months prior to such appointment or reappointment.
1030 Such notice shall be published in the official legal organ of each of the counties in the
1031 circuit where the juvenile court judge has venue. The expense of such publication shall be
1032 paid by the county governing authority in the county where such notice is published.

1033 (g) In the event that more than one juvenile court judge is appointed, one judge shall be
1034 designated presiding judge.

1035 (h) In any case in which action under this Code section is to be taken by a superior court
1036 judge of the circuit, such action shall be taken as follows:

1037 (1) Where there are one or two superior court judges, such action shall be taken by the
1038 chief judge of the circuit; and

1039 (2) Where there are more than two superior court judges, such action shall be taken by
1040 a majority vote of the judges of the circuit.

1041 15-11-51.

1042 (a) No person shall be judge of the juvenile court unless, at the time of his or her
1043 appointment, he or she has attained the age of 30 years, has been a citizen of the state for
1044 three years, is a member of the State Bar of Georgia, and has practiced law for five years.

1045 (b) A juvenile court judge shall be eligible for reappointment or election.

1046 15-11-52.

1047 (a) Each appointed juvenile court judge shall serve for a term of four years.

1048 (b) The compensation of the full-time or part-time juvenile court judges shall be set by the
1049 superior court with the approval of the governing authority or governing authorities of the
1050 county or counties for which the juvenile court judge is appointed.

1051 (c) Out of funds appropriated to the judicial branch of government, the state shall
1052 contribute toward the salary of the judges on a per circuit basis in the following amounts:

1053 (1) Each circuit with one or more juvenile court judges who are not superior court judges
1054 assuming the duties of juvenile court judges shall receive a state base grant of
1055 \$85,000.00;

1056 (2) In addition to this base amount, each circuit which has more than four superior court
1057 judges is eligible for additional state grants. For each superior court judge who exceeds
1058 the base of four judges, the circuit shall be eligible for an additional grant in an amount
1059 equal to one-fourth of the base amount of the state grant;

1060 (3) In circuits where the superior court judges elect to use the state grant for one or more
1061 part-time judges, the amount of the state grant shall be as follows:

1062 (A) For each part-time judge who works one day weekly \$17,000.00

1063 (B) For each part-time judge who works two days weekly 34,000.00

1064 (C) For each part-time judge who works three days weekly 51,000.00

1065 (D) For each part-time judge who works four days weekly 68,000.00;

1066 provided, however, that a grant for one or more part-time judges shall not exceed the
1067 amount the circuit is eligible for in accordance with paragraphs (1) and (2) of this
1068 subsection; and

1069 (4) All state grants provided by this subsection shall be spent solely on salaries for
1070 juvenile court judges and shall not be used for any other purposes.

1071 15-11-53.

1072 (a) It shall be unlawful for any full-time juvenile court judge to engage in any practice of
1073 law outside his or her role as a juvenile court judge.

1074 (b) It shall be unlawful for a part-time judge of any juvenile court to engage directly or
1075 indirectly in the practice of law in his or her own name or in the name of another as a
1076 partner in any manner in any case, proceeding, or matter of any kind in the court to which
1077 he or she is assigned or in any other court in any case, proceeding, or any other matters of
1078 which it has pending jurisdiction or has had jurisdiction.

1079 (c) It shall be unlawful for any juvenile court judge, full time or part time, to give advice
1080 or counsel to any person on any matter of any kind whatsoever which has arisen directly
1081 or indirectly in court, except such advice or counsel as a judge is called upon to give while
1082 performing the duties of a juvenile court judge.

1083 15-11-54.

1084 (a) Each juvenile court shall be assigned and attached to the superior court of the county
1085 for administrative purposes.

1086 (b) The governing authority of the county of residence of each juvenile court judge shall
1087 offer the juvenile court judge insurance benefits and any other benefits except retirement
1088 or pension benefits equivalent to those offered to employees of the county, with a right to
1089 contribution from other counties in the circuit for a pro rata contribution toward the costs
1090 of such benefits, based on county population. Counties shall continue to provide
1091 membership in retirement plans available to county employees for any juvenile court judge
1092 in office before July 1, 1998, who did not become a member of the Georgia Judicial
1093 Retirement System provided by Chapter 23 of Title 47.

1094 (c) Except for state base grants provided by Code Section 15-11-52, all expenditures of the
1095 court are declared to be an expense of the court and payable out of the county treasury with
1096 the approval of the governing authority or governing authorities of the county or counties
1097 for which the juvenile court judge is appointed.

1098 15-11-55.

1099 (a) To the extent that the provisions of this article conflict with a local constitutional
1100 amendment authorizing the election of a juvenile court judge and with the provisions of a
1101 local Act authorized by such local constitutional amendment to provide for the term of
1102 office, vacancies in office, qualifications, compensation, and full-time or part-time status
1103 of a juvenile court judge or judges, the provisions of such local constitutional amendment
1104 and such local Act shall govern.

1105 (b) The state grants provided by Code Section 15-11-52 shall be provided to any circuit
1106 encompassing a juvenile court governed by the provisions of a local constitutional
1107 amendment and a local Act in the same manner as other circuits, except that, in any circuit
1108 with one or more elected juvenile court judges, the elected juvenile court judge who is

1109 senior in duration of service as a juvenile court judge shall establish, subject to other
 1110 applicable provisions of law, the total number of circuit-wide juvenile court judges,
 1111 whether the judge or judges shall be full time or part time or a combination of full time and
 1112 part time, and the compensation of any part-time juvenile court judge or judges.

1113 15-11-56.

1114 (a) No person who is serving as a full-time juvenile court judge shall at the same time hold
 1115 the office of judge of any other class of court of this state.

1116 (b) No person serving as a juvenile court judge after being elected juvenile court judge
 1117 pursuant to a local law authorized by a constitutional amendment shall at the same time
 1118 hold the office of judge of any other class of court of this state.

1119 (c) Nothing in this Code section shall prevent any duly appointed or elected juvenile court
 1120 judge from sitting by designation as a superior court judge pursuant to Code Section
 1121 15-1-9.1.

1122 15-11-57.

1123 (a) Whenever a juvenile court judge is appointed it shall be the duty of the clerk of the
 1124 superior court to forward to the Secretary of State and to the Council of Juvenile Court
 1125 Judges a certified copy of the order of appointment. The order of appointment shall set out
 1126 the name of the person appointed, the term of office, the effective date of the appointment,
 1127 the name of the person being succeeded, if any, and whether the office was vacated by
 1128 resignation, death, or otherwise. Upon receipt of such order, the Secretary of State shall
 1129 issue a commission as for superior court judges.

1130 (b) Whenever an associate juvenile court judge is appointed to serve in a juvenile court,
 1131 the clerk of the juvenile court shall forward a certified copy of the order of appointment to
 1132 the Council of Juvenile Court Judges.

1133 15-11-58.

1134 (a) All of the judges and associate judges of the courts exercising jurisdiction over children
 1135 shall constitute a Council of Juvenile Court Judges. The council shall annually elect from
 1136 among its members a judge to serve as presiding judge and chairperson of the council.

1137 (b) The Council of Juvenile Court Judges:

1138 (1) Shall meet at stated times to be fixed by it or on call of the chairperson;

1139 (2) May establish general policies for the conduct of courts exercising jurisdiction over
 1140 children;

1141 (3) May promulgate uniform rules and forms governing procedures and practices of the
 1142 courts;

1143 (4) Shall publish in print or electronically an annual report of the work of the courts
1144 exercising jurisdiction over children, which shall include statistical and other data on the
1145 courts' work and services, research studies the council may make of the problems of
1146 children and families dealt with by the courts, and any recommendations for legislation;
1147 and

1148 (5) Shall be authorized to inspect and copy records of the courts, law enforcement
1149 agencies, the department, and DJJ for the purpose of compiling statistical data on
1150 children.

1151 (c) Subject to the approval of the Council of Juvenile Court Judges, the presiding judge
1152 of the council shall appoint a chief administrative and executive officer for the Council of
1153 Juvenile Court Judges who shall have the title of director of the Council of Juvenile Court
1154 Judges. Under the general supervision of the presiding judge of the council and within the
1155 policies established by the Council of Juvenile Court Judges, the director shall:

1156 (1) Provide consultation to the courts regarding the administration of court services and
1157 the recruitment and training of personnel;

1158 (2) Make recommendations to the Council of Juvenile Court Judges for improvement in
1159 court services;

1160 (3) With the approval of the presiding judge, appoint consultants and necessary clerical
1161 personnel to perform the duties assigned to the Council of Juvenile Court Judges and the
1162 director;

1163 (4) Collect necessary statistics and prepare an annual report of the work of the courts;

1164 (5) Promulgate in cooperation with DJJ standard procedures for coordinating state and
1165 local probation services throughout the state; and

1166 (6) Perform such other duties as the presiding judge of the council shall specify.

1167 15-11-59.

1168 (a) The Council of Juvenile Court Judges, in conjunction with the Institute of Continuing
1169 Judicial Education of Georgia, shall establish seminars for all judges and associate juvenile
1170 court judges exercising juvenile court jurisdiction and may make provisions relative to such
1171 seminars by court rules properly adopted.

1172 (b) Seminars shall offer instruction and training in juvenile law and procedure, child
1173 development and psychology, sociological theories relative to delinquency and breakdown
1174 of the family structure, and such other training and activities as the Council of Juvenile
1175 Court Judges may determine would promote the quality of justice in the juvenile court
1176 system.

1177 (c) Expenses of administration of seminar programs and actual expenses incurred by the
1178 judges or associate juvenile court judges in attending such seminars shall be paid from state

1179 funds appropriated for the Council of Juvenile Court Judges for such purpose, from federal
1180 funds available to the Council of Juvenile Court Judges for such purpose, or from other
1181 appropriate sources. Expenses for judges and associate juvenile court judges shall not
1182 exceed the allowances allowed members of the General Assembly.

1183 (d) Each judge and associate juvenile court judge exercising juvenile jurisdiction shall
1184 receive training appropriate to the role and participate in at least 12 hours of continuing
1185 legal education or continuing judicial education established or approved by the Council of
1186 Juvenile Court Judges each year and meet such rules as established by the Council of
1187 Juvenile Court Judges pertaining to such training. Superior court judges may meet this
1188 requirement by attending seminars held in conjunction with the seminars for superior court
1189 judges provided by the Institute of Continuing Judicial Education of Georgia. Judges and
1190 associate juvenile court judges shall not exercise juvenile court jurisdiction unless the
1191 Council of Juvenile Court Judges certifies that annual training has been accomplished or
1192 unless the judge is in the first year of his or her initial appointment; provided, however, that
1193 the Council of Juvenile Court Judges may in hardship cases extend deadlines for
1194 compliance with this Code section.

1195 15-11-60.

1196 (a) A judge may appoint one or more persons to serve as associate juvenile court judges
1197 in juvenile matters on a full-time or part-time basis. The associate juvenile court judge
1198 shall serve at the pleasure of the judge, and his or her salary shall be fixed by the judge
1199 with the approval of the governing authority or governing authorities of the county or
1200 counties for which the associate juvenile court judge is appointed. The salary of each
1201 associate juvenile court judge shall be paid from county funds.

1202 (b) Each associate juvenile court judge shall have the same qualifications as required for
1203 a judge of the juvenile court as provided in Code Section 15-11-51; provided, however, that
1204 any person serving as an associate juvenile court judge on January 1, 2013, shall be
1205 qualified for appointment thereafter to serve as an associate juvenile court judge.

1206 15-11-61.

1207 (a) The judge may appoint one or more persons to serve at the pleasure of the judge as
1208 associate juvenile court traffic judges on a full-time or part-time basis.

1209 (b) An associate juvenile court traffic judge shall be a member of the State Bar of Georgia.

1210 (c) The compensation of associate juvenile court traffic judges shall be fixed by the judge
1211 with the approval of the governing authority of the county and shall be paid in equal
1212 monthly installments from county funds, unless otherwise provided by law.

1213 15-11-62.

1214 (a) In the event of the disqualification, illness, or absence of the judge of the juvenile
1215 court, the judge of the juvenile court may appoint any member of the State Bar of Georgia
1216 who is resident in the judicial circuit in which the court lies and has practiced law for five
1217 years, any judge or senior judge of the superior courts, or any duly appointed juvenile court
1218 judge to serve as judge pro tempore of the juvenile court. In the event the judge of the
1219 juvenile court is absent or unable to make such appointment, the judge of the superior court
1220 of that county may so appoint.

1221 (b) The person appointed shall have the authority to preside in the stead of the disqualified,
1222 ill, or absent judge and shall be paid from the county treasury such emolument as the
1223 appointing judge shall prescribe; provided, however, that the emolument shall not exceed
1224 the compensation received by the regular juvenile court judge for such services.

1225 15-11-63.

1226 (a) The judge of the juvenile court shall have the authority to appoint clerks and any other
1227 personnel necessary for the execution of the purposes of this chapter.

1228 (b) The salary, tenure, compensation, and all other conditions of employment of such
1229 employees shall be fixed by the judge, with the approval of the governing authority of the
1230 county. The salaries of the employees shall be paid out of county funds.

1231 (c) Any employee of the court may be removed for cause by the judge of the court, the
1232 reasons therefor to be assigned in writing.

1233 15-11-64.

1234 (a) Any person who is appointed as or is performing the duties of a clerk of the juvenile
1235 court shall satisfactorily complete 20 hours of training in the performance of the duties of
1236 a clerk of the juvenile court within the first 12 months following such appointment or the
1237 first performance of such duties.

1238 (b) In each year after the initial appointment, any person who is appointed as or is
1239 performing the duties of a clerk of the juvenile court shall satisfactorily complete in that
1240 year 12 hours of additional training in the performance of such person's duties as clerk.

1241 (c) Training pursuant to this Code section shall be provided by the Institute of Continuing
1242 Judicial Education of Georgia. Upon satisfactory completion of such training, a certificate
1243 issued by the institute shall be placed into the minutes of the juvenile court record in the
1244 county in which such person serves as a clerk of the juvenile court. All reasonable
1245 expenses of such training including, but not limited to, any tuition fixed by such institution
1246 shall be paid from county funds by the governing authority of the county for which the

1247 person serves as a clerk of the juvenile court, unless funding is provided from other
 1248 sources.

1249 (d) A judge of the juvenile court shall appoint a clerk pro tempore for that court in order
 1250 for the regular clerk to attend required training. Such clerk pro tempore shall not be
 1251 required to meet the training requirements for performing the clerk's duties.

1252 (e) The provisions of this Code section shall not apply to clerks of juvenile courts who also
 1253 act as clerks of superior courts and who already have mandatory training requirements in
 1254 such capacity.

1255 15-11-65.

1256 (a) The judge may appoint one or more probation and intake officers.

1257 (b) The salaries of the probation and intake officers shall be fixed by the judge with the
 1258 approval of the governing authority of the county or counties for which he or she is
 1259 appointed and shall be payable from county funds.

1260 15-11-66.

1261 (a) A county juvenile probation officer or DJJ staff member serving as a juvenile probation
 1262 officer:

1263 (1) Shall make investigations, reports, and recommendations to the court as directed by
 1264 this chapter;

1265 (2) Shall supervise and assist a child placed on probation or under the protective
 1266 supervision or care of such probation officer by order of the court or other authority of
 1267 law;

1268 (3) Shall make appropriate referrals to other private or public agencies of the community
 1269 if such assistance appears to be needed or desirable;

1270 (4) May take into custody and detain a child who is under the supervision or care of such
 1271 probation officer if the probation officer has reasonable cause to believe that the child's
 1272 health or safety or that of another is in imminent danger, or that the child may abscond
 1273 or be removed from the jurisdiction of the court, or when so ordered by the court pursuant
 1274 to this chapter;

1275 (5) May not conduct accusatory proceedings against a child who is or may be under such
 1276 probation officer's care or supervision;

1277 (6) May not draft judicial orders, official charges, or any other document which is
 1278 required to be drafted by an attorney;

1279 (7) Shall perform all other functions designated by this chapter or by order of the court
 1280 pursuant thereto. Any of the functions specified in this Code section may be performed

1281 in another state if authorized by the court located in this state and permitted by the laws
1282 of the other state; and

1283 (8) Other laws to the contrary notwithstanding, no county juvenile probation officer or
1284 DJJ staff serving as a probation officer shall be liable for the acts of a child not detained
1285 or taken into custody when, in the judgment of such officer, such detention or custody is
1286 not warranted.

1287 (b) Notwithstanding subsection (a) of this Code section, DJJ, as the primary employer,
1288 shall maintain sole authority over the duties and responsibilities of all DJJ staff members
1289 serving as probation officers.

1290 15-11-67.

1291 (a) A county juvenile court intake officer or DJJ staff member serving as a juvenile court
1292 intake officer:

1293 (1) Shall receive and examine complaints and charges of delinquency, dependency, or
1294 that a child is in need of services for the purpose of considering the commencement of
1295 proceedings under this chapter;

1296 (2) Shall make appropriate referrals to other private or public agencies of the community
1297 if such assistance appears to be needed or desirable;

1298 (3) Shall compile on a regular basis the case files or a report on those cases that were
1299 informally adjusted for review by the judge;

1300 (4) May not conduct accusatory proceedings against a child or draft judicial orders,
1301 official charges, or any other document which is required to be drafted by an attorney;

1302 (5) Shall perform all other functions designated by this chapter or by order of the court
1303 pursuant thereto; and

1304 (6) Except as provided in Article I, Section II, Paragraph IX(d) of the Constitution of this
1305 state, no county juvenile court intake officer, or DJJ staff member serving as a juvenile
1306 court intake officer shall be liable for the acts of a child not detained or taken into custody
1307 when, in the judgment of such officer, such detention or custody is not warranted.

1308 (b) Notwithstanding subsection (a) of this Code section, DJJ, as the primary employer,
1309 shall maintain sole authority over the duties and responsibilities of all DJJ staff members
1310 serving as juvenile court intake officers.

1311 15-11-68.

1312 (a) The probation and intake services of the juvenile court of each county may be
1313 transferred to and become a part of the state-wide juvenile and intake services and be fully
1314 funded through DJJ. The probation and intake officers of juvenile courts of those counties
1315 whose probation and intake services are transferred pursuant to this Code section shall

1316 become DJJ employees on the date of such transfer and on and after that date such
 1317 employees shall be subject to the salary schedules and other DJJ personnel policies, except
 1318 that the salaries of such employees shall not be reduced as a result of becoming DJJ
 1319 employees.

1320 (b) The probation and intake services of the juvenile court of a county may be transferred
 1321 to DJJ by local Act of the General Assembly which approves such transfer.

1322 (c) Persons who were probation and intake officers of the juvenile court of a county on
 1323 June 30, 1996, but who were transferred as probation and intake officers to and became a
 1324 part of the state-wide juvenile and intake services system fully funded through DJJ before
 1325 January 1, 1999, shall be covered employees in the classified service of the State Personnel
 1326 Administration.

1327 ARTICLE 3

1328 Part 1

1329 15-11-100.

1330 The purpose of this article is:

1331 (1) To assist and protect children whose physical or mental health and welfare is
 1332 substantially at risk of harm from abuse, neglect, or exploitation and who may be further
 1333 threatened by the conduct of others by providing for the resolution of dependency
 1334 proceedings in juvenile court;

1335 (2) To ensure that dependency proceedings are conducted expeditiously to avoid delays
 1336 in permanency plans for children;

1337 (3) To provide the greatest protection as promptly as possible for children; and

1338 (4) To ensure that the health, safety, and best interests of the child be the paramount
 1339 concern in all dependency proceedings.

1340 15-11-101.

1341 (a) If necessary, the investigator of a report of child abuse and neglect may apply to the
 1342 court for certain medical examinations and evaluations of a child or other children in the
 1343 household.

1344 (b) Upon a showing of probable cause in an affidavit executed by the applicant, the court
 1345 may order a physical examination and evaluation of a child or other children in the
 1346 household by a physician. Such order may be granted ex parte.

1347 (c) Upon a showing of probable cause in an affidavit executed by the applicant and after
 1348 a hearing, the court may order a psychological or psychiatric examination and evaluation

1349 of a child or other children in the household by a psychologist, psychiatrist, or other
1350 licensed mental health professional.

1351 (d) Upon a showing of probable cause in an affidavit executed by the applicant and after
1352 a hearing, the court may order a forensic examination and evaluation of a child or other
1353 children in the household by a psychologist, psychiatrist, or other licensed mental health
1354 professional.

1355 (e) Upon a showing of probable cause in an affidavit executed by the applicant and after
1356 a hearing, the court may order a physical, psychological, or psychiatric examination of a
1357 child's parent, guardian, or legal custodian.

1358 15-11-102.

1359 (a) The preliminary protective hearing shall be held promptly and no later than 72 hours
1360 after a child is placed in eligible shelter care, provided that, if the 72 hour time frame
1361 expires on a weekend or legal holiday, such hearing shall be held on the next day which is
1362 not a weekend or legal holiday.

1363 (b) If a child was never taken into protective custody or is released from eligible shelter
1364 care at the preliminary protective hearing, the following time frames apply:

1365 (1) The petition for dependency shall be filed within 30 days of the child's release;

1366 (2) Summons shall be served at least 72 hours before the adjudication hearing;

1367 (3) The adjudication hearing shall be held no later than 60 days after the filing of the
1368 petition for dependency; and

1369 (4) If the dispositional hearing is not held in conjunction with the adjudication hearing,
1370 it shall be held and completed within 30 days after the conclusion of the adjudication
1371 hearing.

1372 (c) If a child is not released from eligible shelter care at the preliminary protective hearing,
1373 the following time frames apply:

1374 (1) The petition for dependency shall be filed within five days of the preliminary
1375 protective hearing;

1376 (2) Summons shall be served at least 72 hours before the adjudication hearing;

1377 (3) The adjudication hearing shall be held no later than ten days after the filing of the
1378 petition;

1379 (4) DFCS shall submit to the court its written report within 30 days of the date a child
1380 who is placed in the custody of DFCS is removed from the home and at each subsequent
1381 review of the disposition order. If the DFCS report does not contain a plan for
1382 reunification services, the nonreunification hearing shall be held no later than 30 days
1383 from the time the report is filed; and

1384 (5) If the dispositional hearing is not held in conjunction with the adjudication hearing,
1385 it shall be held and completed within 30 days after the conclusion of the adjudication
1386 hearing.

1387 (d) An initial periodic review hearing shall be held within 75 days following a child's
1388 removal from his or her home. An additional periodic review shall be held within four
1389 months following such initial review.

1390 (e) Permanency plan hearings shall be held no later than 30 days after DFCS has submitted
1391 a written report to the court which does not provide a plan for reunification services or:

1392 (1) For children under seven years of age at the time a petition for dependency is filed,
1393 no later than nine months after the child is considered to have entered foster care,
1394 whichever comes first. Thereafter a permanency plan hearing shall be held every six
1395 months while the child continues in DFCS custody or more frequently as deemed
1396 necessary by the court until the court determines that the child's permanency plan and
1397 goal have been achieved; and

1398 (2) For children seven years of age and older at the time a petition is filed, no later than
1399 12 months after the child is considered to have entered foster care, whichever comes first.
1400 Thereafter a permanency plan hearing shall be held every six months while the child
1401 continues in DFCS custody or more frequently as deemed necessary by the court until the
1402 court determines that the child's permanency plan and goal have been achieved.

1403 (f) A supplemental order of the court adopting a child's permanency plan shall be entered
1404 within 30 days after the court has determined that reunification efforts need not be made
1405 by DFCS.

1406 15-11-103.

1407 (a) The child and any other party to a proceeding under this article shall have the right to
1408 a qualified and independent attorney at all stages of the proceedings under this article.

1409 (b) The court shall appoint an attorney for a child alleged to be dependent. The
1410 appointment shall be made as soon as practicable to ensure adequate representation of such
1411 child and, in any event, before the first court hearing that may substantially affect the
1412 interests of such child.

1413 (c) A child's attorney owes to the child the duties imposed by the law of this state in an
1414 attorney-client relationship.

1415 (d) A child's attorney shall not serve as guardian ad litem in a proceeding involving the
1416 child.

1417 (e) Before an attorney may be appointed to represent a child, he or she shall have received
1418 training appropriate to the role that is administered or approved by the Office of the Child
1419 Advocate for the Protection of Children. Preappointment training shall be satisfied within

1420 an attorney's existing continuing legal education obligations and shall not require the
1421 attorney to complete additional training hours in addition to the hours currently required
1422 by the State Bar of Georgia.

1423 (f) If an attorney has been appointed to represent a child in a prior proceeding under this
1424 chapter, the court, when possible, shall appoint the same attorney to represent the child in
1425 any subsequent proceeding.

1426 (g) An attorney appointed to represent a child in a dependency proceeding shall continue
1427 the representation in any subsequent appeals unless excused by the court.

1428 (h) Neither a child nor a representative of a child may waive a child's right to an attorney
1429 in a dependency proceeding.

1430 (i) A party other than a child shall be informed of his or her right to an attorney prior to
1431 any hearing. A party other than a child shall be given an opportunity to:

1432 (1) Obtain and employ an attorney of such party's own choice;

1433 (2) Obtain a court appointed attorney if the court determines that such party is an
1434 indigent person; or

1435 (3) Waive the right to an attorney.

1436 15-11-104.

1437 (a) If a court determines that a guardian ad litem is necessary to assist the court in
1438 determining the best interests of the child, the court shall appoint a guardian ad litem for
1439 a child alleged to be dependent:

1440 (1) At the request of the child's attorney;

1441 (2) On the court's own motion; or

1442 (3) On motion by any party.

1443 (b) A party to the proceeding, the employee or representative of a party to the proceeding,
1444 or any other individual with a conflict of interest shall not be appointed as guardian ad
1445 litem.

1446 (c) A court shall appoint a court appointed special advocate (CASA) to act as guardian ad
1447 litem whenever possible.

1448 (d) An attorney appointed as a guardian ad litem may only take those actions that may be
1449 taken by a guardian ad litem who is not an attorney.

1450 (e) A lay guardian shall not engage in activities which could reasonably be construed as
1451 the practice of law.

1452 (f) Before the appointment as a guardian ad litem, such person shall have received training
1453 appropriate to the role as guardian ad litem which is administered or approved by the
1454 Office of the Child Advocate for the Protection of Children. For attorneys, preappointment
1455 guardian ad litem training shall be satisfied within the attorney's existing continuing legal

1456 education obligations and shall not require the attorney to complete additional training
1457 hours in addition to the hours currently required by the State Bar of Georgia.

1458 (g) Any volunteer guardian ad litem authorized and acting in good faith, in the absence of
1459 fraud or malice and in accordance with the duties required by this Code section or Code
1460 Section 15-11-106, shall have immunity from any liability, civil or criminal, that might
1461 otherwise be incurred or imposed as a result of taking or failing to take any action pursuant
1462 to this Code section or Code Section 15-11-106.

1463 (h) The court may remove a guardian ad litem from a case upon finding that the guardian
1464 ad litem acted in a manner contrary to a child's best interests, has not appropriately
1465 participated in the case, or if the court otherwise deems continued service as unwanted or
1466 unnecessary.

1467 15-11-105.

1468 (a) A guardian ad litem shall advocate for a child's best interests in the proceeding for
1469 which the guardian ad litem has been appointed.

1470 (b) In determining the child's best interests, a guardian ad litem shall consider and evaluate
1471 all of the factors affecting the best interests of the child in the context of a child's age and
1472 developmental needs. Such factors shall include:

1473 (1) The physical safety and welfare of the child, including food, shelter, health, and
1474 clothing;

1475 (2) The mental and physical health of all individuals involved;

1476 (3) Evidence of domestic violence in any current, past, or considered home for the child;

1477 (4) A child's background and ties, including familial, cultural, and religious;

1478 (5) A child's sense of attachments, including a child's sense of security, a child's sense
1479 of familiarity, and continuity of affection for the child;

1480 (6) The least disruptive placement alternative for a child;

1481 (7) A child's wishes and long-term goals;

1482 (8) A child's community ties, including church, school, and friends;

1483 (9) A child's need for permanence which includes the child's need for stability and
1484 continuity of relationships with a parent, siblings, and other relatives;

1485 (10) The uniqueness of every family and child;

1486 (11) The risks attendant to entering and being in substitute care;

1487 (12) The preferences of the persons available to care for the child; and

1488 (13) Any other factors considered by the guardian ad litem to be relevant and proper to
1489 his or her determination.

1490 (c) Unless a child's circumstances render the following duties and responsibilities
1491 unreasonable, a guardian ad litem shall at a minimum:

- 1492 (1) In a manner appropriate to a child's developmental level, maintain regular and
1493 sufficient in-person contact with the child, meet with and interview the child prior to
1494 custody hearings, adjudication hearings, disposition hearings, judicial reviews, and any
1495 other hearings scheduled in accordance with the provisions of this chapter;
1496 (2) In a manner appropriate to the child's developmental level, ascertain the child's needs,
1497 circumstances, and views;
1498 (3) Conduct an independent assessment to determine the facts and circumstances
1499 surrounding the case;
1500 (4) Consult with the child's attorney regarding the issues in the proceeding;
1501 (5) Communicate with health care, mental health care, and other professionals involved
1502 with the child's case;
1503 (6) Review educational, medical, and psychological reports relating to the child and the
1504 respondents;
1505 (7) Review all court related documents;
1506 (8) Attend all court hearings and other proceedings to advocate for the child's best
1507 interests;
1508 (9) Advocate for timely court hearings to obtain permanency for the child;
1509 (10) Protect the cultural needs of the child;
1510 (11) Contact the child prior to any proposed change in the child's placement;
1511 (12) Contact the child after changes in the child's placement;
1512 (13) Attend citizen panel review hearings concerning the child and if unable to attend the
1513 hearings, forward to the panel a letter setting forth the child's status during the period
1514 since the last citizen panel review and include an assessment of the DFCS permanency
1515 and treatment plans;
1516 (14) Provide written reports to the court and the parties on the child's best interests which
1517 shall include, but not be limited to, recommendations regarding placement of the child,
1518 updates on the child's adjustment to placement, DFCS' and respondent's compliance with
1519 prior court orders and treatment plans, the child's degree of participation during
1520 visitations, and any other recommendations based on the best interests of the child;
1521 (15) When appropriate, encourage settlement and the use of any alternative forms of
1522 dispute resolution and participate in such processes to the extent permitted; and
1523 (16) Monitor compliance with the case plan and all court orders.
1524 (d) A guardian ad litem shall receive notices, pleadings, or other documents required to
1525 be provided to or served upon a party.
1526 (e) A guardian ad litem shall not also serve as a child's attorney.
1527 (f) Upon presentation of an order appointing a guardian ad litem, such guardian ad litem
1528 shall have access to all records and information relevant to a child's case when such records

1529 and information are not otherwise protected from disclosure pursuant to Code Section
1530 19-7-5. Such records and information shall not include records and information provided
1531 under Article 12 of this chapter or provided under Chapter 4A of Title 49.

1532 (g) All records and information acquired or reviewed by a guardian ad litem during the
1533 course of his or her appointment shall be deemed confidential and shall not be disclosed
1534 except as ordered by the court.

1535 (h) Except as provided in Code Section 49-5-41, regarding access to records, any guardian
1536 ad litem who discloses confidential information obtained during the course of his or her
1537 appointment, in violation of law, shall be guilty of a misdemeanor. A guardian ad litem
1538 shall maintain all information and records regarding mental health, developmental
1539 disability as defined in Code Section 37-1-1, and substance abuse according to the
1540 confidentiality requirements contained in Code Sections 37-3-166, 37-4-125, or 37-7-166,
1541 as applicable.

1542 (i) In the event of a change of venue, the original guardian ad litem shall, as soon as
1543 possible, communicate with the appointed guardian ad litem in the new venue and shall
1544 forward all pertinent information to the new guardian ad litem.

1545 15-11-106.

1546 (a) A guardian ad litem shall be entitled to:

1547 (1) Receive a copy of each pleading or other record filed with the court in the
1548 proceedings; and

1549 (2) Receive notice of, attend, and participate in each hearing in the proceedings.

1550 (b) A guardian ad litem shall not engage in ex parte contact with the court except as
1551 otherwise authorized by law.

1552 (c) A guardian ad litem shall not take any action that may be taken only by an attorney
1553 licensed in this state, including making opening and closing statements or examining
1554 witnesses in court or engaging in discovery.

1555 (d) The court, the child, or any other party may compel a guardian ad litem for a child to
1556 attend a trial or hearing relating to the child and to testify as necessary for the proper
1557 disposition of a proceeding.

1558 (e) The court shall ensure that any guardian ad litem for a child has the opportunity to
1559 testify about his or her analysis or recommendations regarding the best interests of the child
1560 in accordance with Title 24 or, if present at the hearing and available for
1561 cross-examination, submit a report setting forth:

1562 (1) The guardian ad litem's recommendations regarding the best interests of the child;
1563 and

1564 (2) The reasons for the guardian ad litem's recommendations, including the identification
 1565 of any reports upon which he or she has relied.

1566 (f) A guardian ad litem's report shall not be admitted into evidence prior to the disposition
 1567 hearing except in accordance with Title 24.

1568 (g) A guardian ad litem for a child may be called as a witness for the purpose of
 1569 cross-examination regarding the guardian ad litem's report even if the guardian ad litem is
 1570 not listed as a witness by a party.

1571 15-11-107.

1572 (a) A parent, guardian, or legal custodian's reliance on prayer or other religious
 1573 nonmedical means for healing in lieu of medical care, in the exercise of religious beliefs,
 1574 shall not be the sole basis for considering his or her child to be a dependent child; provided,
 1575 however, that the religious rights of a parent, guardian, or legal custodian shall not limit the
 1576 access of a child to medical care in a life-threatening situation or when the condition will
 1577 result in serious disability.

1578 (b) In order to make a determination as to whether a child is in a life-threatening situation
 1579 or that the child's condition will result in serious disability, the court may order a medical
 1580 evaluation of the child.

1581 (c) If the court determines, on the basis of any relevant evidence before the court,
 1582 including the court ordered medical evaluation and the affidavit of the attending physician,
 1583 that a child is in a life-threatening situation or that a child's condition will result in serious
 1584 disability, the court may order that medical treatment be provided for a child.

1585 (d) A child whose parent, guardian, or legal custodian inhibits or interferes with the
 1586 provision of medical treatment in accordance with a court order shall be considered to be
 1587 dependent and the court may find the parent, guardian, or legal custodian in contempt and
 1588 enter any order authorized by and in accordance with the provisions of Code Section
 1589 15-11-31.

1590 15-11-108.

1591 (a) The court shall give to all parties written notice of the date, time, place, and purpose
 1592 of the following postadjudication hearings or reviews:

1593 (1) Nonreunification hearings;

1594 (2) Disposition hearings;

1595 (3) Periodic review hearings;

1596 (4) Periodic reviews by judicial citizen review panel;

1597 (5) Permanency plan hearings;

1598 (6) Termination of parental rights hearings; and

1599 (7) Termination of parental rights review hearings.

1600 (b) Issuance and service of summons, when appropriate, shall comply with the
1601 requirements of Code Sections 15-11-160 and 15-11-161.

1602 (c) Unless otherwise provided in this chapter, written notice shall be delivered to the
1603 recipient at least 72 hours before the hearing or review by United States mail, e-mail, or
1604 hand delivery.

1605 15-11-109.

1606 (a) In advance of each hearing or review, DFCS shall give written notice of the date, time,
1607 place, and purpose of the review or hearing to the caregiver of the child, the foster parent
1608 of the child, any preadoptive parent, or any relative providing care for the child including
1609 the right to be heard. The written notice shall be delivered to the recipient at least 72 hours
1610 before the review or hearing by United States mail, e-mail, or hand delivery.

1611 (b) Notice of a hearing or review shall not be construed to require a legal custodian, foster
1612 parent, preadoptive parent, or relative caring for the child to be made a party to the hearing
1613 or review solely on the basis of such notice and opportunity to be heard.

1614 15-11-110.

1615 (a) Upon written request of an attorney for the parent, guardian, legal custodian, child, or
1616 petitioner, the court may continue any hearing under this article beyond the time limit
1617 within which the hearing is otherwise required to be held; provided, however, that no
1618 continuance shall be granted that is contrary to the interests of the child. In considering a
1619 child's interests, the court shall give substantial weight to a child's need for prompt
1620 resolution of his or her custody status, the need to provide a child with a stable
1621 environment, and the damage to a child of prolonged temporary placements.

1622 (b) Continuances shall be granted only upon a showing of good cause and only for that
1623 period of time shown to be necessary by the evidence presented at the hearing on the
1624 motion. Whenever any continuance is granted, the facts proved which require the
1625 continuance shall be entered in the court record.

1626 (c) Written notice of a motion for continuance shall be filed at least two business days
1627 prior to the date set for a hearing, together with affidavits or declarations detailing specific
1628 facts showing why a continuance is necessary, unless the court for good cause entertains
1629 an oral motion for continuance.

1630 (d) A stipulation between attorneys or the convenience of the parties shall not constitute
1631 good cause. Except as otherwise provided by judicial rules governing attorney conflict
1632 resolution, a pending criminal prosecution or family law matter shall not constitute good
1633 cause. The need for discovery shall not constitute good cause.

1634 (e) In any case in which a parent, guardian, legal custodian, or child is represented by an
1635 attorney and no objection is made to an order continuing any such hearing beyond the time
1636 limit, the absence of such an objection shall be deemed a consent to the continuance;
1637 provided, however, that even with consent, the court shall decide whether to grant the
1638 continuance in accordance with subsection (a) of this Code section.

1639 15-11-111.

1640 (a) At any hearing held with respect to a child, the court in its discretion, and based upon
1641 the evidence, may enter an order:

1642 (1) Accepting or rejecting any DFCS report;

1643 (2) Ordering an additional evaluation; or

1644 (3) Undertaking such other review as it deems necessary and appropriate to determine
1645 the disposition that is in the child's best interests.

1646 (b) The court's order:

1647 (1) May incorporate all or part of the DFCS report; and

1648 (2) Shall include findings of fact which reflect the court's consideration of the oral and
1649 written testimony offered by all parties, as well as nonparties, who are required to be
1650 provided with notice and a right to be heard in any hearing to be held with respect to the
1651 child, and DFCS.

1652 15-11-112.

1653 (a) When a child is removed from his or her home the court shall order reasonable
1654 visitation that is consistent with the age and developmental needs of the child if the court
1655 finds that it is in the child's best interests. The court's order shall specify the frequency,
1656 duration, and terms of visitation including whether or not visitation shall be supervised or
1657 unsupervised.

1658 (b) There shall be a presumption that visitation shall be unsupervised unless the court finds
1659 that unsupervised visitation is not in the child's best interests.

1660 (c) Within 30 days of the court finding that there is a lack of substantial progress towards
1661 completion of a case plan, the court shall review the terms of visitation and determine
1662 whether the terms continue to be appropriate for the child or whether the terms need to be
1663 modified.

1664 15-11-113.

1665 When a child is alleged to be dependent, the date the child is considered to have entered
1666 foster care shall be the date of the first judicial finding that a child has been subjected to

1667 child abuse or neglect or the date that is 60 days after the date on which a child is removed
1668 from his or her home, whichever is earlier.

1669 Part 2

1670 15-11-125.

1671 (a) A proceeding under this article may be commenced:

1672 (1) In the county in which a child legally resides; or

1673 (2) In the county in which a child is present when the proceeding is commenced if acts
1674 underlying the dependency allegation are alleged to have occurred in that county.

1675 (b) For the convenience of the parties, the court may transfer the proceeding to the county
1676 in which a child legally resides. If the proceeding is transferred, certified copies of all legal
1677 and social documents and records pertaining to the proceeding on file with the clerk of
1678 court shall accompany the transfer.

1679 Part 3

1680 15-11-130.

1681 (a) Notwithstanding Code Sections 15-11-133 and 15-11-135, DFCS shall be authorized
1682 to provide emergency care and supervision to any child without seeking a court order for
1683 a period not to exceed seven days when:

1684 (1) As a result of an emergency or illness, the person who has physical and legal custody
1685 of a child is unable to provide for the care and supervision of the child, and such person
1686 or a law enforcement officer, emergency personnel employed by a licensed ambulance
1687 provider, fire rescue personnel, or a hospital administrator or his or her designee requests
1688 that DFCS exercise such emergency custody; and

1689 (2) The child is not at imminent risk of abuse or neglect, other than the risks arising from
1690 being without a caretaker.

1691 (b) During the period when a child is in the temporary care and supervision of DFCS,
1692 DFCS shall endeavor to place the child with a relative of the parent, guardian, or legal
1693 custodian, in eligible shelter care, or in emergency foster care or shall make other
1694 appropriate placement arrangements. DFCS shall have the same rights and powers with
1695 regard to the child as does the parent, guardian, or legal custodian including the right to
1696 consent to medical treatment.

1697 (c) Immediately upon receiving custody of a child, DFCS shall begin a diligent search for
1698 a relative or other designee of the parent who can provide for the care and supervision of
1699 the child.

1700 (d) At any time during such seven-day period, and upon notification to DFCS that the
 1701 parent, guardian, or legal custodian or an expressly authorized relative, or designee thereof,
 1702 is able to provide care to and exercise control over the child, DFCS shall release the child
 1703 to the person having custody of the child at the time the child was taken into DFCS custody
 1704 or to such person's authorized relative or designee.

1705 (e) Upon the expiration of such seven-day period, if the child has not been released or if
 1706 DFCS determines that there is an issue of neglect, abandonment, or abuse, DFCS shall
 1707 promptly contact a juvenile court intake officer or bring the child before the juvenile court.
 1708 If, upon making an investigation, the juvenile court intake officer finds that eligible shelter
 1709 care is warranted for the child, then, for purposes of this chapter, the child shall be deemed
 1710 to have been placed in eligible shelter care at the time such finding was made and DFCS
 1711 may file a dependency petition.

1712 (f) DFCS and its successors, agents, assigns, and employees shall be immune from any and
 1713 all liability for providing care and supervision in accordance with this Code section, for
 1714 consenting to medical treatment for the child, and for releasing the child.

1715 15-11-131.

1716 (a) Notwithstanding Code Section 15-11-133, a physician, licensed to practice medicine
 1717 in this state who is treating a child may take or retain temporary protective custody of the
 1718 child, without a court order and without the consent of a parent, guardian, or legal
 1719 custodian, provided that:

1720 (1) The physician has reasonable cause to believe that the child is in a circumstance or
 1721 condition that presents an imminent danger to the child's life or health as a result of
 1722 suspected abuse or neglect; or

1723 (2) There is reasonable cause to believe that the child has been abused or neglected and
 1724 there is not sufficient time for a court order to be obtained for temporary custody of the
 1725 child before the child may be removed from the presence of the physician.

1726 (b) A physician holding a child in temporary protective custody shall:

1727 (1) Make reasonable and diligent efforts to inform the parents, guardian, or legal
 1728 custodian of the child of the whereabouts of the child;

1729 (2) As soon as possible, make a report of the suspected abuse or neglect which caused
 1730 him or her to take temporary custody of the child and inform DFCS that the child has
 1731 been held in temporary custody; and

1732 (3) Not later than 24 hours after the child is held in temporary custody:

1733 (A) Contact a juvenile court intake officer, and inform such intake officer that the child
 1734 is in imminent danger to his or her life or health as a result of suspected abuse or
 1735 neglect; or

1736 (B) Contact a law enforcement officer who shall take the child and promptly bring the
1737 child before a juvenile court intake officer.

1738 (c) A child who meets the requirements for inpatient admission shall be retained in the
1739 hospital or institution until such time as the child is medically ready for discharge. Upon
1740 notification by the hospital or institution to DFCS that a child who is not eligible for
1741 inpatient admission or who is medically ready for discharge has been taken into custody
1742 by a physician and the child has been placed in DFCS custody, DFCS shall take physical
1743 custody of the child within six hours of being notified.

1744 (d) If the juvenile court intake officer determines that the child is to be placed in eligible
1745 shelter care and the court orders that the child be placed in DFCS custody, then:

1746 (1) If the child remains in the physical care of the physician, DFCS shall take physical
1747 possession of the child within six hours of being notified by the physician, unless the
1748 child meets the criteria for admission to a hospital or other medical institution or facility;

1749 or

1750 (2) If the child has been brought before the court by a law enforcement officer, DFCS
1751 shall promptly take physical possession of the child.

1752 (e) If the juvenile court intake officer determines that the child should not be placed in
1753 eligible shelter care, the child shall be released.

1754 (f) If the child is placed in eligible shelter care, then the court shall notify the child's
1755 parents, guardian, or legal custodian, the physician, and DFCS of the preliminary protective
1756 hearing which is to be held within 72 hours.

1757 (g) If after the preliminary protective hearing the child is not released, DFCS shall file a
1758 petition alleging dependency in accordance with this article, provided that there is a
1759 continued belief that the child's life or health is in danger as a result of suspected abuse or
1760 neglect.

1761 (h) Any hospital or physician authorized and acting in good faith and in accordance with
1762 acceptable medical practice in the treatment of a child under this Code section shall have
1763 immunity from any liability, civil or criminal, that might otherwise be incurred or imposed
1764 as a result of taking or failing to take any action pursuant to this Code section. This Code
1765 section shall not be construed as imposing any additional duty not already otherwise
1766 imposed by law.

1767 15-11-132.

1768 (a) The facts supporting the issuance of an order of removal may be relayed orally,
1769 including telephonically, to the judge or a designated juvenile court intake officer, and the
1770 order directing that a child be taken into custody may be issued orally or electronically.

1771 (b) When a child is taken into custody under exceptional circumstances, an affidavit or
1772 sworn complaint containing the information previously relayed orally, including
1773 telephonically, shall be filed with the clerk of the court the next business day, and a written
1774 order shall be issued if not previously issued. The written order shall include the court's
1775 findings of fact supporting the necessity for the child's removal in order to safeguard the
1776 child's welfare and shall designate the child's legal custodian.

1777 (c) The affidavit or sworn complaint filed after the child has been placed shall indicate
1778 whether the child was released to the child's parent, guardian, or legal custodian or remains
1779 removed.

1780 (d) DFCS shall promptly notify the parent, guardian, or legal custodian of the nature of the
1781 allegations forming the basis for taking the child into custody and, if the child is not
1782 released, of the time and place of the preliminary protective hearing.

1783 15-11-133.

1784 (a) A child may be removed from his or her home, without the consent of the child's
1785 parents, guardian, or legal custodian:

1786 (1) Pursuant to an order of the court under this article; or

1787 (2) By a law enforcement officer or duly authorized officer of the court if the child is in
1788 imminent danger of abuse or neglect if he or she remains in the home.

1789 (b) Upon removing a child from his or her home, the law enforcement officer or duly
1790 authorized officer of the court shall:

1791 (1) Immediately deliver the child to a medical facility if the child is believed to suffer
1792 from a serious physical condition or illness which requires prompt treatment, and, upon
1793 delivery, shall promptly contact DFCS;

1794 (2) Bring the child immediately before the juvenile court or promptly contact a juvenile
1795 court intake officer; and

1796 (3) Promptly give notice to the court and the child's parents, guardian, or legal custodian
1797 that the child is in protective custody, together with a statement of the reasons for taking
1798 the child into protective custody.

1799 (c) The removal of child from his or her home by a law enforcement officer shall not be
1800 deemed an arrest.

1801 (d) A law enforcement officer removing a child from his or her home has all the privileges
1802 and immunities of a law enforcement officer making an arrest.

1803 (e) A law enforcement officer shall promptly contact a juvenile court intake officer for
1804 issuance of a court order once such officer has taken a child into protective custody and
1805 delivered the child to a medical facility.

1806 (f) A juvenile court intake officer shall immediately determine if the child should be
1807 released, remain in protective custody, or be brought before the court upon being contacted
1808 by a law enforcement officer, duly authorized officer of the court, or DFCS that a child has
1809 been taken into protective custody.

1810 15-11-134.

1811 (a) Any order authorizing the removal of a child from his or her home shall be based on
1812 a finding by the court that:

1813 (1) Continuation in the home would be contrary to the child's welfare; and

1814 (2) Removal is in the child's best interests.

1815 (b) Such findings shall be made on an individualized case-by-case basis and shall be
1816 documented in the court's written order.

1817 15-11-135.

1818 (a) A child taken into custody shall not be placed in eligible shelter care prior to the
1819 hearing on the petition unless:

1820 (1) Eligible shelter care is required to protect the child;

1821 (2) The child has no parent, guardian, or legal custodian or other person able to provide
1822 supervision and care and return him or her to the court when required; or

1823 (3) An order for the child's eligible shelter care has been made by the court.

1824 (b) No child alleged or adjudicated to be dependent shall be detained in any jail, adult
1825 lockup, or adult detention facility, nor shall a child be detained in a regional youth
1826 detention center or youth development center unless the child is also alleged or adjudicated
1827 to be delinquent, and the court determines that the requirements for detention under Article
1828 7 of this chapter are met.

1829 (c) A child alleged to be dependent may be placed in eligible shelter care only in:

1830 (1) A licensed or approved foster home or a home approved by the court which may be
1831 a public or private home or the home of the noncustodial parent or of a relative;

1832 (2) A facility operated by a licensed child welfare agency; or

1833 (3) A licensed shelter care facility approved by the court.

1834 (d) The actual physical placement of a child pursuant to this Code section shall require the
1835 approval of the judge of the juvenile court or his or her designee.

1836 (e) In any case in which a child is taken into protective custody, the child shall be placed
1837 together with any siblings who are also in protective custody, to the extent that it is
1838 practical and appropriate, or DFCS shall include a statement in its report and case plan of
1839 continuing efforts to place the siblings together or why such efforts are not appropriate.
1840 If siblings are not placed together, DFCS shall provide for frequent visitation or other

1841 ongoing interaction between the siblings, unless DFCS documents that such frequent
 1842 visitation or other ongoing interaction would be contrary to the safety or well-being of any
 1843 of the siblings.

1844 Part 4

1845 15-11-145.

1846 (a) If a child alleged to be dependent is removed from his or her home and is not returned
 1847 home, the preliminary protective hearing shall be held promptly and not later than 72 hours
 1848 after the child is placed in eligible shelter care; provided, however, that if the 72 hour time
 1849 frame expires on a weekend or legal holiday, the hearing shall be held on the next day
 1850 which is not a weekend or legal holiday.

1851 (b) Reasonable oral or written notice of the preliminary protective hearing, stating the
 1852 time, place, and purpose of the hearing, shall be given to the child and, if such person can
 1853 be found, to the child's parent, guardian, or legal custodian.

1854 (c) If a parent, guardian, or legal custodian has not been notified of the preliminary
 1855 protective hearing and did not appear or waive appearance at such hearing and thereafter
 1856 files an affidavit showing such facts, the court shall rehear the matter without unnecessary
 1857 delay and shall order the child's release unless it appears from such hearing that the child's
 1858 eligible shelter care is warranted or required.

1859 (d) The following persons shall have the right to participate in the preliminary protective
 1860 hearing:

1861 (1) The child's parent, guardian, or legal custodian, unless such person cannot be located
 1862 or fails to appear in response to the notice;

1863 (2) The child's attorney and guardian ad litem if a guardian ad litem has been appointed;

1864 (3) The child, unless the court finds, after considering evidence of harm to the child that
 1865 will result from the child's presence at the proceeding, that being present is not in the
 1866 child's best interests;

1867 (4) The parent's attorney if an attorney has been retained or appointed;

1868 (5) The assigned DFCS caseworker; and

1869 (6) The attorney for DFCS.

1870 (e) The court may allow the following parties to be present at the preliminary protective
 1871 hearing, if the court finds it is in the best interests of the child:

1872 (1) Any relative or other person who has demonstrated an ongoing commitment to the
 1873 child with whom the child might be placed;

1874 (2) DFCS employees involved in the case;

1875 (3) An advocate as requested by the parent, guardian, or legal custodian; and

1876 (4) Other persons who have knowledge of or an interest in the welfare of the child.

1877 (f) At the commencement of the preliminary protective hearing, the court shall inform the
 1878 parties of:

1879 (1) The contents of the complaint in terms understandable to the child and parent,
 1880 guardian, or legal custodian;

1881 (2) The nature of the proceedings in terms understandable to the child and parent,
 1882 guardian, or legal custodian;

1883 (3) Their due process rights including their right to an attorney and to an appointed
 1884 attorney if they are indigent persons, the right to call witnesses and to cross-examine all
 1885 witnesses, the right to present evidence, and the right to a trial by the court on the
 1886 allegations in the complaint or petition.

1887 (g) If the child is not released at the preliminary protective hearing, a petition for
 1888 dependency shall be made and presented to the court within five days of such hearing.

1889 15-11-146.

1890 (a) At the preliminary protective hearing, the court shall determine:

1891 (1) Whether there is probable cause to believe the child is dependent; and

1892 (2) That protective custody of the child is necessary to prevent abuse or neglect pending
 1893 the hearing on the dependency petition.

1894 (b) The court:

1895 (1) On finding that the complainant has not proved either of the required elements
 1896 prescribed in subsection (a) of this Code section, shall dismiss the case and shall return
 1897 the child to the child's parent, guardian, or legal custodian;

1898 (2) On finding that the complainant has not met the burden of proving that protective
 1899 custody is necessary, shall return the child to the child's parent, guardian, or legal
 1900 custodian pending the hearing on the dependency petition; or

1901 (3) On finding that the complainant has met the burden prescribed in subsection (a) of
 1902 this Code section, may place the child in the temporary custody of DFCS pending the
 1903 hearing on the dependency petition.

1904 (c) A court's order removing a child from the child's home shall be based upon a finding
 1905 that:

1906 (1) Continuation in the home would be contrary to the child's welfare; and

1907 (2) Removal is in the child's best interests.

1908 (d) The court shall make written findings as to whether DFCS has made reasonable efforts
 1909 to prevent or eliminate the need for removal of the child from the home and to make it
 1910 possible for the child to safely return home. When the court finds that no services were
 1911 provided but that reasonable services would not have eliminated the need for protective

1912 custody, the court shall consider DFCS to have made reasonable efforts to prevent or
1913 eliminate the need for protective custody. The court shall include in the written findings
1914 a brief description of what preventive and reunification efforts were made by DFCS.

1915 (e) In determining whether a child shall be removed or continued out of the home, the
1916 court shall consider whether the provision of reasonable services can prevent or eliminate
1917 the need to separate the family. The court shall make a written finding in every order of
1918 removal that describes why it is in the best interests of the child that the child be removed
1919 from the home or continued in eligible shelter care.

1920 (f) To aid the court in making the required written findings, DFCS shall present evidence
1921 to the court outlining the reasonable efforts made to prevent taking the child into protective
1922 custody and to provide services to make it possible for the child to safely return home and
1923 why protective custody is in the best interests of the child.

1924 Part 5

1925 15-11-150.

1926 A DFCS employee, a law enforcement officer, or any person who has actual knowledge
1927 of the abuse, neglect, or abandonment of a child or is informed of the abuse, neglect, or
1928 abandonment of a child that he or she believes to be truthful may make a petition alleging
1929 dependency.

1930 15-11-151.

1931 (a) If a child was removed from his or her home, the petition alleging dependency shall be
1932 filed within five days of the preliminary protective hearing.

1933 (b) If the child was never removed from his or her home or if the child was removed from
1934 his or her home but was released from protective custody at the preliminary protective
1935 hearing, the petition alleging dependency shall be filed within 30 days of the child's release.

1936 (c) Upon a showing of good cause and notice to all parties, the court may grant a requested
1937 extension of time for filing a petition alleging dependency in accordance with the best
1938 interests of the child. The court shall issue a written order reciting the facts justifying the
1939 extension.

1940 (d) If a petition alleging dependency is not filed within the required time frame, the
1941 complaint shall be dismissed without prejudice.

1942 15-11-152.

1943 A petition alleging dependency shall be verified and may be on information and belief and
1944 shall set forth plainly and with particularity:

- 1945 (1) The facts which bring the child within the jurisdiction of the court, with a statement
 1946 that it is in the best interests of the child and the public that the proceeding be brought;
 1947 (2) The name, date of birth, and residence address of the child on whose behalf the
 1948 petition is brought;
 1949 (3) The name and residence address of the parent, guardian, or legal custodian of the
 1950 child; or, if neither the child's parent nor the child's guardian nor the child's legal
 1951 custodian resides or can be found within the state or if such place of residence address is
 1952 unknown, the name of any known adult relative residing within the county or, if there is
 1953 none, the known adult relative residing nearest to the location of the court;
 1954 (4) Whether the child is in protective custody and, if so, the place of his or her eligible
 1955 shelter care and the time the child was taken into protective custody; and
 1956 (5) Whether any of the matters required by this Code section are unknown.

1957 15-11-153.

1958 (a) The petitioner may amend the petition alleging dependency at any time:

1959 (1) To cure defects of form; and

1960 (2) Prior to the adjudication hearing, to include new allegations of fact or requests for
 1961 adjudication.

1962 (b) When the petition is amended after the initial service to include new allegations of fact
 1963 or requests for adjudication, the amended petition shall be served on the parties and
 1964 provided to the attorneys of record.

1965 (c) The court shall grant the parties such additional time to prepare as may be required to
 1966 ensure a full and fair hearing; provided, however, that when a child is in protective custody
 1967 or in detention, the adjudication hearing shall not be delayed more than ten days beyond
 1968 the time originally fixed for the hearing.

1969 Part 6

1970 15-11-160.

1971 (a) The court shall direct the issuance of a summons to the child if the child is 14 years of
 1972 age or older, the child's parent, guardian, or legal custodian, the child's attorney, the child's
 1973 guardian ad litem, if any, and any other persons who appear to the court to be proper or
 1974 necessary parties to the proceeding, requiring them to appear before the court at the time
 1975 fixed to answer the allegations of the petition alleging dependency. A copy of the petition
 1976 alleging dependency shall accompany the summons unless the summons is served by
 1977 publication, in which case the published summons shall indicate the general nature of the
 1978 allegations and where a copy of the petition alleging dependency can be obtained.

1979 (b) The summons shall state that a party is entitled to an attorney in the proceedings and
1980 that the court will appoint an attorney if the party is an indigent person.

1981 (c) The court may endorse upon the summons an order directing the parent, guardian, or
1982 legal custodian of the child to appear personally at the hearing and directing the person
1983 having the physical custody or control of the child to bring the child to the hearing.

1984 (d) A party other than the child may waive service of summons by written stipulation or
1985 by voluntary appearance at the hearing.

1986 15-11-161.

1987 (a) If a party to be served with a summons is within this state and can be found, the
1988 summons shall be served upon him or her personally as soon as possible and at least 72
1989 hours before the adjudication hearing.

1990 (b) If a party to be served is within this state and cannot be found but his or her address is
1991 known or can be ascertained with reasonable diligence, the summons shall be served upon
1992 such party at least five days before the adjudication hearing by mailing him or her a copy
1993 by registered or certified mail or statutory overnight delivery, return receipt requested.

1994 (c) If a party to be served is outside this state but his or her address is known or can be
1995 ascertained with reasonable diligence, service of the summons shall be made at least five
1996 days before the adjudication hearing either by delivering a copy to such party personally
1997 or by mailing a copy to him or her by registered or certified mail or statutory overnight
1998 delivery, return receipt requested.

1999 (d) If, after justifiable effort, a party to be served with a summons cannot be found and
2000 such party's address cannot be ascertained, whether he or she is within or outside this state,
2001 the court may order service of the summons upon him or her by publication. The
2002 adjudication hearing shall not be earlier than five days after the date of the last publication.

2003 (e)(1) Service by publication shall be made once a week for four consecutive weeks in
2004 the official organ of the county where the petition alleging dependency has been filed.
2005 Service shall be deemed complete upon the date of the last publication.

2006 (2) When served by publication, the notice shall contain the names of the parties, except
2007 that the anonymity of the child shall be preserved by the use of appropriate initials, and
2008 the date the petition alleging dependency was filed. The notice shall indicate the general
2009 nature of the allegations and where a copy of the petition alleging dependency can be
2010 obtained and require the party to be served by publication to appear before the court at
2011 the time fixed to answer the allegations of the petition alleging dependency.

2012 (3) Within 15 days after the filing of the order of service by publication, the clerk of
2013 court shall mail a copy of the notice, a copy of the order of service by publication, and

2014 a copy of the petition alleging dependency to the last known address of the party being
 2015 served by publication.

2016 (f) Service of the summons may be made by any suitable person under the direction of the
 2017 court.

2018 (g) The court may authorize the payment from county funds of the costs of service and of
 2019 necessary travel expenses incurred by persons summoned or otherwise required to appear
 2020 at the hearing.

2021 15-11-162.

2022 (a) In the event a parent, guardian, or legal custodian of the child willfully fails to appear
 2023 personally at a hearing after being ordered to so appear or the parent, guardian, or legal
 2024 custodian of the child willfully fails to bring the child to a hearing after being so directed,
 2025 the court may issue an order against the person, directing the person to appear before the
 2026 court to show cause why he or she should not be held in contempt of court.

2027 (b) If the parent, guardian, or legal custodian fails to appear in response to an order to
 2028 show cause, the court may issue a bench warrant directing that the parent, guardian, or
 2029 legal custodian be brought before the court without delay to show cause why he or she
 2030 should not be held in contempt and the court may enter any order authorized by and in
 2031 accordance with the provisions of Code Section 15-11-31.

2032 15-11-163.

2033 (a) If service of summons upon a party is made by publication, the court may conduct a
 2034 provisional hearing upon the allegations of the petition alleging dependency and enter an
 2035 interlocutory order of disposition if:

2036 (1) The petition alleges dependency of the child;

2037 (2) The summons served upon any party:

2038 (A) States that prior to the final hearing on such petition a provisional hearing will be
 2039 held at a specified time and place;

2040 (B) Requires the party who is served other than by publication to appear and answer
 2041 the allegations of the petition alleging dependency at the provisional hearing;

2042 (C) States further that findings of fact and orders of disposition made pursuant to the
 2043 provisional hearing will become final at the final hearing unless the party served by
 2044 publication appears at the final hearing; and

2045 (D) Otherwise conforms to the requirements of Code Section 15-11-160; and

2046 (3) The child is personally before the court at the provisional hearing.

2047 (b) Findings of fact and orders of disposition shall have only interlocutory effect pending
 2048 final hearing on the petition alleging dependency.

2049 (c) If the party served by publication fails to appear at the final hearing on the petition
 2050 alleging dependency, the findings of fact and interlocutory orders made shall become final
 2051 without further evidence. If the party appears at the final hearing, the findings and orders
 2052 shall be vacated and disregarded and the hearing shall proceed upon the allegations of such
 2053 petition without regard to this Code section.

2054 Part 7

2055 15-11-170.

2056 (a) In all cases under this article, any party shall, upon written request to the party having
 2057 actual custody, control, or possession of the material to be produced, have full access to the
 2058 following for inspection, copying, or photographing:

2059 (1) The names and telephone numbers of each witness likely to be called to testify at the
 2060 hearing by another party;

2061 (2) A copy of any formal written statement made by the child who is alleged to be
 2062 dependent or any witness that relates to the subject matter concerning the testimony of
 2063 the witness that a party intends to call as a witness at the hearing;

2064 (3) Except as otherwise provided in subsection (b) of this Code section, any scientific or
 2065 other report which is intended to be introduced at any hearing or that pertains to physical
 2066 evidence which is intended to be introduced;

2067 (4) Any drug screen concerning the child who is alleged to be dependent or his or her
 2068 parent, guardian, or legal custodian;

2069 (5) Any case plan concerning the child who is alleged to be dependent or his or her
 2070 parent, guardian, or legal custodian;

2071 (6) Any visitation schedule related to the child who is alleged to be dependent;

2072 (7) Photographs and any physical evidence which are intended to be introduced at any
 2073 hearing;

2074 (8) Copies of the police incident report regarding an occurrence which forms part or all
 2075 of the basis of the petition; and

2076 (9) Any other relevant evidence not requiring consent or a court order under subsection
 2077 (b) of this Code section.

2078 (b) Upon presentation of a court order or written consent from the appropriate person or
 2079 persons permitting access to the party having actual custody, control, or possession of the
 2080 material to be produced, any party shall have access to the following for inspection,
 2081 copying, or photographing:

2082 (1) Any psychological, developmental, physical, mental or emotional health, or other
2083 assessments of the child who is alleged to be dependent or the family, parent, guardian,
2084 or legal custodian of such child;

2085 (2) Any school record concerning the child who is alleged to be dependent;

2086 (3) Any medical record concerning the child who is alleged to be dependent;

2087 (4) Transcriptions, recordings, and summaries of any oral statement of the child who is
2088 alleged to be dependent or of any witness, except child abuse reports that are confidential
2089 pursuant to Code Section 19-7-5 and work product of counsel;

2090 (5) Any family team meeting report or multidisciplinary team meeting report concerning
2091 the child who is alleged to be dependent or his or her parent, guardian, or legal custodian;

2092 (6) Supplemental police reports, if any, regarding an occurrence which forms part of all
2093 of the basis of the petition; and

2094 (7) Immigration records concerning the child who is alleged to be dependent.

2095 (c) If a party requests disclosure of information pursuant to subsection (a) or (b) of this
2096 Code section, it shall be the duty of such party to promptly make the following available
2097 for inspection, copying, or photographing to every other party:

2098 (1) The names and last known addresses and telephone numbers of each witness to the
2099 occurrence which forms the basis of the party's defense or claim;

2100 (2) Any scientific or other report which is intended to be introduced at the hearing or that
2101 pertains to physical evidence which is intended to be introduced;

2102 (3) Photographs and any physical evidence which are intended to be introduced at the
2103 hearing; and

2104 (4) A copy of any written statement made by any witness that relates to the subject
2105 matter concerning the testimony of the witness that the party intends to call as a witness.

2106 (d) A request for discovery or reciprocal discovery shall be complied with promptly and
2107 not later than five days after the request is received or 72 hours prior to any hearing except
2108 when later compliance is made necessary by the timing of the request. If the request for
2109 discovery is made fewer than 48 hours prior to an adjudicatory hearing, the discovery
2110 response shall be produced in a timely manner. If, subsequent to providing a discovery
2111 response in compliance with this Code section, the existence of additional evidence is
2112 found, it shall be promptly provided to the party making the discovery request.

2113 (e) If a request for discovery or consent for release is refused, application may be made to
2114 the court for a written order granting discovery. Motions for discovery shall certify that
2115 a request for discovery or consent was made and was unsuccessful despite good faith
2116 efforts made by the requesting party. An order granting discovery shall require reciprocal
2117 discovery. Notwithstanding the provisions of subsection (a) or (b) of this Code section, the
2118 court may deny, in whole or in part, or otherwise limit or set conditions concerning the

2119 discovery response upon a sufficient showing by a person or entity to whom a request for
2120 discovery is made that disclosure of the information would:

2121 (1) Jeopardize the safety of a party, witness, or confidential informant;

2122 (2) Create a substantial threat of physical or economic harm to a witness or other person;

2123 (3) Endanger the existence of physical evidence;

2124 (4) Disclose privileged information; or

2125 (5) Impede the criminal prosecution of a minor who is being prosecuted as an adult or
2126 the prosecution of an adult charged with an offense arising from the same transaction or
2127 occurrence.

2128 (f) No deposition shall be taken of a child unless the court orders the deposition, under
2129 such conditions as the court may order, on the ground that the deposition would further the
2130 purposes of this part.

2131 (g) If at any time during the course of the proceedings it is brought to the attention of the
2132 court that a person or entity has failed to comply with an order issued pursuant to this Code
2133 section, the court may grant a continuance, prohibit the party from introducing in evidence
2134 the information not disclosed, or enter such other order as the court deems just under the
2135 circumstances.

2136 (h) Nothing contained in this Code section shall prohibit the court from ordering the
2137 disclosure of any information that the court deems necessary for proper adjudication.

2138 (i) Any material or information furnished to a party pursuant to this part shall remain in
2139 the exclusive custody of the party and shall only be used during the pendency of the case
2140 and shall be subject to such other terms and conditions as the court may provide.

2141 Part 8

2142 15-11-180.

2143 The petitioner shall have the burden of proving the allegations of a dependency petition by
2144 clear and convincing evidence.

2145 15-11-181.

2146 (a) The court shall fix a time for the adjudication hearing. If the child is in eligible shelter
2147 care, the hearing shall be held no later than ten days after the filing of the petition alleging
2148 dependency. If the child is not in eligible shelter care, the adjudication hearing shall be
2149 held no later than 60 days after the filing of the petition alleging dependency. If
2150 adjudication is not completed within 60 days from the date the child was taken into
2151 protective custody, the petition alleging dependency may be dismissed without prejudice.

2152 (b) The following persons shall have the right to participate in the adjudication hearing:

- 2153 (1) The child's parent, guardian, or legal custodian, unless such person cannot be located
2154 or fails to appear in response to the notice;
- 2155 (2) The child's attorney and guardian ad litem, if a guardian ad litem has been appointed;
- 2156 (3) The child, unless the court finds, after considering evidence of harm to the child that
2157 will result from the child's presence at the proceeding, that being present is not in the
2158 child's best interests;
- 2159 (4) The attorneys for the parent, guardian, or legal custodian if attorneys have been
2160 retained or appointed;
- 2161 (5) The assigned DFCS caseworker; and
- 2162 (6) The attorney for DFCS.
- 2163 (c) If the court finds it is in the best interests of the child, the court may allow the
2164 following to be present at the adjudication hearing:
- 2165 (1) Any relative or other person who has demonstrated an ongoing commitment to the
2166 child with whom the child might be placed;
- 2167 (2) DFCS employees involved with the case;
- 2168 (3) An advocate as requested by the parent, guardian, or legal custodian; and
- 2169 (4) Other persons who have knowledge of or an interest in the welfare of the child.
- 2170 (d) Except as provided in this subsection, the adjudication hearing shall be conducted in
2171 accordance with Title 24. Testimony or other evidence relevant to the dependency of a
2172 child or the cause of such condition may not be excluded on any ground of privilege,
2173 except in the case of:
- 2174 (1) Communications between a party and his or her attorney; and
- 2175 (2) Confessions or communications between a priest, rabbi, or duly ordained minister or
2176 similar functionary and his or her confidential communicant.
- 2177 (e) After hearing the evidence, the court shall make and file specific written findings as
2178 to whether the child is a dependent child.
- 2179 (f) If the court finds that the child is not a dependent child, it shall dismiss the petition
2180 alleging dependency and order the child discharged from eligible shelter care or other
2181 restriction previously ordered.
- 2182 (g) If the court finds that the child is dependent, the court shall proceed immediately or at
2183 a postponed hearing to make a proper disposition of the case.
- 2184 (h) If the court finds that a child is dependent, the court shall also make and file a finding
2185 whether such dependency is the result of substance abuse by a parent, guardian, or legal
2186 custodian.
- 2187 (i) If the disposition hearing is held on the same day as the adjudication hearing, the court
2188 shall schedule the dates and times for the first periodic review hearing and for the
2189 permanency plan hearing.

Part 9

2190

2191 15-11-190.

2192 If the allegations of the petition alleging dependency are admitted or after an adjudication
2193 hearing the court has found the child to be dependent, the court may direct that a written
2194 social study and report be made by DFCS.

2195 15-11-191.

2196 Each social study shall include, but shall not be limited to, a factual discussion of each of
2197 the following subjects:

2198 (1) What plan, if any, for the return of the child to his or her parent and for achieving
2199 legal permanency for the child if efforts to reunify fail, is recommended to the court;

2200 (2) Whether the best interests of the child will be served by granting reasonable visitation
2201 rights to his or her other relatives, in order to maintain and strengthen the child's family
2202 relationships;

2203 (3) Whether the child has siblings under the court's jurisdiction, and, if so:

2204 (A) The nature of the relationship between the child and his or her sibling;

2205 (B) Whether the siblings were raised together in the same home and whether the
2206 siblings have shared significant common experiences or have existing close and strong
2207 bonds;

2208 (C) Whether the child expresses a desire to visit or live with his or her sibling and
2209 whether ongoing contact is in the child's best interests;

2210 (D) The appropriateness of developing or maintaining the sibling relationships;

2211 (E) If the siblings are not placed together in the same home, why the siblings are not
2212 placed together and what efforts are being made to place the siblings together or why
2213 those efforts are not appropriate;

2214 (F) If the siblings are not placed together, the frequency and nature of the visits
2215 between siblings; and

2216 (G) The impact of the sibling relationship on the child's placement and planning for
2217 legal permanence;

2218 (4) The appropriateness of any relative placement; and

2219 (5) Whether the caregiver desires and is willing to provide legal permanency for the
2220 child if reunification is unsuccessful.

Part 10

2221

2222 15-11-200.

2223 (a) Within 30 days of the date a child who is placed in DFCS custody is removed from the
2224 home and at each subsequent review of the disposition order, DFCS shall submit a written
2225 report to the court which shall either:

2226 (1) Include a case plan for a reunification of the family; or2227 (2) Include a statement of the factual basis for determining that a plan for reunification
2228 is not appropriate.

2229 (b) The report submitted by DFCS shall become a discrete part of the case record in a
2230 format determined by DFCS and shall be made available to the child if the child is 14 years
2231 of age or older, the child's attorney, the child's guardian ad litem, if any, and the parent,
2232 guardian, or legal custodian of the child. The contents of the report shall be determined at
2233 a meeting to be held by DFCS in consultation with the parent, guardian, or legal custodian
2234 and child, when appropriate. The parent, guardian, or legal custodian, the child if the child
2235 is 14 years of age or older, the child's attorney, and the child's guardian ad litem, if any,
2236 shall be given written notice of the meeting at least five days in advance of such meeting
2237 and shall be advised that the report will be submitted to the court for consideration as an
2238 order of the court. The report submitted to the court shall also contain any dissenting
2239 recommendations of the judicial citizen review panel, if applicable, and any
2240 recommendations of the parent, guardian, or legal custodian, if such are available.

2241 (c) If the court adopts a report that contains a case plan for reunification services, it shall
2242 be in effect until modification by the court. The case plan shall address each reason
2243 requiring removal and shall, at a minimum, comply with the requirements of Code Section
2244 15-11-201.

2245 (d) If the submitted report contains a proposed case plan for reunification services:2246 (1) DFCS shall provide the caregiver, the foster parent, and any preadoptive parent or
2247 relative providing care for the child with a copy of those portions of the court approved
2248 case plan that involve the permanency goal and the services to be provided to the child;2249 (2) A copy of the report and case plan shall be delivered to the parent, guardian, or legal
2250 custodian by United States mail, e-mail, or hand delivery at the same time the report and
2251 case plan are transmitted to the court, along with written notice that the report will be
2252 considered by the court without a hearing unless, within five days from the date the copy
2253 of the report and case plan were delivered, the parent, guardian, or legal custodian
2254 requests a hearing before the court to review the report and case plan; and2255 (3) If no hearing is requested, the court shall enter a disposition order or supplemental
2256 order incorporating all elements of the case plan for reunification services which the court

2257 finds essential to reunification, specifying what shall be accomplished by all parties
2258 before reunification of the family can be achieved.

2259 (e) When a recommendation is made that reunification services are not appropriate and
2260 should not be allowed, the report submitted by DFCS shall address each reason requiring
2261 removal and shall contain at least the following:

2262 (1) The purpose for which the child was placed in eligible shelter care, including a
2263 statement of the reasons why the child cannot be adequately and safely protected at home
2264 and the harm which may occur if the child remains in the home and a description of the
2265 services offered and the services provided to prevent removal of the child from the home;

2266 (2) A clear statement describing all of the reasons supporting a finding that reunification
2267 of a child with the child's parent will be detrimental to the child and that reunification
2268 services therefore need not be provided, including specific findings as to whether any of
2269 the grounds for terminating parental rights exist; and

2270 (3) The statements, provisions, and requirements found in paragraphs (11) and (12) of
2271 subsection (b) of Code Section 15-11-201.

2272 15-11-201.

2273 (a) The case plan shall be designed to achieve placement in the most appropriate, least
2274 restrictive, and most family-like setting available and in close proximity to the parent's
2275 home, consistent with the best interests and special needs of the child, and which considers
2276 the placement's proximity to the school in which the child is enrolled at the time of
2277 placement.

2278 (b) The case plan shall be developed by DFCS and the child's parent, guardian, or legal
2279 custodian and, when appropriate, the child. The case plan shall include, but shall not be
2280 limited to, all of the following:

2281 (1) A description of the circumstances that resulted in the child being placed under the
2282 jurisdiction of the court and in eligible shelter care;

2283 (2) An assessment of the child's and family's strengths and needs and the type of
2284 placement best equipped to meet those needs;

2285 (3) A description of the type of home or institution in which the child is to be placed,
2286 including a discussion of the safety and appropriateness of the placement;

2287 (4) Specific time-limited goals and related activities designed to enable the safe return
2288 of the child to his or her home, or, in the event that return to his or her home is not
2289 possible, activities designed to result in permanent placement or emancipation;

2290 (5) Assignment of specific responsibility for accomplishing the planned activities;

2291 (6) The projected date of completion of the case plan objectives;

2292 (7) The date time-limited services will be terminated;

- 2293 (8) A schedule of visits between the child and his or her siblings and other appropriate
2294 family members and an explanation if no visits are scheduled;
- 2295 (9) When placement is made in a foster family home, group home, or other child care
2296 institution that is either a substantial distance from the home of the child's parent,
2297 guardian, or legal custodian or out-of-state, the case plan shall specify the reasons why
2298 the placement is the most appropriate and is in the best interests of the child;
- 2299 (10) When an out-of-state group home placement is recommended or made, the case plan
2300 shall comply with Code Section 39-4-4, the Interstate Compact on the Placement of
2301 Children. In addition, documentation of the recommendation of the multidisciplinary
2302 team and the rationale for such particular placement shall be included. The case plan
2303 shall also address what in-state services or facilities were used or considered and why
2304 they were not recommended;
- 2305 (11) If applicable, a statement that reasonable efforts have been made and a requirement
2306 that reasonable efforts shall be made for so long as the child remains in the custody of the
2307 department:
- 2308 (A) To place siblings removed from their home in the same foster care, kinship care,
2309 guardianship, or adoptive placement, unless DFCS documents that such a joint
2310 placement would be contrary to the safety or well-being of any of the siblings; and
- 2311 (B) In the case of siblings removed from their home who are not so jointly placed, for
2312 frequent visitation or other ongoing interaction between the siblings, unless DFCS
2313 documents that such frequent visitation or other ongoing interaction would be contrary
2314 to the safety or well-being of any of the siblings;
- 2315 (12) Provisions ensuring the educational stability of the child while in foster care,
2316 including:
- 2317 (A) An assurance that the placement of the child in foster care takes into account the
2318 appropriateness of the current educational setting and the proximity to the school in
2319 which the child is enrolled at the time of placement;
- 2320 (B) An assurance that the state agency has coordinated with appropriate local
2321 educational agencies to ensure that the child remains in the school in which the child
2322 is enrolled at the time of placement; or
- 2323 (C) If remaining in such school is not in the best interests of the child, an assurance by
2324 DFCS that DFCS and the local educational agencies have cooperated to assure the
2325 immediate and appropriate enrollment in a new school, with all of the educational
2326 records of the child provided to such new school;
- 2327 (13) An account of health and education information about the child including school
2328 records, immunizations, known medical problems, any known medications the child may
2329 be taking, names and addresses of the child's health and educational providers; the child's

2330 grade level performance; assurances that the child's placement in foster care takes into
 2331 account proximity to the school in which the child was enrolled at the time of placement;
 2332 and other relevant health and educational information;

2333 (14) A recommendation for a permanency plan for the child. If, after considering
 2334 reunification, adoptive placement, or permanent guardianship, DFCS recommends
 2335 placement in another planned permanent living arrangement, the case plan shall include
 2336 documentation of a compelling reason or reasons why termination of parental rights is
 2337 not in the child's best interests. For purposes of this paragraph, a 'compelling reason' shall
 2338 have the same meaning as in paragraph (2) of subsection (b) of Code Section 15-11-233;

2339 (15) A statement that the parent, guardian, or legal custodian and the child have had an
 2340 opportunity to participate in the development of the case plan, to review the case plan,
 2341 to sign the case plan, and to receive a copy of the plan, or an explanation about why he
 2342 or she was not able to participate or sign the case plan;

2343 (16) A requirement that the DFCS case manager and staff and, as appropriate, other
 2344 representatives of the child provide the child with assistance and support in developing
 2345 a transition plan that is personalized at the direction of the child; includes specific options
 2346 on housing, health insurance, education, local opportunities for mentors and continuing
 2347 support services, and work force supports and employment services; and is as detailed as
 2348 the child may elect in the 90 day period immediately prior to the date on which the child
 2349 will attain 18 years of age;

2350 (17) For a child in out-of-home care who is 14 years of age or older, a written description
 2351 of the programs and services which will help the child prepare for the transition from
 2352 foster care to independent living; and

2353 (18) The identity of the person within DFCS or other agency who is directly responsible
 2354 for ensuring that the case plan is implemented.

2355 15-11-202.

2356 (a) Except as provided in subsection (a) of Code Section 15-11-203, reasonable efforts
 2357 shall be made to preserve or reunify families:

2358 (1) Prior to the placement of a child in DFCS custody to prevent the need for removing
 2359 the child from the child's home; or

2360 (2) To eliminate the need for removal and make it possible for a child to return safely to
 2361 the child's home at the earliest possible time.

2362 (b) In determining the type of reasonable efforts to be made with respect to a child and in
 2363 making such reasonable efforts, the child's health and safety shall be the paramount
 2364 concern.

2365 (c) Reasonable efforts are made upon the exercise of due diligence by DFCS to use
 2366 appropriate services to meet the needs of the child and the child's family. Services may
 2367 include those provided by DFCS and other services available in the community.

2368 (d) The court shall be required to review the appropriateness of DFCS' reasonable efforts
 2369 at each stage of the proceedings.

2370 (e)(1) At the preliminary protective hearing, DFCS has the burden of demonstrating that:

2371 (A) It has made reasonable efforts to prevent placement of a child in eligible shelter
 2372 care;

2373 (B) There are no appropriate services or efforts which could allow the child to safely
 2374 remain in the home given the particular circumstances of the child and family at the
 2375 time of the child's removal; or

2376 (C) Reasonable efforts to prevent placement and to reunify the child with the child's
 2377 family are not required because of the existence of one or more of the circumstances
 2378 enumerated in subsection (a) of Code Section 15-11-203.

2379 (2) At the adjudication hearing, DFCS has the burden of demonstrating that:

2380 (A) It has made reasonable efforts to eliminate the need for removal of the child from
 2381 the child's home and to reunify the child with the child's family at the earliest possible
 2382 time; or

2383 (B) Reasonable efforts to prevent placement and to reunify the child with the child's
 2384 family are not required because of the existence of one or more of the circumstances
 2385 enumerated in subsection (a) of Code Section 15-11-203.

2386 (3) At each other hearing, DFCS has the burden of demonstrating that:

2387 (A) It has made reasonable efforts to eliminate the need for removal of the child from
 2388 the child's home and to reunify the child with the child's family at the earliest possible
 2389 time; or

2390 (B) It has made reasonable efforts to finalize an alternative permanent home for the
 2391 child.

2392 (f) When determining whether reasonable efforts have been made, the court shall consider
 2393 whether services to the child and family were:

2394 (1) Relevant to the safety and protection of the child;

2395 (2) Adequate to meet the needs of the child and family;

2396 (3) Culturally and linguistically appropriate;

2397 (4) Available and accessible;

2398 (5) Consistent and timely; and

2399 (6) Realistic under the circumstances.

2400 (g) A finding that reasonable efforts have not been made shall not preclude the entry of an
2401 order authorizing the child's placement when the court finds that placement is necessary
2402 for the protection of the child.

2403 (h) When efforts to prevent the need for the child's placement were precluded by an
2404 immediate threat of harm to the child, the court may make a finding that reasonable efforts
2405 were made if it finds that the placement of the child in the absence of such efforts was
2406 justifiable.

2407 (i) Reasonable efforts to place a child for adoption or with a guardian or legal custodian
2408 may be made concurrently with reasonable efforts to reunify. When DFCS decides to
2409 concurrently make reasonable efforts for both reunification and permanent placement away
2410 from the parent, guardian, or legal custodian, DFCS shall disclose its decision and both
2411 plans to all parties and obtain approval from the court. When DFCS proceeds on both
2412 plans, the court's review of reasonable efforts shall include efforts under both plans.

2413 (j) An order placing or continuing the placement of a child in DFCS custody shall contain,
2414 but shall not be limited to, written findings of facts stating:

2415 (1) That the child's continuation in or return to the child's own home would be contrary
2416 to the child's welfare;

2417 (2) Whether reasonable efforts have been made to prevent or eliminate the need for
2418 placement of the child, unless the court has determined that such efforts are not required
2419 or shall cease; and

2420 (3) Whether reasonable efforts should continue to be made to prevent or eliminate the
2421 need for placement, unless the court has previously determined that such efforts are not
2422 required or shall cease.

2423 15-11-203.

2424 (a) The court may direct that reasonable efforts to eliminate the need for placement of the
2425 child shall not be required or shall cease if the court determines and makes written findings
2426 of fact that:

2427 (1) The parent has subjected the child to aggravated circumstances;

2428 (2) The parent has been convicted of the murder of another child of the parent;

2429 (3) The parent has been convicted of the voluntary manslaughter of another child of the
2430 parent;

2431 (4) The parent has been convicted of the voluntary manslaughter of the other parent of
2432 the child;

2433 (5) The parent has been convicted of aiding or abetting, attempting, conspiring, or
2434 soliciting to commit murder or voluntary manslaughter of another child of the parent;

- 2435 (6) The parent has been convicted of aiding or abetting, attempting, conspiring, or
 2436 soliciting to commit murder or voluntary manslaughter of the other parent of the child;
 2437 (7) The parent has been convicted of committing a felony assault that results in serious
 2438 bodily injury to the child or another child of the parent; or
 2439 (8) The parental rights of the parent to a sibling have been terminated involuntarily and
 2440 the circumstances leading to the termination of parental rights to that sibling have not
 2441 been resolved.
- 2442 (b) If the court determines that one or more of the circumstances enumerated in
 2443 subsection (a) of this Code section exist or DFCS has submitted a written report to the
 2444 court which does not contain a plan for reunification services then:
- 2445 (1) A permanency plan hearing shall be held for the child within 30 days; and
 2446 (2) Reasonable efforts shall be made to place the child in a timely manner in accordance
 2447 with the permanency plan and to complete whatever steps are necessary to finalize the
 2448 permanent placement of the child.
- 2449 15-11-204.
- 2450 (a) If the DFCS report does not contain a plan for reunification services, the court shall
 2451 hold a nonreunification hearing to review the report and the determination that a plan for
 2452 reunification services is not appropriate.
- 2453 (b) The nonreunification hearing shall be held no later than 30 days from the time the
 2454 DFCS report is filed. Notice of the nonreunification hearing shall be provided, by
 2455 summons, to the child if the child is 14 years of age or older, the child's parent, guardian,
 2456 or legal custodian, the child's attorney, the child's guardian ad litem, if any, and specified
 2457 nonparties entitled to notice.
- 2458 (c) At the nonreunification hearing:
- 2459 (1) DFCS shall notify the court whether and when it intends to proceed with termination
 2460 of parental rights; and
 2461 (2) The court shall also hold a permanency plan hearing, at which the court shall
 2462 consider in-state and out-of-state permanent placement options for the child, and shall
 2463 incorporate a permanency plan for the child in its order.
- 2464 (d) DFCS shall have the burden of demonstrating by clear and convincing evidence that
 2465 a reunification plan is not appropriate considering the health and safety of the child and the
 2466 child's need for permanence. There shall be a presumption that reunification is detrimental
 2467 to the child and reunification services should not be provided if the court finds by clear and
 2468 convincing evidence that:
- 2469 (1) The parent has unjustifiably failed to comply with a previously ordered plan designed
 2470 to reunite the family;

- 2471 (2) A child has been removed from the home on at least two previous occasions and
 2472 reunification services were made available on those occasions;
 2473 (3) A ground for terminating parental rights exists; or
 2474 (4) Any of the circumstances set out in subsection (a) of Code Section 15-11-203 exist,
 2475 making it unnecessary to provide reasonable efforts to reunify.
 2476 (e) If the court has entered an order finding that reasonable efforts to reunify a child with
 2477 his or her family are not required but the court finds further that referral for termination of
 2478 parental rights and adoption is not in the best interests of the child, the court may, upon
 2479 proper petition, place the child in the custody of a permanent guardian pursuant to the
 2480 provisions of this article.

2481 Part 11

2482 15-11-210.

2483 (a) If not held in conjunction with the adjudication hearing, the disposition hearing shall
 2484 be held and completed within 30 days after the conclusion of the adjudication hearing.

2485 (b) The court may consider any evidence, including hearsay evidence, that the court finds
 2486 to be relevant, reliable, and necessary to determine the needs of the child and the most
 2487 appropriate disposition.

2488 (c) Before determining the appropriate disposition, the court shall receive in evidence:

2489 (1) The social study report, if applicable, made by DFCS and the child's proposed written
 2490 case plan. The social study report and case plan shall be filed with the court not less than
 2491 48 hours before the disposition hearing;

2492 (2) Any study or evaluation made by a guardian ad litem appointed by the court;

2493 (3) Any psychological, medical, developmental, or educational study or evaluation of the
 2494 child; and

2495 (4) Other relevant and material evidence as may be offered, including, but not limited
 2496 to, the willingness of the caregiver to provide legal permanency for the child if
 2497 reunification is unsuccessful.

2498 (d) Prior to the disposition hearing, and upon request, the parties and their attorneys shall
 2499 be afforded an opportunity to examine any written reports received by the court.

2500 (e)(1) Portions of written reports received by the court which are not relied on by the
 2501 court in reaching its decision, which if revealed would be prejudicial to the interests of
 2502 the child or any party to the proceeding, may be withheld in the court's discretion.
 2503 Confidential sources of information need not be disclosed.

2504 (2) Parties and their attorneys shall be given the opportunity to controvert written reports
 2505 received by the court and to cross-examine individuals making such reports.

2506 (f) At the conclusion of the disposition hearing, the court shall set the time and date for the
 2507 first periodic review hearing and the permanency plan hearing.

2508 15-11-211.

2509 (a) Before final disposition, a reasonably diligent search for a parent or relative of the child
 2510 or other persons who have demonstrated an ongoing commitment to the child shall be
 2511 conducted by DFCS.

2512 (b) All adult relatives of the child identified in the search required by subsection (a) of this
 2513 Code section, subject to exceptions due to family or domestic violence, shall be provided
 2514 with notice:

2515 (1) Specifying that the child has been or is being removed from parental custody;

2516 (2) Explaining the options the relative has to participate in the care and placement of the
 2517 child and any options that may be lost by failing to respond to the notice;

2518 (3) Describing the process for becoming an approved foster family home and the
 2519 additional services and supports available for children placed in approved foster homes;

2520 and

2521 (4) Describing any financial assistance for which the relative may be eligible.

2522 (c) The search required by subsection (a) of this Code section and the notification required
 2523 by subsection (b) of this Code section shall be completed, documented in writing, and filed
 2524 with the court within 30 days from the date on which the child was removed from the
 2525 home.

2526 (d) After the completion of the search required by subsection (a) of this Code section,
 2527 DFCS shall have a continuing duty to search for relatives or other persons who have
 2528 demonstrated an ongoing commitment to the child and with whom it may be appropriate
 2529 to place the child until such relatives or persons are found or until the child is placed for
 2530 adoption unless DFCS is excused from such search by the court.

2531 15-11-212.

2532 (a) The court may make any of the following orders of disposition or a combination of
 2533 those best suited to the protection and physical, emotional, mental, and moral welfare of
 2534 the child:

2535 (1) Permit the child to remain with his or her parent, guardian, or legal custodian subject
 2536 to conditions and limitations as the court prescribes, including supervision as directed by
 2537 the court for the protection of the child;

2538 (2) Grant or transfer temporary legal custody to any of these persons or entities:

2539 (A) Any individual, including a biological parent, who, after study by the probation
2540 officer or other person or agency designated by the court, is found by the court to be
2541 qualified to receive and care for the child;

2542 (B) An agency or other private organization licensed or otherwise authorized by law
2543 to receive and provide care for the child;

2544 (C) Any public agency authorized by law to receive and provide care for the child;
2545 provided, however, that for the purpose of this Code section, the term 'public agency'
2546 shall not include DJJ; or

2547 (D) An individual in another state with or without supervision by an appropriate officer
2548 pursuant to the requirements of the Code Section 39-4-4, the Interstate Compact on the
2549 Placement of Children;

2550 (3) Transfer jurisdiction over the child in accordance with the requirements of Code
2551 Section 39-4-4, the Interstate Compact on the Placement of Children;

2552 (4) Order the child and such child's parent, guardian, or legal custodian to participate in
2553 counseling or in counsel and advice as determined by the court. Such counseling and
2554 counsel and advice may be provided by the court, court personnel, probation officers,
2555 professional counselors or social workers, psychologists, physicians, qualified volunteers,
2556 or appropriate public, private, or volunteer agencies as directed by the court and shall be
2557 designed to assist in deterring future conditions of dependency or other conduct or
2558 conditions which would be harmful to the child or society;

2559 (5) Order the parent, guardian, or legal custodian of the child to participate in a court
2560 approved educational or counseling program designed to contribute to the ability of the
2561 parent, guardian, or legal custodian to provide proper parental care and supervision of the
2562 child, including, but not limited to, parenting classes;

2563 (6) Order DFCS to implement and the child's parent, guardian, or legal custodian to
2564 cooperate with any plan approved by the court; or

2565 (7) Order temporary child support for a child to be paid by that person or those persons
2566 determined to be legally obligated to support the child. In determining such temporary
2567 child support, the court shall apply the child support guidelines provided in Code Section
2568 19-6-15 and the implementation and any review of the order shall be held as provided in
2569 Code Section 19-6-15. Where there is an existing order of a superior court or other court
2570 of competent jurisdiction, the court may order the child support obligor in the existing
2571 order to make payments to the child's caretaker on a temporary basis but shall not
2572 otherwise modify the terms of the existing order. A copy of the juvenile court's order
2573 shall be filed in the clerk's office of the court that entered the existing order. Temporary
2574 child support orders entered pursuant to this paragraph shall be enforceable by the court's

2575 contempt powers so long as the court is entitled to exercise jurisdiction over the
2576 dependency case.

2577 (b) The transfer of temporary legal custody may be subject to conditions and limitations
2578 the court may prescribe. Such conditions and limitations shall include a provision that the
2579 court shall approve or direct the return of the physical custody of the child to the child's
2580 parent, guardian, or legal custodian either upon the occurrence of specified circumstances
2581 or at the direction of the court. The return of physical custody of the child to the child's
2582 parent, guardian, or legal custodian may be made subject to conditions and limitations the
2583 court may prescribe including, but not limited to, supervision for the protection of the child.

2584 (c) A child found to be dependent shall not be committed to or confined in an institution
2585 or other facility designed or operated for the benefit of delinquent children unless the child
2586 is also found to be delinquent and the child's detention is warranted under the requirements
2587 of Article 7 of this chapter.

2588 (d) After transferring temporary legal custody of a child to DFCS, the court may at any
2589 time conduct sua sponte a judicial review of the current placement plan being provided to
2590 the child. After its review, the court may order DFCS to comply with the current
2591 placement plan, order DFCS to devise a new placement plan, or make any other order
2592 relative to placement or custody outside DFCS as the court finds to be in the best interests
2593 of the child. Placement or a change of custody by the court outside DFCS shall relieve
2594 DFCS of further responsibility for the child except for any provision of services ordered
2595 by the court to ensure the continuation of reunification services to the family when
2596 appropriate.

2597 (e) A court shall not be required to make an order of disposition regarding a child who is
2598 discharged from a facility in which the child was hospitalized or habilitated pursuant to
2599 Chapter 3, 4, or 7 of Title 37 unless the child is to be discharged into the physical custody
2600 of any person who had such custody when the court made its most recent finding that the
2601 child was dependent.

2602 (f) If a child is found to be a dependent child and the dependency is found to have been the
2603 result of substance abuse by a parent, guardian, or legal custodian and the court orders
2604 transfer of temporary legal custody of the child, the court shall be authorized to further
2605 order that legal custody of the child may not be transferred back to the child's parent,
2606 guardian, or legal custodian unless the parent, guardian, or legal custodian undergoes
2607 substance abuse treatment and random substance abuse screenings and those screenings
2608 remain negative for a period of no less than six consecutive months.

2609 (g) If the court finds that DFCS preventive or reunification efforts have not been
2610 reasonable but that further efforts could not permit the child to safely remain at home, the
2611 court may nevertheless authorize or continue the removal of the child.

2612 (h) When the case plan requires a concurrent permanency plan, the court shall review the
2613 reasonable efforts of DFCS to recruit, identify, and make a placement in a home in which
2614 a relative, foster parent, or other person who has demonstrated an ongoing commitment to
2615 the child has agreed to provide a legally permanent home for the child in the event
2616 reunification efforts are not successful.

2617 15-11-213.

2618 Any order of disposition shall contain written findings of fact to support the disposition and
2619 case plan ordered. Before making an order of disposition, the court shall consider the
2620 following:

2621 (1) Why the best interests and safety of the child are served by the disposition and case
2622 plan ordered including but not limited to:

2623 (A) The interaction and interrelationship of the child with his or her parent, siblings,
2624 and any other person who may significantly affect the child's best interests;

2625 (B) The child's adjustment to his or her home, school, and community;

2626 (C) The mental and physical health of all individuals involved;

2627 (D) The wishes of the child as to the child's placement;

2628 (E) The wishes of the child's parent, guardian, or legal custodian as to the child's
2629 custody;

2630 (F) Whether there exists a relative of the child or other individual who, after study by
2631 DFCS, is found to be qualified to receive and care for the child; and

2632 (G) The ability of the parent, guardian, or legal custodian to care for the child in the
2633 home so that no harm will result to the child;

2634 (2) The availability of services recommended in the case plan;

2635 (3) What alternative dispositions or services under the case plan were considered by the
2636 court and why such dispositions or services were not appropriate in the instant case;

2637 (4) The appropriateness of the particular placement made or to be made by the placing
2638 agency; and

2639 (5) Whether reasonable efforts were made to prevent or eliminate the necessity of the
2640 child's removal and to reunify the family after removal unless reasonable efforts were not
2641 required. The court's findings should include a brief description of what preventive and
2642 reunification efforts were made and why further efforts could not have prevented or
2643 eliminated the necessity of removal.

2644 15-11-214.

2645 (a) An order of disposition in a dependency proceeding shall continue in force until the
2646 purposes of the order have been accomplished.

2647 (b) The court may terminate an order of disposition of a child adjudicated as dependent on
2648 or without an application of a party, if it appears to the court that the purposes of the order
2649 have been accomplished.

2650 (c) Unless a child remains in DFCS custody or continues to receive services from DFCS,
2651 as allowed by Article 5 of this chapter, when a child adjudicated as dependent reaches 18
2652 years of age, all orders affecting him or her then in force terminate and he or she shall be
2653 discharged from further obligation or control.

2654 15-11-215.

2655 (a) Not less than five days in advance of any placement change, DFCS shall notify the
2656 court, a child who is 14 years of age or older, the child's parent, guardian, or legal
2657 custodian, the person or agency with physical custody of the child, the child's attorney, the
2658 child's guardian ad litem, if any, and any other attorney of record of such change in the
2659 location of the child's placement while the child is in DFCS custody.

2660 (b) If the child's health or welfare may be endangered by any delay in changing the child's
2661 placement, the court and all attorneys of record shall be notified of such placement change
2662 within 24 hours of such change.

2663 (c) A child who is 14 years of age or older, the child's parent, guardian, or legal custodian,
2664 the person or agency with physical custody of the child, the child's attorney or guardian ad
2665 litem, if any, and any attorney of record may request a hearing with regard to the child's
2666 case plan or the permanency plan in order for the court to consider the change in the
2667 location of the child's placement and any changes to the case plan or permanency plan
2668 resulting from the child's change in placement location. The hearing shall be held within
2669 five days of receiving notice of a change in the location of the child's placement and prior
2670 to any such placement change, unless the child's health or welfare may be endangered by
2671 any delay in changing the child's placement.

2672 (d) At the hearing to consider the child's case plan and permanency plan, the court shall
2673 consider the case plan and permanency plan recommendations made by DFCS, including
2674 a recommendation as to the location of the placement of the child, and shall make findings
2675 of fact upon which the court relied in determining to reject or accept the case plan or
2676 permanency plan and the recommendations made by DFCS, including the location of the
2677 child's placement.

2678 (e) If the court rejects DFCS recommendations, the court shall demonstrate that DFCS
2679 recommendations were considered and explain why it did not follow such
2680 recommendations. If the court rejects the DFCS case plan and permanency plan
2681 recommendations, including the change in the location of the placement of the child, the
2682 court may order DFCS to devise a new case plan and permanency plan recommendation.

2683 including a new recommendation as to the location of the child within the resources of the
2684 department, or make any other order relative to placement or custody outside the
2685 department as the court finds to be in the best interests of the child and consistent with the
2686 policy that children in DFCS custody should have stable placements.

2687 (f) Placement or a change of legal custody by the court outside DFCS shall relieve DFCS
2688 of further responsibility for the child except for any provision of services ordered by the
2689 court to ensure the continuation of reunification services to the family when appropriate.

2690 15-11-216.

2691 (a) All cases of children in DFCS custody shall be initially reviewed within 75 days
2692 following the child's removal from his or her home and shall be conducted by the court.
2693 An additional periodic review shall be held within four months following the initial review
2694 and shall be conducted by the court or by judicial citizen review panels established by the
2695 court, as the court directs, meeting such standards and using such procedures as are
2696 established by court rule by the Supreme Court of Georgia, with the advice and consent of
2697 the Council of Juvenile Court Judges. The court shall have the discretion to schedule any
2698 subsequent review hearings as necessary.

2699 (b) At any periodic review hearing, the paramount concern shall be the health and safety
2700 of the child.

2701 (c) At the initial 75 day periodic review, the court shall approve the completion of the
2702 relative search, schedule the subsequent four-month review to be conducted by the court
2703 or a citizen judicial review panel, and shall determine:

2704 (1) Whether the child continues to be a dependent child;

2705 (2) Whether the existing case plan is still the best case plan for the child and the child's
2706 family and whether any changes need to be made to the case plan including whether a
2707 concurrent case plan for nonreunification is appropriate;

2708 (3) The extent of compliance with the case plan by all participants;

2709 (4) The appropriateness of any recommended changes to the child's placement;

2710 (5) Whether appropriate progress is being made on the permanency plan;

2711 (6) Whether all legally required services are being provided to the child, the foster
2712 parents if there are foster parents, and the child's parent, guardian, or legal custodian;

2713 (7) Whether visitation is appropriate and, if so, approve and establish a reasonable
2714 visitation schedule consistent with the age and developmental needs of the child;

2715 (8) Whether, for a child who is 14 years of age or older, the services needed to assist the
2716 child to make a transition from eligible shelter care to independent living are being
2717 provided; and

2718 (9) Whether reasonable efforts continue to be made to prevent or eliminate the necessity
2719 of the child's removal and to reunify the family after removal, unless reasonable efforts
2720 were not required.

2721 (d) If at any review subsequent to the initial 75 day review the court finds that there is a
2722 lack of substantial progress towards completion of the case plan, the court shall order
2723 DFCS to develop a case plan for nonreunification.

2724 (e) At the time of each review of a child in DFCS custody, DFCS shall notify the court
2725 whether and when it intends to proceed with the termination of parental rights.

2726 15-11-217.

2727 (a) In the event the periodic review of a case is conducted by a judicial citizen review
2728 panel, the panel shall transmit its report and that of DFCS, including its findings and
2729 recommendations together with DFCS proposed revised plan for reunification or other
2730 permanency plan, if necessary, to the court and the parent within five days after the review.

2731 (b) DFCS shall provide the caregiver of the child, the foster parents of the child if there
2732 are foster parents, and any preadoptive parents or relatives providing care for the child with
2733 a copy of those portions of the report of the judicial citizen review panel that involve the
2734 recommended permanency goal and the recommended services to be provided to the child.

2735 (c) Any party may request a hearing on the proposed revised plan in writing within five
2736 days after receiving a copy of the plan.

2737 (d) If no hearing is requested or scheduled by the court on its own motion, the court shall
2738 review the proposed revised plan and enter a supplemental order incorporating the revised
2739 plan as part of its disposition in the case. In the event that a hearing is held, the court shall,
2740 after hearing evidence, enter a supplemental order incorporating all elements that the court
2741 finds essential in the proposed revised plan.

2742 (e) Notwithstanding subsections (c) and (d) of this Code section, if the judicial citizen
2743 review panel finds that there is a lack of substantial progress towards completion of the
2744 case plan, the court shall schedule a hearing within 30 days of such finding to determine
2745 whether a case plan for nonreunification is appropriate.

2746 (f) If the judicial citizen review panel determines that the parent has unjustifiably failed
2747 to comply with the ordered plan designed to reunite the family and that such failure is
2748 significant enough to warrant consideration of termination of parental rights, the panel may
2749 make a recommendation to DFCS and the child's attorney that a petition for termination
2750 of parental rights should be prepared.

2751 15-11-218.

2752 (a) At the conclusion of a periodic review hearing, or upon review of a report by a judicial
 2753 citizen review panel, the court shall issue written findings of fact that include:

2754 (1) Why the child continues to be a dependent child;

2755 (2) Whether the existing case plan is still the best case plan for the child and the child's
 2756 family and whether any changes need to be made to the case plan including whether a
 2757 concurrent case plan for nonreunification is appropriate;

2758 (3) The extent of compliance with the case plan by all participants;

2759 (4) The basis for any changes to the child's placement;

2760 (5) Whether visitation is or continues to be appropriate;

2761 (6) A description of progress being made on the permanency plan;

2762 (7) Whether all legally required services are being provided to the child, the foster
 2763 parents if there are foster parents, and the child's parent, guardian, or legal custodian;

2764 (8) Whether, for a child who is 14 years of age or older, the services needed to assist the
 2765 child to make a transition from eligible shelter care to independent living are being
 2766 provided; and

2767 (9) Whether reasonable efforts continue to be made to prevent or eliminate the necessity
 2768 of the child's removal and to reunify the family after removal, unless reasonable efforts
 2769 were not required.

2770 (b) At the conclusion of a periodic review hearing, or upon review of a report by a judicial
 2771 citizen review panel, the court shall order one of the following dispositions:

2772 (1) Return the child to the home of his or her parent, guardian, or legal custodian with
 2773 or without court imposed conditions;

2774 (2) Allow the child to continue in the current custodial placement because the current
 2775 placement is appropriate for the child's needs;

2776 (3) Allow the child to continue in the current custodial placement although the current
 2777 placement is no longer appropriate for the child's needs and direct DFCS to devise
 2778 another plan which shall:

2779 (A) Be submitted within ten days for court approval;

2780 (B) Be furnished to all parties after court approval of the revised plan; and

2781 (C) Be provided to the caregiver of the child, the foster parents of the child if there are
 2782 foster parents, and any preadoptive parents or relative providing care for the child with
 2783 a copy of those portions of the court approved revised plan that involve the permanency
 2784 goal and the services to be provided to the child; or

2785 (4) Make additional orders regarding the treatment plan or placement of the child to
 2786 protect the child's best interests if the court determines DFCS has failed in implementing

2787 any material provision of the case plan or abused its discretion in the placement or
2788 proposed placement of the child.

2789 Part 12

2790 15-11-230.

2791 (a) The court shall hold a permanency plan hearing to determine the future permanent legal
2792 status of each child in DFCS custody.

2793 (b) The permanency plan hearing, which considers in-state and out-of-state placement
2794 options for the child, shall be held:

2795 (1) No later than 30 days after DFCS has submitted a written report to the court which
2796 does not contain a plan for reunification services;

2797 (2) For children under seven years of age at the time a petition is filed, no later than nine
2798 months after the child has entered eligible shelter care;

2799 (3) For children seven years of age and older at the time a petition is filed, no later than
2800 12 months after the child has entered eligible shelter care; or

2801 (4) For a child in a sibling group whose members were removed from the home at the
2802 same time and in which one member of the sibling group was under seven years of age
2803 at the time a petition for dependency was filed, the permanency plan hearing shall be held
2804 no later than nine months after the child has entered eligible shelter care.

2805 (c) After the initial permanency plan hearing has occurred, a permanency plan hearing
2806 shall be held not less frequently than every six months during the time the child continues
2807 in DFCS custody or more frequently as deemed necessary by the court until the court
2808 determines that the child's permanency plan and goal have been achieved.

2809 (d) The child, the child's parent, guardian, or legal custodian, the child's attorney, the
2810 child's guardian ad litem, if any, the foster parents of the child if there are foster parents,
2811 any preadoptive parent or relatives providing care for the child, and other parties shall be
2812 given written notice of a permanency plan hearing at least five days in advance of such
2813 hearing and shall be advised that the permanency plan recommended by DFCS will be
2814 submitted to the court for consideration as the order of the court.

2815 (e) The court shall consult with the child, in an age-appropriate manner, regarding the
2816 proposed permanency plan for the child.

2817 15-11-231.

2818 At least five days prior to the permanency plan hearing, DFCS shall submit for the court's
2819 consideration a report recommending a permanency plan for the child. The report shall

2820 include documentation of the steps to be taken by DFCS to finalize the permanent
2821 placement for the child and shall include, but shall not be limited to:

2822 (1) The name, address, and telephone number of the child's parent, guardian, or legal
2823 custodian;

2824 (2) The date on which the child was removed from his or her home and the date on
2825 which the child was placed in eligible shelter care;

2826 (3) The location and type of home or facility in which the child is currently held or
2827 placed and the location and type of home or facility in which the child will be placed;

2828 (4) The basis for the decision to hold the child in protective custody or to place the child
2829 outside of his or her home;

2830 (5) A statement as to the availability of a safe and appropriate placement with a fit and
2831 willing relative of the child or other person who has demonstrated an ongoing
2832 commitment to the child or a statement as to why placement with the relative or other
2833 person is not safe or appropriate;

2834 (6) If as a result of the placement the child has been or will be transferred from the
2835 school in which the child is or most recently was enrolled, documentation that a
2836 placement that would maintain the child in that school is unavailable, inappropriate, or
2837 that the child's transfer to another school would be in the child's best interests;

2838 (7) A plan for ensuring the safety and appropriateness of the placement and a description
2839 of the services provided to meet the needs of the child and family, including a discussion
2840 of services that have been investigated and considered and are not available or likely to
2841 become available within a reasonable time to meet the needs of the child or, if available,
2842 why such services are not safe or appropriate;

2843 (8) The goal of the permanency plan which shall include:

2844 (A) Whether and, if applicable, when the child shall be returned to the child's parent;
2845 (B) Whether and, if applicable, when the child shall be referred for termination of
2846 parental rights and adoption;

2847 (C) Whether and, if applicable, when the child shall be placed with a permanent
2848 guardian; or

2849 (D) In the case in which DFCS has documented a compelling reason that none of the
2850 foregoing options would be in the best interests of the child, whether, and if applicable,
2851 when the child shall be placed in another planned permanent living arrangement;

2852 (9) If the child is 14 years of age or older, a description of the programs and services that
2853 are or will be provided to assist the child in preparing for the transition from eligible
2854 shelter care to independent living. The description shall include all of the following:

2855 (A) The anticipated age at which the child will be discharged from eligible shelter care;

- 2856 (B) The anticipated amount of time available in which to prepare the child for the
 2857 transition from eligible shelter care to independent living;
- 2858 (C) The anticipated location and living situation of the child on discharge from eligible
 2859 shelter care;
- 2860 (D) A description of the assessment processes, tools, and methods that have been or
 2861 will be used to determine the programs and services that are or will be provided to
 2862 assist the child in preparing for the transition from eligible shelter care to independent
 2863 living; and
- 2864 (E) The rationale for each program or service that is or will be provided to assist the
 2865 child in preparing for the transition from eligible shelter care to independent living, the
 2866 time frames for delivering such programs or services, and the intended outcome of such
 2867 programs or services; and
- 2868 (10) When the recommended permanency plan is referral for termination of parental
 2869 rights and adoption or placement in another home, a description of specific recruitment
 2870 efforts such as the use of state, regional, and national adoption exchanges, including
 2871 electronic exchange systems, to facilitate orderly and timely in-state and interstate
 2872 placements.
- 2873 15-11-232.
- 2874 (a) At the permanency plan hearing, the court shall make written findings of fact that
 2875 include the following:
- 2876 (1) Whether DFCS has made reasonable efforts to finalize the permanency plan which
 2877 is in effect at the time of the hearing;
- 2878 (2) The continuing necessity for and the safety and appropriateness of the placement;
- 2879 (3) Compliance with the permanency plan by DFCS and any other service providers, the
 2880 child's parent, and the child's guardian or legal custodian, if any;
- 2881 (4) Efforts to involve appropriate service providers in addition to DFCS staff in planning
 2882 to meet the special needs of the child and the child's parent, guardian, or legal custodian;
- 2883 (5) Efforts to eliminate the causes for the child's placement outside of his or her home
 2884 and toward returning the child safely to his or her home or obtaining a permanent
 2885 placement for the child;
- 2886 (6) The date by which it is likely that the child will be returned to his or her home, placed
 2887 for adoption, or placed with a permanent guardian or in some other alternative permanent
 2888 placement;
- 2889 (7) Whether, in the case of child placed out-of-state, the out-of-state placement continues
 2890 to be appropriate and in the best interests of the child; and

2891 (8) In the case of a child who is 14 years of age or older, the services needed to assist the
 2892 child to make a transition from foster care to independent living.

2893 (b) The permanency plan incorporated in the court's order shall include:

2894 (1) Whether and, if applicable, when the child shall be returned to the child's parent;

2895 (2) Whether and, if applicable, when the child shall be referred for termination of
 2896 parental rights and adoption;

2897 (3) Whether and, if applicable, when the child shall be placed with a permanent
 2898 guardian; or

2899 (4) Whether there is a safe and appropriate placement with a fit and willing relative of
 2900 the child or other person who has demonstrated an ongoing commitment to the child or
 2901 a statement as to why placement with the relative or other person is not safe or
 2902 appropriate.

2903 (c) If the court finds that there is a compelling reason that it would not be in the child's best
 2904 interests to be returned to the parent, referred for termination of parental rights and
 2905 adoption, or placed with a permanent guardian, then the court's order shall document the
 2906 compelling reason and provide that the child should be placed in another planned
 2907 permanent living arrangement as defined in the court's order.

2908 (d) A supplemental order of the court adopting the permanency plan shall be entered
 2909 within 30 days after the court has determined that reunification efforts shall not be made
 2910 by DFCS. The supplemental order shall include a requirement that the DFCS case manager
 2911 and staff and, as appropriate, other representatives of the child provide the child with
 2912 assistance and support in developing a transition plan that is personalized at the direction
 2913 of the child; includes specific options on housing, health insurance, education, local
 2914 opportunities for mentors and continuing support services, and work force supports and
 2915 employment services; and is as detailed as the child may elect in the 90 day period
 2916 immediately prior to the date on which the child will attain 18 years of age.

2917 15-11-233.

2918 (a) Except as provided in subsection (b) of this Code section, DFCS shall file a petition to
 2919 terminate the parental rights of the child's parent or, if such a petition has been filed by
 2920 another party, seek to be joined as a party to the petition, and, concurrently, to identify,
 2921 recruit, process, and approve a qualified family for an adoption if:

2922 (1) A child has been in foster care under the responsibility of DFCS for 15 of the most
 2923 recent 22 months;

2924 (2) The court has made a determination that the parent has subjected the child to
 2925 aggravated circumstances;

2926 (3) The court has made a determination that the child is an abandoned infant; or

- 2927 (4) The court has made a determination that the parent has been convicted of:
- 2928 (A) The murder of another child of the parent;
- 2929 (B) Voluntary manslaughter of another child of the parent;
- 2930 (C) Voluntary manslaughter of the other parent of the child;
- 2931 (D) Aiding or abetting, attempting, conspiring, or soliciting to commit murder or
- 2932 voluntary manslaughter of another child of the parent;
- 2933 (E) Aiding or abetting, attempting, conspiring, or soliciting to commit murder or
- 2934 voluntary manslaughter of the other parent of the child; or
- 2935 (F) Committing felony assault that has resulted in serious bodily injury to the child or
- 2936 to another child of the parent.
- 2937 (b) Termination of parental rights may not be in the best interests of the child when:
- 2938 (1) The child is being cared for by a relative;
- 2939 (2) The case plan documents a compelling reason for determining that filing such a
- 2940 petition would not be in the best interests of the child. Such compelling reasons may
- 2941 include, but shall not be limited to:
- 2942 (A) The parent is successfully participating in services that will make it possible for
- 2943 the child to safely return home;
- 2944 (B) Another permanency plan is better suited to meet the health and safety needs of the
- 2945 child. Documentation that another permanent plan is better suited to meet the health
- 2946 and safety needs of the child may include documentation that:
- 2947 (i) The child is 14 years of age or older and objects to termination of parental rights.
- 2948 Prior to accepting a child's objection, the court shall personally question the child in
- 2949 chambers to determine whether the objection is the voluntary and knowing choice of
- 2950 the child;
- 2951 (ii) The child is 16 years of age or older and specifically requests that emancipation
- 2952 be established as his or her permanent plan;
- 2953 (iii) The parent and the child have a significant bond, but the parent is unable to care
- 2954 for the child because of an emotional or physical disability, and the child's caregiver
- 2955 has committed to raising the child to the age of majority and facilitating visitation
- 2956 with the disabled parent; or
- 2957 (iv) The child is in a residential treatment facility that provides services specifically
- 2958 designed to address the child's treatment needs, and the court determines that the
- 2959 child's needs could not be served by a less restrictive placement;
- 2960 (C) The child is living with a relative who is unable or unwilling to adopt the child, but
- 2961 who is willing and capable of providing the child with a stable and permanent home
- 2962 environment, and the removal of the child from the physical custody of his or her
- 2963 relative would be detrimental to the child's emotional well-being;

2964 (D) The court or judicial citizen review panel, in a prior hearing or review, determined
 2965 that while the case plan was to reunify the family, DFCS did not make reasonable
 2966 efforts; or

2967 (E) The child is an unaccompanied refugee or there are international legal obligations
 2968 or foreign policy reasons that would preclude terminating parental rights; or

2969 (3) DFCS has not provided to the family of the child services deemed necessary for the
 2970 safe return of the child to the child's home, consistent with the specific time frames for
 2971 the accomplishment of the case plan goals.

2972 (c) The recommendation by DFCS that termination of parental rights is not in the best
 2973 interests of the child shall be based on the present family circumstances of the child and
 2974 shall not preclude a different recommendation at a later date if the child's family
 2975 circumstances change.

2976 Part 13

2977 15-11-240.

2978 (a) In addition to the jurisdiction to appoint guardians pursuant to Code Section 15-11-13,
 2979 the juvenile court shall be vested with jurisdiction to appoint a permanent guardian for a
 2980 child whose custody is a subject of controversy before the court as a result of an
 2981 adjudication that the child is dependent in accordance with this article. Prior to the entry
 2982 of such an order, the court shall:

2983 (1) Find that reasonable efforts to reunify the child with his or her parents would be
 2984 detrimental to the child or find that the living parents of the child have consented to the
 2985 permanent guardianship;

2986 (2) Find that termination of parental rights and adoption is not in the best interests of the
 2987 child;

2988 (3) Find that the proposed permanent guardian can provide a safe and permanent home
 2989 for the child;

2990 (4) Find that the appointment of a permanent guardian for the child is in the best interests
 2991 of the child and that the individual chosen as the child's permanent guardian is the
 2992 individual most appropriate to be the child's permanent guardian taking into consideration
 2993 the best interests of the child; and

2994 (5) If the child is 14 years of age or older, find that the appointment of a permanent
 2995 guardian for the child is in the best interests of the child and that the individual chosen
 2996 by such child as the child's permanent guardian is the individual most appropriate to be
 2997 the child's permanent guardian taking into consideration the best interests of the child.

2998 (b) The court may enter an order of support on behalf of the child against the parents of
2999 the child in accordance with paragraph (7) of subsection (a) of Code Section 15-11-212.

3000 15-11-241.

3001 The petition for the appointment of a permanent guardian pursuant to this part shall set
3002 forth:

3003 (1) The facts upon which the court's jurisdiction is based;

3004 (2) The name and date of birth of the child;

3005 (3) The name, address, and county of domicile of the petitioner and the petitioner's
3006 relationship to the child, if any, and, if different from the petitioner, the name, address,
3007 and county of domicile of the individual nominated by the petitioner to serve as guardian
3008 and that individual's relationship to the child, if any;

3009 (4) A statement that:

3010 (A) Reasonable efforts to reunify the child with his or her parents would be detrimental
3011 to the child;

3012 (B) Termination of parental rights and adoption is not in the best interests of the child;

3013 (C) The proposed guardian can provide a safe and permanent home for the child;

3014 (D) The appointment of a permanent guardian for the child is in the best interests of
3015 the child and that the individual chosen as the child's guardian is the individual most
3016 appropriate to be the child's permanent guardian taking into consideration the best
3017 interests of the child; and

3018 (E) If the child is 14 years of age or older, that the appointment of a permanent
3019 guardian for the child is in the best interests of the child and that the individual chosen
3020 by such child as the child's permanent guardian is the most appropriate individual to be
3021 the child's permanent guardian taking into consideration the best interests of the child;

3022 (5) Whether the child was born out of wedlock and, if so, the name and address of the
3023 biological father, if known;

3024 (6) Whether, to the petitioner's knowledge, there exists any notarized or witnessed
3025 document made by a parent of the child that deals with the guardianship of the child and
3026 the name and address of any designee named in the document;

3027 (7) In addition to the petitioner and the nominated guardian and, if the parent has not
3028 consented to the permanent guardianship, the names and addresses of the following
3029 relatives of the child whose whereabouts are known:

3030 (A) The adult siblings of the child; provided, however, that not more than three adult
3031 siblings need to be listed;

3032 (B) If there is no adult sibling of the child, the grandparents of the child; provided,
3033 however, that not more than three grandparents need to be listed; or

3034 (C) If there is no grandparent of the child, any three of the nearest adult relatives of the
 3035 child determined according to Code Section 53-2-1;

3036 (8) Whether a temporary guardian has been appointed for the child or a petition for the
 3037 appointment of a temporary guardian has been filed or is being filed; and

3038 (9) The reason for any omission in the petition for appointment of a permanent guardian
 3039 for the child in the event full particulars are lacking.

3040 15-11-242.

3041 (a) Permanent guardianship orders entered pursuant to Code Section 15-11-240 shall:

3042 (1) Remain in effect until the child reaches the age of 18 or becomes emancipated;

3043 (2) Not be subject to review by the court except as provided in Code Section 15-11-244;
 3044 and

3045 (3) Establish a reasonable visitation schedule which allows the child to maintain
 3046 meaningful contact with his or her parents through personal visits, telephone calls, letters,
 3047 or other forms of communication or specifically include any restriction on a parent's right
 3048 to visitation.

3049 (b) A permanent guardian shall have the rights and duties of a permanent guardian as
 3050 provided in Code Sections 29-2-21, 29-2-22, and 29-2-23 and shall take the oath required
 3051 of a guardian as provided in Code Section 29-2-24.

3052 15-11-243.

3053 (a) Notice of a guardianship petition pursuant to this part shall be given in accordance with
 3054 subsection (c) of Code Section 29-2-17 except that, if the parents have consented to the
 3055 guardianship, notice of the petition shall not be required to be given to:

3056 (1) The adult siblings of the child;

3057 (2) The grandparents of the child; or

3058 (3) The nearest adult relatives of the child as determined in accordance with Code
 3059 Section 53-2-1.

3060 (b) The hearing shall be conducted in accordance with Code Section 29-2-18, to determine
 3061 the best interests of the child, and in reaching its determination the court shall consider
 3062 Code Section 15-11-240.

3063 15-11-244.

3064 (a) The court shall retain jurisdiction over a guardianship action under this part for the sole
 3065 purpose of entering an order following the filing of a petition to modify, vacate, or revoke
 3066 the guardianship and appoint a new guardian.

3067 (b) The superior courts shall have concurrent jurisdiction for enforcement or modification
 3068 of any child support or visitation order entered pursuant to Code Section 15-11-240.
 3069 (c) The guardianship shall be modified, vacated, or revoked based upon a finding, by clear
 3070 and convincing evidence, that there has been a material change in the circumstances of the
 3071 child or the guardian and that such modification, vacation, or revocation of the
 3072 guardianship order and the appointment of a new guardian is in the best interests of the
 3073 child. Appointment of a new guardian shall be subject to the provisions of Code Sections
 3074 15-11-240 and 15-11-241.

3075 ARTICLE 4

3076 Part 1

3077 15-11-260.

3078 (a) The purpose of this article is:

3079 (1) To protect a child whose parent is unwilling or unable to provide safety and care
 3080 adequate to meet his or her physical, emotional, and mental health needs by providing a
 3081 judicial process for the termination of all parental rights and responsibilities;

3082 (2) To eliminate the need for a child to wait unreasonable periods of time for his or her
 3083 parent to correct the conditions which prevent a return to the family;

3084 (3) To ensure that the continuing needs of a child for proper physical, mental, and
 3085 emotional growth and development are the decisive considerations in all proceedings;

3086 (4) To ensure that the constitutional rights of all parties are recognized and enforced in
 3087 all proceedings conducted pursuant to this article while ensuring that the fundamental
 3088 needs of a child are not subjugated to the interests of others; and

3089 (5) To encourage stability in the life of a child who has been adjudicated dependent and
 3090 has been removed from his or her home by ensuring that all proceedings are conducted
 3091 expeditiously to avoid delays in resolving the status of the parent and in achieving
 3092 permanency for a child.

3093 (b) Nothing in this article shall be construed as affecting the rights of a parent other than
 3094 the parent who is the subject of the proceedings.

3095 15-11-261.

3096 (a) An order terminating the parental rights of a parent shall be without limit as to duration
 3097 and shall divest the parent and the child of all legal rights, powers, privileges, immunities,
 3098 duties, and obligations with respect to each other, except:

3099 (1) The right of the child to receive child support from his or her parent until a final order
 3100 of adoption is entered;

3101 (2) The right of the child to inherit from and through his or her parent. The right of
3102 inheritance of the child shall be terminated only by a final order of adoption;
3103 (3) The right of the child to benefits due to him or her from any third person, agency,
3104 state, or the United States based on the child's status as a child of his or her parent. This
3105 right shall be terminated only by a final order of adoption; and
3106 (4) The right of the child to pursue any civil action against his or her parent.
3107 (b) When an order terminating the parent and child relationship has been issued, the parent
3108 whose right has been terminated shall not thereafter be entitled to notice of proceedings for
3109 the adoption of the child by another, nor has the parent any right to object to the adoption
3110 or otherwise to participate in such proceedings.
3111 (c) The relationship between the child and his or her siblings shall not be severed until that
3112 relationship is terminated by final order of adoption.
3113 (d) A relative whose relationship to the child is derived through the parent whose parental
3114 rights are terminated shall be considered to be a relative of the child for purposes of
3115 placement of, and permanency plan for, the child until such relationship is terminated by
3116 final order of adoption.

3117 15-11-262.

3118 (a) The child and any other party to a proceeding under this article shall have the right to
3119 a qualified and independent attorney at all stages of the proceedings under this article.
3120 (b) The court shall appoint an attorney for the child in a termination of parental rights
3121 proceeding. The appointment shall be made as soon as practicable to ensure adequate
3122 representation of the child and, in any event, before the first court hearing that may
3123 substantially affect the interests of the child.
3124 (c) A child's attorney owes to the child the duties imposed by the law of this state in an
3125 attorney-client relationship.
3126 (d) The court shall appoint a guardian ad litem for the child in a termination proceeding:
3127 (1) At the request of the child's attorney; or
3128 (2) Upon the court's own motion if it determines that a guardian ad litem is necessary to
3129 assist the court in determining the best interests of the child.
3130 (e) The role of a guardian ad litem in a termination of parental rights proceeding shall be
3131 the same role as provided for in all dependency proceedings under Article 3 of this chapter.
3132 (f) A person appointed as a child's attorney shall have received training that is
3133 administered or approved by the Office of the Child Advocate for the Protection of
3134 Children prior to being appointed. Such preappointment training shall be satisfied within
3135 an attorney's existing continuing legal education obligations and shall not require the

3136 attorney to complete additional training hours in addition to those currently required by the
 3137 State Bar of Georgia.

3138 (g) If an attorney has been appointed to represent a child in a prior proceeding under this
 3139 chapter, the court, when possible, shall appoint the same attorney to represent the child in
 3140 any subsequent proceeding.

3141 (h) An attorney appointed to represent a child in a termination proceeding shall continue
 3142 the representation in any subsequent appeals unless excused by the court.

3143 (i) Neither the child nor a representative of the child may waive the right to an attorney in
 3144 a termination proceeding.

3145 (j) A party other than a child shall be informed of his or her right to an attorney prior to
 3146 the adjudication hearing and prior to any other hearing at which a party could be subjected
 3147 to the loss of residual parental rights. A party other than a child shall be given an
 3148 opportunity to:

3149 (1) Obtain and employ an attorney of the party's own choice;

3150 (2) To obtain a court appointed attorney if the court determines that the party is an
 3151 indigent person; or

3152 (3) Waive the right to an attorney.

3153 15-11-263.

3154 (a) Upon motion of any party or the court, the court may require a physical or mental
 3155 evaluation of any parent, stepparent, guardian, legal custodian, or child.

3156 (b) The cost of any ordered evaluation shall be paid by the moving party unless
 3157 apportioned by the court, in its discretion, to any other party or parties.

3158 15-11-264.

3159 (a) In all cases under this article, any party shall, upon written request to the party having
 3160 actual custody, control, or possession of the material to be produced, have full access to the
 3161 following for inspection, copying, or photographing:

3162 (1) The names and telephone numbers of each witness likely to be called to testify at the
 3163 hearing by another party;

3164 (2) A copy of any formal written statement made by the child who is alleged to be
 3165 dependent or any witness that relates to the subject matter concerning the testimony of
 3166 the witness that a party intends to call as a witness at the hearing;

3167 (3) Except as otherwise provided in subsection (b) of this Code section, any scientific or
 3168 other report which is intended to be introduced at any hearing or that pertains to physical
 3169 evidence which is intended to be introduced;

- 3170 (4) Any drug screen concerning the child who is alleged to be dependent or his or her
3171 parent, guardian, or legal custodian;
- 3172 (5) Any case plan concerning the child who is alleged to be dependent or his or her
3173 parent, guardian, or legal custodian;
- 3174 (6) Any visitation schedule related to the child who is alleged to be dependent;
- 3175 (7) Photographs and any physical evidence which are intended to be introduced at any
3176 hearing;
- 3177 (8) Copies of the police incident report regarding an occurrence which forms part or all
3178 of the basis of the petition; and
- 3179 (9) Any other relevant evidence not requiring consent or a court order under subsection
3180 (b) of this Code section.
- 3181 (b) Upon presentation of a court order or written consent from the appropriate person or
3182 persons permitting access to the party having actual custody, control, or possession of the
3183 material to be produced, any party shall have access to the following for inspection,
3184 copying, or photographing:
- 3185 (1) Any psychological, developmental, physical, mental or emotional health, or other
3186 assessments of the child who is alleged to be dependent or the family, parent, guardian,
3187 or legal custodian of such child;
- 3188 (2) Any school record concerning the child who alleged to be dependent;
- 3189 (3) Any medical record concerning the child who is alleged to be dependent;
- 3190 (4) Transcriptions, recordings, and summaries of any oral statement of the child who is
3191 alleged to be dependent or of any witness, except child abuse reports that are confidential
3192 pursuant to Code Section 19-7-5 and work product of counsel;
- 3193 (5) Any family team meeting report or multidisciplinary team meeting report concerning
3194 the child who is alleged to be dependent or his or her parent, guardian, or legal custodian;
- 3195 (6) Supplemental police reports, if any, regarding an occurrence which forms part of all
3196 of the basis of the petition; and
- 3197 (7) Immigration records concerning the child who is alleged to be dependent.
- 3198 (c) If a party requests disclosure of information pursuant to subsection (a) or (b) of this
3199 Code section, it shall be the duty of such party to promptly make the following available
3200 for inspection, copying, or photographing to every other party:
- 3201 (1) The names and last known addresses and telephone numbers of each witness to the
3202 occurrence which forms the basis of the party's defense or claim;
- 3203 (2) Any scientific or other report which is intended to be introduced at the hearing or that
3204 pertains to physical evidence which is intended to be introduced;
- 3205 (3) Photographs and any physical evidence which are intended to be introduced at the
3206 hearing; and

3207 (4) A copy of any written statement made by any witness that relates to the subject
3208 matter concerning the testimony of the witness that the party intends to call as a witness.
3209 (d) A request for discovery or reciprocal discovery shall be complied with promptly and
3210 not later than five days after the request is received or 72 hours prior to any hearing except
3211 when later compliance is made necessary by the timing of the request. If the request for
3212 discovery is made fewer than 48 hours prior to an adjudicatory hearing, the discovery
3213 response shall be produced in a timely manner. If, subsequent to providing a discovery
3214 response in compliance with this Code section, the existence of additional evidence is
3215 found, it shall be promptly provided to the party making the discovery request.
3216 (e) If a request for discovery or consent for release is refused, application may be made to
3217 the court for a written order granting discovery. Motions for discovery shall certify that
3218 a request for discovery or consent was made and was unsuccessful despite good faith
3219 efforts made by the requesting party. An order granting discovery shall require reciprocal
3220 discovery. Notwithstanding the provisions of subsection (a) or (b) of this Code section, the
3221 court may deny, in whole or in part, or otherwise limit or set conditions concerning the
3222 discovery response upon a sufficient showing by a person or entity to whom a request for
3223 discovery is made that disclosure of the information would:
3224 (1) Jeopardize the safety of a party, witness, or confidential informant;
3225 (2) Create a substantial threat of physical or economic harm to a witness or other person;
3226 (3) Endanger the existence of physical evidence;
3227 (4) Disclose privileged information; or
3228 (5) Impede the criminal prosecution of a minor who is being prosecuted as an adult or
3229 the prosecution of an adult charged with an offense arising from the same transaction or
3230 occurrence.
3231 (f) No deposition shall be taken of a child unless the court orders the deposition, under
3232 such conditions as the court may order, on the ground that the deposition would further the
3233 purposes of this part.
3234 (g) If at any time during the course of the proceedings it is brought to the attention of the
3235 court that a person or entity has failed to comply with an order issued pursuant to this Code
3236 section, the court may grant a continuance, prohibit the party from introducing in evidence
3237 the information not disclosed, or enter such other order as the court deems just under the
3238 circumstances.
3239 (h) Nothing contained in this Code section shall prohibit the court from ordering the
3240 disclosure of any information that the court deems necessary for proper adjudication.
3241 (i) Any material or information furnished to a party pursuant to this Code section shall
3242 remain in the exclusive custody of the party and shall only be used during the pendency of
3243 the case and shall be subject to such other terms and conditions as the court may provide.

3244 15-11-265.

3245 Once a petition to terminate parental rights has been filed, the parent shall thereafter be
 3246 without authority to execute an act of surrender or otherwise to affect the custody of the
 3247 child except the parent may:

3248 (1) Execute an act of surrender in favor of DFCS; and

3249 (2) Consent to a judgment terminating his or her parental rights.

3250 Part 2

3251 15-11-270.

3252 (a) A proceeding under this article shall be commenced in the county that has jurisdiction
 3253 over the related dependency proceedings.

3254 (b) For the convenience of the parties, the court may transfer proceedings to the county in
 3255 which the parent legally resides. If a proceeding is transferred, certified copies of all legal
 3256 and social documents and records pertaining to the proceeding on file with the clerk of
 3257 court shall accompany the transfer.

3258 Part 3

3259 15-11-280.

3260 (a) A petition to terminate parental rights and all subsequent court documents in such
 3261 proceeding shall be entitled 'In the interest of _____, a child.', except upon appeal, in which
 3262 event the anonymity of the child shall be preserved by use of appropriate initials. The
 3263 petition shall be in writing.

3264 (b) The petition to terminate parental rights shall be made, verified, and endorsed by the
 3265 court as provided in Article 3 of this chapter for a petition alleging dependency.

3266 (c) The petition to terminate parental rights shall:

3267 (1) State clearly that an order for termination of parental rights is requested and that the
 3268 effect of the order will be as stated in Code Section 15-11-260;

3269 (2) State the statutory ground, as provided in Code Section 15-11-310, on which the
 3270 petition is based; and

3271 (3) Set forth plainly and with particularity:

3272 (A) The facts which bring the child within the jurisdiction of the court, with a
 3273 statement that it is in the best interests of the child and the public that the proceeding
 3274 be brought;

3275 (B) The name, age, date of birth, and residence address of the child on whose behalf
 3276 the petition is brought;

3277 (C) The name and residence address of the parent, guardian, or legal custodian of the
 3278 child; or, if neither the child's parent nor the child's guardian nor the child's legal
 3279 custodian resides or can be found within the state or if such place of residence address
 3280 is unknown, the name of any known adult relative residing within the county or, if there
 3281 is none, the known adult relative residing nearest to the location of the court;

3282 (D) Whether the child is in protective custody and, if so, the place of his or her eligible
 3283 shelter care and the time the child was taken into protective custody; and

3284 (E) Whether any of the matters required by this paragraph are unknown.

3285 (d) When a petition seeks termination of the rights of a biological father who is not the
 3286 legal father and who has not surrendered his rights to the child, the petition shall include
 3287 a certificate from the putative father registry disclosing the name, address, and social
 3288 security number of any registrant acknowledging paternity of the child or indicating the
 3289 possibility of paternity of a child of the child's mother for a period beginning no later than
 3290 two years immediately preceding the child's date of birth. The certificate shall document
 3291 a search of the registry on or after the date of the filing of the petition and shall include a
 3292 statement that the registry is current as to filings of registrants as of the date of the petition
 3293 or as of a date later than the date of the petition to terminate parental rights.

3294 (e) A copy of a voluntary surrender or written consent, if any, previously executed by the
 3295 parent shall be attached to the petition to terminate parental rights.

3296 15-11-281.

3297 (a) The court shall direct the issuance of a summons to the child if the child is 14 years of
 3298 age or older, the child's mother, legal father or biological father, guardian, legal custodian,
 3299 the child's attorney, the child's guardian ad litem, if any, and any other persons who appear
 3300 to the court to be proper or necessary parties to the proceeding, requiring them to appear
 3301 before the court at the time fixed to answer the allegations of the petition to terminate
 3302 parental rights. A copy of such petition shall accompany the summons unless the summons
 3303 is served by publication, in which case the published summons shall indicate the general
 3304 nature of the allegations and where a copy of such petition can be obtained.

3305 (b) The summons shall include the notice of effect of a termination judgment as set forth
 3306 in Code Section 15-11-284 and shall state that a party is entitled to an attorney in the
 3307 proceedings and that the court will appoint an attorney if the party is an indigent person.

3308 (c) The court may endorse upon the summons an order directing the parent, guardian, or
 3309 legal custodian of the child to appear personally at the hearing or directing the person
 3310 having the physical custody or control of the child to bring the child to the hearing.

3311 (d) A party other than the child may waive service of summons by written stipulation or
 3312 by voluntary appearance at the hearing.

3313 15-11-282.

3314 (a) If a party to be served with a summons is within this state and can be found, the
3315 summons shall be served upon him or her personally as soon as possible and at least 30
3316 days before the termination of parental rights hearing.

3317 (b) If a party to be served is within this state and cannot be found but his or her address is
3318 known or can be ascertained with reasonable diligence, the summons shall be served upon
3319 such party at least 30 days before the termination of parental rights hearing by mailing him
3320 or her a copy by registered or certified mail or statutory overnight delivery, return receipt
3321 requested.

3322 (c) If a party to be served is outside this state but his or her address is known or can be
3323 ascertained with reasonable diligence, service of the summons shall be made at least 30
3324 days before the termination of parental rights hearing either by delivering a copy to such
3325 party personally or by mailing a copy to him or her by registered or certified mail or
3326 statutory overnight delivery, return receipt request.

3327 (d) If, after justifiable effort, a party to be served with a summons cannot be found and
3328 such party's address cannot be ascertained, whether he or she is within or outside this state,
3329 the court may order service of the summons upon him or her by publication. The
3330 termination of parental rights hearing shall not be earlier than 31 days after the date of the
3331 last publication.

3332 (e)(1) Service by publication shall be made once a week for four consecutive weeks in
3333 the official organ of the county where the petition to terminate parental rights has been
3334 filed. Service shall be deemed complete upon the date of the last publication.

3335 (2) When served by publication, the notice shall contain the names of the parties, except
3336 that the anonymity of the child shall be preserved by the use of appropriate initials, and
3337 the date the petition to terminate parental rights was filed. The notice shall indicate the
3338 general nature of the allegations and where a copy of the petition to terminate parental
3339 rights can be obtained and require the party to be served by publication to appear before
3340 the court at the time fixed to answer the allegations of the petition to terminate parental
3341 rights.

3342 (3) A free copy of the petition to terminate parental rights shall be available to the parent
3343 from the court during business hours or, upon request, shall be mailed to the parent.

3344 (4) Within 15 days after the filing of the order of service by publication, the clerk of
3345 court shall mail a copy of the notice, a copy of the order of service by publication, and
3346 a copy of the petition to terminate parental rights to the absent parent's last known
3347 address.

3348 (f) Service of the summons may be made by any suitable person under the direction of the
3349 court.

3350 (g) The court may authorize the payment from county funds of the costs of service and of
 3351 necessary travel expenses incurred by persons summoned or otherwise required to appear
 3352 at the hearing.

3353 15-11-283.

3354 (a) Unless he has surrendered all parental rights to the child, a summons shall be served
 3355 on:

3356 (1) A biological father who is the legal father of the child;

3357 (2) A biological father whose paternity has been previously established in a judicial
 3358 proceeding to which the father was a party;

3359 (3) A biological father whose identity is known to the petitioner or the petitioner's
 3360 attorney;

3361 (4) A biological father who is a registrant on the putative father registry and has
 3362 acknowledged paternity of the child;

3363 (5) A biological father who is a registrant on the putative father registry who has
 3364 indicated possible paternity of a child born to the child's mother during a period
 3365 beginning two years immediately preceding the child's date of birth; or

3366 (6) A biological father who, if the court finds from the evidence including but not limited
 3367 to the affidavit of the child's mother, has performed any of the following acts:

3368 (A) Lived with the child;

3369 (B) Contributed to the child's support;

3370 (C) Made any attempt to legitimate the child; or

3371 (D) Provided support or medical care for the mother either during her pregnancy or
 3372 during her hospitalization for the birth of the child.

3373 (b) Notice shall be given to a biological father by the following methods:

3374 (1) If a biological father is within this state and can be found, the summons shall be
 3375 served upon him personally as soon as possible and least 30 days before the termination
 3376 of parental rights hearing;

3377 (2) If a biological father is outside this state but his address is known or can be
 3378 ascertained with reasonable diligence, service of summons shall be made at least 30 days
 3379 before the termination of parental rights hearing either by delivering a copy to him
 3380 personally or by mailing a copy to him by registered or certified mail or statutory
 3381 overnight delivery, return receipt requested; or

3382 (3) If, after justifiable effort, a biological father to be served with summons cannot be
 3383 found and his address cannot be ascertained, whether he is within or outside this state, the
 3384 court may order service of summons upon him by publication. The termination of

3385 parental rights hearing shall not be earlier than 31 days after the date of the last
3386 publication. Service by publication shall be as follows:

3387 (A) Service by publication shall be made once a week for four consecutive weeks in
3388 the official organ of the county where the petition to terminate parental rights has been
3389 filed and of the county of the biological father's last known address. Service shall be
3390 deemed complete upon the date of the last publication;

3391 (B) When served by publication, the notice shall contain the names of the parties,
3392 except that the anonymity of the child shall be preserved by the use of appropriate
3393 initials, and the date the petition to terminate parental rights was filed. The notice shall
3394 indicate the general nature of the allegations and where a copy of the petition to
3395 terminate parental rights can be obtained and require the biological father to appear
3396 before the court at the time fixed to answer the allegations of the petition to terminate
3397 parental rights;

3398 (C) A free copy of the petition to terminate parental rights shall be available to the
3399 biological father from the court during business hours or, upon request, shall be mailed
3400 to the biological father; and

3401 (D) Within 15 days after the filing of the order of service by publication, the clerk of
3402 court shall mail a copy of the notice, a copy of the order of service by publication, and
3403 a copy of the petition to terminate parental rights to the biological father's last known
3404 address.

3405 (c) The notice shall advise the biological father who is not the legal father that he will lose
3406 all rights to the child and will not be entitled to object to the termination of his rights to the
3407 child unless, within 30 days of receipt of notice, he files:

3408 (1) A petition to legitimate the child; and

3409 (2) Notice of the filing of the petition to legitimate with the court in which the
3410 termination of parental rights proceeding is pending.

3411 (d) If the identity of the biological father is not known to the petitioner or the petitioner's
3412 attorney and the biological father would not be entitled to notice in accordance with
3413 subsection (a) of this Code section, then it shall be rebuttably presumed that he is not
3414 entitled to notice of the proceedings. The court shall be authorized to require the mother
3415 to execute an affidavit supporting the presumption or show cause before the court if she
3416 refuses. Absent evidence rebutting the presumption, no further inquiry or notice shall be
3417 required by the court, and the court shall enter an order terminating the rights of the father.

3418 (e) The court shall enter an order terminating all the parental rights of a biological father,
3419 including any right to object thereafter to such proceedings:

3420 (1) Who fails to file a timely petition to legitimate the child and notice in accordance
3421 with subsection (c) of this Code section;

3422 (2) Whose petition to legitimate is subsequently dismissed for failure to prosecute; or
 3423 (3) Whose petition to legitimate does not result in a court order finding that he is the
 3424 legal father of the child.

3425 15-11-284.

3426 The notice required to be given to the mother, the biological father, and legal father of the
 3427 child shall state:

3428 'NOTICE OF EFFECT OF TERMINATION JUDGMENT

3429 Georgia law provides that you can permanently lose your rights as a parent. A petition
 3430 to terminate parental rights has been filed requesting the court to terminate your parental
 3431 rights to your child. A copy of the petition to terminate parental rights is attached to this
 3432 notice. A court hearing of your case has been scheduled for the _____ day of
 3433 _____, at the _____ Court of _____ County.

3434 If you fail to appear, the court can terminate your rights in your absence.

3435 If the court at the trial finds that the facts set out in the petition to terminate parental
 3436 rights are true and that termination of your rights will serve the best interests of your
 3437 child, the court can enter a judgment ending your rights to your child.

3438 If the judgment terminates your parental rights, you will no longer have any rights to your
 3439 child. This means that you will not have the right to visit, contact, or have custody of
 3440 your child or make any decisions affecting your child or your child's earnings or property.
 3441 Your child will be legally freed to be adopted by someone else.

3442 Even if your parental rights are terminated:

3443 (1) You will still be responsible for providing financial support (child support payments)
 3444 for the child's care unless and until the child is adopted;

3445 (2) The child can still inherit from you unless and until the child is adopted; and

3446 (3) The child can still receive benefits based on his or her status as your child unless and
 3447 until the child is adopted.

3448 This is a very serious matter. You should contact an attorney immediately so that you
 3449 can be prepared for the court hearing. You have the right to hire an attorney and to have
 3450 him or her represent you. If you cannot afford to hire an attorney, the court will appoint
 3451 an attorney if the court finds that you are an indigent person. Whether or not you decide
 3452 to hire an attorney, you have the right to attend the hearing of your case, to call witnesses
 3453 on your behalf, and to question those witnesses brought against you.

3454 If you have any questions concerning this notice, you may call the telephone number of
 3455 the clerk's office which is _____.'

3456 15-11-285.

3457 (a) If any person named in and properly served with summons shall without reasonable
3458 cause fail to appear or, when directed in the summons, to bring the child before the court,
3459 then the court may issue a rule nisi against the person, directing the person to appear before
3460 the court to show cause why he or she should not be held in contempt of court.

3461 (b) If the summons cannot be served or if the person to whom the summons is directed
3462 fails to obey it, the court may issue an order to take the child into protective custody.

3463 Part 4

3464 15-11-300.

3465 (a) In advance of each hearing to terminate parental rights, DFCS shall give written notice
3466 of the date, time, place, and purpose of the hearing to the caregiver of the child, the foster
3467 parents of the child if there are foster parents, any preadoptive parent, or any relative
3468 providing care for the child, including the right to be heard. The written notice shall be
3469 delivered to the recipient at least 72 hours before the review or hearing by United States
3470 mail, e-mail, or hand delivery.

3471 (b) This Code section shall not be construed to require a caregiver, foster parent,
3472 preadoptive parent, or relative caring for the child to be made a party to the hearing solely
3473 on the basis of such notice and right to be heard.

3474 15-11-301.

3475 (a) If no just cause has been shown for delay, all hearings contemplated by this article shall
3476 be conducted within 90 days of the date a petition to terminate parental rights is filed.

3477 (b) If no just cause for delay has been shown by written finding of fact by the court, an
3478 order of disposition shall be issued by the juvenile court no later than 30 days after the
3479 conclusion of the hearing on the petition to terminate parental rights.

3480 (c) All hearings contemplated by this article shall be recorded by stenographic notes or by
3481 electronic, mechanical, or other appropriate means capable of accurately capturing a full
3482 and complete record of all words spoken during the hearings. If no just cause for delay has
3483 been shown, the court reporter shall provide a transcript of the hearings no later than 30
3484 days after a notice of appeal is filed.

3485 (d) This Code section shall not affect the right to request a rehearing or the right to appeal
3486 the juvenile court's order.

3487 (e) Failure to comply with the time requirements of this Code section shall not be grounds
3488 to invalidate an otherwise proper order terminating parental rights unless the court
3489 determines that such delay resulted in substantial prejudice to a party.

3490 15-11-302.

3491 The record of the testimony of the parties adduced in any proceeding under this article shall
 3492 not be admissible in any civil, criminal, or any other cause or proceedings in any court
 3493 against a person named as respondent for any purpose whatsoever, except in subsequent
 3494 dependency or termination proceedings involving the same child or dependency or
 3495 termination proceedings involving the same respondent.

3496 15-11-303.

3497 In all proceedings under this article, the standard of proof to be adduced to terminate
 3498 parental rights shall be by clear and convincing evidence.

3499 Part 5

3500 15-11-310.

3501 (a) In considering the termination of parental rights, the court shall first determine whether
 3502 one of the following statutory grounds for termination of parental rights has been met:

3503 (1) The parent has given written consent to termination which has been acknowledged
 3504 by the court or has voluntarily surrendered the child for adoption;

3505 (2) The parent has subjected the child to aggravated circumstances;

3506 (3) The parent has wantonly and willfully failed to comply for a period of 12 months or
 3507 longer with a decree to support the child that has been entered by a court of competent
 3508 jurisdiction of this or any other state;

3509 (4) The child is abandoned by the parent; or

3510 (5) The child is dependent due to lack of proper parental care or control by the parent,
 3511 reasonable efforts to remedy the circumstances have been unsuccessful or were not
 3512 required, such cause of dependency is likely to continue or will not likely be remedied,
 3513 and the continued dependency will cause or is likely to cause serious physical, mental,
 3514 emotional, or moral harm to the child.

3515 (b) If any of the statutory grounds for termination has been met, the court shall then
 3516 consider whether termination is in the child's best interests after considering the following
 3517 factors:

3518 (1) The child's sense of attachments, including the child's sense of security, the child's
 3519 sense of familiarity, and continuity of affection for the child;

3520 (2) The child's wishes and long-term goals;

3521 (3) The child's need for permanence which includes the child's need for stability and
 3522 continuity of relationships with a parent, siblings, and other relatives; and

3523 (4) Any other factors, including the factors set forth in Code Section 15-11-26,
3524 considered by the court to be relevant and proper to its determination.

3525 (c) If the court determines that the parent has subjected the child to aggravated
3526 circumstances because the parent has committed the murder of the other parent of the child,
3527 the court shall presume that termination of parental rights is in the best interests of the
3528 child.

3529 15-11-311.

3530 (a) In determining whether the child is without proper parental care and control, the court
3531 shall consider, without being limited to, the following:

3532 (1) A medically verified deficiency of the parent's physical, mental, or emotional health
3533 of such duration or nature as to render the parent unable to provide adequately for the
3534 child;

3535 (2) Excessive use of or history of chronic unrehabilitated substance abuse with the effect
3536 of rendering the parent incapable of providing adequately for the physical, mental,
3537 emotional, or moral condition and needs of the child;

3538 (3) A felony conviction and imprisonment of the parent for an offense which has a
3539 demonstrably negative effect on the quality of the parent-child relationship including, but
3540 not limited to, any of the following:

3541 (A) Murder of another child of the parent;

3542 (B) Voluntary manslaughter of another child of the parent;

3543 (C) Voluntary manslaughter of the other parent of the child;

3544 (D) Aiding or abetting, attempting, conspiring, or soliciting to commit murder or
3545 voluntary manslaughter of another child of the parent;

3546 (E) Aiding or abetting, attempting, conspiring, or soliciting to commit murder or
3547 voluntary manslaughter of the other parent of the child; or

3548 (F) Committing a felony assault that results in serious bodily injury to the child or
3549 another child of the parent;

3550 (4) Egregious conduct or evidence of past egregious conduct of a physically,
3551 emotionally, or sexually cruel or abusive nature by the parent toward the child or toward
3552 another child of the parent;

3553 (5) Physical, mental, or emotional neglect of the child or evidence of past physical,
3554 mental, or emotional neglect by the parent of the child or another child of the parent; and

3555 (6) Serious bodily injury or death of a sibling of a child under circumstances which
3556 constitute substantial evidence that such injury or death resulted from parental neglect or
3557 abuse.

3558 (b) In determining whether the child who is not in the custody and care of a parent is
3559 without proper parental care and control, the court shall also consider, without being
3560 limited to, whether the parent, without justifiable cause, has failed significantly for a period
3561 of six months prior to the date of the termination hearing:

3562 (1) To develop and maintain a parental bond with the child in a meaningful, supportive
3563 manner;

3564 (2) To provide for the care and support of the child as required by law or judicial decree;
3565 and

3566 (3) To comply with a court ordered plan designed to reunite the child with the parent.

3567 (c) A parent's reliance on prayer or other religious nonmedical means for healing in lieu
3568 of medical care, in the exercise of religious beliefs, shall not be the sole basis for
3569 determining the parent to be unwilling or unable to provide safety and care adequate to
3570 meet the child's physical, emotional, and mental health needs as provided in paragraph (1)
3571 of subsection (a) of this Code section or as depriving the child of proper parental care or
3572 control for purposes of this Code section and Code Section 15-11-310.

3573 Part 6

3574 15-11-320.

3575 (a) When the court finds that any ground set out in Code Section 15-11-310 is proved by
3576 clear and convincing evidence and that termination of parental rights is in the child's best
3577 interests, it shall order the termination of the parent's rights.

3578 (b) The court's order shall:

3579 (1) Contain written findings on which the order is based, including the factual basis for
3580 a determination that grounds for termination of parental rights exist and that termination
3581 is in the best interests of the child;

3582 (2) Be conclusive and binding on all parties from the date of entry;

3583 (3) Grant custody of the child in accordance with Code Section 15-11-321; and

3584 (4) Inform the parent of his or her right to use the services of the Georgia Adoption
3585 Reunion Registry although failure to include such information shall not affect the validity
3586 of the judgment.

3587 (c) If the court does not order the termination of parental rights but the court finds that
3588 there is clear and convincing evidence that the child is dependent, the court may enter a
3589 disposition order in accordance with the provisions of Article 3 of this chapter.

3590 (d) The court shall transmit a copy of every final order terminating the parental rights of
3591 a parent to the Office of Adoptions of the department within 15 days of the filing of such
3592 order.

3593 15-11-321.

3594 (a) Upon entering of an order terminating the parental rights of a parent, a placement may
3595 be made only if the court finds that such placement is in the best interests of the child and
3596 in accordance with the child's court approved permanency plan created pursuant to Code
3597 Sections 15-11-231 and 15-11-232. In determining which placement is in the child's best
3598 interests, the court shall enter findings of fact reflecting its consideration of the following:

3599 (1) The child's need for a placement that offers the greatest degree of legal permanence
3600 and security;

3601 (2) The least disruptive placement for the child;

3602 (3) The child's sense of attachment and need for continuity of relationships;

3603 (4) The value of biological and familial connections; and

3604 (5) Any other factors the court deems relevant to its determination.

3605 (b) A guardian or legal custodian shall submit to the jurisdiction of the court for purposes
3606 of placement.

3607 (c) A placement effected under the provisions of this Code section shall be conditioned
3608 upon the person who is given custody or who is granted an adoption of the child agreeing
3609 to abide by the terms and conditions of the order of the court.

3610 (d) In addition to its rights as a legal custodian, the department has the authority to consent
3611 to the adoption of the child.

3612 15-11-322.

3613 (a) If a petition seeking the adoption of the child is not filed within six months after the
3614 date of the disposition order, the court shall then, and at least every six months thereafter
3615 as long as the child remains unadopted, review the circumstances of the child to determine
3616 what efforts have been made to assure that the child will be adopted. The court shall:

3617 (1) Make written findings regarding whether reasonable efforts have been made to move
3618 the child to permanency;

3619 (2) Evaluate whether, in light of any change in circumstances, the permanency plan for
3620 the child remains appropriate; and

3621 (3) Enter such orders as it deems necessary to further adoption or if appropriate, other
3622 permanency options, including, but not limited to, another placement.

3623 (b) In those cases in which the child was placed with a guardian of the child's person,
3624 within 60 days after such appointment and within 60 days after each anniversary date of
3625 such appointment, the guardian shall file with the court a personal status report of the child
3626 which shall include:

3627 (1) A description of the child's general condition, changes since the last report, and the
3628 child's needs;

3629 (2) All addresses of the child during the reporting period and the living arrangements of
3630 the child for all addresses; and

3631 (3) Recommendations for any modification of the guardianship order.

3632 15-11-323.

3633 (a) A child who has not been adopted after the passage of at least three years from the date
3634 the court terminated parental rights and for whom the court has determined that adoption
3635 is no longer the permanent plan may petition the court to reinstate parental rights pursuant
3636 to the modification of orders procedure prescribed by Code Section 15-11-32. The child
3637 may file the petition to reinstate parental rights prior to the expiration of such three-year
3638 period if the department or licensed child-placing agency that is responsible for the custody
3639 and supervision of the child and the child stipulate that the child is no longer likely to be
3640 adopted. A child 14 years of age or older shall sign the petition in the absence of a
3641 showing of good cause as to why the child could not do so.

3642 (b) If it appears that the best interests of the child may be promoted by reinstatement of
3643 parental rights, the court shall order that a hearing be held and shall cause notice to be
3644 served by United States mail to DFCS, to the child's attorney of record, guardian ad litem,
3645 if any, foster parents if there are any, and to the child's former parent whose parental rights
3646 were terminated. The parent and foster parents if there are any shall have a right to be
3647 heard at the hearing to reinstate parental rights but shall not be parties at such hearing, and
3648 such hearing may be conducted in their absence. The child's motion shall be dismissed if
3649 the parent cannot be located.

3650 (c) The court shall grant the petition if it finds by clear and convincing evidence that the
3651 child is no longer likely to be adopted and that reinstatement of parental rights is in the
3652 child's best interests. In determining whether reinstatement is in the child's best interests
3653 the court shall consider, but shall not be limited to, the following:

3654 (1) Whether the parent whose rights are to be reinstated is a fit parent and has remedied
3655 his or her deficits as provided in the record of the prior termination proceedings and prior
3656 termination order;

3657 (2) The age and maturity of the child and the ability of the child to express his or her
3658 preference;

3659 (3) Whether the reinstatement of parental rights will present a risk to the child's health,
3660 welfare, or safety; and

3661 (4) Other material changes in circumstances, if any, that may have occurred which
3662 warrant the granting of the petition.

3663 (d) If the court grants the petition to reinstate parental rights, a review hearing will be
3664 scheduled within six months. During such period, the court may order that the child be

3665 immediately placed in the custody of the parent or, if the court determines that a transition
 3666 period is necessary and the child is in DFCS custody at the time of the order, order DFCS
 3667 to provide transition services to the family as appropriate.

3668 (e) An order granted under this Code section reinstates the parental rights to the child.
 3669 Such reinstatement shall be a recognition that the situation of the parent and child has
 3670 changed since the time of the termination of parental rights and reunification is now
 3671 appropriate.

3672 (f) This Code section is intended to be retroactive and applied to any child who is under
 3673 the jurisdiction of the court at the time of the hearing regardless of the date parental rights
 3674 were terminated.

3675 ARTICLE 5

3676 15-11-350.

3677 The purpose of this article is:

3678 (1) To enable children who have come into the care of the state due to abuse or neglect
 3679 to enjoy as much normalcy as possible, by facilitating their participation in activities and
 3680 opportunities appropriate to their ages and goals;

3681 (2) To prepare children who experience foster care to become independent and
 3682 self-sufficient adults;

3683 (3) To assist children in foster care in planning for their future, including postsecondary
 3684 education and the workplace; and

3685 (4) To provide support to older children who are leaving the state's care to ensure that
 3686 their basic health, education, and safety needs are met as they transition to adulthood.

3687 15-11-351.

3688 As used in article, the term:

3689 (1) 'Independent life skills assessment' means an assessment of a child upon reaching 16
 3690 years of age to determine the specific life skills services that are most appropriate for
 3691 such child.

3692 (2) 'Independent living assessment' means a comprehensive assessment conducted during
 3693 the month following a child's seventeenth birthday to determine such child's skills and
 3694 abilities to live independently and become self-sufficient.

3695 (3) 'Life skills services' includes, but shall not be limited to, independent living skills
 3696 training, including training to develop banking and budgeting skills, interviewing skills,
 3697 parenting skills, educational support, employment training, basic legal skills, and
 3698 counseling.

3699 (4) 'Preindependent living assessment' means an initial assessment of a child's strengths
3700 and needs to determine the preindependent living services that are most appropriate for
3701 such child.

3702 (5) 'Preindependent living services' includes, but shall not be limited to, life skills
3703 training, educational field trips, and mentoring.

3704 (6) 'Subsidized independent living services' means living arrangements that allow the
3705 child to live independently of the daily care and supervision of an adult in a setting that
3706 is not required to be licensed.

3707 (7) 'Young adult' means a person who has reached the age of 18 but is not yet 23 years
3708 of age.

3709 15-11-352.

3710 (a) DFCS shall administer a system of independent living transition services to enable
3711 adolescents and young adults in foster care and young adults who exit foster care at age 18
3712 to make the transition to self-sufficiency as adults.

3713 (b) The goals of independent living transition services shall be to assist adolescents and
3714 young adults in foster care and young adults who were formerly in foster care to obtain life
3715 skills and education for independent living and employment, to enjoy a quality of life
3716 appropriate for their age, and to assume personal responsibility for becoming self-sufficient
3717 adults.

3718 (c) In providing independent living services for children, DFCS shall balance the goals of
3719 normalcy and safety for a child and provide caregivers with as much flexibility as possible
3720 to enable such child to live as normal a life as possible and participate in age-appropriate
3721 extracurricular, enrichment, and social activities.

3722 (d) DFCS shall establish a continuum of services for eligible children in foster care and
3723 eligible young adults who were formerly in foster care which accomplish the goals for the
3724 system of independent living transition services.

3725 (e) For children in foster care, independent living transition services shall not be a
3726 permanency plan. Independent living transition services may occur concurrently with
3727 continued efforts to locate and achieve placement in adoptive families for adolescents in
3728 foster care or to achieve another court approved permanency plan.

3729 15-11-353.

3730 (a) DFCS shall provide independent living services to children who have reached 14 years
3731 of age but are not yet 18 years of age and who are in foster care. Children to be served
3732 shall meet the eligibility requirements set forth for specific services as provided in this
3733 article.

3734 (b) DFCS shall provide independent living services to young adults who were in foster
 3735 care when they turned 18 years of age. Young adults to be served shall meet the eligibility
 3736 requirements set forth for specific services in this article.

3737 (c) DFCS shall develop objective criteria for determining eligibility benefits and services
 3738 available under this article.

3739 15-11-354.

3740 (a) DFCS shall provide adolescents and young adults with opportunities to participate in
 3741 life skills activities in their foster families and communities which are reasonable and
 3742 appropriate for their respective ages and shall provide them with services to build such
 3743 skills and increase their ability to live independently and become self-sufficient. In
 3744 providing these services DFCS may:

3745 (1) Develop a list of age-appropriate activities and responsibilities to be offered to all
 3746 children involved in independent living transition services and their foster parents;

3747 (2) Provide training for staff and foster parents to address the issues of adolescents in
 3748 foster care in transitioning to adulthood, which shall include information on supporting
 3749 education and employment and providing opportunities to participate in appropriate daily
 3750 activities;

3751 (3) Develop procedures to maximize participation in age-appropriate activities of
 3752 children in foster care;

3753 (4) Provide opportunities for adolescents in foster care to interact with mentors; and

3754 (5) Develop and implement procedures for adolescents to directly access and manage the
 3755 personal allowance they receive from DFCS in order to learn responsibility and
 3756 participate in age-appropriate life skills activities.

3757 (b) Each child in foster care, his or her foster parents, and DFCS or the community based
 3758 provider shall set early achievement and career goals for the child's postsecondary
 3759 educational and work experience. DFCS and community based providers shall implement
 3760 a model to help ensure that children in foster care are ready for postsecondary education
 3761 and the workplace as follows:

3762 (1) A child in foster care entering the ninth grade, the child's foster parents, and DFCS
 3763 or a community based provider shall be active participants in choosing a postsecondary
 3764 goal based upon both the abilities and interests of the child. Such goal shall
 3765 accommodate the needs of the child served in exceptional education programs to the
 3766 extent appropriate for the child. A child in foster care, with the assistance of the child's
 3767 foster parents, and DFCS or a community based provider shall set a postsecondary goal
 3768 including, but not limited to:

3769 (A) Attending a four-year college or university, a community college plus university,
 3770 or a military academy;
 3771 (B) Receiving a two-year postsecondary degree;
 3772 (C) Attaining a postsecondary career and technical certificate or credential;
 3773 (D) Beginning immediate employment after completion of a high school diploma or
 3774 its equivalent; or
 3775 (E) Enlisting in the military;
 3776 (2) In order to assist a child in achieving his or her chosen goal, DFCS or a community
 3777 based provider shall, with the participation of the child and foster parents, identify:
 3778 (A) The core courses necessary to qualify for a chosen goal;
 3779 (B) Any elective courses which would provide additional help in reaching a chosen
 3780 goal;
 3781 (C) The grade point requirement and any additional information necessary to achieve
 3782 a specific goal; and
 3783 (D) A teacher, other school staff member, employee of DFCS or a community based
 3784 care provider, or community volunteer who would be willing to work with the child as
 3785 an academic advocate or mentor if foster parent involvement is insufficient or
 3786 unavailable;
 3787 (3) In order to complement educational goals, DFCS and community based providers are
 3788 encouraged to form partnerships with the business community to support internships,
 3789 apprenticeships, or other work related opportunities; and
 3790 (4) DFCS and community based providers shall ensure that a child and the child's foster
 3791 parents are made aware of the postsecondary goals available and shall assist in
 3792 identifying the coursework necessary to enable the child to reach the chosen goal.
 3793 (c) A child in foster care and a young adult formerly in foster care shall be encouraged to
 3794 take part in learning opportunities that result from participation in community service
 3795 activities.
 3796 (d) A child in foster care and a young adult formerly in foster care shall be provided with
 3797 the opportunity to change from one postsecondary goal to another, and each postsecondary
 3798 goal shall allow for changes in each individual's needs and preferences. Any change,
 3799 particularly a change that will result in additional time required to achieve a goal, shall be
 3800 made with the guidance and assistance of DFCS or a community based provider.
 3801 15-11-355.
 3802 DFCS shall provide transition to independence services to children in foster care who meet
 3803 prescribed conditions and are determined eligible by DFCS. The service categories
 3804 available to children in foster care which facilitate successful transition into adulthood are:

- 3805 (1) Preindependent living services;
3806 (2) Life skills services; and
3807 (3) Subsidized independent living services.

3808 15-11-356.

3809 (a) A child who has reached 14 years of age but is not yet 16 years of age who is in foster
3810 care shall be eligible for preindependent living services. The specific services to be
3811 provided to a child shall be determined using a preindependent living assessment.

3812 (b) DFCS shall conduct an annual staffing for each child who has reached 14 years of age
3813 but is not yet 16 years of age to ensure that the preindependent living training and services
3814 to be provided as determined by the preindependent living assessment are being received
3815 and to evaluate the progress of the child in developing the needed independent living skills.

3816 (c) At the first annual staffing that occurs following a child's fourteenth birthday, and at
3817 each subsequent staffing, DFCS shall provide to each child detailed information on any
3818 grants, scholarships, and waivers that are available and should be sought by the child with
3819 assistance from DFCS.

3820 (d) Information related to both the preindependent living assessment and all staffings,
3821 which shall be reduced to writing and signed by the child, shall be included as a part of the
3822 written report required to be provided to the court at each periodic review hearing.

3823 15-11-357.

3824 (a) A child who has reached 16 years of age but is not yet 18 years of age who is in foster
3825 care shall be eligible for life skills services.

3826 (b) Children receiving such life skills services shall also be provided with information
3827 related to social security insurance benefits and public assistance. The specific services to
3828 be provided to a child shall be determined using an independent life skills assessment

3829 (c) DFCS shall conduct a staffing at least once every six months for each child who has
3830 reached 16 years of age but is not yet 18 years of age to ensure that the appropriate
3831 independent living training and services as determined by the independent life skills
3832 assessment are being received and to evaluate the progress of the child in developing the
3833 needed independent living skills.

3834 (d) DFCS shall provide to each child in foster care during the calendar month following
3835 the child's seventeenth birthday an independent living assessment to determine the child's
3836 skills and abilities to live independently and become self-sufficient. Based on the results
3837 of the independent living assessment, services and training shall be provided in order for
3838 the child to develop the necessary skills and abilities prior to the child's eighteenth birthday.

3839 (e) Information related to both the independent life skills assessment and all staffings,
3840 which shall be reduced to writing and signed by the child, shall be included as a part of the
3841 written report required to be provided to the court at each periodic review hearing.

3842 15-11-358.

3843 (a) A child who has reached 17 years of age but is not yet 21 years of age may be eligible
3844 for subsidized independent living services if:

3845 (1) The child has been adjudicated dependent under Article 3 of this chapter; has been
3846 placed in licensed out-of-home care for at least six months prior to entering subsidized
3847 independent living; and has a permanency goal of independent living or long-term
3848 licensed care; and

3849 (2) The child is able to demonstrate independent living skills, as determined by DFCS
3850 using established procedures and assessments.

3851 (b) Independent living arrangements established for a child shall be part of an overall plan
3852 leading to the total independence of the child from DFCS supervision. Such plan shall
3853 include, but shall not be limited to:

3854 (1) A description of the skills of the child and a plan for learning additional identified
3855 skills;

3856 (2) The behavior that the child has exhibited which indicates an ability to be responsible
3857 and a plan for developing additional responsibilities, as appropriate;

3858 (3) A plan for future educational, vocational, and training skills;

3859 (4) Present financial and budgeting capabilities and a plan for improving resources and
3860 ability;

3861 (5) A description of a proposed residence;

3862 (6) Documentation that the child understands the specific consequences of his or her
3863 conduct in an independent living program;

3864 (7) Documentation of proposed services to be provided by DFCS and other agencies,
3865 including the type of service and the nature and frequency of contact; and

3866 (8) A plan for maintaining or developing relationships with family, other adults, friends,
3867 and the community, as appropriate.

3868 (c) Subsidy payments in an amount established by DFCS may be made directly to a child
3869 under the direct supervision of a caseworker or other responsible adult approved by DFCS.

3870 15-11-359.

3871 DFCS shall provide or arrange for the following services to young adults formerly in foster
3872 care who meet the prescribed conditions and are determined eligible by DFCS:

3873 (1) Aftercare support services which are available to such young adults in their efforts
 3874 to continue to develop the skills and abilities necessary for independent living; and
 3875 (2) Transitional short-term services.

3876 15-11-360.

3877 (a) A young adult who left foster care at 18 years of age but who requests services prior
 3878 to reaching 23 years of age shall be eligible for aftercare support services.

3879 (b) Aftercare support services may include, but shall not be limited to:

3880 (1) Mentoring and tutoring;

3881 (2) Mental health services and substance abuse counseling;

3882 (3) Life skills classes, including, but not limited to, credit management, preventive health
 3883 activities, and basic legal skills;

3884 (4) Parenting classes;

3885 (5) Job skills training;

3886 (6) Counselor consultations; and

3887 (7) Temporary financial assistance.

3888 (c) The specific services to be provided under this Code section shall be determined by an
 3889 aftercare services assessment and may be provided by DFCS or through referrals in the
 3890 community. Temporary assistance provided to prevent homelessness shall be provided as
 3891 expeditiously as possible and within the limitations defined by DFCS.

3892 15-11-361.

3893 (a) In addition to any services provided through aftercare support, in DFCS's discretion,
 3894 a young adult formerly in foster care may receive other appropriate transitional services,
 3895 which may include financial, housing, counseling, employment, education, mental health,
 3896 disability, and other services, if the young adult demonstrates that the services are critical
 3897 to the young adult's own efforts to achieve self-sufficiency and to develop a personal
 3898 support system.

3899 (b) A young adult shall be eligible to apply for transitional support services if he or she
 3900 was a dependent child, was living in licensed foster care or in subsidized independent
 3901 living at the time of his or her eighteenth birthday, and had spent at least six months living
 3902 in foster care before his or her eighteenth birthday.

3903 (c) If at any time transitional support services are no longer critical to the young adult's
 3904 own efforts to achieve self-sufficiency and to develop a personal support system, the
 3905 provision of such services may be terminated.

3906 15-11-362.

3907 Payment of aftercare or transitional support funds shall be made directly to the recipient
3908 unless the recipient requests in writing to the community based provider or DFCS that the
3909 payments or a portion of the payments be made directly on the recipient's behalf to a third
3910 party in order to secure services such as housing, counseling, education, or employment
3911 training as part of the young adult's own efforts to achieve self-sufficiency.

3912 15-11-363.

3913 (a) A judicial review of the independent living services being provided to a child shall be
3914 held:

3915 (1) For a child who has reached 14 years of age but is not 18 years of age, during the
3916 periodic review and permanency plan hearings under Article 3 of this chapter; or

3917 (2) For a young adult, at least annually.

3918 (b) In addition to the periodic review and permanency plan hearings under Article 3 of this
3919 chapter, the court shall hold a hearing to review the status of the child within 90 days after
3920 a child's seventeenth birthday. Such hearing may be held concurrently with a periodic
3921 review or permanency plan hearing. If necessary, the court may review the status of the
3922 child more frequently during the year prior to the child's eighteenth birthday.

3923 (c) At each periodic review, in addition to any information or report provided to the court,
3924 the foster parent, legal custodian, guardian ad litem, if any, and the child shall be given the
3925 opportunity to provide the court with any information relevant to the child's best interests
3926 as it relates to independent living transition services. In addition to any information or
3927 report provided to the court, DFCS shall include in its social study report written
3928 verification that the child has been:

3929 (1) Provided with a current Medicaid card and has been provided all necessary
3930 information concerning the Medicaid program sufficient to prepare the child to apply for
3931 coverage upon reaching age 18, if such application would be appropriate;

3932 (2) Provided with a certified copy of his or her birth certificate and, if the child does not
3933 have a valid driver's license, a valid Georgia identification card;

3934 (3) Provided information relating to federal social security insurance benefits if the child
3935 is eligible for such benefits. If the child has received such benefits and the benefits are
3936 being held in trust for the child, a full accounting of such funds shall be provided and the
3937 child shall be informed about how to access such funds;

3938 (4) Provided with information and training related to budgeting skills, interviewing
3939 skills, parenting skills, and basic legal skills;

3940 (5) Provided with essential banking skills including an open bank account or
3941 identification necessary to open an account;

- 3942 (6) Provided with information on public assistance and how to apply;
 3943 (7) Provided a clear understanding of where he or she will be living on his or her
 3944 eighteenth birthday, how living expenses will be paid, and what educational program or
 3945 school he or she will be enrolled in; and
 3946 (8) Encouraged to attend all judicial review hearings occurring after his or her
 3947 seventeenth birthday.
 3948 (d) At the first judicial review hearing held subsequent to a child's seventeenth birthday,
 3949 DFCS shall provide the court with an updated case plan that includes specific information
 3950 related to independent living services that have been provided since the child's fourteenth
 3951 birthday or since the date the child came into foster care, whichever came later.
 3952 (e) At the time of a periodic review hearing if, in the opinion of the court, DFCS has not
 3953 complied with its obligations as specified in the written case plan or in the provision of
 3954 independent living services, the court shall issue a show cause order. If cause is shown for
 3955 failure to comply, the court shall give DFCS 30 days within which to comply and, on
 3956 failure to comply with this or any subsequent order, DFCS may be held in contempt.

3957 15-11-364.

3958 The department shall promulgate regulations to administer this article and shall follow the
 3959 requirements of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The
 3960 department shall complete the development of all procedures, systems, assessments, and
 3961 other items required by this article by January 1, 2014.

3962 15-11-365.

3963 Nothing in this article shall be interpreted to limit a child's eligibility for postsecondary
 3964 tuition, ancillary fees, or living expenses under Code Section 20-3-660.

3965 ARTICLE 6

3966 Part 1

3967 15-11-380.

3968 The purpose of this article is:

- 3969 (1) To acknowledge that certain behaviors or conditions occurring within a family or
 3970 school environment indicate that a child is experiencing serious difficulties and is in need
 3971 of services and corrective action in order to protect the child from the irreversibility of
 3972 certain choices and to protect the integrity of the family;

3973 (2) To make other family members aware of their contributions to their family's
 3974 problems and to encourage family members to accept the responsibility to participate in
 3975 any program of care ordered by the court;

3976 (3) To provide a child with a program of treatment, care, guidance, counseling, structure,
 3977 supervision, and rehabilitation which the child needs to assist him or her in becoming a
 3978 responsible and productive member of society; and

3979 (4) To ensure the cooperation and coordination of all agencies having responsibility to
 3980 supply services to any member of the family referred to the court.

3981 15-11-381.

3982 As used in this article, the term:

3983 (1) 'Habilitation' means the process by which a child is helped to acquire and maintain
 3984 those life skills which will enable him or her to cope more effectively with the demands
 3985 of his or her own person and of his or her environment and to raise the level of his or her
 3986 physical, mental, social, and vocational abilities.

3987 (2) 'Home detention' means court ordered confinement of a child with his or her parent,
 3988 guardian, legal custodian, or in some other specified home for 24 hours a day unless
 3989 otherwise prescribed by written court order, under which the child is permitted out of the
 3990 residence only at such hours and in the company of persons specified in the court order
 3991 establishing the home detention. Home detention shall be monitored by DJJ or court
 3992 based probation.

3993 (3) 'Mental health plan' means an interagency treatment, habilitation, support, or
 3994 supervision plan developed at an interagency meeting of state or local agency
 3995 representatives, parties, and other interested persons following a court's finding that a
 3996 child is not mentally competent, as defined in Code Section 15-11-651, to stand trial. A
 3997 mental health plan shall be submitted to the court for approval as part of the disposition
 3998 of the child's case.

3999 (4) 'Nonsecure facility' means a public or private facility which does not include
 4000 construction fixtures such as locked rooms and buildings, fences, or other physical
 4001 structures designed to physically restrict the movements and activities of a child in
 4002 custody.

4003 (5) 'Plan manager' means a person who is under the supervision of the court and is
 4004 appointed by the court to convene a meeting of all relevant parties for the purpose of
 4005 developing a mental health plan. A plan manager shall be responsible for collecting all
 4006 previous histories of the child including, but not limited to, evaluations, assessments,
 4007 treatment summaries, and school records.

4008 (6) 'Runaway' means a child who without just cause and without the consent of his or her
 4009 parent, guardian, or legal custodian is absent from his or her home or place of abode for
 4010 at least 24 hours.

4011 (7) 'Status offense' means an act prohibited by law which would not be an offense if
 4012 committed by an adult.

4013 (8) 'Truant' means having ten or more days of unexcused absences from school in the
 4014 current academic year.

4015 (9) 'Valid court order' means a court order issued by a judge to a child alleged or found
 4016 to have committed a status offense and:

4017 (A) Who was brought before the court and made subject to the order;

4018 (B) Whose future conduct is regulated by the order;

4019 (C) Who was given verbal and written warning of the consequences of violating the
 4020 order at the time the order was issued and whose attorney, parent, guardian, or legal
 4021 custodian was also provided with written notice of the consequences of violating the
 4022 order, and the notice is reflected in the court record; and

4023 (D) Who was afforded due process prior to the issuance of the order.

4024 Part 2

4025 15-11-390.

4026 (a) A complaint alleging a child is in need of services may be filed by a parent, guardian,
 4027 or legal custodian, DFCS, a school official, a law enforcement officer, a guardian ad litem,
 4028 or a prosecuting attorney who has knowledge of the facts alleged or is informed and
 4029 believes that such facts are true.

4030 (b) The complaint shall set forth plainly and with particularity:

4031 (1) The name, date of birth, and residence address of the child on whose behalf the
 4032 complaint is being filed;

4033 (2) The names and residence addresses of the parent, guardian, or legal custodian, any
 4034 other family members, or any other individuals living within the child's home;

4035 (3) The name of any public institution or agency having the responsibility or ability to
 4036 supply services alleged to be needed by the child; and

4037 (4) Whether any of the matters required by this subsection are unknown.

4038 (c) When a school official is filing a complaint, information shall be included which shows
 4039 that:

4040 (1) The legally liable school district has sought to resolve the expressed problem through
 4041 available educational approaches; and

4042 (2) The school district has sought to engage the parent, guardian, or legal custodian in
4043 solving the problem but such person has been unwilling or unable to do so, that the
4044 problem remains, and that court intervention is needed.

4045 (d) When a school official is filing a complaint involving a child who is eligible or
4046 suspected to be eligible for services under the federal Individuals with Disabilities
4047 Education Act or Section 504 of the federal Rehabilitation Act of 1973, information shall
4048 be included which demonstrates that the legally liable school district:

4049 (1) Has determined that the child is eligible or suspected to be eligible under the federal
4050 Individuals with Disabilities Education Act or Section 504 of the federal Rehabilitation
4051 Act of 1973; and

4052 (2) Has reviewed for appropriateness the child's current Individualized Education
4053 Program (IEP) and placement and has made modifications where appropriate.

4054 (e) The juvenile court intake officer shall be responsible for receiving complaints alleging
4055 that a child is in need of services.

4056 15-11-391.

4057 (a) Upon the filing of a complaint alleging that a child is in need of services, the juvenile
4058 court intake officer shall convene a multidisciplinary conference to be attended by the
4059 child, the child's parent, guardian, or legal custodian, DFCS, and any other agency or public
4060 institution having legal responsibility or discretionary authority to supply services to the
4061 family except in emergencies or when the court or the juvenile court intake officer
4062 determines it to be inappropriate or futile.

4063 (b) The juvenile court intake officer shall determine whether a mandatory conference is
4064 inappropriate or futile based on:

4065 (1) A screening of the child; and

4066 (2) If a parent, guardian, or legal custodian has filed the complaint, the nature of that
4067 parent, guardian, or legal custodian's participation in and compliance with previous
4068 mandatory conferences or informal family services plan agreements, if any.

4069 (c) Upon application to the court by the plan manager or upon the motion of any party or
4070 upon the court's own motion, the court shall issue an order for good cause to any person
4071 determined by the court to be a required participant in the mandatory multidisciplinary
4072 conference and who is required by federal or state law to protect the privacy of health
4073 information in his or her possession relating to the child alleged to be in need of services
4074 or to such child's primary caregiver. Such order shall require such person to comply with
4075 the convening of the multidisciplinary conference and to cooperate with the plan manager
4076 by disclosing relevant protected health information as ordered by the court. The relevant
4077 health information required to be disclosed by the court order shall be used only for the

4078 purposes of developing and implementing a mental health plan that is reasonably related
4079 to the promotion of the care, guidance, counseling, structure, supervision, treatment, or
4080 rehabilitation of the child or the child's primary caregiver for the benefit of such child. For
4081 the purposes of this subsection, good cause shall exist when the protected health
4082 information being sought is reasonably related to the child alleged to be in need of services.

4083 15-11-392.

4084 (a) After the mandatory multidisciplinary conference, the child, the child's parent,
4085 guardian, or legal custodian, DFCS, and any other member of the conference may effect
4086 an informal family services plan agreement.

4087 (b) An informal family services plan agreement shall include:

4088 (1) The identification of the conduct of the child, the child's parent, guardian, or legal
4089 custodian, or any family member which is causing serious harm to the child and the
4090 services needed by that individual to mitigate or eliminate the problems within the
4091 family;

4092 (2) A description of the services which are needed for the child, the child's parent,
4093 guardian, or legal custodian, or other family members, the availability of such services
4094 within the community, and a plan for ensuring that any such services that are available
4095 will be secured and delivered;

4096 (3) A description of all expected action to be taken by the child, the child's parent,
4097 guardian, or legal custodian, or other family members;

4098 (4) The identification of DFCS caseworker assigned to the case and who is directly
4099 responsible for assuring that the informal family services plan agreement is implemented;
4100 and

4101 (5) An estimate of the time anticipated to be necessary in order to accomplish the goals
4102 set out in the informal family services plan agreement.

4103 (c) The informal family services plan agreement shall set forth in writing the terms and
4104 conditions agreed to by the parties as evidenced by their signature thereto.

4105 (d) The informal family services plan agreement shall demonstrate that the child and the
4106 child's parent, guardian, or legal custodian understand their right to an adjudication hearing
4107 on their need for services and shall also demonstrate that they consent to its terms with
4108 knowledge that consent is not obligatory and with knowledge of the effect of such
4109 agreement.

4110 (e) The duration of the informal family services plan agreement shall not exceed six
4111 months; however, the court may extend such agreement for one additional period not to
4112 exceed six months.

Part 3

4113

15-11-400.

4114

DFCS shall be the lead agency and shall have the primary responsibility for the monitoring and management of child in need of services cases under this article.

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15-11-401.

4117

(a) The continued custody hearing for a child in need of services shall be held promptly and no later than:

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(1) Twenty-four hours after a child is taken into temporary custody if the child is being held in a secure juvenile detention facility; or

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(2) Seventy-two hours after the child is placed in eligible shelter care, provided that, if the 72 hour time frame expires on a weekend or legal holiday, the hearing shall be held on the next day which is not a weekend or legal holiday.

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(b) If a child was never taken into temporary custody or is released from temporary custody at the continued custody hearing, the following time frames apply:

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(1) The petition for a child in need of services shall be filed:

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(A) Within 30 days of the juvenile court intake officer's determination that a mandatory conference would be inappropriate or futile;

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(B) Within 30 days of the child's release from temporary custody if the court determines that the mandatory conference would be inappropriate or futile;

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(C) Within 30 days of a court determination that continuing participation in the informal family services plan procedure would be inappropriate or futile; or

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(D) Within 30 days of the conclusion of the period governed by the informal family services plan agreement if the child and family have not achieved the goals set out in such agreement and there are reasonable grounds to believe that the child is still in need of services. If no petition for a child in need of services is filed within the required time frame, the complaint may be dismissed without prejudice;

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(2) Summons shall be served at least 24 hours before the adjudication hearing;

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(3) The adjudication hearing shall be scheduled to be held no later than 60 days after the filing of the petition for a child in need of services; and

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(4) If not held in conjunction with the adjudication hearing, the disposition hearing shall be held and completed within 30 days after the conclusion of the adjudication hearing.

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(c) If a child is not released from temporary custody at the continued custody hearing, the following time frames apply:

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(1) The petition for a child in need of services shall be filed within five days of the continued custody hearing;

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4148 (2) Summons shall be served at least 72 hours before the adjudication hearing;

4149 (3) The adjudication hearing shall be scheduled to be held no later than ten days after the
4150 filing of the petition for a child in need of services; and

4151 (4) If not held in conjunction with the adjudication hearing, the disposition hearing shall
4152 be held and completed within 30 days after the conclusion of the adjudication hearing.

4153 15-11-402.

4154 (a) A proceeding under this article may be commenced in the county in which the act
4155 complained of took place.

4156 (b) If a proceeding is commenced in the county in which the act complained of took place,
4157 the court shall transfer the case to the county in which the child legally resides for further
4158 proceedings.

4159 (c) When a proceeding is transferred, certified copies of all legal and social documents and
4160 records pertaining to the proceeding on file with the clerk of court shall accompany such
4161 transfer.

4162 15-11-403.

4163 (a) A child shall have the right to a qualified and independent attorney at all stages of
4164 proceedings under this article.

4165 (b) The court shall appoint an attorney for a child alleged to be a child in need of services.

4166 (c) The court shall appoint a guardian ad litem for a child alleged to be a child in need of
4167 services:

4168 (1) At the request of the child's attorney; or

4169 (2) Upon the court's own motion if it determines that a guardian ad litem is necessary to
4170 assist the court in determining the best interests of the child.

4171 (d) The role of a guardian ad litem in a proceeding for a child in need of services shall be
4172 the same role as provided for in all dependency proceedings under Article 3 of this chapter.

4173 (e) If an attorney or a guardian ad litem has previously been appointed for the child in a
4174 dependency or delinquency proceeding, the court, when possible, shall appoint the same
4175 attorney or guardian ad litem.

4176 (f) An attorney appointed to represent the child in a proceeding for a child in need of
4177 services shall continue the representation in any subsequent appeals unless excused by the
4178 court.

4179 (g) Neither the child nor a representative of the child may waive the right to an attorney
4180 in a proceeding for a child in need of services.

4181 (h) A child shall be informed of his or her right to an attorney at or prior to the first
4182 mandatory conference and prior to the first court proceeding for a child in need of services.

4183 A child shall be given an opportunity to:

4184 (1) Obtain and employ an attorney of the child's own choice; or

4185 (2) To obtain a court appointed attorney if the court determines that the child is an
4186 indigent person.

4187 15-11-404.

4188 A continuance shall be granted only upon a showing of good cause and only for that period
4189 of time shown to be necessary by the moving party at the hearing on such motion.

4190 Whenever any continuance is granted, the facts which require the continuance shall be
4191 entered into the court record.

4192 15-11-405.

4193 If a child is alleged or found to be a child in need of services and is placed in an eligible
4194 shelter care placement, the child shall be required to have a case plan. In addition to the
4195 case plan requirements of Code Section 15-11-201, a case plan shall include:

4196 (1) A description of the child's strengths and needs;

4197 (2) A description of specific parental strengths and needs;

4198 (3) A description of other personal, family, or environmental problems that may
4199 contribute to the child's behaviors;

4200 (4) A description of the safety, physical, and mental health needs of the child;

4201 (5) Identification of the least restrictive placement to safeguard the child's best interests
4202 and protect the community;

4203 (6) An assessment of the availability of community resources to address the child's and
4204 family's needs;

4205 (7) An assessment of the availability of court diversion services; and

4206 (8) An assessment of the availability of other preventive measures.

4207 15-11-406.

4208 Any proceeding or other processes or actions alleging for the first time that a child is a
4209 runaway shall be terminated or dismissed upon the request of the parent, guardian, or legal
4210 custodian of the child.

Part 4

4211

4212 15-11-410.4213 (a) A child may be taken into temporary custody under this article:4214 (1) Pursuant to a court order; or4215 (2) By a law enforcement officer when there are reasonable grounds to believe that a
4216 child has run away from his or her parent, guardian, or legal custodian or the
4217 circumstances are such as to endanger the child's health or welfare unless immediate
4218 action is taken.4219 (b) Before entering an order authorizing temporary custody, the court shall determine
4220 whether continuation in the home is contrary to the child's welfare and whether there are
4221 available services that would prevent the need for custody. The court shall make such
4222 determination on a case-by-case basis and shall make written findings of fact referencing
4223 any and all evidence relied upon in reaching its decision.4224 (c) A person taking a child into temporary custody shall deliver the child, with all
4225 reasonable speed and without first taking the child elsewhere, to a medical facility if the
4226 child is believed to suffer from a serious physical condition or illness which requires
4227 prompt treatment and, upon delivery, shall promptly contact a juvenile court intake officer.
4228 Immediately upon being notified by the person taking a child into custody, the juvenile
4229 court intake officer shall determine if such child should be released, remain in temporary
4230 custody, or be brought before the court.4231 15-11-411.4232 (a) A person taking a child into temporary custody shall not exercise custody over the
4233 child except for a period of 12 hours. A child taken into temporary custody may be placed
4234 in a nonsecure facility for a child in need of services.4235 (b) Counties and municipalities shall be authorized to establish nonsecure facilities where
4236 a child who is suspected of being a child in need of services may be placed until the parent,
4237 guardian, or legal custodian assumes custody of the child.4238 (c) Immediately after a child is brought into a nonsecure facility, every effort shall be
4239 made to contact the parents, guardian, or legal custodian of the child.4240 (d) If a parent, guardian, or legal custodian has not assumed custody of the child in a
4241 nonsecure facility at the end of the 12 hour period, the court shall be notified and shall
4242 place the child in the least restrictive placement consistent with the child's needs for
4243 protection or control in the custody of the child's parents, guardian, or legal custodian upon
4244 such person's promise to bring the child before the court when requested by the court;
4245 provided, however, that if such placement is not available, the child shall be placed in the

4246 custody of DFCS which shall promptly arrange for eligible shelter care placement of the
4247 child.

4248 15-11-412.

4249 (a) For purposes of this Code section, the term 'separately' means a sight and sound
4250 separation in holding cells and sleeping quarters and shall not apply to dining facilities,
4251 educational activities, and daily program activities where adequate adult supervision is
4252 provided.

4253 (b) A child may be held in a secure juvenile detention facility until a continued custody
4254 hearing is held, provided that such child is not held in a secure detention facility for more
4255 than 24 hours, can be detained separately from children who have been adjudicated
4256 delinquent, and any of the following apply:

4257 (1) It is alleged that the child is a runaway;

4258 (2) It is alleged that the child is habitually disobedient of the reasonable and lawful
4259 commands of his or her parent, guardian, or legal custodian and is ungovernable; or

4260 (3) The child has previously failed to appear at a scheduled hearing.

4261 (c) A child placed in a secure detention facility pursuant to subsection (b) of this Code
4262 section shall be appointed an attorney prior to the continued custody hearing.

4263 (d) In no case shall a child in custody be detained in a jail, adult lock-up, or other adult
4264 detention facility.

4265 15-11-413.

4266 (a) If the child is being held in a secure juvenile detention facility, a continued custody
4267 hearing shall be held within 24 hours. If such hearing is not held within the time specified,
4268 the child shall be released from temporary detention in accordance with subsection (d) of
4269 Code Section 15-11-411 and with authorization of the detaining authority.

4270 (b) If a child is not being held in a secure juvenile detention facility and has not been
4271 released to the custody of the child's parent, guardian, or legal custodian, a hearing shall
4272 be held promptly and not later than 72 hours after the child is placed in eligible shelter care,
4273 provided that, if the 72 hour time frame expires on a weekend or legal holiday, the hearing
4274 shall be held on the next day which is not a weekend or legal holiday.

4275 (c) At the commencement of the continued custody hearing, the court shall inform the
4276 parties of:

4277 (1) The nature of the allegations;

4278 (2) The nature of the proceedings;

4279 (3) The possible consequences or dispositions that may apply to the child's case
4280 following adjudication; and

4281 (4) Due process rights, including the right to an attorney and to an appointed attorney;
 4282 the privilege against self-incrimination; that the child may remain silent and that anything
 4283 said may be used against the child; the right to confront anyone who testifies against the
 4284 child and to cross-examine any persons who appear against the child; the right of the
 4285 child to testify and to compel other witnesses to attend and testify in his or her own
 4286 behalf; the right of the child to a speedy adjudication hearing; and the right to appeal and
 4287 be provided with a transcript for such purpose.

4288 15-11-414.

4289 (a) At the continued custody hearing, the court shall determine whether there is probable
 4290 cause to believe that the child has committed a status offense or is otherwise a child in need
 4291 of services and that continued custody is necessary.

4292 (b) If the court determines there is probable cause to believe that the child has committed
 4293 a status offense or is otherwise in need of services, the court may order that the child:

4294 (1) Be released to the custody of a parent, guardian, or legal custodian; or

4295 (2) Be placed in the least restrictive preadjudication placement consistent with the child's
 4296 need for protection and control as authorized by Code Section 15-11-411 and in
 4297 accordance with Code Section 15-11-415.

4298 (c) If the court determines there is probable cause to believe that the child has committed
 4299 a status offense or is otherwise in need of services, the court shall:

4300 (1) Refer the child and the child's family for a mandatory conference;

4301 (2) Order that a petition for a child in need of services be filed and set a date for an
 4302 adjudication hearing if the court determines that a mandatory conference would be
 4303 inappropriate or futile; or

4304 (3) When a child and his or her family are already participating in informal family
 4305 services plan procedures, order that a petition for a child in need of services be filed and
 4306 set a date for an adjudication hearing if the court determines that continuing participation
 4307 in the informal family services plan procedures would be inappropriate or futile.

4308 (d) Following the continued custody hearing, the court may detain a child in a secure
 4309 juvenile detention facility for up to 24 hours, excluding weekends and legal holidays, only
 4310 for the purpose of providing adequate time to arrange for an appropriate alternative
 4311 placement pending the adjudication hearing.

4312 (e) All orders shall contain written findings as to the form or conditions of release. If a
 4313 child cannot be returned to the custody of his or her parent, guardian, or legal custodian at
 4314 the hearing, the court shall state the facts upon which the continued custody is based. The
 4315 court shall make the following findings of fact referencing any and all evidence relied upon
 4316 to make its determinations:

4317 (1) Whether continuation in the home of the parent, guardian, or legal custodian is
 4318 contrary to the child's welfare; and

4319 (2) Whether reasonable efforts have been made to safely maintain the child in the home
 4320 of his or her parent, guardian, or legal custodian and to prevent or eliminate the need for
 4321 removal. Such finding shall be made at the continued custody hearing if possible but in
 4322 no case later than 60 days following the child's removal from the home.

4323 15-11-415.

4324 (a) Restraints on the freedom of a child prior to adjudication shall be imposed only when
 4325 there is probable cause to believe that the child committed the act of which he or she is
 4326 accused, there is clear and convincing evidence that the child's freedom should be
 4327 restrained, that no less restrictive alternatives will suffice, and:

4328 (1) The child's detention or care is required to reduce the likelihood that the child may
 4329 inflict serious bodily harm on others during the interim period;

4330 (2) The child's detention is necessary to secure the child's presence in court to protect the
 4331 jurisdiction and processes of the court; or

4332 (3) An order for the child's detention has been made by the court.

4333 (b) A child shall not be detained:

4334 (1) To punish, treat, or rehabilitate the child;

4335 (2) To allow a parent, guardian, or legal custodian to avoid his or her legal
 4336 responsibilities;

4337 (3) To satisfy demands by a victim, law enforcement, or the community;

4338 (4) To permit more convenient administrative access to the child;

4339 (5) To facilitate further interrogation or investigation; or

4340 (6) Due to a lack of a more appropriate facility.

4341 (c) Whenever a child cannot be unconditionally released, conditional or supervised release
 4342 that results in the least necessary interference with the liberty of the child shall be favored
 4343 over more intrusive alternatives.

4344 (d) Whenever the curtailment of a child's freedom is permitted, the exercise of authority
 4345 shall reflect the following values:

4346 (1) Respect for the privacy, dignity, and individuality of the child and his or her family;

4347 (2) Protection of the psychological and physical health of the child;

4348 (3) Tolerance of the diverse values and preferences among different groups and
 4349 individuals;

4350 (4) Assurance of equality of treatment by race, class, ethnicity, and sex;

4351 (5) Avoidance of regimentation and depersonalization of the child;

4352 (6) Avoidance of stigmatization of the child; and

4353 (7) Assurance that the child has been informed of his or her right to consult with an
4354 attorney and that, if the child is an indigent person, an attorney will be provided.

4355 (e) Before entering an order authorizing detention, the court shall determine whether
4356 continuation in the home is contrary to the child's welfare and whether there are available
4357 services that would prevent or eliminate the need for detention. The court shall make such
4358 determination on a case-by-case basis and shall make written findings of fact referencing
4359 any and all evidence relied upon in reaching its decision.

4360 (f) If a child can remain in the custody of his or her parent, guardian, or legal custodian
4361 through the provision of services to prevent the need for removal, the court shall order that
4362 such services shall be provided.

4363 15-11-416.

4364 (a) A child alleged or found to have committed a status offense may be held in a secure
4365 juvenile detention facility for more than 24 hours if:

4366 (1) The child is alleged to have violated a valid court order; and

4367 (2) At the continued custody hearing, the court finds that there is probable cause to
4368 believe that the child violated the court order.

4369 (b) If there is probable cause to believe that the child violated a valid court order, the child
4370 may be held in a secure juvenile detention facility until a violation hearing is held but in
4371 no event shall a child's detention prior to a violation hearing exceed 72 hours, excluding
4372 weekends and legal holidays.

4373 (c) At a violation hearing, the court may order that the child be placed in a secure juvenile
4374 detention facility if the court:

4375 (1) Affirms that the requirements for a valid court order were met at the time the original
4376 order finding the child to have committed a status offense was issued;

4377 (2) Finds that the child was afforded due process rights; and

4378 (3) Received and reviewed a written report prepared by DFCS that described the
4379 behavior of the child and the circumstances under which the child was brought before the
4380 court and made subject to such order; determined the reasons for the child's behavior; and
4381 determined whether all dispositions other than secure confinement have been exhausted
4382 or are clearly inappropriate.

4383 (d) A child in need of services who is alleged or found to have violated a valid court order
4384 remains a child in need of services and shall not be considered a delinquent child by virtue
4385 of such conduct.

4386 (e) If a child is to be held in secure detention under the valid court order exception, the
4387 report prepared by DFCS in accordance with subsection (c) of this Code section shall be
4388 provided to DJJ as the detention agency.

Part 5

4389

4390 15-11-420.

4391 All proceedings seeking an adjudication that a child is in need of services shall be initiated
4392 by a petition filed by the prosecuting attorney.

4393 15-11-421.

4394 (a) If a child is not released from temporary custody at the continued custody hearing, a
4395 petition seeking an adjudication that a child is in need of services shall be filed within five
4396 days of the continued custody hearing.

4397 (b) If the child was never taken into temporary custody or is released from temporary
4398 custody at the continued custody hearing, the petition seeking an adjudication that a child
4399 is in need of services shall be filed:

4400 (1) Within 30 days of the juvenile court intake officer's determination that a mandatory
4401 conference would be inappropriate or futile;

4402 (2) Within 30 days of the child's release from temporary custody if the court determines
4403 that the mandatory conference would be inappropriate or futile;

4404 (3) Within 30 days of a court determination that continuing participation in the informal
4405 family services plan procedure would be inappropriate or futile; or

4406 (4) Within 30 days of the conclusion of the period governed by the informal family
4407 services plan agreement if the child and family have not achieved the goals set out in such
4408 agreement and there are reasonable grounds to believe that the child is still in need of
4409 services.

4410 (c) Upon a showing of good cause and notice to all parties, the court may grant a requested
4411 extension of time for filing a petition seeking an adjudication that a child is in need of
4412 services in accordance with the best interests of the child. The court shall issue a written
4413 order reciting the facts justifying the extension.

4414 (d) If no petition seeking an adjudication that a child is in need of services is filed within
4415 the required time frame, the complaint may be dismissed without prejudice.

4416 15-11-422.

4417 (a) The petition seeking an adjudication that a child is in need of services shall be verified
4418 and may be on information and belief. It shall set forth plainly and with particularity:

4419 (1) The facts which bring the child within the jurisdiction of the court, with a statement
4420 that it is in the best interests of the child and the public that the proceeding be brought;

4421 (2) The name, date of birth, and residence address of the child on whose behalf such
4422 petition is being brought;

4423 (3) The name and residence address of the parent, guardian, or legal custodian of the
 4424 child; or, if neither the child's parent nor the child's guardian nor the child's legal
 4425 custodian resides or can be found within the state or if such place of residence address is
 4426 unknown, the name of any known adult relative residing within the county or, if there is
 4427 none, the known adult relative residing nearest to the location of the court;

4428 (4) The name, age, and residence address of any other family member living within the
 4429 child's home;

4430 (5) Whether all available and appropriate attempts to encourage voluntary use of
 4431 community services by the family have been exhausted; and

4432 (6) Whether any of the matters required by this subsection are unknown.

4433 (b) If a petition seeking an adjudication that a child is in need of services is based on a
 4434 complaint filed by a school official, such petition shall be dismissed unless it includes
 4435 information which shows that:

4436 (1) The legally liable school district has sought to resolve the expressed problem through
 4437 available educational approaches; and

4438 (2) The school district has sought to engage the parent, guardian, or legal custodian in
 4439 solving the problem but any such individual has been unwilling or unable to do so; that
 4440 the problem remains; and that court intervention is needed.

4441 (c) If a petition seeking an adjudication that a child is in need of services is based on a
 4442 complaint filed by a school official involving a child who is eligible or suspected to be
 4443 eligible for services under the federal Individuals with Disabilities Education Act or
 4444 Section 504 of the federal Rehabilitation Act, such petition shall be dismissed unless it
 4445 includes information which demonstrates that the legally liable school district:

4446 (1) Has determined that the child is eligible or suspected to be eligible under the federal
 4447 Individuals with Disabilities Education Act or Section 504 of the federal Rehabilitation
 4448 Act; and

4449 (2) Has reviewed for appropriateness the child's current Individualized Education
 4450 Program (IEP) and placement and has made modifications where appropriate.

4451 15-11-423.

4452 (a) The court shall direct the issuance of a summons to the child, the child's parent,
 4453 guardian, or legal custodian, DFCS and any other public agencies or institutions providing
 4454 services, and any other persons who appear to the court to be proper or necessary parties
 4455 to the child in need of services proceeding requiring them to appear before the court at the
 4456 time fixed to answer the allegations of the petition seeking an adjudication that a child is
 4457 in need of services. A copy of such petition shall accompany the summons.

4458 (b) The summons shall state that a party is entitled to an attorney in the proceedings and
4459 that the court will appoint an attorney if the party is an indigent person.

4460 (c) A party other than the child may waive service of summons by written stipulation or
4461 by voluntary appearance at the hearing.

4462 15-11-424.

4463 (a) If a party to be served with a summons is within this state and can be found, the
4464 summons shall be served upon him or her personally as soon as possible and at least 24
4465 hours before the adjudication hearing.

4466 (b) If a party to be served is within this state and cannot be found but his or her address is
4467 known or can be ascertained with reasonable diligence, the summons shall be served upon
4468 such party at least five days before the adjudication hearing by mailing him or her a copy
4469 by registered or certified mail or statutory overnight delivery, return receipt requested.

4470 (c) If a party to be served is outside this state but his or her address is known or can be
4471 ascertained with reasonable diligence, service of the summons shall be made at least five
4472 days before the adjudication hearing either by delivering a copy to such party personally
4473 or by mailing a copy to him or her by registered or certified mail or statutory overnight
4474 delivery, return receipt requested.

4475 (d) Service of the summons may be made by any suitable person under the direction of the
4476 court.

4477 (e) The court may authorize payment from county funds of the costs of service and of
4478 necessary travel expenses incurred by persons summoned or otherwise required to appear
4479 at the hearing on the petition seeking an adjudication that a child is in need of services.

4480 15-11-425.

4481 (a) In the event a parent, guardian, or legal custodian of the child willfully fails to appear
4482 personally at a hearing on the petition seeking an adjudication that a child is in need of
4483 services after being ordered to so appear or the parent, guardian, or legal custodian of the
4484 child willfully fails to bring the child to such hearing after being so directed, the court may
4485 issue a rule nisi against the person directing the person to appear before the court to show
4486 cause why he or she should not be held in contempt of court.

4487 (b) If the parent, guardian, or legal custodian fails to appear in response to an order to
4488 show cause, the court may issue a bench warrant directing that the parent, guardian, or
4489 legal custodian be brought before the court without delay to show cause why he or she
4490 should not be held in contempt and the court may enter any order authorized by the
4491 provisions of Code Section 15-11-31.

4492 (c) In the event an agency representative willfully fails to appear at a mandatory
4493 conference or a hearing on the petition seeking an adjudication that a child is in need of
4494 services after being ordered to so appear, the court may direct the appropriate agency
4495 representative to appear before the court to show cause why a contempt order should not
4496 issue.

4497 (d) If a child 16 years of age or older fails to appear at a hearing on the petition seeking
4498 an adjudication that a child is in need of services after being ordered to so appear, the court
4499 may issue a bench warrant requiring that the child be brought before the court without
4500 delay and the court may enter any order authorized by and in accordance with the
4501 provisions of Code Section 15-11-31.

4502 (e) If there is sworn testimony that a child 14 years of age but not yet 16 years of age
4503 willfully refuses to appear at a hearing on the petition seeking an adjudication that a child
4504 is in need of services after being ordered to so appear, the court may issue a bench warrant
4505 requiring that the child be brought before the court and the court may enter any order
4506 authorized by and in accordance with the provisions of Code Section 15-11-31.

4507 Part 6

4508 15-11-440.

4509 The petitioner has the burden of proving the allegations of a child in need of services
4510 petition beyond a reasonable doubt.

4511 15-11-441.

4512 (a) If a child is in continued custody but not in secure detention, the adjudication hearing
4513 shall be scheduled to be held no later than ten days after the filing of the petition seeking
4514 an adjudication that a child is in need of services. If the child is not in continued custody,
4515 the adjudication hearing shall be scheduled to be held no later than 60 days after the filing
4516 of such petition.

4517 (b) At the conclusion of the adjudication hearing, the court shall determine whether the
4518 child is a child in need of services.

4519 15-11-442.

4520 (a) If the court finds the child is in need of services, a final disposition hearing shall be
4521 held and completed within 30 days of the conclusion of the adjudication hearing.

4522 (b) The court shall order the least restrictive and most appropriate disposition. Such
4523 disposition may include:

- 4524 (1) Permitting the child to remain with the child's caregiver without limitations or
4525 conditions;
- 4526 (2) Permitting the child to remain with the child's caregiver subject to such limitations
4527 and conditions as the court may prescribe, including ordering the child, the family, or
4528 both to undergo physical examination or treatment, accept individual or family
4529 counseling, or submit to psychiatric examination or treatment or psychological
4530 examination or treatment as determined by the court;
- 4531 (3) Placing the child on probation on such terms and conditions as deemed in the best
4532 interests of the child and the public. An order granting probation to a child in need of
4533 services may be revoked on the ground that the terms and conditions of the probation
4534 have not been observed;
- 4535 (4) Requiring that the child perform community service in a manner prescribed by the
4536 court and under the supervision of an individual designated by the court;
- 4537 (5) Requiring that the child make restitution. A restitution order may remain in force and
4538 effect simultaneously with another order of the court. Payment of funds shall be made
4539 by the child or the child's family or employer directly to the clerk of the juvenile court
4540 entering the order or another employee of that court designated by the judge, and such
4541 court shall disburse such funds in the manner authorized in the order. While an order
4542 requiring restitution is in effect, the court may transfer enforcement of its order to:
- 4543 (A) The juvenile court of the county of the child's residence and its probation staff, if
4544 the child changes his or her place of residence; or
- 4545 (B) A superior court once the child reaches 18 years of age if the child thereafter comes
4546 under the jurisdiction of the superior court;
- 4547 (6) Imposing a fine on a child who has committed an offense which, if committed by an
4548 adult, would be a violation under the criminal laws of this state or has violated an
4549 ordinance or bylaw of a county, city, town, or consolidated government. Such fine shall
4550 not exceed the fine which may be imposed against an adult for the same offense;
- 4551 (7) Requiring the child to attend structured after-school or evening programs or other
4552 court approved programs as well as requiring supervision of the child during the time of
4553 the day in which the child most often used to perform the acts complained of in the
4554 petition alleging that the child is in need of services;
- 4555 (8) Any order authorized for the disposition of a dependent child;
- 4556 (9) Assigning the child to the custody of a private or public institution or agency
4557 including committing the child to DJJ. A child shall not be placed in a correctional
4558 facility designed and operated exclusively for delinquent children, nor shall such facility
4559 accept the child, unless the child has violated a valid court order; or

4560 (10) Any combination of the dispositions set forth in paragraphs (1) through (9) of this
4561 subsection as the court deems to be in the best interests of the child and the public.

4562 (c) The court may make orders relative to the support and maintenance of the child during
4563 the period after the child's eighteenth birthday as permitted by law.

4564 (d) All disposition orders shall include written findings as to the basis for the disposition
4565 and such conditions as the court imposes and a specific plan of the services to be provided.

4566 15-11-443.

4567 (a) An order of disposition shall be in effect for the shortest time necessary to accomplish
4568 the purposes of the order and for not more than two years. A written disposition order shall
4569 state the length of time the order is to be in effect. An order of extension may be made if:

4570 (1) A hearing is held prior to the expiration of the order upon motion of DFCS, DJJ, the
4571 prosecuting attorney, or on the court's own motion;

4572 (2) Reasonable notice of the factual basis of the motion and of the hearing and
4573 opportunity to be heard are given to the parties affected;

4574 (3) The court finds that the extension is necessary to accomplish the purposes of the
4575 order extended; and

4576 (4) The extension does not exceed two years from the expiration of the prior order.

4577 (b) The court may terminate an order of disposition or an extension of such a disposition
4578 order prior to its expiration, on its own motion or an application of a party, if it appears to
4579 the court that the purposes of the order have been accomplished.

4580 (c) When a child reaches 18 years of age, all orders affecting him or her then in force shall
4581 terminate and he or she shall be discharged from further obligation or control.

4582 15-11-444.

4583 (a) An order granting probation to a child found to be a child in need of services may be
4584 revoked on the ground that the conditions of probation have been violated.

4585 (b) Any violation of a condition of probation may be reported to the prosecuting attorney
4586 who may file a motion in court for revocation of probation. A motion for revocation of
4587 probation shall contain specific factual allegations constituting each violation of a condition
4588 of probation.

4589 (c) The motion shall be served upon the child, his or her attorney, and parent, guardian,
4590 or legal custodian in accordance with the provisions of Code Section 15-11-424.

4591 (d) If a child is taken into custody because of the alleged violation of probation, the
4592 provisions governing the detention of a child under this article shall apply.

4593 (e) A revocation hearing shall be scheduled to be held no later than 30 days after the filing
 4594 of a motion to revoke probation or, if the child has been detained as a result of the filing
 4595 of the motion for revocation, in accordance with Code Section 15-11-416.

4596 (f) If the court finds, beyond a reasonable doubt, that a child violated the terms and
 4597 conditions of probation, the court may:

4598 (1) Extend probation;

4599 (2) Impose additional conditions of probation;

4600 (3) Impose the secure probation sanctions program as defined in Code Section
 4601 15-11-471; or

4602 (4) Make any disposition that could have been made at the time probation was imposed.

4603 15-11-445.

4604 The court shall review the disposition of a child in need of services at least once within
 4605 three months after such disposition and at least every six months thereafter so long as the
 4606 order of disposition is in effect.

4607 Part 7

4608 15-11-450.

4609 The periodic review hearing requirements under Article 3 of this chapter shall apply to
 4610 proceedings involving a child alleged or found to be a child in need of services and placed
 4611 in an eligible shelter care placement.

4612 15-11-451.

4613 (a) The permanency plan requirements under Article 3 of this chapter shall apply to
 4614 proceedings involving a child alleged or found to be a child in need of services and placed
 4615 in an eligible shelter care placement.

4616 (b) In addition to those compelling reasons set forth in Code Section 15-11-233, a
 4617 compelling reason for determining that filing a termination of parental rights petition is not
 4618 in the best interests of a child in need of services may include, but shall not be limited to:

4619 (1) The child needs continued out-of-home placement for an additional number of
 4620 months and the parent, guardian, or legal custodian has cooperated with referrals,
 4621 visitation, and family conferences as well as therapy;

4622 (2) The child is habitually truant and absconds from the home, the current placement
 4623 setting has an on-site school with therapeutic intervention and restricted leave policies,
 4624 and the child and parent are cooperative with services and referrals; or

4625 (3) The child is uncooperative with services or referrals.

Part 8

4626

4627 15-11-460.

4628 (a) After determining, in accordance with the provisions of Article 8 of this chapter, that
4629 a child who has been alleged to have committed a delinquent act is unrestorably
4630 incompetent to stand trial and the court makes a finding that the child is a child in need of
4631 services, the court shall appoint a plan manager, if one has not already been appointed, to
4632 direct the development of a mental health plan for such child.

4633 (b) A mental health plan shall be developed at a meeting of all relevant parties convened
4634 by the plan manager. The plan manager shall request that the following persons attend
4635 such meeting:

4636 (1) The parent, guardian, or legal custodian of the child;

4637 (2) The child's attorney;

4638 (3) The prosecuting attorney;

4639 (4) The child's guardian ad litem, if any;

4640 (5) Mental health or mental retardation representatives;

4641 (6) The child's caseworker;

4642 (7) A representative from the child's school; and

4643 (8) Any family member of the child who has shown an interest and involvement in the
4644 child's well-being.

4645 (c) The plan manager may request that other relevant persons attend the mental health plan
4646 meeting including but not limited to the following:

4647 (1) A representative from the Division of Public Health of the Department of Community
4648 Health;

4649 (2) A DFCS caseworker; and

4650 (3) Representatives of the public and private resources to be utilized in the plan.

4651 (d) The plan manager shall be responsible for collecting all previous histories of the child,
4652 including, but not limited to, previous evaluations, assessments, and school records and for
4653 making such histories available for consideration by the persons at the mental health plan
4654 meeting.

4655 (e) Unless a time extension is granted by the court, the plan manager shall submit the
4656 mental health plan to the court within 30 days of the entry of the court's disposition order
4657 for a child found to be unrestorably incompetent to stand trial under Article 8 of this
4658 chapter. The plan shall include the following:

4659 (1) An outline of the specific provisions for supervision of the child for protection of the
4660 community and the child;

- 4661 (2) An outline of a plan designed to provide treatment, habilitation, support, or
4662 supervision services in the least restrictive environment;
- 4663 (3) If the child's evaluation recommends treatment in a secure environment, certification
4664 by the plan manager that all other appropriate community based treatment options have
4665 been exhausted; and
- 4666 (4) Identification of all parties, including the child, agency representatives, and other
4667 persons responsible for each element of the plan.
- 4668 (f) The plan manager shall also be responsible for:
- 4669 (1) Convening a meeting of all parties and representatives of all agencies prior to the
4670 mental health plan hearing and review hearings;
- 4671 (2) Identifying to the court any person who should provide testimony at the mental health
4672 plan hearing; and
- 4673 (3) Monitoring the mental health plan, presenting to the court amendments to the plan
4674 as needed, and presenting evidence to the court for the reapproval of the plan at
4675 subsequent review hearings.
- 4676 15-11-461.
- 4677 (a) The court shall hold a mental health plan hearing within 30 days after the mental health
4678 plan has been submitted to the court for the purpose of approving the plan. Thereafter, the
4679 court shall hold a mental health plan hearing every six months for the purpose of reviewing
4680 the child's condition and approving the mental health plan.
- 4681 (b) The persons required to be notified of the mental health plan hearing and witnesses
4682 identified by the plan manager shall be given at least ten days' prior notice of the hearing
4683 and any subsequent hearing to review the child's condition and shall be afforded an
4684 opportunity to be heard at any such hearing. The victim, if any, of the child's alleged
4685 delinquent act shall also be provided with the same ten days' prior notice and shall be
4686 afforded an opportunity to be heard and to present a victim impact form to the court at the
4687 mental health plan hearing. The judge shall make a determination regarding sequestration
4688 of witnesses in order to protect the privileges and confidentiality rights of the child.
- 4689 (c) At the mental health plan hearing, the court shall enter an order incorporating a mental
4690 health plan as part of the disposition of the mental health plan hearing. At the time of the
4691 disposition, the child shall be placed in an appropriate treatment setting, as recommended
4692 by the examiner, unless the child has already been placed in an appropriate treatment
4693 setting pursuant to subsection (g) of Code Section 15-11-656.
- 4694 (d) If, during the mental health plan hearing or any subsequent review hearing, the court
4695 determines that the child meets criteria for civil commitment, the child shall be committed
4696 to a secure treatment facility.

4697 (e) At any time, in the event of a change in circumstances regarding the child, the court on
 4698 its own motion or on the motion of the attorney representing the child, any guardian ad
 4699 litem for the child, the prosecuting attorney, or the plan manager may set a hearing for
 4700 review of the mental health plan and any proposed amendments to such plan. The court
 4701 may issue an appropriate order incorporating an amended plan.

4702 (f) If a child is under a mental health plan when he or she reaches the age of 18, the plan
 4703 manager shall make a referral for appropriate adult services.

4704 ARTICLE 7

4705 Part 1

4706 15-11-470.

4707 The purpose of this article is:

4708 (1) Consistent with the protection of the public interest, to hold a child committing
 4709 delinquent acts accountable for his or her actions, taking into account the child's age,
 4710 education, mental and physical condition, background, and all other relevant factors but
 4711 to mitigate the adult consequences of criminal behavior;

4712 (2) To accord due process of law to each child who is accused of having committed a
 4713 delinquent act;

4714 (3) To provide for a child committing delinquent acts programs of supervision, care, and
 4715 rehabilitation which ensure balanced attention to the protection of the community, the
 4716 imposition of accountability, and the development of competencies to enable a child to
 4717 become a responsible and productive member of the community;

4718 (4) To promote a continuum of services for a child and his or her family from prevention
 4719 to aftercare, considering, whenever possible, prevention, diversion, and early
 4720 intervention, including an emphasis on community based alternatives;

4721 (5) To provide effective sanctions to acts of juvenile delinquency; and

4722 (6) To strengthen families and to successfully reintegrate children into homes and
 4723 communities.

4724 15-11-471.

4725 As used in this article, the term:

4726 (1) 'AIDS transmitting crime' means aggravated child molestation, aggravated sodomy,
 4727 child molestation, incest, prostitution, rape, sodomy, solicitation of sodomy, statutory
 4728 rape, or any offense involving a violation of Article 2 of Chapter 13 of Title 16 if such
 4729 offense involves heroin, cocaine, derivatives of either, or any other controlled substance

4730 in Schedule I, II, III, IV, or V and that other substance is commonly intravenously
 4731 injected, as determined by the regulations of the department.

4732 (2) 'Arrestment' means the formal act of calling the child into open court, informing
 4733 him or her of the allegations of the petition alleging delinquency, and the entry of a
 4734 preliminary statement, if any, indicating whether the child shall admit or deny the
 4735 allegations of such petition.

4736 (3) 'Community rehabilitation center' means a rehabilitation and custodial center
 4737 established within a county for the purpose of assisting in the rehabilitation of delinquent
 4738 children and children in need of services in a neighborhood and family environment in
 4739 cooperation with community educational, medical, and social agencies. Such center
 4740 shall:

4741 (A) Be located within any county having a juvenile court presided over by at least one
 4742 full-time judge exercising jurisdiction exclusively over juvenile matters; and

4743 (B) Be operated by a nonprofit corporation organized under Chapter 3 of Title 14, the
 4744 'Georgia Nonprofit Corporation Code,' and have a full-time chief executive officer. The
 4745 charter, bylaws, and method of selecting the board of directors and chief executive
 4746 officer of such nonprofit corporation shall be subject to the unanimous approval of the
 4747 chief judge of the judicial circuit in which the county is located, the judge or judges of
 4748 the juvenile court, the superintendent of the county school district, and the
 4749 commissioner of juvenile justice, which approval shall be in writing and shall be
 4750 appended to the charter and bylaws of the nonprofit organization. Any amendment of
 4751 the charter or bylaws of the nonprofit corporation shall be subject to the same written
 4752 approval as the original charter and bylaws.

4753 (4) 'Determined to be infected with HIV' means having a confirmed positive human
 4754 immunodeficiency virus ('HIV') test or having been clinically diagnosed as having AIDS.

4755 (5) 'Graduated sanctions' means:

4756 (A) Verbal and written warnings;

4757 (B) Increased restrictions and reporting requirements;

4758 (C) Community service;

4759 (D) Referral to treatment and counseling programs in the community;

4760 (E) Weekend programming;

4761 (F) Electronic monitoring, as such term is defined in Code Section 42-8-151;

4762 (G) Curfew;

4763 (H) An intensive supervision program; or

4764 (I) A home confinement program.

4765 (6) 'Hearing officer' means a DJJ employee or county juvenile probation office
 4766 employee, as applicable, who has been selected and appointed by DJJ or the county

4767 juvenile probation office, as applicable, to hear cases alleging violations of probation for
4768 administrative sanctioning. A hearing officer shall not be a probation officer who has
4769 direct supervision over the child who is the subject of the hearing.

4770 (7) 'HIV test' means any antibody, antigen, viral particle, viral culture, or other test to
4771 indicate the presence of HIV in the human body, which test has been approved for such
4772 purposes by the regulations of the department.

4773 (8) 'Intensive supervision' means the monitoring of a child's activities on a more frequent
4774 basis than regular aftercare supervision, pursuant to regulations of the commissioner of
4775 juvenile justice.

4776 (9) 'Preadjudication custody' begins when a juvenile court intake officer authorizes the
4777 placement of a child in a regional youth detention center.

4778 (10) 'Probation management program' means a special condition of probation that
4779 includes graduated sanctions.

4780 (11) 'Secure probation sanctions program' means secure confinement of seven, 14, or 30
4781 days.

4782 15-11-472.

4783 (a) A detention hearing shall be held promptly and no later than:

4784 (1) Two business days after the child is placed in preadjudication custody if the child is
4785 taken into custody without an arrest warrant; or

4786 (2) Three business days after the child is placed in preadjudication custody if the child
4787 is taken into custody pursuant to an arrest warrant.

4788 (b) If a child is placed in preadjudication custody without an arrest warrant and the
4789 detention hearing cannot be held within 48 hours because the expiration of the 48 hours
4790 falls on a weekend or legal holiday, the court shall review the decision to detain a child and
4791 make a finding based on probable cause within 48 hours of the child being placed in
4792 preadjudication custody.

4793 (c) If a child is released from preadjudication custody at the detention hearing or was never
4794 taken into custody, the following time frames apply:

4795 (1) If filed, the petition alleging delinquency shall be heard within 30 days of the filing
4796 of the complaint or within 30 days of the child's release from preadjudication custody;

4797 (2) Summons shall be served at least 72 hours before the adjudication hearing;

4798 (3) The arraignment hearing shall be scheduled no later than 30 days after the filing of
4799 the petition alleging delinquency;

4800 (4) The adjudication hearing shall be held no later than 60 days from the filing of the
4801 petition alleging delinquency; and

4802 (5) The disposition hearing shall be held within 30 days of the adjudication hearing
 4803 unless the court makes written findings of fact explaining the delay.

4804 (d) If a child is not released from preadjudication custody at the detention hearing, the
 4805 following time frames apply:

4806 (1) The petition alleging delinquency shall be filed within 72 hours of the detention
 4807 hearing;

4808 (2) Summons shall be served at least 72 hours before the adjudication hearing;

4809 (3) The adjudication hearing shall be held no later than ten days after the filing of the
 4810 petition alleging delinquency; and

4811 (4) The disposition hearing shall be held within 30 days of the adjudication hearing
 4812 unless the court makes written findings of fact explaining the delay.

4813 15-11-473.

4814 (a) A prosecuting attorney shall conduct delinquency proceedings on behalf of the state.

4815 (b) Except as provided in Article 10 of this chapter, in any delinquency proceeding, the
 4816 prosecuting attorney shall be entitled to complete access to all court files, probation files,
 4817 hearing transcripts, delinquency reports, and any other juvenile court records. It shall be
 4818 the duty of the clerk, probation officers of the juvenile court, and DJJ to assist the
 4819 prosecuting attorney in obtaining any requested items.

4820 15-11-474.

4821 (a) The child and the state shall be parties at all stages of delinquency proceedings.

4822 (b) The child's parent, guardian, or legal custodian shall have the right to notice, the right
 4823 to be present in the courtroom, and the opportunity to be heard at all stages of delinquency
 4824 proceedings.

4825 (c) DJJ shall receive notice of the disposition hearing.

4826 15-11-475.

4827 (a) A child shall have the right to be represented by an attorney at all proceedings under
 4828 this article.

4829 (b) A child's parent, guardian, or legal custodian shall not waive the child's right to be
 4830 represented by an attorney.

4831 (c) A child may waive the right to an attorney only after consultation with an attorney.

4832 (d) Prior to the detention hearing, if any, the court shall appoint a qualified and competent
 4833 attorney to represent the child unless an attorney has been retained and appears on behalf
 4834 of the child. Nothing in this subsection shall prohibit a judge from releasing a child from
 4835 detention prior to appointment of an attorney.

4836 (e) Upon presentation by an attorney for the child of the order of appointment or a court
4837 order specifically allowing such access, any state or local agency, department, authority,
4838 or institution and any school, hospital, physician, or other health or mental health care
4839 provider shall permit the child's attorney to inspect and copy, without the consent of the
4840 child or the child's parent, guardian, or legal custodian, any records relating to the child
4841 involved in the case.

4842 15-11-476.

4843 (a) The court shall appoint a separate guardian ad litem whenever:

4844 (1) A child appears before the court without a parent, guardian, or legal custodian;

4845 (2) It appears to the court that the child's parent, guardian, or legal custodian is incapable
4846 or unwilling to make decisions in the best interests of the child with respect to
4847 proceedings under this article such that there may be a conflict of interest between the
4848 child and his or her parent, guardian, or legal custodian; or

4849 (3) The court finds that it is otherwise in the child's best interests to do so.

4850 (b) The role of a guardian ad litem in a delinquency proceeding shall be the same role as
4851 provided for in all dependency proceedings under Article 3 of this chapter.

4852 (c) Neither the child's attorney nor the child's parent, guardian, or legal custodian shall
4853 prohibit or impede access to the child by the guardian ad litem.

4854 15-11-477.

4855 A continuance shall be granted only upon a showing of good cause and only for that period
4856 of time shown to be necessary by the moving party at the hearing on the motion.
4857 Whenever any continuance is granted, the facts which require the continuance shall be
4858 entered into the court record.

4859 15-11-478.

4860 Statements made in the course of intake screening of a child or in the course of treatment,
4861 evaluation, or any other related services shall be inadmissible and shall not be considered
4862 by the court.

4863 15-11-479.

4864 (a) When a child enters a denial to the petition alleging delinquency, jeopardy attaches
4865 when the first witness is sworn at the adjudication hearing.

4866 (b) When a child enters an admission to the petition alleging delinquency, jeopardy
4867 attaches when the court accepts the admission.

4868 15-11-480.

4869 (a) When a child is alleged to be delinquent and is placed in an eligible shelter care
 4870 placement, DJJ shall develop and complete the child's case plan. When the child is in
 4871 DFCS custody, DJJ shall cooperate with DFCS in developing and completing the child's
 4872 case plan.

4873 (b) In addition to the case plan requirements of Code Section 15-11-201, the case plan for
 4874 a child in delinquency proceedings shall include:

4875 (1) A description of the child's strengths and needs;

4876 (2) A description of specific parental strengths and needs;

4877 (3) A description of other personal, family, or environmental problems that contribute
 4878 to the child's delinquent behaviors;

4879 (4) A description of the safety, physical, and mental health needs of the child;

4880 (5) Identification of the least restrictive placement to safeguard the child's best interests
 4881 and protect the community;

4882 (6) An assessment of the availability of community resources to address the child's and
 4883 family's needs;

4884 (7) An assessment of the availability of court diversion services; and

4885 (8) An assessment of the availability of other preventive measures.

4886 15-11-481.

4887 (a) In any delinquency proceeding in which a petition has been filed, the juvenile court
 4888 shall notify any victim of a delinquent child's alleged delinquent act that the victim may
 4889 submit a victim impact form as provided in Code Section 17-10-1.1 if:

4890 (1) The allegedly delinquent child, in conduct which would constitute a felony if
 4891 committed by an adult, caused physical, psychological, or economic injury to the victim;
 4892 or

4893 (2) The allegedly delinquent child, in conduct which would constitute a misdemeanor if
 4894 committed by an adult, caused serious physical injury or death to the victim.

4895 (b) The provisions of subsection (e) of Code Section 17-10-1.1 shall apply to the use and
 4896 disclosure of the victim impact form.

4897 (c) The victim may complete the victim impact form and submit such form to the juvenile
 4898 court. If the victim is unable to do so because of such victim's mental, emotional, or
 4899 physical incapacity, or because of such victim's age, the victim's attorney or a family
 4900 member may complete the victim impact form on behalf of the victim.

4901 (d) Prior to the imposition of a dispositional order for an allegedly delinquent child, the
 4902 juvenile court shall permit the victim to address the juvenile court and present any
 4903 information or opinions that concern the victim or the victim's family, including the impact

4904 of the delinquent act on the victim, the harm caused by the allegedly delinquent child and
 4905 the delinquent act, the need for restitution, or the terms of the disposition order. Such
 4906 statement shall be given in the presence of the allegedly delinquent child and shall be
 4907 subject to cross-examination. The prosecuting attorney and the allegedly delinquent child
 4908 shall be afforded the opportunity to explain, support, or deny the victim's statement. It
 4909 shall be the duty of the juvenile court to advise the victim of the right to address the court
 4910 prior to the entry of a dispositional order for a delinquent child. The victim shall have the
 4911 discretion to exercise the right to be present and be heard at the dispositional hearing. If
 4912 the victim is voluntarily absent from the dispositional hearing, such absence shall constitute
 4913 a waiver of the rights provided by this subsection.

4914 (e) Except as provided in subsection (d) of this Code section, no disposition of the child
 4915 shall be invalidated because of failure to comply with the provisions of this Code section.
 4916 This Code section shall not be construed to create any cause of action or any right of appeal
 4917 on behalf of the victim, the state, or the accused; provided, however, that if the court
 4918 intentionally fails to comply with this Code section, the victim may file a complaint with
 4919 the Judicial Qualifications Commission.

4920 15-11-482.

4921 In accordance with Code Sections 15-11-30 and 15-11-32, DJJ may release a child in DJJ
 4922 custody in connection with legal holidays and available resources to transport the child.

4923 Part 2

4924 15-11-490.

4925 (a) A proceeding under this article may be commenced:

4926 (1) In the county in which the child legally resides; or

4927 (2) In any county in which the alleged delinquent acts occurred.

4928 (b) If the adjudicating court finds that a nonresident child has committed a delinquent act,
 4929 the adjudicating court may retain jurisdiction over the disposition of the nonresident child
 4930 or may transfer the proceeding to the county of the child's residence for disposition. Like
 4931 transfer may be made if the residence of the child changes pending the proceeding.

4932 (c) If the adjudicating court retains jurisdiction, prior to making any order for disposition
 4933 of the nonresident child, the adjudicating court shall communicate to the court of the
 4934 county of the child's residence the fact that the child has been found to have committed a
 4935 delinquent act. Such communication shall state the date upon which the adjudicating court
 4936 plans to enter an order for disposition of the nonresident child and shall request any
 4937 information or recommendations relevant to the disposition of the nonresident child. Any

4938 such recommendation shall be considered by but shall not be binding upon the adjudicating
4939 court in making its order for disposition.

4940 (d) When any case is transferred, certified copies of all documents and records pertaining
4941 to the case on file with the clerk of the court shall accompany the transfer. Compliance
4942 with this subsection shall terminate jurisdiction in the transferring court and initiate
4943 jurisdiction in the receiving court.

4944 Part 3

4945 15-11-500.

4946 If it appears from a filed affidavit or from sworn testimony before the court that the
4947 conduct, condition, or surroundings of the child are endangering the child's health or
4948 welfare or those of others or that the child may abscond or be removed from the
4949 jurisdiction of the court or will not be brought before the court, notwithstanding the service
4950 of the summons, the court may endorse upon the summons an order that a law enforcement
4951 officer shall serve the summons and take the child into immediate custody and bring the
4952 child forthwith before the court.

4953 15-11-501.

4954 (a) A child may be taken into custody:

4955 (1) Pursuant to an order of the court under this article, including an order to a DJJ
4956 employee to apprehend:

4957 (A) A child who has escaped from an institution or facility operated by DJJ; or

4958 (B) A child who has been placed under supervision and who has violated its
4959 conditions;

4960 (2) Pursuant to the laws of arrest; or

4961 (3) By a law enforcement officer or duly authorized officer of the court if there are
4962 reasonable grounds to believe that the child has committed a delinquent act.

4963 (b) A law enforcement officer taking a child into custody shall promptly give notice
4964 together with a statement of the reasons for taking the child into custody to a parent,
4965 guardian, or legal custodian and to the court.

4966 (c) When a child who is taken into custody has committed an act which would constitute
4967 a felony if committed by an adult, the juvenile court, within 48 hours after it learns of the
4968 child having been taken into custody, shall notify the prosecuting attorney of the judicial
4969 circuit in which the juvenile proceedings are to be instituted.

4970 15-11-502.

4971 (a) A person taking a child into custody, with all reasonable speed and without first taking
 4972 the child elsewhere, shall:

4973 (1) Immediately release the child, without bond, to the child's parent, guardian, or legal
 4974 custodian upon such person's promise to bring the child before the court when requested
 4975 by the court;

4976 (2) Immediately deliver the child to a medical facility if the child is believed to suffer
 4977 from a serious physical condition or illness which requires prompt treatment and, upon
 4978 delivery, shall promptly contact a juvenile court intake officer. Immediately upon being
 4979 notified by the person taking a child into custody, the juvenile court intake officer shall
 4980 determine if the child should be released, remain in protective custody, or be brought
 4981 before the court; or

4982 (3) Bring the child immediately before the juvenile court or promptly contact a juvenile
 4983 court intake officer. The court or juvenile court intake officer shall determine if the child
 4984 should be released or detained. All determinations and court orders regarding detention
 4985 shall comply with the requirements of this article and shall be based on an individual
 4986 assessment of the child and the child's circumstances. Such assessment shall include
 4987 completion and review of a detention assessment instrument developed by the Governor's
 4988 Office for Children and Families in consultation with DJJ and the Council of Juvenile
 4989 Court Judges.

4990 (b) Notwithstanding subsection (a) of this Code section, a law enforcement officer may
 4991 detain a child for a reasonable period of time sufficient to conduct interrogations and
 4992 perform routine law enforcement procedures including, but not limited to, fingerprinting,
 4993 photographing, and the preparation of any necessary records.

4994 (c) Prior to a detention hearing, a child shall be placed in detention, if necessary, only in
 4995 such places as are authorized by Code Section 15-11-504.

4996 15-11-503.

4997 (a) Restraints on the freedom of a child prior to adjudication shall be imposed only when
 4998 there is probable cause to believe that the child committed the act of which he or she is
 4999 accused, that there is clear and convincing evidence that the child's freedom should be
 5000 restrained, that no less restrictive alternatives will suffice, and that:

5001 (1) The child's detention or care is required to reduce the likelihood that the child may
 5002 inflict serious bodily harm on others during the interim period;

5003 (2) The child has a demonstrated pattern of theft or destruction of property such that
 5004 detention is required to protect the property of others;

- 5005 (3) The child's detention is necessary to secure the child's presence in court to protect the
5006 jurisdiction and processes of the court; or
- 5007 (4) An order for the child's detention has been made by the court.
- 5008 (b) All children who are detained shall be informed of their right to bail as provided by
5009 Code Section 15-11-507.
- 5010 (c) A child shall not be detained:
- 5011 (1) To punish, treat, or rehabilitate the child;
5012 (2) To allow a parent to avoid his or her legal responsibilities;
5013 (3) To satisfy demands by a victim, law enforcement, or the community;
5014 (4) To permit more convenient administrative access to the child;
5015 (5) To facilitate further interrogation or investigation; or
5016 (6) Due to a lack of a more appropriate facility.
- 5017 (d) Whenever a child cannot be unconditionally released, conditional or supervised release
5018 that results in the least necessary interference with the liberty of the child shall be favored
5019 over more intrusive alternatives.
- 5020 (e) Whenever the curtailment of a child's freedom is permitted, the exercise of authority
5021 shall reflect the following values:
- 5022 (1) Respect for the privacy, dignity, and individuality of the child and his or her family;
5023 (2) Protection of the psychological and physical health of the child;
5024 (3) Tolerance of the diverse values and preferences among different groups and
5025 individuals;
5026 (4) Assurance of equality of treatment by race, class, ethnicity, and sex;
5027 (5) Avoidance of regimentation and depersonalization of the child;
5028 (6) Avoidance of stigmatization of the child; and
5029 (7) Assurance that the child has been informed of his or her right to consult with an
5030 attorney and that, if the child is an indigent person, an attorney will be provided.
- 5031 (f) Before entering an order authorizing detention, the court shall determine whether
5032 continuation in the home is contrary to the child's welfare and whether there are available
5033 services that would prevent or eliminate the need for detention. The court shall make that
5034 determination on a case-by-case basis and shall make written findings of fact referencing
5035 any and all evidence relied upon in reaching its decision.
- 5036 (g) If the child can remain in the custody of his or her parent, guardian, or legal custodian,
5037 through the provision of services to prevent the need for removal, the court shall order that
5038 such services shall be provided.
- 5039 15-11-504.
- 5040 (a) A child alleged to be delinquent may be detained only in:

- 5041 (1) A licensed foster home;
5042 (2) A home approved by the court which may be a public or private home;
5043 (3) The home of a noncustodial parent or of a relative;
5044 (4) A facility operated by a licensed child welfare agency; or
5045 (5) A detention home or center for delinquent children which is under the direction or
5046 supervision of the court or other public authority or of a private agency approved by the
5047 court.
- 5048 (b) Placement shall be made in the least restrictive facility available consistent with the
5049 best interests of the child.
- 5050 (c) A child 15 years of age or older and alleged to be delinquent may be held in a jail or
5051 other facility for the detention of adults for identification or processing procedures or while
5052 awaiting transportation only as long as necessary to complete such activities for up to six
5053 hours, or for up to 24 hours in nonmetropolitan areas, if all of the following apply:
- 5054 (1) The child is detained for the commission of a crime that would constitute a
5055 designated felony or a serious violent felony as defined in Code Section 17-10-6.1;
5056 (2) The child is awaiting a detention hearing;
5057 (3) The child's detention hearing is scheduled within 24 hours after being taken into
5058 custody, excluding weekends and legal holidays;
5059 (4) There is no existing acceptable alternative placement for the child; and
5060 (5) The jail or other facility for the detention of adults provides sight and sound
5061 separation for juveniles which includes:
- 5062 (A) Total separation between juveniles and adult facility spatial areas such that there
5063 is no verbal, visual, or physical contact and there could be no haphazard or accidental
5064 contact between juvenile and adult residents in the respective facilities;
5065 (B) Total separation in all juvenile and adult program activities within the facilities,
5066 including recreation, education, counseling, health care, dining, sleeping, and general
5067 living activities;
5068 (C) Continuous visual supervision of the child; and
5069 (D) Separate juvenile and adult staff, specifically direct care staff such as recreation,
5070 education, and counseling, although specialized services staff, such as cooks,
5071 bookkeepers, and medical professionals who are not normally in contact with detainees
5072 or whose infrequent contacts occur under conditions of separation of juvenile and
5073 adults, can serve both.
- 5074 (d) A child shall not be transported with adults who have been charged with or convicted
5075 of a crime. DJJ may transport a child with children who have been charged with or
5076 convicted of a crime in superior court.

5077 (e) The official in charge of a jail or other facility for the detention of adult offenders or
5078 persons charged with crime shall inform the court or the juvenile court intake officer
5079 immediately when a child, who appears to be under the age of 17 years, is received at such
5080 facility and shall deliver the child to the court upon request or transfer the child to the
5081 facility designated by the juvenile court intake officer or the court.

5082 (f) All facilities shall maintain data on each child detained and such data shall be recorded
5083 and retained by the facility for three years and shall be made available for inspection during
5084 normal business hours by any court exercising juvenile court jurisdiction, by DJJ, and by
5085 the Council of Juvenile Court Judges. The required data are:

5086 (1) Name;

5087 (2) Date of birth;

5088 (3) Sex;

5089 (4) Race;

5090 (5) Offense or offenses for which being detained;

5091 (6) Date of and authority for confinement;

5092 (7) Date of and authority for release or transfer; and

5093 (8) Where transferred or to whom released.

5094 15-11-505.

5095 If a child is brought before the court or delivered to a detention or eligible shelter care
5096 facility designated by the court, the juvenile court intake officer shall immediately make
5097 an investigation and release the child unless it appears that the child's detention is
5098 warranted.

5099 15-11-506.

5100 (a) A detention hearing shall be held to determine whether preadjudication custody of a
5101 child is required. If such hearing is not held within the time specified, the child shall be
5102 released from detention or eligible shelter care.

5103 (b) If a child is detained and is not released from preadjudication custody, a detention
5104 hearing shall be held promptly and not later than:

5105 (1) Two business days after the child is placed in preadjudication custody if the child is
5106 taken into custody without an arrest warrant; or

5107 (2) Three business days after the child is placed in preadjudication custody if the child
5108 is taken into custody pursuant to an arrest warrant.

5109 (c) If the detention hearing cannot be held within two business days, in accordance with
5110 paragraph (1) of subsection (b) of this Code section, because the date for the hearing falls
5111 on a weekend or legal holiday, the court shall review the decision to detain a child and

5112 make a finding based on probable cause within 48 hours of the child being placed in
5113 preadjudication custody.

5114 (d) Reasonable oral or written notice of the detention hearing, stating the time, place, and
5115 purpose of the hearing, shall be given to the child and to the child's parent, guardian, or
5116 legal custodian, if he or she can be found. In the event the child's parent, guardian, or legal
5117 custodian cannot be found, the court shall forthwith appoint a guardian ad litem for the
5118 child.

5119 (e) If the child alleged to be delinquent is not released from preadjudication custody and
5120 a parent, guardian, or legal custodian or guardian ad litem, if any, has not been notified of
5121 the hearing and did not appear or waive appearance at the hearing and thereafter files the
5122 affidavit showing such party was not notified of such hearing, the court shall rehear the
5123 matter without unnecessary delay and shall order the child's release unless it appears from
5124 the hearing that the child's detention or eligible shelter care is required.

5125 (f) At the commencement of the detention hearing, the court shall inform the child of:

5126 (1) The contents of the complaint or petition;

5127 (2) The nature of the proceedings;

5128 (3) The right to make an application for bail, as provided by Code Section 15-11-507 and
5129 Title 17;

5130 (4) The possible consequences or dispositions that may apply to the child's case
5131 following adjudication; and

5132 (5) Due process rights, including the right to an attorney and to an appointed attorney;
5133 the privilege against self-incrimination; that the child may remain silent and that anything
5134 said may be used against the child; the right to confront anyone who testifies against the
5135 child and to cross-examine any persons who appear against the child; the right of the
5136 child to testify and to compel other witnesses to attend and testify in his or her own
5137 behalf; the right of the child to a speedy adjudication hearing; and the right to appeal and
5138 be provided with a transcript for such purpose.

5139 (g) If the child can be returned to the custody of his or her parent, guardian, or legal
5140 custodian through the provision of services to eliminate the need for removal, the court
5141 shall release the child to the physical custody of the parent, guardian, or legal custodian and
5142 order that those services shall be provided.

5143 (h) If the child cannot be returned to the custody of the parent, guardian, or legal
5144 custodian, the court shall state the facts upon which the detention is based. The court shall
5145 make the following findings of fact referencing any and all evidence relied upon to make
5146 its determinations:

5147 (1) Whether continuation in the home of the parent, guardian, or legal custodian is
5148 contrary to the child's welfare; and

5149 (2) Whether reasonable efforts have been made to safely maintain the child in the home
 5150 of his or her parent, guardian, or legal custodian and to prevent the need for removal.
 5151 Such finding shall be made at the detention hearing if possible but in no case later than
 5152 60 days following the child's removal from the home.

5153 (i) If the child cannot be returned to the custody of the parent, guardian, or legal custodian,
 5154 the probation officer shall provide referrals for services as soon as possible to enable the
 5155 child's parent, guardian, or legal custodian to obtain any assistance that may be needed to
 5156 effectively provide the care and control necessary for the child to return home.

5157 15-11-507.

5158 (a) All children alleged to be delinquent shall have the same right to bail as adults.

5159 (b) The judge shall admit to bail all children in the same manner and under the same
 5160 circumstances and procedures as are applicable to adults accused of the commission of
 5161 crimes, with the exception that applying for, holding a hearing on the application, and
 5162 granting bail for children alleged to have committed a delinquent offense may only occur:

5163 (1) At intake in accordance with Code Section 15-11-503; or

5164 (2) At the detention hearing in accordance with Code Section 15-11-506.

5165 (c) A court shall be authorized to release a child on bail if the court finds that the child:

5166 (1) Poses no significant risk of fleeing from the jurisdiction of the court or failing to
 5167 appear in court when required;

5168 (2) Poses no significant threat or danger to any person, to the community, or to any
 5169 property in the community;

5170 (3) Poses no significant risk of committing any felony pending trial; and

5171 (4) Poses no significant risk of intimidating witnesses or otherwise obstructing the
 5172 administration of justice.

5173 (d) If the child is accused of committing an offense that would be a serious violent felony,
 5174 as defined in Code Section 17-10-6.1, if committed by an adult and the child has previously
 5175 been adjudicated delinquent for committing an act that would be a serious violent felony
 5176 if committed by an adult, there shall be a rebuttable presumption that no condition or
 5177 combination of conditions will reasonably assure the appearance of the child as required
 5178 or assure the safety of any other person or the community.

5179 (e) Any person having legal custody or an adult blood relative or stepparent shall be
 5180 entitled to post bail but shall be required immediately to return the child to the individual
 5181 or entity having legal custody of the child.

5182 (f) For the purposes of this Code section, the term 'bail' shall include the releasing of a
 5183 person on such person's own recognizance.

5184 15-11-508.

5185 (a) As used in this Code section, the term:

5186 (1) 'Notice' shall have the same meaning as set forth in Code Section 17-17-3.

5187 (2) 'Victim' shall have the same meaning as set forth in Code Section 17-17-3.

5188 (3) 'Violent delinquent act' means the commission, attempt to commit, conspiracy to
 5189 commit, or solicitation of another to commit a delinquent act which if committed by an
 5190 adult would constitute:

5191 (A) A serious violent felony as defined by Code Section 17-10-6.1;

5192 (B) A designated felony act;

5193 (C) Stalking or aggravated stalking as provided by Article 7 of Chapter 5 of Title 16;
 5194 or

5195 (D) Any attempt to commit, conspiracy to commit, or solicitation of another to commit
 5196 an offense enumerated in subparagraphs (A) through (C) of this paragraph.

5197 (b) If a child accused of a violent delinquent act is detained pending adjudication, the
 5198 juvenile court intake officer shall provide notice to the victim, whenever practicable, that
 5199 such child is to be released from detention not less than 24 hours prior to such child's
 5200 release from detention.

5201 (c) Not less than 48 hours prior to the release from detention of a child who has been
 5202 adjudicated to have committed a violent delinquent act, the juvenile court intake officer
 5203 shall, whenever practicable, provide notice to the victim of such pending release.

5204 (d) Notification need not be given unless the victim has expressed a desire for such
 5205 notification and has provided the juvenile court intake officer with a current address and
 5206 telephone number. It shall be the duty of the juvenile court intake officer to advise the
 5207 victim of his or her right to notification and of the requirement of the victim's providing a
 5208 primary and personal telephone number to which such notification shall be directed.

5209 Part 4

5210 15-11-510.

5211 (a) If a child has not been detained after the filing of a complaint, he or she shall be
 5212 promptly referred to intake or given a date for arraignment.

5213 (b) At intake, the court, the juvenile court intake officer, or other officer designated by the
 5214 court shall inform the child of:

5215 (1) The contents of the complaint;

5216 (2) The nature of the proceedings;

5217 (3) The possible consequences or dispositions that may apply to the child's case
 5218 following adjudication; and

5219 (4) Due process rights, including the right to an attorney and to an appointed attorney;
5220 the privilege against self-incrimination; that the child may remain silent and that anything
5221 said may be used against the child; the right to confront anyone who testifies against the
5222 child and to cross-examine any persons who appear against the child; the right of the
5223 child to testify and to compel other witnesses to attend and testify in his or her own
5224 behalf; the right of the child to a speedy adjudication hearing; and the right to appeal and
5225 be provided with a transcript for such purpose.

5226 (c) A juvenile court intake officer may elect to pursue a case through informal adjustment
5227 or other nonadjudicatory procedure in accordance with the provisions of Code Section
5228 15-11-515.

5229 (d) If a case is to be prosecuted further and handled other than by informal adjustment or
5230 other nonadjudicatory procedure, a petition for delinquency shall be filed within 30 days
5231 of the filing of a complaint.

5232 15-11-511.

5233 (a) At arraignment, the court shall inform the child of:

5234 (1) The contents of the petition for delinquency;

5235 (2) The nature of the proceedings;

5236 (3) The possible consequences or dispositions that may apply to the child's case
5237 following adjudication; and

5238 (4) Due process rights, including the right to an attorney and to an appointed attorney;
5239 the privilege against self-incrimination; that the child may remain silent and that anything
5240 said may be used against the child; the right to confront anyone who testifies against the
5241 child and to cross-examine any persons who appear against the child; the right of the
5242 child to testify and to compel other witnesses to attend and testify in his or her own
5243 behalf; the right of the child to a speedy adjudication hearing; and the right to appeal and
5244 be provided with a transcript for such purpose.

5245 (b) The court shall appoint a qualified and competent attorney to represent the child at
5246 arraignment unless an attorney has been retained and appears on the child's behalf.

5247 (c) At arraignment the child may make a preliminary statement indicating whether he or
5248 she shall admit or deny the allegations of the complaint at the adjudication hearing but the
5249 court shall not accept an admission at arraignment.

5250 Part 5

5251 15-11-515.

5252 (a) Before a petition for informal adjustment is filed, a probation officer or other officer
5253 designated by the court, subject to the court's direction, may inform the parties of informal
5254 adjustment if it appears that:

5255 (1) The admitted facts bring the case within the jurisdiction of the court;

5256 (2) Counsel and advice without an adjudication would be in the best interests of the
5257 public and the child, taking into account at least the following factors:

5258 (A) The nature of the alleged offense;

5259 (B) The age and individual circumstances of the child;

5260 (C) The child's prior record, if any;

5261 (D) Recommendations for informal adjustment made by the complainant or the victim;
5262 and

5263 (E) Services to meet the child's needs and problems may be unavailable within the
5264 formal court system or may be provided more effectively by alternative community
5265 programs; and

5266 (3) The child and the child's parent, guardian, or legal custodian consent with knowledge
5267 that consent is not obligatory.

5268 (b) The giving of counsel and advice shall not extend beyond three months unless
5269 extended by the court for an additional period not to exceed three months and shall not
5270 authorize the detention of the child if not otherwise permitted by this article.

5271 (c) An incriminating statement made by a participant to the person giving counsel or
5272 advice and in the discussion or conferences incident thereto shall not be used against the
5273 declarant over objection in any hearing except in a hearing on disposition in a juvenile
5274 court proceeding or in a criminal proceeding upon conviction for the purpose of a
5275 presentence investigation.

5276 (d) If a child is alleged to have committed a felony, the case shall not be subject to
5277 informal adjustment, counsel, or advice without the prior consent of the district attorney
5278 or his or her authorized representative.

5279 Part 6

5280 15-11-520.

5281 A petition alleging delinquency shall be filed only by the prosecuting attorney.

5282 15-11-521.

5283 (a) If a child is in detention prior to adjudication, the petition alleging delinquency shall
5284 be filed not later than 72 hours after the detention hearing. If no petition alleging
5285 delinquency is filed within the applicable time, the child shall be released.

5286 (b) If the child is not in detention prior to adjudication, the petition alleging delinquency
5287 shall be filed within 30 days of the filing of the complaint alleging violation of a criminal
5288 law or within 30 days of the child's release pursuant to a determination that detention is not
5289 warranted.

5290 15-11-522.

5291 (a) The petition alleging delinquency shall be verified and may be on information and
5292 belief. It shall set forth plainly and with particularity:

5293 (1) The facts which bring the child within the jurisdiction of the court, with a statement
5294 that it is in the best interests of the child and the public that the proceeding be brought and
5295 that the child is in need of supervision, treatment, or rehabilitation, as the case may be;

5296 (2) The name, age, and residence address of the child on whose behalf such petition is
5297 brought;

5298 (3) The name and residence address of the parent, guardian, or legal custodian of the
5299 child; or, if neither the child's parent nor the child's guardian nor the child's legal
5300 custodian resides or can be found within the state or if such place of residence address is
5301 unknown, the name of any known adult relative residing within the county or, if there is
5302 none, the known adult relative residing nearest to the location of the court;

5303 (4) If the child is in custody and, if so, the place of his or her detention and the time the
5304 child was taken into custody; and

5305 (5) If the child is being charged with a designated felony act.

5306 (b) The petition alleging delinquency shall indicate if any of the matters required in this
5307 Code section are unknown.

5308 15-11-523.

5309 (a) The prosecuting attorney may amend the petition alleging delinquency at any time to
5310 cure defects of form.

5311 (b) Prior to the adjudication hearing, the prosecuting attorney may amend the petition
5312 alleging delinquency to include new charges of delinquency. However, if an amendment
5313 is made, the child may request a continuance of the adjudication hearing. A continuance
5314 may be granted by the court for such period as required in the interest of justice.

5315 (c) When a petition alleging delinquency is amended to include new charges of
5316 delinquency for adjudication, the petition shall be served in accordance with Code Sections
5317 15-11-530 and 15-11-531.

5318 (d) After jeopardy begins, a petition alleging delinquency shall not be amended to include
5319 new charges of delinquency.

5320 Part 7

5321 15-11-530.

5322 (a) The court shall direct the issuance of a summons to a child and the child's parent,
5323 guardian, or legal custodian requiring them to appear before the court at the time fixed to
5324 answer the allegations of the petition. A copy of the petition shall accompany the
5325 summons.

5326 (b) The summons shall state that a party shall be entitled to have an attorney in the
5327 proceedings and that the court will appoint an attorney if the party is an indigent person.

5328 15-11-531.

5329 (a) If a party to be served with a summons is within this state and can be found, the
5330 summons shall be served upon him or her personally as soon as possible and at least 24
5331 hours before the adjudication hearing.

5332 (b) If a party to be served is within this state and cannot be found but his or her address is
5333 known or can be ascertained with reasonable diligence, the summons shall be served upon
5334 such party at least five days before the adjudication hearing by mailing him or her a copy
5335 by registered or certified mail or statutory overnight delivery, return receipt requested.

5336 (c) If an individual to be served is outside this state but his or her address is known or can
5337 be ascertained with reasonable diligence, notice of the summons shall be made at least five
5338 days before the adjudication hearing either by delivering a copy to such party personally
5339 or by mailing a copy to him or her by registered or certified mail or statutory overnight
5340 delivery, return receipt requested.

5341 (d) Service of the summons may be made by any suitable person under the direction of the
5342 court.

5343 (e) The court may authorize payment from county funds of the costs of service and of
5344 necessary travel expenses incurred by persons summoned or otherwise required to appear
5345 at the hearing.

5346 15-11-532.

5347 (a) In the event a parent, guardian, or other legal custodian of a child willfully fails to
 5348 appear personally at a hearing after being ordered to so appear or the parent, guardian, or
 5349 other legal custodian of the child willfully fails to bring the child to a hearing after being
 5350 so directed, the court may issue a rule nisi against the person directing the person to appear
 5351 before the court to show cause why he or she should not be held in contempt of court.

5352 (b) If the parent, guardian, or legal custodian fails to appear in response to an order to
 5353 show cause, the court may issue a bench warrant directing that the parent, guardian, or
 5354 legal custodian be brought before the court without delay to show cause why he or she
 5355 should not be held in contempt and the court may enter any order authorized by and in
 5356 accordance with the provisions of Code Section 15-11-31.

5357 (c) If a child 16 years of age or older fails to appear at a hearing after being ordered to so
 5358 appear, the court may issue a bench warrant requiring that the child be brought before the
 5359 court without delay and the court may enter any order authorized by and in accordance with
 5360 the provisions of Code Section 15-11-31.

5361 (d) If there is sworn testimony that a child 14 years of age but not yet 16 years of age
 5362 willfully refuses to appear at a hearing after being ordered to so appear, the court may issue
 5363 a bench warrant requiring that the child be brought before the court and the court may enter
 5364 any order authorized by and in accordance with the provisions of Code Section 15-11-31.

5365 Part 8

5366 15-11-540.

5367 A delinquency petition shall be dismissed by the court upon the motion of the prosecuting
 5368 attorney setting forth that there is not sufficient evidence to warrant further proceedings.

5369 15-11-541.

5370 (a) Except as limited by subsection (d) of Code Section 15-11-542, in all cases in which
 5371 a child is charged with having committed a delinquent act, the child shall, upon filing a
 5372 motion for discovery with the court and serving a copy of the motion to the prosecuting
 5373 attorney, have full access to the following for inspection, copying, or photographing:

5374 (1) A copy of the complaint;

5375 (2) A copy of the petition for delinquency;

5376 (3) The names and last known addresses and telephone numbers of each witness to the
 5377 occurrence which forms the basis of the charge;

5378 (4) A copy of any written statement made by the child or any witness that relates to the
 5379 testimony of a person whom the prosecuting attorney intends to call as a witness;

- 5380 (5) A copy of any written statement made by any alleged coparticipant which the
5381 prosecuting attorney intends to use at a hearing;
- 5382 (6) Transcriptions, recordings, and summaries of any oral statement of the child or of any
5383 witness, except attorney work product;
- 5384 (7) Any scientific or other report which is intended to be introduced at the hearing or that
5385 pertains to physical evidence which is intended to be introduced;
- 5386 (8) Photographs and any physical evidence which are intended to be introduced at the
5387 hearing; and
- 5388 (9) Copies of the police incident report and supplemental report, if any, regarding the
5389 occurrence which forms the basis of the charge.
- 5390 (b) The prosecuting attorney shall disclose all evidence, known or that may become known
5391 to him or her, favorable to the child and material either to guilt or punishment.
- 5392 (c) If the child requests disclosure of information pursuant to subsection (a) of this Code
5393 section, it shall be the duty of the child to promptly make the following available for
5394 inspection, copying, or photographing to the prosecuting attorney:
- 5395 (1) The names and last known addresses and telephone numbers of each witness to the
5396 occurrence which forms the basis of the defense;
- 5397 (2) Any scientific or other report which is intended to be introduced at the hearing or that
5398 pertains to physical evidence which is intended to be introduced;
- 5399 (3) Photographs and any physical evidence which are intended to be introduced at the
5400 hearing; and
- 5401 (4) A copy of any written statement made by any witness that relates to the testimony of
5402 a person whom the child intends to call as a witness.
- 5403 (d) A request for discovery or reciprocal discovery shall be complied with promptly and
5404 not later than 48 hours prior to the adjudication hearing, except when later compliance is
5405 made necessary by the timing of the request. If the request for discovery is made fewer
5406 than 48 hours prior to the adjudication hearing, the discovery response shall be produced
5407 in a timely manner.
- 5408 (e) Any material or information furnished to the child pursuant to a discovery request shall
5409 remain in the exclusive custody of the child and shall only be used during the pendency of
5410 the case and shall be subject to such other terms and conditions as the court may provide.
- 5411 15-11-542.
- 5412 (a) If a request for discovery is refused, application may be made to the court for a written
5413 order granting discovery.
- 5414 (b) Motions to compel discovery shall certify that a request for discovery was made and
5415 was refused.

- 5416 (c) An order granting discovery shall require reciprocal discovery.
- 5417 (d) The court may deny, in whole or in part, or otherwise limit or set conditions concerning
5418 discovery upon sufficient showing by a person or entity to whom a request for discovery
5419 is made that disclosure of the information would:
- 5420 (1) Jeopardize the safety of a party, witness, or confidential informant;
5421 (2) Create a substantial threat of physical or economic harm to a witness or other person;
5422 (3) Endanger the existence of physical evidence;
5423 (4) Disclose privileged information; or
5424 (5) Impede the criminal prosecution of a child who is being prosecuted as an adult or the
5425 prosecution of an adult charged with an offense arising from the same transaction or
5426 occurrence.
- 5427 15-11-543.
- 5428 (a) Upon written request by the prosecuting attorney stating the time, date, and place at
5429 which the alleged delinquent act was committed, the child shall serve upon the prosecuting
5430 attorney a written notice of the child's intention to offer a defense of alibi.
- 5431 (b) The notice shall state the specific place or places at which the child claims to have been
5432 at the time of the alleged delinquent act and the names, addresses, dates of birth, and
5433 telephone numbers of the witnesses, if known to the child, upon whom the child intends
5434 to rely to establish the child's alibi, unless previously supplied.
- 5435 (c) A request for alibi evidence shall be complied with promptly and not later than 48
5436 hours prior to the adjudication hearing, except when later compliance is made necessary
5437 by the timing of the request. If the request for alibi evidence is made fewer than 48 hours
5438 prior to the adjudication hearing, the alibi evidence shall be produced in a timely manner.
- 5439 (d) If the defendant withdraws the notice of intention to rely upon an alibi defense, the
5440 notice and intention to rely upon an alibi defense shall not be admissible; provided,
5441 however, that the prosecuting attorney or entity prosecuting the case may offer any other
5442 evidence regarding alibi.
- 5443 (e) The prosecuting attorney shall serve upon the child a written notice stating the names,
5444 addresses, dates of birth, and telephone numbers of the witnesses, if known to the state,
5445 upon whom the state intends to rely to rebut the child's evidence of alibi, unless previously
5446 supplied.
- 5447 15-11-544.
- 5448 If, subsequent to providing a discovery response, the existence of additional evidence is
5449 found, it shall be promptly provided to the state or child making the discovery request.

5450 15-11-545.

5451 Nothing contained in the provisions governing discovery procedure under this part shall
5452 prohibit the court from ordering the disclosure of any information that the court deems
5453 necessary and appropriate for proper adjudication.

5454 15-11-546.

5455 If at any time during the course of the proceedings it is brought to the attention of the court
5456 that a person or entity has failed to comply with a discovery request, the court may grant
5457 a continuance, prohibit the party from introducing in evidence the information not
5458 disclosed, or enter such other order as the court deems just under the circumstances.

5459 Part 9

5460 15-11-560.

5461 (a) Except as provided in subsection (b) of this Code section, the court shall have
5462 concurrent jurisdiction with the superior court over a child who is alleged to have
5463 committed a delinquent act which would be considered a crime if tried in a superior court
5464 and for which an adult may be punished by loss of life, imprisonment for life without
5465 possibility of parole, or confinement for life in a penal institution.

5466 (b) The superior court shall have original jurisdiction over the trial of any child 13 to 17
5467 years of age who is alleged to have committed any of the following offenses:

5468 (1) Murder;

5469 (2) Voluntary manslaughter;

5470 (3) Rape;

5471 (4) Aggravated sodomy;

5472 (5) Aggravated child molestation;

5473 (6) Aggravated sexual battery; or

5474 (7) Armed robbery if committed with a firearm.

5475 (c) The granting of bail or pretrial release of a child charged with an offense enumerated
5476 in subsection (b) of this Code section shall be governed by the provisions of Code Section
5477 17-6-1.

5478 (d) At any time before indictment, the district attorney may, after investigation and for
5479 cause, decline prosecution in the superior court of a child 13 to 17 years of age alleged to
5480 have committed an offense specified in subsection (b) of this Code section. Upon declining
5481 such prosecution in the superior court, the district attorney shall immediately cause a
5482 petition to be filed in the appropriate juvenile court for adjudication. Any case transferred
5483 by the district attorney to the juvenile court pursuant to this subsection shall be subject to

5484 the designated felony provisions of Code Section 15-11-602 and the transfer of the case
5485 from superior court to juvenile court shall constitute notice to the child that such case is
5486 subject to the designated felony provisions of Code Section 15-11-602.

5487 (e) The superior court may transfer any case involving a child 13 to 17 years of age alleged
5488 to have committed any offense enumerated in subsection (b) of this Code section and
5489 convicted of a lesser included offense not included in subsection (b) of this Code section
5490 to the juvenile court of the county of the child's residence for disposition. Upon such a
5491 transfer by the superior court, jurisdiction shall vest in the juvenile court and jurisdiction
5492 of the superior court shall terminate.

5493 (f) Within 30 days of any proceeding in which a child 13 to 17 years of age is convicted
5494 of certain offenses over which the superior court has original jurisdiction as provided in
5495 subsection (b) of this Code section or adjudicated delinquent on the basis of conduct which
5496 if committed by an adult would constitute such offenses, the superior court shall provide
5497 written notice to the school superintendent or his or her designee of the school in which
5498 such child is enrolled or, if the information is known, of the school in which such child
5499 plans to be enrolled at a future date. Such notice shall include the specific criminal offense
5500 that such child committed. A local school system to which the child is assigned may
5501 request further information from the court's file.

5502 15-11-561.

5503 (a) After a petition alleging delinquency has been filed but before the adjudication hearing,
5504 on its own motion or on a motion by the prosecuting attorney, the court may convene a
5505 hearing to determine whether to transfer the offense to the appropriate superior court for
5506 criminal trial if:

5507 (1) The petition alleges that the child has committed an offense which would be a felony
5508 if committed by an adult and the child was at least 15 years of age at the time of the
5509 commission of the offense; or

5510 (2) The court determines that there is probable cause to believe that the child committed
5511 the alleged offense.

5512 (b) At least three days prior to the scheduled transfer hearing, written notice shall be given
5513 to the child and the child's parent, guardian, or legal custodian. The notice shall contain
5514 a statement that the purpose of the hearing is to determine whether the child is to be tried
5515 in the juvenile court or transferred for trial as an adult in superior court. The child may
5516 request and the court shall grant a continuance to prepare for the transfer hearing.

5517 (c) After consideration of a probation report and any other evidence the court deems
5518 relevant, including any evidence offered by the child, the court may determine that because

5519 of the seriousness of the offense or the child's prior record, the welfare of the community
5520 requires that criminal proceedings against the child be instituted.

5521 (d) No child, either before or after reaching age 17 years of age shall be prosecuted in
5522 superior court for an offense committed before the child turned 17, unless the case has been
5523 transferred as provided in this part. In addition, no child shall be subject to criminal
5524 prosecution at any time for an offense arising out of a criminal transaction for which the
5525 juvenile court retained jurisdiction in its transfer order.

5526 15-11-562.

5527 (a) The criteria which the court shall consider in determining whether to transfer the child
5528 to superior court includes, but shall not be limited to:

5529 (1) The age of the child;

5530 (2) The seriousness of the alleged offense and whether the protection of the community
5531 requires transfer of jurisdiction;

5532 (3) Whether the alleged offense involved violence or was committed in an aggressive or
5533 premeditated manner;

5534 (4) Whether the alleged offense was against persons or property with greater weight
5535 being given to the offense against persons, especially if personal injury resulted;

5536 (5) The culpability of the child including the child's level of planning and participation
5537 in the alleged offense;

5538 (6) Whether the alleged offense is a part of a repetitive pattern of offenses which
5539 indicates that the child may be beyond rehabilitation in the juvenile justice system;

5540 (7) The record and history of the child, including experience with the juvenile justice
5541 system, other courts, supervision, commitments to juvenile institutions, and other
5542 placements;

5543 (8) The sophistication and maturity of the child as determined by consideration of the
5544 child's home and environmental situation, emotional condition, and pattern of living;

5545 (9) The program and facilities available to the juvenile court in considering disposition;
5546 and

5547 (10) Whether or not the child can benefit from the treatment or rehabilitative programs
5548 available to the juvenile court.

5549 (b) The probation officer shall prepare a written report developing fully all available
5550 information relevant to the transfer criteria. The probation officer shall submit such report
5551 to the court as soon as practicable but not later than 24 hours before the scheduled hearing.
5552 The child shall have the right to review such report and cross-examine the individual
5553 making such report.

5554 15-11-563.

5555 (a) A transfer hearing shall be held and conducted in the same manner as an adjudication
5556 hearing as provided in subsections (a) and (b) of Code Section 15-11-582, except that only
5557 such evidence which pertains to the transfer criteria set out in Code Section 15-11-562 shall
5558 be introduced.

5559 (b) Statements made by the child at the transfer hearing shall not be admissible against the
5560 child over objection in the criminal proceedings if transfer is ordered.

5561 15-11-564.

5562 (a) The decision of the court regarding transfer of the case shall only be an interlocutory
5563 judgment which either the child or the prosecuting attorney, or both, have the right to have
5564 reviewed by the Court of Appeals.

5565 (b) The pendency of an interlocutory appeal shall stay criminal proceedings in superior
5566 court. A child transferred for trial as an adult in superior court shall be detained only in
5567 those places authorized for the preadjudication detention of a child.

5568 15-11-565.

5569 (a) Prior to the entry of a judgment ordering a child's transfer or during the pendency of
5570 an appeal of a judgment ordering a child's transfer, the child shall be detained only in those
5571 places authorized for the preadjudication detention of a child.

5572 (b) After the entry of a judgment ordering transfer, a child shall be detained only in those
5573 places authorized for the detention of a child until the child reaches 17 years of age.

5574 15-11-566.

5575 (a) If the court decides to transfer the child for trial in superior court, it shall dismiss the
5576 juvenile court petition alleging delinquency, set forth the offense or offenses which are
5577 being transferred, and make the following findings of fact in its dismissal order:

5578 (1) That the court had jurisdiction of the cause and the parties;

5579 (2) That the child was represented by an attorney; and

5580 (3) That the hearing was held in the presence of the child and the child's attorney.

5581 (b) The dismissal order shall also recount the reasons underlying the decision to transfer
5582 jurisdiction.

5583 (c) A dismissal of the petition alleging delinquency terminates the jurisdiction of the
5584 juvenile court over the child as to those offenses which are transferred. If the petition
5585 alleging delinquency alleges multiple offenses that constitute a single criminal transaction,
5586 the court shall either retain or transfer all offenses relating to a single criminal transaction.

5587 (d) Once juvenile court jurisdiction is terminated, the superior court shall retain
5588 jurisdiction even though, thereafter, the child pleads guilty to, or is convicted of, a lesser
5589 included offense. The plea to, or conviction of, a lesser included offense shall not re-vest
5590 juvenile jurisdiction over the child.

5591 (e) A copy of the petition alleging delinquency and order of dismissal shall be sent to the
5592 district attorney of the judicial circuit in which the proceeding is taking place.

5593 (f) If the court decides not to transfer the child for trial in superior court, it shall set a date
5594 for an adjudication hearing in juvenile court on the petition alleging delinquency.

5595 15-11-567.

5596 (a) Except in those cases in which the superior court has original jurisdiction or juvenile
5597 court jurisdiction has been terminated and the child has been transferred to superior court,
5598 if it appears to any court in a criminal proceeding or a quasi-criminal proceeding that the
5599 accused is a child, the case shall forthwith be transferred to the juvenile court together with
5600 a copy of the accusatory pleading and all other papers, documents, and transcripts of
5601 testimony relating to the case.

5602 (b) The transferring court shall order that the child be taken forthwith to the juvenile court
5603 or to a place of detention designated by the court or shall release him or her to the custody
5604 of his or her parent, guardian, legal custodian, or other person legally responsible for him
5605 or her to be brought before the juvenile court at a time designated by that court. The
5606 accusatory pleading may not serve in lieu of a petition alleging delinquency in the juvenile
5607 court.

5608 Part 10

5609 15-11-580.

5610 (a) At the commencement of the adjudication hearing, the court shall address the child, in
5611 language understandable to the child, and determine whether the child is capable of
5612 understanding statements about his or her rights under this chapter.

5613 (b) If a child is capable, the court shall inquire how the child responds to the allegations
5614 of the delinquency petition. The child may:

5615 (1) Deny the allegations of such petition, in which case the court shall proceed to hear
5616 evidence on such petition; or

5617 (2) Admit the allegations of such petition, in which case the court shall further inquire
5618 to determine whether there is a factual basis for adjudication. If so, the court may then
5619 adjudge the child to have committed a delinquent act.

5620 (c) If the child stands mute, refuses to answer, or answers evasively, the court shall enter
5621 a denial of the allegations.

5622 15-11-581.

5623 The state shall have the burden of proving the allegations of a delinquency petition beyond
5624 a reasonable doubt.

5625 15-11-582.

5626 (a) The court shall fix a time for the adjudication hearing. If the child is in detention, the
5627 hearing shall be scheduled to be held no later than ten days after the filing of the
5628 delinquency petition. If the child is not in detention, the hearing shall be scheduled to be
5629 held no later than 60 days after the filing of such petition.

5630 (b) Adjudication hearings shall be conducted:

5631 (1) By the court without a jury;

5632 (2) In accordance with Title 24 and Title 17; and

5633 (3) In language understandable to the child and participants, to the fullest extent
5634 practicable.

5635 (c) The court shall determine if the allegations of the petition alleging delinquency are
5636 admitted or denied in accordance with the provisions of Code Section 15-11-580.

5637 (d) After hearing all of the evidence, the court shall make and record its findings on
5638 whether the delinquent acts ascribed to the child were committed by the child. If the court
5639 finds that the allegations of delinquency have not been established, it shall dismiss the
5640 delinquency petition and order the child released from any detention or legal custody
5641 imposed in connection with the proceedings.

5642 (e) The court shall make a finding that the child has committed a delinquent act based on
5643 a valid admission made in open court of the allegations of the delinquency petition or on
5644 the basis of proof beyond a reasonable doubt. If the court finds that the child has
5645 committed a delinquent act, the court may proceed immediately or at a postponed hearing
5646 to make disposition of the case.

5647 Part 11

5648 15-11-590.

5649 (a) After an adjudication that the child has committed a delinquent act, the court may
5650 direct that a written predisposition investigation report be prepared by the probation officer
5651 or other person designated by the court.

- 5652 (b) The predisposition investigation report shall contain information about the child's
5653 characteristics, family, environment, and the circumstances affecting the child's behavior
5654 as may be helpful in determining the need for treatment or rehabilitation and a proper
5655 disposition of the case, including but not limited to:
- 5656 (1) A summary of the facts with respect to the conduct of the child that led to the
5657 adjudication;
 - 5658 (2) The sophistication and maturity of the child;
 - 5659 (3) A summary of the child's home environment, family relationships, and background;
 - 5660 (4) A summary of the child's prior contacts with the juvenile court and law enforcement
5661 agencies, including the disposition following each contact and the reasons therefor;
 - 5662 (5) A summary of the child's educational status, including, but not limited to, the child's
5663 strengths, abilities, and special educational needs. The report shall identify appropriate
5664 educational and vocational goals for the child. Examples of appropriate goals include:
 - 5665 (A) Attainment of a high school diploma or its equivalent;
 - 5666 (B) Successful completion of literacy courses;
 - 5667 (C) Successful completion of vocational courses;
 - 5668 (D) Successful attendance and completion of the child's current grade if enrolled in
5669 school; or
 - 5670 (E) Enrollment in an apprenticeship or a similar program;
 - 5671 (6) A summary of the results and recommendations of any significant physical and
5672 mental examinations;
 - 5673 (7) The seriousness of the offense to the community;
 - 5674 (8) The nature of the offense; and
 - 5675 (9) Whether the offense was against persons or against property with greater weight
5676 being given to offenses against persons.
- 5677 (c) If the court has ordered a physical or mental examination to be conducted, the report
5678 shall include a copy of the results of the examination.
- 5679 (d) All information shall be presented in a concise and factual manner. The report shall
5680 indicate the sources of information in the report.
- 5681 (e) The original report and any other material to be disclosed shall be furnished to the
5682 court, and copies shall be furnished to the child's attorney and to the prosecuting attorney
5683 at least five days prior to the disposition hearing.

Part 12

5684

5685 15-11-600.

5686 (a) After a finding that a child has committed a delinquent act, the court shall conduct a
5687 hearing for the purpose of hearing evidence as to whether the child is in need of treatment,
5688 rehabilitation, or supervision and shall make and file its findings thereon.

5689 (b) The court may proceed immediately to the disposition hearing after the adjudication
5690 hearing or conduct the disposition hearing within 30 days of the adjudication hearing. The
5691 hearing may occur later than 30 days after the adjudication hearing only if the court makes
5692 and files written findings of fact explaining the need for delay.

5693 (c) In the absence of evidence to the contrary, evidence sufficient to warrant a finding that
5694 acts have been committed which constitute a felony shall also be sufficient to sustain a
5695 finding that the child is in need of treatment or rehabilitation.

5696 (d) If the court finds that the child is not in need of treatment, rehabilitation, or
5697 supervision, it shall dismiss the proceeding and discharge the child from any detention or
5698 other restriction previously ordered.

5699 (e) If the court finds that the child is in need of supervision but not of treatment or
5700 rehabilitation, it shall find that the child is a child in need of services and enter any
5701 disposition authorized by Code Section 15-11-442.

5702 (f) The court may consider any evidence, including hearsay evidence, that the court finds
5703 to be relevant, reliable, and necessary to determine the needs of the child and the most
5704 appropriate disposition.

5705 (g)(1) Prior to the disposition hearing, and upon request, the parties and their attorneys
5706 shall be afforded an opportunity to examine any written reports received by the court.

5707 (2) Portions of such reports not relied on by the court in reaching its decision which, if
5708 revealed would be prejudicial to the interests of the child or any party to the proceeding,
5709 may be withheld in the court's discretion. Confidential sources of information need not
5710 be disclosed.

5711 (3) Parties and their attorneys shall be given the opportunity to controvert written reports
5712 received by the court and to cross-examine individuals making such reports.

5713 (h) In scheduling investigations and hearings, the court shall give priority to proceedings
5714 in which a child is in detention or has otherwise been removed from his or her home.

5715 15-11-601.

5716 (a) At the conclusion of the disposition hearing, if the child is determined to be in need of
5717 treatment or rehabilitation, the court shall enter the least restrictive disposition order
5718 appropriate in view of the seriousness of the delinquent act, the child's culpability as

5719 indicated by the circumstances of the particular case, the age of the child, the child's prior
5720 record, and the child's strengths and needs. The court may make any of the following
5721 orders of disposition, or combination of them, best suited to the child's treatment,
5722 rehabilitation, and welfare:

5723 (1) Any order authorized for the disposition of a dependent child other than placement
5724 in the temporary custody of DFCS unless the child is also found to be a dependent child;

5725 (2) An order requiring the child and the child's parent, guardian, or legal custodian to
5726 participate in counseling or in counsel and advice. Such counseling and counsel and
5727 advice may be provided by the court, court personnel, probation officers, professional
5728 counselors or social workers, psychologists, physicians, qualified volunteers, or
5729 appropriate public, private, or volunteer agencies and shall be designed to assist in
5730 detering future delinquent acts or other conduct or conditions which would be harmful
5731 to the child or society;

5732 (3) An order placing the child on probation under conditions and limitations the court
5733 prescribes and which may include the probation management program. The court may
5734 place a child on probation under the supervision of:

5735 (A) The probation officer of the court or the court of another state;

5736 (B) Any public agency authorized by law to receive and provide care for the child; or

5737 (C) Any community rehabilitation center if its chief executive officer has
5738 acknowledged in writing its willingness to accept the responsibility for the supervision
5739 of the child;

5740 (4) In any case in which a child who has not achieved a high school diploma or the
5741 equivalent is placed on probation, the court shall consider and may order as a condition
5742 of probation that the child pursue a course of study designed to lead to achieving a high
5743 school diploma or the equivalent;

5744 (5) An order requiring that the child perform community service in a manner prescribed
5745 by the court and under the supervision of an individual designated by the court;

5746 (6) An order requiring that the child make restitution. Such order may remain in force
5747 and effect simultaneously with another order of the court, including, but not limited to an
5748 order of commitment to DJJ. However, no order of restitution shall be enforced while
5749 the child is in placement at a youth development center unless the commissioner of
5750 juvenile justice certifies that a restitution program is available at such center. Payment
5751 of funds shall be made by the child or the child's family or employer directly to the clerk
5752 of the juvenile court entering the order or to another employee of such court designated
5753 by the judge, and that court shall disburse such funds in the manner authorized in the
5754 order. While an order requiring restitution is in effect, the court may transfer
5755 enforcement of its order to:

- 5756 (A) DJJ;
- 5757 (B) The juvenile court of the county of the child's residence and its probation staff, if
- 5758 the child changes his or her place of residence; or
- 5759 (C) The superior court once the child reaches 17 years of age if the child thereafter
- 5760 comes under the jurisdiction of such court;
- 5761 (7) An order requiring the child remit to the general fund of the county a sum not to
- 5762 exceed the maximum fine applicable to an adult for commission of any of the following
- 5763 offenses:
- 5764 (A) Any felony in the commission of which a motor vehicle is used;
- 5765 (B) Driving under the influence of alcohol or drugs;
- 5766 (C) Driving without proof of minimum required motor vehicle insurance;
- 5767 (D) Fraudulent or fictitious use of a driver's license;
- 5768 (E) Hit and run or leaving the scene of an accident;
- 5769 (F) Homicide by vehicle;
- 5770 (G) Manslaughter resulting from the operation of a motor vehicle;
- 5771 (H) Possession of controlled substances or marijuana;
- 5772 (I) Racing on highways or streets;
- 5773 (J) Using a motor vehicle in fleeing or attempting to elude an officer; or
- 5774 (K) Any violation of the provisions contained in Title 40 which is properly adjudicated
- 5775 as a delinquent act;
- 5776 (8) An order suspending the child's driver's license for a period not to exceed the date on
- 5777 which the child reaches 18 years of age or, in the case of a child who does not have a
- 5778 driver's license, an order prohibiting the issuance of a driver's license to the child for a
- 5779 period not to exceed the date on which the child reaches 18 years of age. The court shall
- 5780 retain the driver's license during such period of suspension and return it to the child at the
- 5781 end of such period. The court shall notify the Department of Driver Services of any
- 5782 actions taken pursuant to this paragraph;
- 5783 (9) An order placing the child in an institution, camp, or other facility for delinquent
- 5784 children operated under the direction of the court or other local public authority; or
- 5785 (10) An order committing the child to DJJ.
- 5786 (b)(1) This subsection shall apply to cases involving:
- 5787 (A) An offense that would be a felony if committed by an adult; or
- 5788 (B) An offense that would be a misdemeanor of a high and aggravated nature if
- 5789 committed by an adult and involving bodily injury or harm or substantial likelihood of
- 5790 bodily injury or harm.

5791 (2) In addition to any other treatment or rehabilitation, the court may order the child to
5792 serve up to a maximum of 30 days in a youth development center or, after assessment and
5793 with the court's approval, in a treatment program provided by DJJ or the juvenile court.

5794 (3) On and after July 1, 2013, the maximum number of days that the court may order a
5795 child to serve in a youth development center under this subsection shall be increased to
5796 60 days.

5797 (c) A child ordered to a youth development center under subsection (b) of this Code
5798 section and detained after the adjudication hearing in a secure facility pending placement
5799 in a youth development center shall be given credit for time served in the secured facility
5800 awaiting placement.

5801 (d) Notwithstanding the provisions of subsections (a) and (b) of this Code section, if a
5802 child is found to have committed the offense of driving under the influence, the court may
5803 make an order of disposition which, for purposes of the child's rehabilitation, imposes the
5804 same penalty, period of confinement, and period of community service which are
5805 applicable to an adult convicted of violating Code Section 40-6-391. The child shall serve
5806 any period of confinement in an institution, camp, or other facility for delinquent children
5807 operated under the direction of the court or other local public authority or, if no such
5808 facility is available, in a regional youth detention center. A previous finding that the child
5809 committed the offense of driving under the influence shall be deemed a previous conviction
5810 for purposes of this subsection. The court shall have the same authority and discretion
5811 regarding allowing service of confinement on weekends or during nonworking hours as is
5812 provided under subsection (a) of Code Section 17-10-3.1.

5813 (e) The child shall be given adequate information concerning the obligations and
5814 conditions imposed upon him or her by the disposition ordered by the court and the
5815 consequences of failure to meet such obligations and conditions. Such information shall
5816 be given in terms understandable to the child to enable the child to conform his or her
5817 conduct to the requirements of the disposition.

5818 15-11-602.

5819 (a) When a child is found to have committed a designated felony act, the order of
5820 disposition shall be made within 20 days of the conclusion of the disposition hearing. The
5821 court may make one of the following orders of disposition best suited to provide for the
5822 rehabilitation of the child and the protection of the community:

5823 (1) Any order authorized by Code Section 15-11-601 if the court finds that restrictive
5824 custody is not required; or

5825 (2) An order placing the child in restrictive custody.

5826 (b) Every order shall include a finding, based on a preponderance of the evidence, of
5827 whether the child requires restrictive custody. In determining whether restrictive custody
5828 is required, the court shall consider and make specific written findings of fact as to each
5829 of the following factors:

5830 (1) The age and maturity of the child;

5831 (2) The needs and best interests of the child;

5832 (3) The record and background of the child including but not limited to information
5833 disclosed in the probation investigation, diagnostic assessment, school records, and
5834 dependency records;

5835 (4) The nature and circumstances of the offense, including whether any injury involved
5836 was inflicted by the child or another participant, the culpability of the child or another
5837 participant in planning and carrying out of the offense, and the existence of any
5838 aggravating or mitigating factors;

5839 (5) The need for protection of the community; and

5840 (6) The age and physical condition of the victim.

5841 (c) A restrictive custody order may provide that:

5842 (1) The child be placed in DJJ custody for an initial period of up to five years;

5843 (2) The child be confined in a youth development center for a period set by the order, not
5844 to be less than six months nor to exceed 60 months. All time spent in secure detention
5845 subsequent to the date of the disposition hearing and prior to placement in a youth
5846 development center shall be counted toward the period set by the order;

5847 (3) After a period of confinement set by the court, the child may be placed under
5848 intensive supervision not to exceed 12 months; and

5849 (4) If the child is confined in a youth development center, the child may not be released
5850 or transferred to a nonsecure facility unless by court order pursuant to Code Section
5851 15-11-32. Such child may not be released from intensive supervision unless by court
5852 order and with the written approval of the commissioner of juvenile justice or a
5853 designated deputy. All home visits shall be carefully arranged and monitored while a
5854 child is confined in a youth development center.

5855 (d) During the child's placement order or any extension of the restrictive custody order:

5856 (1) While in a youth development center, the child shall be permitted to participate in all
5857 youth development center services and programs and shall be eligible to receive special
5858 medical and treatment services, regardless of the time of confinement in the youth
5859 development center. A child may be eligible to participate in programs sponsored by the
5860 youth development center including community work programs and sheltered workshops
5861 under the general supervision of a youth development center staff outside of the youth
5862 development center. In cooperation and coordination with the department, the child shall

5863 be allowed to participate in state sponsored programs for evaluation and services under
5864 the Division of Rehabilitation Services of the Department of Labor and DBHDD;
5865 (2) The child shall not be discharged from restrictive custody unless a motion therefor
5866 is granted by the court. A motion to discharge a child from restrictive custody shall be
5867 filed not more than once every six months and shall be accompanied by a written
5868 recommendation for discharge from the child's counselor, placement supervisor, or DJJ;
5869 (3) Notwithstanding Code Section 15-11-32, DJJ or any party may move for release from
5870 restrictive custody. In determining whether a motion for release from restrictive custody
5871 should be granted in the child's best interests due to changed circumstances, the court
5872 shall consider and make specific written findings of fact as to each of the following
5873 factors:

5874 (A) The child's achievement or progress on the goals of rehabilitation;
5875 (B) The disciplinary history of the child during the period of restrictive custody and
5876 subsequent offense history;
5877 (C) The academic progress of the child during the period of restrictive custody
5878 including, if the child is receiving services under the federal Individuals with
5879 Disabilities Education Act, a review of the child's Individualized Education Program
5880 (IEP) and the child's progress toward IEP goals; and
5881 (D) The victim's impact form submitted for purposes of this proceeding; and
5882 (4) Unless otherwise specified in the order, DJJ shall report in writing to the court not
5883 less than once every six months during the placement on the status, adjustment, and
5884 progress of the child.

5885 (e) The period of placement in a youth development center may be extended on motion by
5886 DJJ, after a disposition hearing, for two additional periods not to exceed 12 months each,
5887 provided that no placement or extension of custody may continue beyond the child's
5888 twenty-first birthday.

5889 (f) The court shall identify the school last attended by the child and the school which the
5890 child intends to attend and shall transmit a copy of the adjudication to the principals of both
5891 schools within 15 days of the adjudication. Such information shall be subject to
5892 notification, distribution, and requirements as provided in Code Section 20-2-671.

5893 15-11-603.

5894 (a) As part of any order of disposition regarding a child adjudged to have committed a
5895 delinquent act constituting an AIDS transmitting crime, the court may in its discretion and
5896 after conferring with the director of the health district, order that the child submit to an HIV
5897 test within 45 days following the adjudication of delinquency. The court shall mail DJJ a
5898 copy of the order within three days following its issuance.

5899 (b) Within 30 days following receipt of the copy of the order, DJJ shall arrange for the
5900 HIV test for the child.

5901 (c) Any child placed in the custody and control of DJJ shall be HIV tested in accordance
5902 with DJJ's policies and procedures.

5903 (d) If a child is determined to be infected with HIV, that determination and the name of
5904 the child shall be deemed to be AIDS confidential information and shall only be reported
5905 to:

5906 (1) DJJ or the Department of Corrections, as the case may be, and the Department of
5907 Community Health, which may disclose the name of the child if necessary to provide
5908 counseling and which shall provide counseling to each victim of the AIDS transmitting
5909 crime or to any parent, guardian, or legal custodian of any victim who is a minor or
5910 incompetent person, if DJJ or the Department of Corrections believes the crime posed a
5911 reasonable risk of transmitting HIV to the victim. Counseling shall include providing the
5912 person with information and explanations medically appropriate for such person which
5913 may include all or part of the following: accurate information regarding AIDS and HIV;
5914 an explanation of behaviors that reduce the risk of transmitting AIDS and HIV; an
5915 explanation of the confidentiality of information relating to AIDS diagnoses and HIV
5916 tests; an explanation of information regarding both social and medical implications of
5917 HIV tests; and disclosure of commonly recognized treatment or treatments for AIDS and
5918 HIV;

5919 (2) The court which ordered the HIV test; and

5920 (3) Those persons in charge of any facility to which the child has been confined by order
5921 of the court. In addition to any other restrictions regarding the confinement of a child,
5922 a child determined to be an HIV infected person may be confined separately from any
5923 other children in that facility other than those who have been determined to be infected
5924 with HIV if:

5925 (A) That child is reasonably believed to be sexually active while confined;

5926 (B) That child is reasonably believed to be sexually predatory either during or prior to
5927 detention; or

5928 (C) The commissioner of juvenile justice reasonably determines that other
5929 circumstances or conditions exist which indicate that separate confinement would be
5930 warranted.

5931 15-11-604.

5932 (a) A child found to have committed a delinquent act shall be given credit for each day
5933 spent in secure confinement awaiting adjudication and for each day spent in secure
5934 confinement, in connection with and resulting from a court order entered in the proceedings

5935 for which the sentence was imposed, and in any institution or facility for treatment or
5936 examination of a physical or mental disability. Such credit shall be applied toward the
5937 child's sentence and shall also be considered by parole authorities in determining the
5938 eligibility of the child for parole.

5939 (b) Subsection (a) of this Code section shall apply to sentences for all offenses, whether
5940 classified as violations, misdemeanors, or felonies.

5941 15-11-605.

5942 (a) In addition to any other terms or conditions of probation provided for under this article,
5943 the court may require that children who receive a disposition of probation:

5944 (1) Be ordered to a probation management program; or

5945 (2) Be ordered to a secure probation sanctions program by a probation officer or hearing
5946 officer.

5947 (b) Where a child has been ordered to a probation management program or secure
5948 probation sanctions program, the court shall retain jurisdiction throughout the period of the
5949 probated sentence and may modify or revoke any part of a probated sentence as provided
5950 in Code Section 15-11-32.

5951 (c)(1) DJJ in jurisdictions where DJJ is authorized to provide probation supervision, or
5952 the county juvenile probation office in jurisdictions where probation supervision is
5953 provided directly by the county, as applicable, shall be authorized to establish rules and
5954 regulations for graduated sanctions as an alternative to judicial modifications or
5955 revocations for probationers who violate the terms and conditions of a probation
5956 management program.

5957 (2) DJJ or the county juvenile probation office, as applicable, shall not sanction
5958 probationers for violations of conditions of probation if the court has expressed an
5959 intention in a written order that such violations be heard by the court.

5960 (d) DJJ or the county juvenile probation office, as applicable, shall impose only those
5961 restrictions equal to or less restrictive than the maximum sanction established by the court.

5962 (e) The secure probation sanctions program shall be established by DJJ. Exclusion of a
5963 child from a secure probation sanctions program otherwise authorized by this Code section
5964 to enter such program shall be mutually agreed upon by the Council of Juvenile Court
5965 Judges and DJJ. The secure probation sanctions program shall be available to the juvenile
5966 courts to the extent that each secure facility has capacity for such offenders within its
5967 facilities. Prior to reaching full capacity, DJJ shall inform the various juvenile courts of
5968 its capacity constraints.

5969 (f)(1) When requesting the secure probation sanctions program, probation officers
5970 supervising a child under a probation management program shall provide an affidavit to
5971 the court specifying:

5972 (A) The elements of the child's probation program;

5973 (B) The child's failures to respond to graduated sanctions in the community; and

5974 (C) The child's number of violations and the nature of each violation.

5975 (2) If a probation officer fails to document the violations and specify how the child has
5976 failed to complete a probation management program, such child shall be ineligible to
5977 enter the secure probation sanctions program.

5978 (3) A child may enter the secure probation sanctions program if ordered by the court and:

5979 (A) The probation officer has complied with the provisions of paragraph (1) of this
5980 subsection and the criteria set by the department for entrance into such program and the
5981 child has had three or more violations of probation; or

5982 (B) A child in a probation management program and his or her parent or guardian, or
5983 a child in such program and his or her attorney, admit to three or more violations of
5984 such program and sign a waiver accepting the sanction proposed by the probation
5985 officer.

5986 (4) Each new violation of a condition of a probated sentence may result in a child being
5987 sentenced to the secure probation sanctions program; provided, however, that if a child
5988 is sentenced to the secure probation sanctions program and completes all program
5989 components in the seven, 14, and 30 day programs, such child shall be ineligible to attend
5990 the secure probation sanctions program for a future violation of a condition of the same
5991 probated sentence.

5992 (g)(1) When a violation of a condition of probation occurs, a child may have an
5993 administrative hearing conducted by a hearing officer. If the hearing officer determines
5994 by a preponderance of the evidence that such child violated the conditions of probation,
5995 the probation officer shall be authorized to impose graduated sanctions. A child's failure
5996 to comply with a sanction imposed under this paragraph shall constitute another violation
5997 of probation.

5998 (2) The hearing officer's decision shall be final unless such child files, within five days
5999 of the service of such decision, a written demand with the hearing officer for review of
6000 such decision. Such demand shall not stay the sanction decision. The hearing officer
6001 shall issue a response to such demand within five days of receiving such demand.

6002 (3) If the hearing officer insists on the sanction, such decision shall be final unless the
6003 child files an appeal in the court that originally adjudicated the child. Such appeal shall
6004 be filed within ten days of the date of the decision of the hearing officer.

6005 (4) The appeal shall first be reviewed by the court upon the record. At the court's
 6006 discretion, a de novo hearing may be held on the decision. The filing of the appeal shall
 6007 not stay the sanction decision.

6008 (5) Where the court does not act on the appeal within 15 days of the date of the filing of
 6009 the appeal, the sanction decision shall be affirmed by operation of law.

6010 15-11-606.

6011 An order of disposition or adjudication shall not be a conviction of a crime and shall not
 6012 impose any civil disability ordinarily resulting from a conviction nor operate to disqualify
 6013 the child in any civil service application or appointment.

6014 15-11-607.

6015 (a) Except as otherwise provided in Code Section 15-11-602, an order of disposition
 6016 committing a child adjudicated delinquent to DJJ shall continue in force for two years or
 6017 until the child is sooner discharged by DJJ. The court which made the order may extend
 6018 its duration for a period not to exceed two years subject to like discharge, if:

6019 (1) A hearing is held upon DJJ's motion prior to the expiration of the order;

6020 (2) Reasonable notice of the factual basis of the motion and of the hearing and an
 6021 opportunity to be heard are given to the child and the parent, guardian, or legal custodian;
 6022 and

6023 (3) The court finds that the extension is necessary for the treatment or rehabilitation of
 6024 the child.

6025 (b) Any other order of disposition except an order of restitution as allowed by paragraph
 6026 (6) or (7) of subsection (a) of Code Section 15-11-601 shall continue in force for not more
 6027 than two years. An order of extension may be made if:

6028 (1) A hearing is held prior to the expiration of the order upon motion of DJJ, the
 6029 prosecuting attorney, or on the court's own motion;

6030 (2) Reasonable notice of the factual basis of the motion and of the hearing and
 6031 opportunity to be heard are given to the parties affected;

6032 (3) The court finds that the extension is necessary to accomplish the purposes of the
 6033 order extended; and

6034 (4) The extension does not exceed two years from the expiration of the prior order.

6035 (c) The court may terminate an order of disposition or an extension of such a disposition
 6036 order prior to its expiration, on its own motion or an application of a party, if it appears to
 6037 the court that the purposes of the order have been accomplished.

6038 (d) When a child reaches 21 years of age, all orders affecting him or her then in force
 6039 terminate and he or she is discharged from further obligation or control.

6040 15-11-608.

6041 (a) An order granting probation to a child found to be delinquent may be revoked on the
6042 ground that the conditions of probation have been violated.

6043 (b) Any violation of a condition of probation may be reported to the prosecuting attorney
6044 who may file a motion in the court for revocation of probation. A motion for revocation
6045 of probation shall contain specific factual allegations constituting each violation of a
6046 condition of probation.

6047 (c) The motion for revocation of probation shall be served upon the child, his or her
6048 attorney, and his or her parent, guardian, or legal custodian in accordance with the
6049 provisions of Code Section 15-11-531.

6050 (d) If a child is taken into custody because of an alleged violation of probation, the
6051 provisions governing the detention of a child shall apply.

6052 (e) A revocation hearing shall be scheduled to be held no later than 30 days after the filing
6053 of such motion or, if the child has been detained as a result of the filing of such motion for
6054 revocation, no later than ten days after the filing of the motion.

6055 (f) If the court finds, beyond a reasonable doubt, that the child violated the terms and
6056 conditions of probation, the court may:

6057 (1) Extend probation;

6058 (2) Impose additional conditions of probation;

6059 (3) Make any disposition that could have been made at the time probation was imposed;

6060 or

6061 (4) Upon finding that graduated alternative sanctions have failed, order the child to serve
6062 up to a maximum of 60 days in a youth development center or, after assessment and with
6063 the court's approval, in a treatment program provided by DJJ or the juvenile court.

6064 (g) In the case of a designated felony, if the court finds that the child violated the terms
6065 and conditions of probation, the court shall reconsider and make specific findings of fact
6066 as to each of the factors in subsection (b) of Code Section 15-11-602 to determine whether
6067 restrictive custody is required.

6068 (h) In the case of a designated felony, if the court finds, beyond a reasonable doubt, that
6069 the child violated the terms and conditions of probation and that the order granting
6070 probation to the child shall be revoked, the child shall be given credit for time served on
6071 probation.

Part 13

6072

6073 15-11-620.

6074 (a) When a child is alleged to be both delinquent and dependent, the date the child is
6075 considered to have entered foster care shall be the date of the first judicial finding that the
6076 child has been subjected to child abuse or neglect or the date that is 60 days after the date
6077 on which the child is removed from his or her home, whichever is earlier.

6078 (b) If a child alleged or adjudicated to be delinquent is first placed in a noneligible
6079 placement but is later placed in an eligible shelter care placement within 60 days of the
6080 child's removal from the home, then the date of entry into foster care shall be 60 days from
6081 the date of removal.

6082 (c) If a child is detained in a facility operated primarily for the detention of a child
6083 determined to be delinquent pending eligible shelter care placement and remains detained
6084 for more than 60 days, then the date of entry into foster care shall be the date the child is
6085 placed in eligible shelter care.

6086 15-11-621.

6087 The periodic review hearing requirements under Code Sections 15-11-216, 15-11-217, and
6088 15-11-218 shall apply to proceedings involving a child alleged or adjudicated to be
6089 delinquent and placed in an eligible shelter care placement.

6090 15-11-622.

6091 (a) The permanency plan requirements under Code Sections 15-11-230, 15-11-231, and
6092 15-11-232 shall apply to proceedings involving a child alleged or adjudicated to be
6093 delinquent and placed in an eligible shelter care placement.

6094 (b) In addition to the compelling reasons set forth in Code Section 15-11-233 under
6095 Article 3 of this chapter, a compelling reason for determining that filing a termination of
6096 parental rights petition is not in the best interests of a child alleged or adjudicated to be
6097 delinquent may include but shall not be limited to:

6098 (1) The child's developmental needs require continued out-of-home placement for an
6099 additional number of months, and the parent, guardian, or legal custodian has cooperated
6100 with referrals, visitation, and family conferences, as well as therapy;

6101 (2) The child is uncooperative with services or referrals; and

6102 (3) The length of the delinquency disposition affects the permanency plan.

Part 14

6103

6104 15-11-630.6105 (a) A juvenile traffic offense consists of a violation by a child of:6106 (1) A law or local ordinance governing the operation of a moving motor vehicle upon the
6107 streets or highways of this state or upon the waterways within or adjoining this state; or6108 (2) Any other motor vehicle traffic law or local ordinance if the child is taken into
6109 custody and detained for its violation or is transferred to the juvenile court by the court
6110 hearing the charge.6111 (b) The following offenses shall be acts of delinquency and shall not be handled as
6112 juvenile traffic offenses: aggressive driving, reckless driving, a four-point speeding offense,
6113 homicide by vehicle, manslaughter resulting from the operation of a vehicle, any felony in
6114 the commission of which a motor vehicle is used, racing on highways and streets, using a
6115 motor vehicle in fleeing or attempting to elude an officer, fraudulent or fictitious use of a
6116 driver's license, hit and run or leaving the scene of an accident, driving under the influence
6117 of alcohol or drugs, and any offense committed by an unlicensed driver under 16 years of
6118 age.6119 (c) A juvenile traffic offense shall not be an act of delinquency unless the case is
6120 transferred to the delinquency calendar.6121 (d) The summons, notice to appear, or other designation of a citation accusing a child of
6122 committing a juvenile traffic offense constitutes the commencement of the proceedings in
6123 the court of the county in which the alleged violation occurred and serves in place of a
6124 summons and petition under this article. These cases shall be filed and heard separately
6125 from other proceedings of the court. If the child is taken into custody on the charge, Code
6126 Sections 15-11-503 and 15-11-505 shall apply. If the child is, or after commencement of
6127 the proceedings becomes, a resident of another county of this state, the court in the county
6128 where the alleged traffic offense occurred may retain jurisdiction over the entire case.6129 (e) The court shall fix a time for a hearing and shall give reasonable notice thereof to the
6130 child and, if his or her address is known, to the parent, guardian, or legal custodian. If the
6131 accusation made in the summons, notice to appear, or other designation of a citation is
6132 denied, a hearing shall be held at which the parties shall have the right to subpoena
6133 witnesses, present evidence, cross-examine witnesses, and appear by their attorney. The
6134 hearing shall be open to the public.6135 (f) If the court finds on the admission of the child or upon the evidence that the child
6136 committed the offense charged, it may make one or more of the following orders:

- 6137 (1) Reprimand, counsel, or warn the child and the child's parent, guardian, or legal
 6138 custodian; provided, however, that this disposition order shall not be available for any act
 6139 of delinquency;
- 6140 (2) As a matter of probation or if the child is committed to the custody of the state, order
 6141 the Department of Driver Services to suspend the child's privilege to drive under stated
 6142 conditions and limitations for a period not to exceed 12 months;
- 6143 (3) Require the child to attend a traffic school approved by the Department of Driver
 6144 Services or a substance abuse clinic or program approved by either DBHDD or the
 6145 Council of Juvenile Court Judges for a reasonable period of time;
- 6146 (4) Assess a fine and order the child to remit to the general fund of the county a sum not
 6147 exceeding the maximum applicable to an adult for a like offense. The fine shall be
 6148 subject to all additions and penalties as specified under this title and Title 47;
- 6149 (5) Require the child to participate in a program of community service as specified by
 6150 the court;
- 6151 (6) Impose any sanction authorized by Code Section 15-11-442 or 15-11-601; or
- 6152 (7) Place the child on probation subject to the conditions and limitations imposed by
 6153 Title 40 governing probation granted to adults for like offenses, but such probation shall
 6154 be supervised by the court.
- 6155 (g) In lieu of the preceding orders, if the evidence warrants, the court may transfer the case
 6156 to the delinquency calendar of the court and direct the filing and service of a summons and
 6157 delinquency petition.
- 6158 (h) Upon finding that the child has committed a juvenile traffic offense or an act of
 6159 delinquency which would be a violation of Title 40 if committed by an adult, the court shall
 6160 forward, within ten days, a report of the final adjudication and disposition of the charge to
 6161 the Department of Driver Services; provided, however, that this procedure shall not be
 6162 applicable to those cases which have been dismissed or in which the child and the child's
 6163 parent, guardian, or legal custodian have been reprimanded, counseled, or warned by the
 6164 court. The Department of Driver Services shall record the adjudication and disposition of
 6165 the offense on the child's permanent record, and such adjudication and disposition shall be
 6166 deemed a conviction for the purpose of suspending or revoking the individual's driver's
 6167 license. Such record shall also be available to law enforcement agencies and courts as are
 6168 the permanent traffic records of adults.

6169 ARTICLE 8

6170 15-11-650.

6171 The purpose of this article is to:

6172 (1) Set forth procedures for a determination of a child's mental competency to stand trial;
6173 and
6174 (2) Provide a mechanism for the development and implementation of competency
6175 restoration or remediation services, when appropriate, including treatment, habilitation,
6176 support, or supervision services.

6177 15-11-651.

6178 As used in this article, the term:

6179 (1) 'Developmental disability' shall have the same meaning as set forth in Code Section
6180 37-1-1.

6181 (2) 'Mental competency proceedings' means hearings conducted to determine whether
6182 a child is mentally competent to participate in adjudication, a disposition hearing, or a
6183 transfer proceeding.

6184 (3) 'Mental health plan' shall have the same meaning as set forth in Code Section
6185 15-11-381.

6186 (4) 'Mentally competent' means having sufficient present ability to understand the nature
6187 and object of the proceedings, to comprehend his or her own situation in relation to the
6188 proceedings, and to assist his or her attorney in the preparation and presentation of his or
6189 her case in all adjudication, disposition, or transfer hearings. The child's age or
6190 immaturity may be used as the basis for determining a child's competency.

6191 (5) 'Plan manager' shall have the same meaning as set forth in Code Section 15-11-381.

6192 (6) 'Remediation services' means services or interventions for a child found to be
6193 incompetent to stand trial due to age, immaturity, or for any reason other than mental
6194 illness or developmental disability including, but not limited to, services or interventions
6195 directed at remediating deficits that exist because a child is at a relatively normal,
6196 immature stage of development.

6197 (7) 'Restoration to competency services' means services or interventions directed at
6198 restoring the competency of child who has been found incompetent to stand trial due to
6199 mental illness or mental retardation.

6200 (8) 'Treatment facility' means a facility designated by the department to receive patients
6201 for psychiatric treatment as provided in Code Sections 37-3-80 through 37-3-84 and shall
6202 not include a secure detention facility operated by DJJ.

6203 15-11-652.

6204 (a) If at any time after the filing of a petition alleging delinquency the court has reason to
6205 believe that the child named in the petition may not be mentally competent to stand trial,
6206 the court on its own motion or on the motion of the attorney representing the child, any

6207 guardian ad litem for the child, the child's parent, guardian, or legal custodian, or the
6208 prosecuting attorney shall stay all delinquency proceedings relating to such petition and
6209 order a full competency evaluation of and report on the child's mental condition.

6210 (b) When a delinquency petition is filed alleging a child under the age of 14 has committed
6211 a serious violent felony, as defined in Code Section 17-10-6.1, the court shall stay all
6212 delinquency proceedings relating to such petition and order a full competency evaluation
6213 and report concerning the child's mental condition.

6214 (c) Any motion, notice of hearing, order, or other pleading relating to a child's competency
6215 to stand trial shall be served upon the child, the child's attorney, the child's guardian ad
6216 litem, if any, the child's parent, guardian, or legal custodian, the prosecuting attorney, and
6217 the victim.

6218 (d) Prior to the administration of any evaluation, the court shall appoint an attorney to
6219 represent a child if the child is not yet represented by an attorney.

6220 (e) All time limits set forth in Article 7 of this chapter for adjudication and disposition of
6221 a delinquency proceeding shall be tolled during the evaluation, adjudication, and
6222 disposition phases of the mental competency proceeding.

6223 15-11-653.

6224 (a) The court ordered evaluation and report shall be conducted by an examiner who shall
6225 consider whether a child is mentally competent to stand trial. The court shall provide the
6226 examiner with any law enforcement or court records necessary for understanding the
6227 petition alleging delinquency. The attorney for the child and the prosecuting attorney shall
6228 provide the examiner with any records from any other available sources that are deemed
6229 necessary for the competency evaluation.

6230 (b) The competency evaluation shall be performed on an outpatient basis unless the
6231 examiner determines and the court makes specific findings that hospitalization of the child
6232 for evaluation of competency is clinically appropriate and may occur in the least restrictive
6233 environment or the child is currently hospitalized in a psychiatric hospital. If
6234 hospitalization is warranted, the court may order the child sent to a hospital designated by
6235 the commissioner of behavioral health and developmental disabilities as appropriate for the
6236 evaluation of a child.

6237 (c) If a child is hospitalized, the child shall be hospitalized only for such time as the
6238 director of the hospital deems necessary to perform an adequate evaluation of the child's
6239 competency.

6240 (d) An examiner who conducts the evaluation shall submit a written report to the court
6241 within 30 days from receipt of the court order requiring an evaluation. The court may, in

6242 its discretion, grant the examiner an extension in filing such report. The report shall
6243 contain the following:

6244 (1) The specific reason for the evaluation, as provided by the court or the party
6245 requesting the evaluation;

6246 (2) The evaluation procedures used, including any psychometric instruments
6247 administered, any records reviewed, and the identity of any persons interviewed;

6248 (3) Any available pertinent background information;

6249 (4) The results of a mental status exam, including the diagnosis and description of any
6250 psychiatric symptoms, cognitive deficiency, or both;

6251 (5) A description of the child's abilities and deficits in the following mental competency
6252 functions:

6253 (A) The ability to understand and appreciate the nature and object of the proceedings;

6254 (B) The ability to comprehend his or her situation in relation to the proceedings; and

6255 (C) The ability to assist his or her attorney in the preparation and presentation of his
6256 or her case;

6257 (6) An opinion regarding the potential significance of the child's mental competency,
6258 strengths, and deficits;

6259 (7) An opinion regarding whether or not the child should be considered mentally
6260 competent to stand trial; and

6261 (8) A specific statement explaining the reasoning supporting the examiner's final
6262 determination.

6263 (e) If, in the opinion of the examiner, the child should not be considered mentally
6264 competent to stand trial, the report shall also include the following:

6265 (1) An opinion as to whether there is a substantial probability that the child will attain
6266 the mental competency necessary to participate in adjudication, a disposition hearing, or
6267 a transfer hearing in the foreseeable future;

6268 (2) If the examiner believes that the child will attain mental competency,
6269 recommendations for the general level and type of remediation necessary for significant
6270 deficits;

6271 (3) A recommendation as to the appropriate treatment setting and whether residential or
6272 nonresidential treatment is required or appropriate;

6273 (4) When appropriate, recommendations for modifications of court procedure which may
6274 help compensate for mental competency weaknesses; and

6275 (5) If the child is currently receiving medication, how medication might affect the child
6276 in the proceedings.

6277 (f) If the examiner determines that the child is currently competent because of ongoing
6278 treatment with psychotropic medication, the report shall address the necessity of continuing

6279 such treatment and shall include a description of any limitation that the medication may
6280 have on competency.

6281 (g) Copies of the written evaluation report shall be provided by the court to the attorney
6282 representing the child, the prosecuting attorney or a member of his or her staff, and any
6283 guardian ad litem for the child no later than five days after receipt of the report by the
6284 court.

6285 (h) Upon a showing of good cause by any party or upon the court's own motion, the court
6286 may order additional examinations by other examiners. In no event shall more than one
6287 examination be conducted by an examiner employed by DBHDD.

6288 15-11-654.

6289 (a) If at any time following a finding that a child is not mentally competent to stand trial,
6290 the court determines that the child is a resident of a county of this state other than the
6291 county in which the court sits, the court may transfer the proceeding to the county of the
6292 child's residence unless the alleged delinquent act would be a felony if committed by an
6293 adult.

6294 (b) When any case is transferred, certified copies of all legal, social history, health, or
6295 mental health records pertaining to the case on file with the clerk of the court shall
6296 accompany the transfer. Compliance with this subsection shall terminate jurisdiction in the
6297 transferring court and initiate jurisdiction in the receiving court.

6298 (c) If the child's mental competency is restored, jurisdiction of the case may be returned
6299 to the transferring court for the adjudication hearing and any subsequent proceedings.

6300 15-11-655.

6301 (a) A hearing to determine a child's mental competency to stand trial shall be conducted
6302 within 60 days after the initial court order for evaluation. The hearing may be continued
6303 by the court for good cause shown.

6304 (b) Written notice shall be given to all parties and the victim at least ten days prior to such
6305 hearing.

6306 (c) The burden of proving that the child is mentally competent shall be on the state. The
6307 standard of proof necessary for proving mental competency shall be a preponderance of the
6308 evidence.

6309 (d) At the hearing to determine mental competency to stand trial, the child's attorney and
6310 the prosecuting attorney shall have the right to:

6311 (1) Present evidence;

6312 (2) Call and examine witnesses;

6313 (3) Cross-examine witnesses; and

6314 (4) Present arguments.

6315 (e) The examiner appointed by the court shall be considered the court's witness and shall
 6316 be subject to cross-examination by both the child's attorney and the prosecuting attorney.

6317 (f) The court's findings of fact shall be based on any evaluations of the child's mental
 6318 condition conducted by examiners appointed by the court, any evaluations of the child's
 6319 mental condition conducted by independent evaluators hired by the parties, and any
 6320 additional evidence presented.

6321 (g) If the court finds that the child is mentally competent, the proceedings which have been
 6322 suspended shall be resumed. The time limits under Article 7 of this chapter for
 6323 adjudication and disposition of the petition shall begin to run from the date of the order
 6324 finding the child mentally competent.

6325 (h) Copies of the court's findings shall be given to the same individuals to whom notice
 6326 of the mental competency hearing was provided and within ten days following the issuance
 6327 of such findings.

6328 15-11-656.

6329 (a) If the court initially finds that the child is incompetent to stand trial because of mental
 6330 illness or developmental disability but may be restored to competency, the court shall order
 6331 that the child undergo an attempt at restoration to competency.

6332 (b) If the court initially finds that the child is incompetent to stand trial because of age or
 6333 immaturity or any other reason other than mental illness or developmental disability but
 6334 the child's incompetence may be remediated, the court shall order remediation services for
 6335 the child.

6336 (c) If the child is determined to be incompetent to stand trial and:

6337 (1) The child is alleged to have committed an act that would be a felony if committed by
 6338 an adult, the court shall retain jurisdiction of the child for up to two years after the date
 6339 of the order of incompetency, with review hearings at least every six months to
 6340 redetermine competency; or

6341 (2) The child is alleged to have committed an act that would be a misdemeanor if
 6342 committed by an adult, the court shall retain jurisdiction of the child for up to 120 days
 6343 after the date of the order of incompetency.

6344 (d) All court orders determining incompetency shall include specific written findings by
 6345 the court as to the nature of the incompetency and whether the child requires secure or
 6346 nonsecure treatment. A child may be placed in a secure treatment facility or program if the
 6347 court makes a finding by clear and convincing evidence that:

6348 (1) The child is mentally ill or developmentally disabled and meets the requirements for
 6349 civil commitment pursuant to Chapters 3 and 4 of Title 37; and

6350 (2) All available less restrictive alternatives, including treatment in community
 6351 residential facilities or community settings which would offer an opportunity for
 6352 improvement of the child's condition, are inappropriate.

6353 (e) A child who is mentally incompetent to stand trial shall not be subject to transfer to
 6354 superior court, adjudication, disposition, or modification of disposition so long as the
 6355 mental incompetency exists.

6356 (f) If the court determines that a child is mentally incompetent to stand trial and is alleged
 6357 to have committed a delinquent act which would be a misdemeanor if committed by an
 6358 adult, the court may dismiss the petition without prejudice.

6359 (g) If a child is detained in a secure detention facility and the court determines that the
 6360 child is mentally incompetent to stand trial, the child shall be released from detention and
 6361 DBHDD shall place the child in an appropriate treatment setting, as recommended by the
 6362 examiner, within five days of such determination.

6363 15-11-657.

6364 (a) All restoration to competency orders issued by the court shall contain:

6365 (1) The name of the competency restoration or remediation program provider and the
 6366 location of the program;

6367 (2) A statement of the arrangements for the child's transportation to the program site;

6368 (3) The length of the competency restoration or remediation program;

6369 (4) A statement of the arrangements for the child's transportation after the program ends;

6370 and

6371 (5) A direction concerning the frequency of reports required by the court.

6372 (b) The competency restoration or remediation program provider shall file a written report
 6373 with the court:

6374 (1) Not later than six months after the date the court orders that restoration to
 6375 competency or remediation be attempted but prior to the first review hearing;

6376 (2) At the end of any period of extended treatment;

6377 (3) At any time DBHDD, through its restoration or remediation program provider,
 6378 determines the child has attained competency; or

6379 (4) At shorter intervals designated by the court in its restoration to competency or
 6380 remediation order.

6381 (c) The competency restoration or remediation program provider's written report shall
 6382 include, but shall not be limited to:

6383 (1) Whether the child can be remediated or restored to competency or whether the child
 6384 is likely to remain incompetent to stand trial for the foreseeable future;

- 6385 (2) Whether additional time is needed to remediate or restore the child to competency;
 6386 and
 6387 (3) If the child has attained competency, the effect, if any, of any limitations that are
 6388 imposed by any medications used in the effort to remediate or restore competency.
 6389 (d) When appropriate, the provider's report shall also detail:
 6390 (1) Whether civil commitment proceedings pursuant to Chapters 3 and 4 of Title 37
 6391 should be initiated;
 6392 (2) If the child has reached the age of 18 years at the time of the competency
 6393 determination, whether a referral should be made for appropriate adult services; and
 6394 (3) Whether the child should be provided other services by the court.
- 6395 15-11-658.
 6396 (a) If the court initially finds that a child is unrestorably incompetent to stand trial, the
 6397 court shall dismiss the delinquency petition, find that the child is a child in need of
 6398 services, appoint a plan manager, and order that procedures for a mental health plan be
 6399 initiated. When appropriate, the court may:
 6400 (1) Order that civil commitment proceedings pursuant to Chapters 3 and 4 of Title 37 be
 6401 initiated. Such proceedings shall be instituted not less than 60 days prior to the dismissal
 6402 of the delinquency petition; or
 6403 (2) Order that referral be made for appropriate adult services if the child has reached the
 6404 age of 18 years at the time of the competency determination.
 6405 (b) If at any time after the child is ordered to undergo restoration to competency services,
 6406 DBHDD, through its restoration program provider, determines that the child is likely to
 6407 remain incompetent to stand trial for the foreseeable future, DBHDD shall submit a report
 6408 to the court so stating.
 6409 (c) Upon receipt of the DBHDD report, the court shall make a competency determination
 6410 and shall dismiss the delinquency petition, find that the child is a child in need of services,
 6411 appoint a plan manager, and order that procedures for a mental health plan be initiated.
 6412 When appropriate, the court may:
 6413 (1) Order that civil commitment proceedings pursuant to Chapters 3 and 4 of Title 37 be
 6414 initiated. Such proceedings shall be instituted not less than 60 days prior to the dismissal
 6415 of the delinquency petition; or
 6416 (2) Order that referral be made for appropriate adult services if the child has reached the
 6417 age of 18 years at the time of the competency determination.

6418 15-11-659.

6419 If at any time after a child is found to be incompetent to stand trial due to age, immaturity,
 6420 or for any reason other than mental illness or developmental disability and is ordered to
 6421 undergo competence remediation services and DBHDD determines that the child is likely
 6422 to remain incompetent to stand trial for the foreseeable future, DBHDD shall submit a
 6423 report and its conclusions to the court. Upon receipt of the report, the court shall:

6424 (1) Make a competency determination;

6425 (2) Order that the delinquency petition be dismissed;

6426 (3) Find that the child is a child in need of services; and

6427 (4) Order that a plan manager be appointed and that the procedures for a mental health
 6428 plan be initiated.

6429 15-11-660.

6430 (a) The court shall hold a hearing to review a child's progress toward competency:

6431 (1) At least every six months;

6432 (2) At any time, on its own motion or on the motion of the prosecuting attorney, the
 6433 child's attorney, or the child's guardian ad litem, if any;

6434 (3) On receipt of a report submitted by DBHDD; or

6435 (4) Not less than three months before the child's eighteenth birthday.

6436 (b) If at a review hearing the court finds that the child has regained competency, the
 6437 suspended proceedings shall be resumed and the time limits under Article 7 of this chapter
 6438 for adjudication and disposition of the petition alleging delinquency shall begin to run from
 6439 the date of the order finding the child mentally competent.

6440 (c) If at a review hearing held following the court's receipt of a DBHDD report, the court
 6441 finds that the child has not been restored to competency or that the child's incompetency
 6442 has not been remediated but that the child has made substantial progress toward
 6443 remediation or restoration to competency, the court may extend the competency
 6444 remediation or restoration program period for an additional 60 days if the court determines
 6445 by clear and convincing evidence that further participation is likely to lead to remediation
 6446 or restoration to competency.

6447 (d) If at a review hearing the court finds that the child is not remediated or restored to
 6448 competency and is not restorable within the time left before the child's eighteenth birthday,
 6449 the court shall dismiss the delinquency petition with prejudice if the child is alleged to have
 6450 committed a delinquent act which would be a misdemeanor if committed by an adult.

6451 (e) At each review hearing, the court shall also consider whether the petition alleging
 6452 delinquency should be withdrawn, maintained, or dismissed, without prejudice, upon
 6453 grounds other than the child's not being mentally competent. If the court dismisses the

6454 petition, the prosecuting attorney may seek to refile a petition alleging a delinquent act
 6455 which would be a felony if committed by an adult if the child is later determined to be
 6456 mentally competent. The prosecuting attorney may also seek transfer to superior court if
 6457 the child is later determined to be mentally competent and otherwise meets all the
 6458 requirements for transfer under Article 7 of this chapter.

6459 ARTICLE 9

6460 15-11-680.

6461 This article shall be known and may be cited as the 'Parental Notification Act.'

6462 15-11-681.

6463 As used in this article, the term:

6464 (1) 'Abortion' means the use or prescription of any instrument, medicine, drug, or any
 6465 other substance or device with the intent to terminate the pregnancy of a female known
 6466 to be pregnant. The term 'abortion' shall not include the use or prescription of any
 6467 instrument, medicine, drug, or any other substance or device employed solely to increase
 6468 the probability of a live birth, to preserve the life or health of the child after live birth, or
 6469 to remove a dead unborn child who died as a result of a spontaneous abortion. The term
 6470 'abortion' also shall not include the prescription or use of contraceptives.

6471 (2) 'Proper identification' means any document issued by a governmental agency
 6472 containing a description of the person, the person's photograph, or both, including, but
 6473 not limited to, a driver's license, an identification card authorized under Code Sections
 6474 40-5-100 through 40-5-104 or similar identification card issued by another state, a
 6475 military identification card, a passport, or an appropriate work authorization issued by the
 6476 United States Immigration and Customs Enforcement Division of the Department of
 6477 Homeland Security.

6478 (3) 'Unemancipated minor' means any person under the age of 18 who is not or has not
 6479 been married or who is under the care, custody, and control of such person's parent or
 6480 parents, guardian, or the juvenile court of competent jurisdiction.

6481 15-11-682.

6482 (a) No physician or other person shall perform an abortion upon an unemancipated minor
 6483 under the age of 18 years unless:

6484 (1)(A) The minor seeking an abortion shall be accompanied by a parent or guardian
 6485 who shall show proper identification and state that the parent or guardian is the lawful

6486 parent or guardian of the minor and that the parent or guardian has been notified that
6487 an abortion is to be performed on the minor;

6488 (B) The physician or the physician's qualified agent gives at least 24 hours' actual
6489 notice, in person or by telephone, to a parent or guardian of the pending abortion and
6490 the name and address of the place where the abortion is to be performed; provided,
6491 however, that, if the person so notified indicates that he or she has been previously
6492 informed that the minor was seeking an abortion or if the person so notified has not
6493 been previously informed and he or she clearly expresses that he or she does not wish
6494 to consult with the minor, then in either event the abortion may proceed in accordance
6495 with Chapter 9A of Title 31; or

6496 (C) The physician or a physician's qualified agent gives written notice of the pending
6497 abortion and the address of the place where the abortion is to be performed, sent by
6498 registered or certified mail or statutory overnight delivery, return receipt requested with
6499 delivery confirmation, addressed to a parent or guardian at the usual place of abode of
6500 the parent or guardian. Unless proof of delivery is otherwise sooner established, such
6501 notice shall be deemed delivered 48 hours after mailing. The time of mailing shall be
6502 recorded by the physician or agent in the minor's file. The abortion may be performed
6503 24 hours after the delivery of the notice; provided, however, that, if the person so
6504 notified certifies in writing that he or she has been previously informed that the minor
6505 was seeking an abortion or if the person so notified has not been previously informed
6506 and he or she certifies in writing that he or she does not wish to consult with the minor,
6507 then in either event the abortion may proceed in accordance with Chapter 9A of Title
6508 31; and

6509 (2) The minor signs a consent form stating that she consents, freely and without
6510 coercion, to the abortion.

6511 (b) If the unemancipated minor or the physician or a physician's qualified agent, as the
6512 case may be, elects not to comply with any one of the requirements of subparagraph
6513 (a)(1)(A), (a)(1)(B), or (a)(1)(C) of this Code section, or if the parent or legal guardian of
6514 the minor cannot be located, the minor may petition, on the minor's own behalf or by next
6515 friend, any juvenile court in the state for a waiver of such requirement pursuant to the
6516 procedures provided for in Code Section 15-11-684. The juvenile court shall assist the
6517 minor or next friend in preparing the petition and notices required pursuant to this Code
6518 section. Venue shall be lawful in any county, notwithstanding Code Section 15-11-30.

6519 (c) No abortion shall be performed unless the requirements of subparagraph (a)(1)(A),
6520 (a)(1)(B), or (a)(1)(C) of this Code section have been met or the minor has obtained a court
6521 order waiving such requirements.

6522 15-11-683.
6523 Notwithstanding Code Sections 15-11-40, 15-11-150, 15-11-152, 15-11-160, 15-11-281,
6524 15-11-424, and 15-11-531, the unemancipated minor or next friend shall be notified of the
6525 date, time, and place of the hearing in such proceedings at the time of filing the petition.
6526 The hearing shall be held within three days of the date of filing, excluding weekends and
6527 legal holidays. The parent, guardian, or legal custodian of the unemancipated minor shall
6528 not be served with the petition or with a summons or otherwise notified of the proceeding.
6529 If a hearing is not held within the time prescribed in this Code section, the petition shall be
6530 deemed granted.

6531 15-11-684.

6532 (a) An unemancipated minor may participate in proceedings in the court on such minor's
6533 own behalf and the court shall advise such minor of the right to court appointed counsel
6534 and shall provide such minor with such counsel upon request or if such minor is not already
6535 adequately represented.

6536 (b) All court proceedings under this Code section shall be conducted in a manner to
6537 preserve the complete anonymity of the parties and shall be given such precedence over
6538 other pending matters as is necessary to ensure that a decision is reached by the court as
6539 expeditiously as is possible under the circumstances of the case. In no event shall the
6540 name, address, birth date, or social security number of such minor be disclosed.

6541 (c) The requirement of subparagraph (a)(1)(A), (a)(1)(B), or (a)(1)(C) of Code Section
6542 15-11-682 shall be waived if the court finds either:

6543 (1) That the unemancipated minor is mature enough and well enough informed to make
6544 the abortion decision in consultation with her physician, independently of the wishes of
6545 such minor's parent or guardian; or

6546 (2) That the notice to a parent or, if the minor is subject to guardianship, the legal
6547 guardian pursuant to Code Section 15-11-682 would not be in the best interests of the
6548 minor.

6549 (d) A court that conducts proceedings under this Code section shall issue written and
6550 specific factual findings and legal conclusions supporting its decision and shall order that
6551 a record of the evidence be maintained. The juvenile court shall render its decision within
6552 24 hours of the conclusion of the hearing and a certified copy of same shall be furnished
6553 immediately to the minor. If the juvenile court fails to render its decision within 24 hours
6554 after the conclusion of the hearing, then the petition shall be deemed granted. All juvenile
6555 court records shall be sealed in a manner which will preserve anonymity.

6556 (e) An expedited appeal completely preserving the anonymity of the parties shall be
6557 available to any unemancipated minor to whom the court denies a waiver of notice. The

6558 appellate courts are authorized and requested to issue promptly such rules as are necessary
6559 to preserve anonymity and to ensure the expeditious disposition of procedures provided by
6560 this Code section. In no event shall the name, address, birth date, or social security number
6561 of such minor be disclosed during the expedited appeal or thereafter.

6562 (f) No filing fees shall be required of any unemancipated minor who uses the procedures
6563 provided by this Code section.

6564 15-11-685.

6565 The requirements and procedures of this article shall apply to all unemancipated minors
6566 within this state whether or not such persons are residents of this state.

6567 15-11-686.

6568 This article shall not apply when, in the best clinical judgment of the attending physician
6569 on the facts of the case before him or her, a medical emergency exists that so complicates
6570 the condition of the minor as to require an immediate abortion. A person who performs an
6571 abortion as a medical emergency under the provisions of this Code section shall certify in
6572 writing the medical indications on which this judgment was based when filing such reports
6573 as are required by law.

6574 15-11-687.

6575 Any physician or any person employed or connected with a physician, hospital, or health
6576 care facility performing abortions who acts in good faith shall be justified in relying on the
6577 representations of the unemancipated minor or of any other person providing the
6578 information required under this article. No physician or other person who furnishes
6579 professional services related to an act authorized or required by this article and who relies
6580 upon the information furnished pursuant to this article shall be held to have violated any
6581 criminal law or to be civilly liable for such reliance, provided that the physician or other
6582 person acted in good faith.

6583 15-11-688.

6584 Any person who violates the provisions of this article shall be guilty of a misdemeanor and
6585 any person who intentionally encourages another to provide false information pursuant to
6586 this article shall be guilty of a misdemeanor.

ARTICLE 10

6587

6588 15-11-700.6589 (a) As used in this Code section, the term 'dependency proceeding' means a court
6590 proceeding stemming from a petition alleging that a child is a dependent child.6591 (b) The general public shall be admitted to:6592 (1) An adjudicatory hearing involving an allegation of a designated felony;6593 (2) An adjudicatory hearing involving an allegation of delinquency brought in the
6594 interest of any child who has previously been adjudicated delinquent; provided, however,
6595 the court shall close any delinquency hearing on an allegation of sexual assault or any
6596 delinquency hearing at which any party expects to introduce substantial evidence related
6597 to matters of dependency;6598 (3) Any child support hearing;6599 (4) Any hearing in a legitimation action filed pursuant to Code Section 19-7-22;6600 (5) At the court's discretion, any dispositional hearing involving any proceeding under
6601 this article; or6602 (6) Any hearing in a dependency proceeding, except as otherwise provided in subsection
6603 (c) of this Code section.6604 (c) The court may close the hearing in a dependency proceeding only upon making a
6605 finding upon the record and issuing a signed order as to the reason or reasons for closing
6606 all or part of a hearing in such proceeding and stating that:6607 (A) The proceeding involves an allegation of an act which, if done by an adult, would
6608 constitute a sexual offense under Chapter 6 of Title 16; or6609 (B) It is in the best interests of the child. In making such a determination, the court
6610 shall consider such factors as:6611 (i) The age of the child;6612 (ii) The nature of the allegations;6613 (iii) The effect that an open court proceeding will have on the court's ability to reunite
6614 and rehabilitate the family unit; and6615 (iv) Whether the closure is necessary to protect the privacy of a child, of a foster
6616 parent or other caretaker of a child, or of a victim of domestic violence.6617 (d) The court may close a hearing or exclude a person from a hearing in any proceeding
6618 on its own motion, by motion of a party to the proceeding, or by motion of a child who is
6619 the subject of the proceeding or the child's attorney or guardian ad litem.6620 (e) Only the parties, their counsel, witnesses, persons accompanying a party for his or her
6621 assistance, the victim, and any other persons as the court finds have a proper interest in the
6622 proceeding or in the work of the court may be admitted by the court to hearings from which

6623 the public is excluded; provided, however, that when the conduct alleged in the dependency
6624 proceeding could give rise to a criminal or delinquent prosecution, attorneys for the
6625 prosecution and the defense shall be admitted.

6626 (f) The court may refuse to admit a person to a hearing in any proceeding upon making a
6627 finding upon the record and issuing a signed order that the person's presence at the hearing
6628 would:

6629 (1) Be detrimental to the best interests of a child who is a party to the proceeding;

6630 (2) Impair the fact-finding process; or

6631 (3) Be otherwise contrary to the interest of justice.

6632 (g) The court may temporarily exclude any child from a termination of parental rights
6633 hearing except while allegations of his or her delinquency or unruly conduct are being
6634 heard.

6635 (h) Any request for installation and use of electronic recording, transmission, videotaping,
6636 or motion picture or still photography of any judicial proceeding shall be made to the court
6637 at least two days in advance of the hearing. The request shall be evaluated by the court
6638 pursuant to the standards set forth in Code Section 15-1-10.1.

6639 (i) The judge may order the media not to release identifying information concerning any
6640 child or family members or foster parent or other caretaker of a child involved in hearings
6641 open to the public.

6642 (j) The general public shall be excluded from proceedings in juvenile court unless such
6643 hearing has been specified as one in which the general public shall be admitted to pursuant
6644 to this Code section.

6645 15-11-701.

6646 (a) Upon dismissal of a petition or complaint alleging delinquency or that a child is a child
6647 in need of services or completion of the process in a case handled through informal
6648 adjustment, mediation, or other nonadjudicatory procedure, the court shall order the sealing
6649 of the files and records in the case.

6650 (b) On application of a person who has been adjudicated delinquent or a child in need of
6651 services or on the court's own motion, and after a hearing, the court shall order the sealing
6652 of the files and records in the proceeding if the court finds that:

6653 (1) Two years have elapsed since the final discharge of the person;

6654 (2) Since the final discharge of the person he or she has not been convicted of a felony
6655 or of a misdemeanor involving moral turpitude or adjudicated a delinquent child or a
6656 child in need of services and no proceeding seeking conviction or adjudication is pending
6657 against the person; and

6658 (3) The person has been rehabilitated.

6659 (c) Reasonable notice of the hearing required by subsection (b) of this Code section shall
6660 be given to:

6661 (1) The district attorney;

6662 (2) DJJ, when appropriate;

6663 (3) The authority granting the discharge if the final discharge was from an institution or
6664 from parole; and

6665 (4) The law enforcement officers or department having custody of the files and records
6666 if the files and records specified in Code Sections 15-11-702 and 15-11-708 are included
6667 in the application or motion.

6668 (d) Upon the entry of the order the proceeding shall be treated as if it had never occurred.
6669 All index references shall be deleted and the person, the court, the law enforcement
6670 officers, and the departments shall properly reply that no record exists with respect to the
6671 person upon inquiry in any matter. Copies of the order shall be sent to each agency or
6672 designated official and shall also be sent to the deputy director of the Georgia Crime
6673 Information Center. Inspection of the sealed files and records thereafter may be permitted
6674 by an order of the court upon petition by the person who is the subject of the records and
6675 otherwise only by those persons named in the order or to criminal justice officials upon
6676 petition to the court for official judicial enforcement or criminal justice purposes.

6677 (e) The court may seal any record containing information identifying a victim of an act
6678 which, if done by an adult, would constitute a sexual offense under Chapter 6 of Title 16.

6679 15-11-702.

6680 (a)(1) Every child charged with an offense which would be a felony if committed by an
6681 adult, shall be fingerprinted and photographed upon being taken into custody.

6682 (2) Fingerprints and photographs of children shall be taken and filed separately from
6683 those of adults by law enforcement officials to be used in investigating the commission
6684 of crimes and to be made available as provided in this article and as may be directed by
6685 the court.

6686 (b) Fingerprint files and photographs of children may be inspected by law enforcement
6687 officers when necessary for criminal justice purposes and for the discharge of their official
6688 duties. Other inspections may be authorized by the court in individual cases upon a
6689 showing that it is necessary in the public interest.

6690 (c) If a child has been charged with an offense that if committed by an adult would be a
6691 felony or if the case is transferred to another court for prosecution, the child's fingerprints,
6692 personal identification data, and other pertinent information shall be forwarded to the
6693 Georgia Crime Information Center of the Georgia Bureau of Investigation. The center
6694 shall create a juvenile fingerprint file and enter the data into the computerized criminal

6695 history files. The Georgia Bureau of Investigation shall act as the official state repository
6696 for juvenile history data and shall be authorized to disseminate such data for the purposes
6697 specified in Code Section 15-11-708.

6698 (d) Upon application of a child, fingerprints and photographs of the child shall be removed
6699 from the file and destroyed if a petition alleging delinquency is not filed or the proceedings
6700 are dismissed after either such petition is filed or the case is transferred to the juvenile court
6701 or the child is adjudicated not to be a delinquent child. The court shall notify the deputy
6702 director of the Georgia Crime Information Center when fingerprints and photographs are
6703 destroyed, and the Georgia Bureau of Investigation shall treat such records in the same
6704 manner as expunged records pursuant to subsection (c) of Code Section 35-3-37.

6705 (e) Except as provided in subsection (a) of this Code section, without the consent of the
6706 judge, a child shall not be photographed after he or she is taken into custody unless the case
6707 is transferred to another court for prosecution.

6708 (f) Upon request, the judge or his or her designee shall release the name of any child with
6709 regard to whom a petition has been filed alleging the child committed a designated felony
6710 or alleging the child committed a delinquent act if the child has previously been
6711 adjudicated delinquent or if the child has previously been before the court on a delinquency
6712 charge and adjudication was withheld.

6713 15-11-703.

6714 The disposition of a child and evidence adduced in a hearing in the juvenile court may not
6715 be used against such child in any proceeding in any court other than for a proceeding for
6716 delinquency or a child in need of services, whether before or after reaching majority,
6717 except in the establishment of conditions of bail, plea negotiations, and sentencing in
6718 felony offenses; and, in such excepted cases, such records of dispositions and evidence
6719 shall be available to prosecuting attorneys and superior court judges and the accused and
6720 may be used in the same manner as adult records.

6721 15-11-704.

6722 (a) Except as provided in subsection (b) of this Code section and Code Sections 15-11-705
6723 and 15-11-706, all files and records of the court in a proceeding under this chapter shall be
6724 open to inspection only upon order of the court.

6725 (b) The general public shall be allowed to inspect court files and records for any
6726 proceeding that was open to the public pursuant to paragraphs (1) through (5) of subsection
6727 (b) of Code Section 15-11-700.

6728 (c) The judge may permit authorized representatives of recognized organizations
6729 compiling statistics for proper purposes to inspect and make abstracts from official records

6730 under whatever conditions upon their use and distribution the judge may deem proper and
6731 may punish by contempt any violation of those conditions.

6732 (d) The judge shall permit authorized representatives of DJJ, the Governor's Office for
6733 Children and Families, and the Council of Juvenile Court Judges to inspect and extract data
6734 from any court files and records for the purpose of obtaining statistics on children and to
6735 make copies pursuant to the order of the court.

6736 (e) Except as otherwise provided in Code Sections 15-11-701 and 15-11-703, the
6737 complaint, petition, order of adjudication, and order of disposition in any delinquency case
6738 shall be disclosed upon request of the prosecuting attorney or the accused for use
6739 preliminarily to or in conjunction with a subsequent juvenile or criminal proceeding in a
6740 court of record.

6741 15-11-705.

6742 (a) Notwithstanding other provisions of this article, the court records of proceedings under
6743 Article 6 of this chapter shall be withheld from public inspection but shall be open to
6744 inspection by the child, juvenile probation and parole officers, a parent, guardian, or legal
6745 custodian, the child's attorney, and others entrusted with the supervision of the child.
6746 Additional access to court records may be granted by court order.

6747 (b) It shall be unlawful for any person to disclose court records, or any part thereof, to
6748 persons other than those entitled to access under subsection (a) of this Code section, except
6749 by court order. Any person who knowingly violates this subsection shall be guilty of
6750 contempt and the court may enter any order authorized by the provisions of Code Section
6751 15-11-31.

6752 15-11-706.

6753 (a) When a decision is made to handle a case through informal adjustment, mediation, or
6754 other nonadjudicatory procedure, the juvenile court intake officer shall file with the court
6755 in the county in which the child legally resides all of the following information:

6756 (1) The child's name, address, and date of birth;

6757 (2) The act or offense for which the child was apprehended;

6758 (3) The diversion decision made;

6759 (4) The nature of the child's compliance with an informal adjustment agreement; and

6760 (5) If an informal adjustment agreement is revoked, the fact of and reasons for the
6761 revocation.

6762 (b) Notwithstanding subsection (a) of Code Section 15-11-701, the court in the county in
6763 which the child resides shall keep a separate record for that child which shall be open to
6764 the court, the prosecuting attorney, or an officer designated by the court only for the

6765 purpose of deciding whether to handle a subsequent case through informal adjustment,
6766 mediation, or other nonadjudicatory procedure or for use in disposition of a subsequent
6767 proceeding. Any person who knowingly violates this subsection shall be guilty of
6768 contempt and the court may enter any order authorized by the provisions of Code Section
6769 15-11-31.

6770 15-11-707.

6771 Within 30 days of any proceeding in which a child is adjudicated delinquent for a second
6772 or subsequent time or is found to have committed a designated felony act, the court shall
6773 provide written notice to the school superintendent of the school in which the child is
6774 enrolled or his or her designee or, if the information is known, of the school in which such
6775 child plans to be enrolled at a future date. Such notice shall include the specific delinquent
6776 act or designated felony that the child committed.

6777 15-11-708.

6778 (a) Law enforcement records and files concerning a child shall be kept separate from the
6779 records and files of arrests of adults.

6780 (b) Unless a charge of delinquency is transferred for criminal prosecution or the interest
6781 of national security requires or the case is one in which the general public may not be
6782 excluded from the hearings or the court otherwise orders in the best interests of the child,
6783 the records and files shall not be open to public inspection nor shall their contents be
6784 disclosed to the public.

6785 (c) Inspection of the records and files shall be permitted by:

6786 (1) A juvenile court having the child before it in any proceeding;

6787 (2) The attorney for a party to the proceedings, with the consent of the court;

6788 (3) The officers of public institutions or agencies to whom the child is committed;

6789 (4) Law enforcement officers of this state, the United States, or any other jurisdiction
6790 when necessary for the discharge of their official duties;

6791 (5) A court in which the child is convicted of a criminal offense, for the purpose of a
6792 presentence report or other disposition proceeding;

6793 (6) Officials of penal institutions and other penal facilities to which the child is
6794 committed; or

6795 (7) A parole board in considering the child's parole or discharge or in exercising
6796 supervision over the child.

6797 (d) The court shall allow authorized representatives of DJJ, the Governor's Office for
6798 Children and Families, and the Council of Juvenile Court Judges to inspect and copy law
6799 enforcement records for the purpose of obtaining statistics on children.

6800 (e) Access to fingerprint records submitted to the Georgia Bureau of Investigation shall
6801 be limited to the administration of criminal justice purposes as defined in Code Section
6802 15-11-2.

6803 15-11-709.

6804 (a) Subject to the earlier sealing of certain records pursuant to Code Section 15-11-701,
6805 the juvenile court shall make and keep records of all cases brought before it and shall
6806 preserve the records pertaining to a child in accordance with the common records retention
6807 schedules for courts approved by the State Records Committee pursuant to Code Section
6808 50-18-92.

6809 (b) Thereafter, the court may destroy such records, except that the records of cases in
6810 which a court terminates the parental rights of a parent and the records of cases involving
6811 a petition for legitimation of a child shall be preserved permanently.

6812 (c) The juvenile court shall make official minutes consisting of all petitions and orders
6813 filed in a case and any other pleadings, certificates, proofs of publication, summonses,
6814 warrants, and other writs which may be filed and shall make social records consisting of
6815 records of investigation and treatment and other confidential information.

6816 (d) Identification data shall be maintained and shall be disseminated to criminal justice
6817 officials for official judicial enforcement or criminal justice purposes as provided in Code
6818 Section 35-3-33.

6819 (e) Nothing in this chapter shall restrict or otherwise prohibit a juvenile court clerk from
6820 electing to store for computer retrieval any or all records, dockets, indexes, or files; nor
6821 shall a juvenile court clerk be prohibited from combining or consolidating any books,
6822 dockets, files, or indexes in connection with the filing for record of papers of the kind
6823 specified in this chapter or any other law, provided that any automated or computerized
6824 record-keeping method or system shall provide for the systematic and safe preservation and
6825 retrieval of all books, dockets, records, or indexes. When the clerk of a juvenile court
6826 elects to store for computer retrieval any or all records, the same data elements used in a
6827 manual system shall be used, and the same integrity and security shall be maintained.

6828 15-11-710.

6829 (a) As used in this Code section, the term 'governmental entity' shall mean the court,
6830 superior court, the DJJ, DBHDD, DFACS, county departments of family and children
6831 services, or public school, as such term is defined in Code Section 16-11-35.

6832 (b) Governmental entities and state, county, municipal, or consolidated government
6833 departments, boards, or agencies shall exchange with each other all information not held
6834 as confidential pursuant to federal law and relating to a child which may aid a

6835 governmental entity in the assessment, treatment, intervention, or rehabilitation of a child,
 6836 notwithstanding Code Section 15-1-15, 15-11-40, 15-11-105, 15-11-170, 15-11-264,
 6837 15-11-541, 15-11-542, 15-11-603, 15-11-708, 15-11-709, 15-11-744, 20-2-751.2,
 6838 20-14-40, 24-9-40.1, 24-9-41, 24-9-42, 26-4-5, 26-4-80, 26-5-17, 31-5-5, 31-33-6, 37-1-53,
 6839 37-2-9.1, 42-5-36, 42-8-40, 42-8-106, 49-5-40, 49-5-41, 49-5-41.1, 49-5-44, 49-5-45,
 6840 49-5-183, 49-5-184, 49-5-185, or 49-5-186, in order to serve the best interests of the child.
 6841 Information which is shared pursuant to this subsection shall not be utilized to assist in the
 6842 prosecution of the child in juvenile court or superior court or utilized to the detriment of
 6843 the child.
 6844 (c) Information released pursuant to this Code section shall not change or rescind the
 6845 confidential nature of such information and such information shall not be subject to public
 6846 disclosure or inspection unless otherwise provided by law.

6847 ARTICLE 11

6848 15-11-720.

6849 (a) Emancipation may occur by operation of law or pursuant to a petition filed with the
 6850 court as provided in this article by a child who is at least 16 years of age.

6851 (b) An emancipation occurs by operation of law:

6852 (1) When a child is validly married;

6853 (2) When a child reaches the age of 18 years; or

6854 (3) During the period when the child is on active duty with the armed forces of the
 6855 United States.

6856 (c) An emancipation occurs by court order pursuant to a petition filed by a child with the
 6857 juvenile court.

6858 15-11-721.

6859 A child seeking emancipation shall file a petition for emancipation in the juvenile court in
 6860 the county where the child resides. The petition shall be signed and verified by the child,
 6861 and shall include:

6862 (1) The child's full name and birth date and the county and state where the child was
 6863 born;

6864 (2) A certified copy of the child's birth certificate;

6865 (3) The name and last known address of the child's parent, guardian, or legal custodian
 6866 and, if no parent, guardian, or legal custodian can be found, the name and address of the
 6867 child's nearest living relative residing within this state;

6868 (4) The child's present address and length of residency at that address;

- 6869 (5) A declaration by the child demonstrating the ability to manage his or her financial
 6870 affairs together with any information necessary to support the declaration;
 6871 (6) A declaration by the child demonstrating the ability to manage his or her personal and
 6872 social affairs together with any information necessary to support the declaration; and
 6873 (7) The names of individuals who have personal knowledge of the child's circumstances
 6874 and believe that under those circumstances emancipation is in the best interests of the
 6875 child. Such individuals may include any of the following:
 6876 (A) A licensed physician or osteopath;
 6877 (B) A registered professional nurse or licensed practical nurse;
 6878 (C) A licensed psychologist;
 6879 (D) A licensed professional counselor, social worker, or marriage and family therapist;
 6880 (E) A school guidance counselor, school social worker, or school psychologist;
 6881 (F) A school administrator, school principal, or school teacher;
 6882 (G) A member of the clergy;
 6883 (H) A law enforcement officer; or
 6884 (I) An attorney.

6885 15-11-722.

- 6886 (a) Upon filing the petition, a copy of the petition for emancipation and a summons to
 6887 appear at the hearing shall be served on all persons named in the petition and upon any
 6888 individual who provided an affidavit for the emancipation.
 6889 (b) A person served with a petition may file an answer in the juvenile court in which the
 6890 petition was filed within 30 days of being served.

6891 15-11-723.

- 6892 (a) After a petition for emancipation is filed, the court may:
 6893 (1) Appoint a guardian ad litem to investigate the allegations of the petition and to file
 6894 a report with the court, including a recommendation as to whether it is in the best
 6895 interests of the child that the petition for emancipation be granted;
 6896 (2) Appoint an attorney for the child; and
 6897 (3) Appoint an attorney for the child's parent, guardian, or legal custodian if he or she is
 6898 an indigent person and if he or she opposes the petition.
 6899 (b) After a petition for emancipation is filed, the court shall seek an affidavit from each
 6900 person identified in the petition pursuant to paragraph (7) of Code Section 15-11-721 which
 6901 describes why that person believes the child should be emancipated.

6902 15-11-724.

6903 A child who petitions the court for emancipation shall have the burden of showing that
6904 emancipation should be ordered by a preponderance of evidence.

6905 15-11-725.

6906 (a) The court shall issue an emancipation order if, after a hearing, it determines that
6907 emancipation is in the best interests of the child and the child has established:

6908 (1) That the child's parent, guardian, or legal custodian does not object to the petition;
6909 or, if a parent, guardian, or legal custodian objects to the petition, that the best interests
6910 of the child are served by allowing the emancipation to occur by court order;

6911 (2) That the child is a resident of this state;

6912 (3) That the child has demonstrated the ability to manage his or her financial affairs,
6913 including proof of employment or other means of support. 'Other means of support' shall
6914 not include general assistance or aid received from means-tested public assistance
6915 programs such as Temporary Assistance for Needy Families as provided in Article 9 of
6916 Chapter 4 of Title 49 or similar programs under Title IV-A of the federal Social Security
6917 Act;

6918 (4) That the child has the ability to manage his or her personal and social affairs,
6919 including, but not limited to, proof of housing; and

6920 (5) That the child understands his or her rights and responsibilities under this article as
6921 an emancipated child.

6922 (b) If the court issues an emancipation order, the court shall retain a copy of the order until
6923 the emancipated child becomes 25 years of age.

6924 (c) An emancipation obtained by fraud is voidable. Voiding an emancipation order shall
6925 not affect an obligation, responsibility, right, or interest that arose during the period of time
6926 the order was in effect.

6927 (d) The child or the child's parent, guardian, or legal custodian may appeal the court's grant
6928 or denial of an emancipation petition.

6929 15-11-726.

6930 (a) A child emancipated by court order may petition the juvenile court that issued the
6931 emancipation order to rescind such order.

6932 (b) A copy of the petition for rescission and a summons shall be served on the child's
6933 parent, guardian, or legal custodian.

6934 (c) The court shall grant the petition and rescind the order of emancipation if it finds:

6935 (1) That the child is an indigent person and has no means of support;

6936 (2) That the child and the child's parent, guardian, or legal custodian agree that the order
 6937 should be rescinded; or

6938 (3) That there is a resumption of family relations inconsistent with the existing
 6939 emancipation order.

6940 (d) If a petition for rescission is granted, the court shall issue an order rescinding the
 6941 emancipation order and retain a copy of the order until the child becomes 25 years of age.

6942 (e) Rescission of an emancipation order shall not alter any contractual obligations or rights
 6943 or any property rights or interests that arose during the period of time that the emancipation
 6944 order was in effect.

6945 (f) The child or a parent, guardian, or legal custodian of the child may appeal the court's
 6946 grant or denial of a petition for rescission of an emancipation order. The appeal shall be
 6947 filed in the Court of Appeals.

6948 15-11-727.

6949 (a) A child emancipated by operation of law or by court order shall be considered to have
 6950 the rights and responsibilities of an adult, except for those specific constitutional and
 6951 statutory age requirements regarding voting, use of alcoholic beverages, and other health
 6952 and safety regulations relevant to the child because of his or her age. The rights of a child
 6953 to receive any transfer of property or money pursuant to 'The Georgia Transfers to Minors
 6954 Act' under Article 5 of Chapter 5 of Title 44; under the Uniform Transfers to Minors Act,
 6955 the Uniform Gift to Minors Act, or other substantially similar act of another state; or
 6956 pursuant to a trust agreement shall not be affected by a declaration of an emancipation
 6957 under this article.

6958 (b) A child shall be considered emancipated for the purposes of, but not limited to:

6959 (1) The right to enter into enforceable contracts, including apartment leases;

6960 (2) The right to sue or be sued in his or her own name;

6961 (3) The right to retain his or her own earnings;

6962 (4) The right to establish a separate domicile;

6963 (5) The right to act autonomously, and with the rights and responsibilities of an adult, in
 6964 all business relationships, including, but not limited to, property transactions and
 6965 obtaining accounts for utilities, except for those estate or property matters that the court
 6966 determines may require a conservator or guardian ad litem;

6967 (6) The right to earn a living, subject only to the health and safety regulations designed
 6968 to protect those under the age of 18 regardless of their legal status;

6969 (7) The right to authorize his or her own preventive health care, medical care, dental
 6970 care, and mental health care, without parental knowledge or liability;

- 6971 (8) The right to apply for a driver's license or other state licenses for which he or she
 6972 might be eligible;
 6973 (9) The right to register for school;
 6974 (10) The right to apply for medical assistance programs and for other welfare assistance,
 6975 if needed;
 6976 (11) The right, if a parent, to make decisions and give authority in caring for his or her
 6977 own minor child; and
 6978 (12) The right to make a will.
 6979 (c) The parent, guardian, or legal custodian of a child emancipated by court order shall not
 6980 be liable for any debts incurred by the child during the period of emancipation.

6981 15-11-728.

- 6982 (a) The duty to provide support for a child shall continue until an emancipation order is
 6983 granted.
 6984 (b) A child emancipated under this article shall not be considered a dependent child.
 6985 (c) The provisions set forth in Code Section 19-3-2 regarding age limitations to contract
 6986 for marriage shall apply to a child who has become emancipated under this article.

6987 ARTICLE 12

6988 15-11-740.

- 6989 (a) This article shall be known and may be cited as the 'Georgia Child Advocate for the
 6990 Protection of Children Act.'
 6991 (b) In keeping with this article's purpose of assisting, protecting, and restoring the security
 6992 of children whose well-being is threatened, it is the intent of the General Assembly that the
 6993 mission of protection of the children of this state should have the greatest legislative and
 6994 executive priority. Recognizing that the needs of children must be attended to in a timely
 6995 manner and that more aggressive action should be taken to protect children from abuse and
 6996 neglect, the General Assembly creates the Office of the Child Advocate for the Protection
 6997 of Children to provide independent oversight of persons, organizations, and agencies
 6998 responsible for providing services to or caring for children who are victims of child abuse
 6999 and neglect, or whose domestic situation requires intervention by the state. The Office of
 7000 the Child Advocate for the Protection of Children will provide children with an avenue
 7001 through which to seek relief when their rights are violated by state officials and agents
 7002 entrusted with their protection and care.

7003 15-11-741.

7004 As used in this article, the term:

7005 (1) 'Advocate' or 'child advocate' means the Child Advocate for the Protection of
7006 Children established under Code Section 15-11-742.

7007 (2) 'Agency' shall have the same meaning and application as provided for in paragraph
7008 (1) of subsection (a) of Code Section 50-14-1.

7009 (3) 'Child' or 'children' means an individual receiving protective services from DFCS, for
7010 whom DFCS has an open case file, or who has been, or whose siblings, parents, or other
7011 caretakers have been the subject of a report to DFCS within the previous five years.

7012 15-11-742.

7013 (a) There is created the Office of the Child Advocate for the Protection of Children. The
7014 Governor, by executive order, shall create a nominating committee which shall consider
7015 nominees for the position of the advocate and shall make a recommendation to the
7016 Governor. Such person shall have knowledge of the child welfare system, the juvenile
7017 justice system, and the legal system and shall be qualified by training and experience to
7018 perform the duties of the office as set forth in this article.

7019 (b) The advocate shall be appointed by the Governor from a list of at least three names
7020 submitted by the nominating committee for a term of three years and until his or her
7021 successor is appointed and qualified and may be reappointed. The salary of the advocate
7022 shall not be less than \$60,000.00 per year, shall be fixed by the Governor, and shall come
7023 from funds appropriated for the purposes of the advocate.

7024 (c) The Office of the Child Advocate for the Protection of Children shall be assigned to
7025 the Office of Planning and Budget for administrative purposes only, as described in Code
7026 Section 50-4-3.

7027 (d) The advocate may appoint such staff as may be deemed necessary to effectively fulfill
7028 the purposes of this article, within the limitations of the funds available for the purposes
7029 of the advocate. The duties of the staff may include the duties and powers of the advocate
7030 if performed under the direction of the advocate. The advocate and his or her staff shall
7031 receive such reimbursement for travel and other expenses as is normally allowed to state
7032 employees from funds appropriated for the purposes of the advocate.

7033 (e) The advocate shall have the authority to contract with experts in fields including but
7034 not limited to medicine, psychology, education, child development, juvenile justice, mental
7035 health, and child welfare, as needed to support the work of the advocate, utilizing funds
7036 appropriated for the purposes of the advocate.

7037 (f) Notwithstanding any other provision of state law, the advocate shall act independently
7038 of any state official, department, or agency in the performance of his or her duties.

7039 (g) The advocate or his or her designee shall be an ex officio member of the State-wide
7040 Child Abuse Prevention Panel.

7041 15-11-743.

7042 The advocate shall perform the following duties:

7043 (1) Identify, receive, investigate, and seek the resolution or referral of complaints made
7044 by or on behalf of children concerning any act, omission to act, practice, policy, or
7045 procedure of an agency or any contractor or agent thereof that may adversely affect the
7046 health, safety, or welfare of the children;

7047 (2) Refer complaints involving abused children to appropriate regulatory and law
7048 enforcement agencies;

7049 (3) Coordinate and supervise the work of the Georgia Child Fatality Review Panel
7050 created by Code Section 19-15-4 and provide such staffing and administrative support to
7051 the panel as may be necessary to enable the panel to carry out its statutory duties;

7052 (4) Report the death of any child to the chairperson of the child fatality review
7053 subcommittee of the county in which such child resided at the time of death, unless the
7054 advocate has knowledge that such death has been reported by the county medical
7055 examiner or coroner, pursuant to Code Section 19-15-3, and to provide such
7056 subcommittee access to any records of the advocate relating to such child;

7057 (5) Provide periodic reports on the work of the Office of the Child Advocate for the
7058 Protection of Children, including but not limited to an annual written report for the
7059 Governor and the General Assembly and other persons, agencies, and organizations
7060 deemed appropriate. Such reports shall include recommendations for changes in policies
7061 and procedures to improve the health, safety, and welfare of children and shall be made
7062 expeditiously in order to timely influence public policy;

7063 (6) Establish policies and procedures necessary for the Office of the Child Advocate for
7064 the Protection of Children to accomplish the purposes of this article including without
7065 limitation providing DFCS with a form of notice of availability of the Office of the Child
7066 Advocate for the Protection of Children. Such notice shall be posted prominently, by
7067 DFCS, in DFCS offices and in facilities receiving public moneys for the care and
7068 placement of children and shall include information describing the Office of the Child
7069 Advocate for the Protection of Children and procedures for contacting that office; and

7070 (7) Convene quarterly meetings with organizations, agencies, and individuals who work
7071 in the area of child protection to seek opportunities to collaborate and improve the status
7072 of children in Georgia.

7073 15-11-744.

7074 (a) The advocate shall have the following rights and powers:

7075 (1) To communicate privately, by mail or orally, with any child and with each child's
7076 parent, guardian, or legal custodian;

7077 (2) To have access to all records and files of DFCS concerning or relating to a child, and
7078 to have access, including the right to inspect, copy, and subpoena records held by clerks
7079 of the various courts, law enforcement agencies, service providers, including medical and
7080 mental health, and institutions, public or private, with whom a particular child has been
7081 either voluntarily or otherwise placed for care or from whom the child has received
7082 treatment within the state. To the extent any such information provides the names and
7083 addresses of individuals who are the subject of any confidential proceeding or statutory
7084 confidentiality provisions, such names and addresses or related information which has the
7085 effect of identifying such individuals shall not be released to the public without the
7086 consent of such individuals. The Office of the Child Advocate for the Protection of
7087 Children shall be bound by all confidentiality safeguards provided in Code Sections
7088 49-5-40 and 49-5-44. Anyone wishing to obtain records held by the Office of the Child
7089 Advocate shall petition the original agency of record where such records exist;

7090 (3) To enter and inspect any and all institutions, facilities, and residences, public and
7091 private, where a child has been placed by a court or DFCS and is currently residing.
7092 Upon entering such a place, the advocate shall notify the administrator or, in the absence
7093 of the administrator, the person in charge of the facility, before speaking to any children.
7094 After notifying the administrator or the person in charge of the facility, the advocate may
7095 communicate privately and confidentially with children in the facility, individually or in
7096 groups, or the advocate may inspect the physical plant. To the extent possible, entry and
7097 investigation provided by this Code section shall be conducted in a manner which will
7098 not significantly disrupt the provision of services to children;

7099 (4) To apply to the Governor to bring legal action in the nature of a writ of mandamus
7100 or application for injunction pursuant to Code Section 45-15-18 to require an agency to
7101 take or refrain from taking any action required or prohibited by law involving the
7102 protection of children;

7103 (5) To apply for and accept grants, gifts, and bequests of funds from other states, federal
7104 and interstate agencies, independent authorities, private firms, individuals, and
7105 foundations for the purpose of carrying out the lawful responsibilities of the Office of the
7106 Child Advocate for the Protection of Children;

7107 (6) When less formal means of resolution do not achieve appropriate results, to pursue
7108 remedies provided by this article on behalf of children for the purpose of effectively
7109 carrying out the provisions of this article; and

7110 (7) To engage in programs of public education and legislative advocacy concerning the
 7111 needs of children requiring the intervention, protection, and supervision of courts and
 7112 state and county agencies.

7113 (b)(1) Upon issuance by the advocate of a subpoena in accordance with this article for
 7114 law enforcement investigative records concerning an ongoing investigation, the
 7115 subpoenaed party may move a court with appropriate jurisdiction to quash said subpoena.

7116 (2) The court shall order a hearing on the motion to quash within five days of the filing
 7117 of the motion to quash, which hearing may be continued for good cause shown by any
 7118 party or by the court on its own motion. Subject to any right to an open hearing in
 7119 contempt proceedings, such hearing shall be closed to the extent necessary to prevent
 7120 disclosure of the identity of a confidential source; disclosure of confidential investigative
 7121 or prosecution material which would endanger the life or physical safety of any person
 7122 or persons; or disclosure of the existence of confidential surveillance, investigation, or
 7123 grand jury materials or testimony in an ongoing criminal investigation or prosecution.
 7124 Records, motions, and orders relating to a motion to quash shall be kept sealed by the
 7125 court to the extent and for the time necessary to prevent public disclosure of such matters,
 7126 materials, evidence, or testimony.

7127 (c) The court shall, at or before the time specified in the subpoena for compliance
 7128 therewith, enter an order:

7129 (1) Enforcing the subpoena as issued;

7130 (2) Quashing or modifying the subpoena if it is unreasonable and oppressive; or

7131 (3) Conditioning enforcement of the subpoena on the advocate maintaining confidential
 7132 any evidence, testimony, or other information obtained from law enforcement or
 7133 prosecution sources pursuant to the subpoena until the time the criminal investigation and
 7134 prosecution are concluded. Unless otherwise ordered by the court, an investigation or
 7135 prosecution shall be deemed to be concluded when the information becomes subject to
 7136 public inspection pursuant to Code Section 50-18-72. The court shall include in its order
 7137 written findings of fact and conclusions of law.

7138 15-11-745.

7139 (a) No person shall discriminate or retaliate in any manner against any child, parent,
 7140 guardian, or legal custodian of a child, employee of a facility, agency, institution or other
 7141 type of provider, or any other person because of the making of a complaint or providing
 7142 of information in good faith to the advocate or willfully interfere with the advocate in the
 7143 performance of his or her official duties.

7144 (b) Any person violating subsection (a) of this Code section shall be guilty of a
 7145 misdemeanor.

7146 15-11-746.

7147 The advocate shall be authorized to request an investigation by the Georgia Bureau of
7148 Investigation of any complaint of criminal misconduct involving a child.

7149 15-11-747.

7150 (a) There is established a Child Advocate Advisory Committee. The advisory committee
7151 shall consist of:

7152 (1) One representative of a not for profit children's agency appointed by the Governor;

7153 (2) One representative of a for profit children's agency appointed by the Lieutenant
7154 Governor;

7155 (3) One pediatrician appointed by the Speaker of the House of Representatives;

7156 (4) One social worker with experience and knowledge of child protective services who
7157 is not employed by the state appointed by the Governor;

7158 (5) One psychologist appointed by the Lieutenant Governor;

7159 (6) One attorney appointed by the Speaker of the House of Representatives from the
7160 Children and the Courts Committee of the State Bar of Georgia; and

7161 (7) One juvenile court judge appointed by the Chief Justice of the Supreme Court of
7162 Georgia.

7163 Each member of the advisory committee shall serve a two-year term and until the
7164 appointment and qualification of such member's successor. Appointments to fill vacancies
7165 in such offices shall be filled in the same manner as the original appointment.

7166 (b) The advisory committee shall meet a minimum of three times a year with the advocate
7167 and his or her staff to review and assess the following:

7168 (1) Patterns of treatment and service for children;

7169 (2) Policy implications; and

7170 (3) Necessary systemic improvements.

7171 The advisory committee shall also provide for an annual evaluation of the effectiveness of
7172 the Office of the Child Advocate for the Protection of Children."

PART II

CHILDREN AND YOUTH SERVICES

SECTION 2-1.

7176 Article 1 of Chapter 5 of Title 49 of the Official Code of Georgia Annotated, relating to
7177 children and youth services, is amended by adding two new Code sections to read as follows:

7178 "49-5-24.

7179 (a) The department shall adopt a procedure by which a child or young adult as such terms
7180 are defined in Code Sections 15-11-2 and 15-11-351, respectively, formerly in foster care
7181 may appeal an eligibility determination or the failure of the Division of Family and
7182 Children Services of the department to provide aftercare or transitional support services,
7183 as set forth in Article 5 Chapter 11 of Title 15, or the termination of such services.

7184 (b) The appeal procedure developed by the department shall be readily available to a child
7185 or a young adult formerly in foster care, shall provide timely decisions, and shall provide
7186 for an administrative appeal and judicial review of the administrative decision.

7187 49-5-25.

7188 The department shall develop outcome and other performance measures for the
7189 independent living skills program, as set forth in Article 5 Chapter 11 of Title 15, in order
7190 to maintain oversight of such program."

PART III

CROSS REFERENCES

SECTION 3-1.

7194 Code Section 1-2-8 of the Official Code of Georgia Annotated, relating to rights of minors,
7195 is revised as follows:

7196 "1-2-8.

7197 The law prescribes certain ages at which persons shall be considered of sufficient maturity
7198 to discharge certain civil functions, to make contracts, and to dispose of property. Prior to
7199 those ages they are minors and are, on account of that disability, unable to exercise these
7200 rights as citizens unless such minor becomes emancipated by operation of law or pursuant
7201 to Article 6 11 of Chapter 11 of Title 15."

7202 **SECTION 3-2.**

7203 Code Section 5-7-1 of the Official Code of Georgia Annotated, relating to orders, decisions,
 7204 or judgments appealable by the state, is amended by revising paragraph (6) of subsection (a)
 7205 as follows:

7206 "(6) From an order, decision, or judgment of a superior court transferring a case to the
 7207 juvenile court pursuant to ~~subparagraph (b)(2)(B) of Code Section 15-11-28~~ 15-11-567;"

7208 **SECTION 3-3.**

7209 Code Section 13-3-20 of the Official Code of Georgia Annotated, relating to minors and
 7210 contracts for property or valuable consideration and contracts for necessities, is revised as
 7211 follows:

7212 "13-3-20.

7213 (a) Generally the contract of a minor is voidable. If in a contractual transaction a minor
 7214 receives property or other valuable consideration and, after arrival at the age of 18, retains
 7215 possession of such property or continues to enjoy the benefit of such other valuable
 7216 consideration, the minor shall have thereby ratified or affirmed the contract and it shall be
 7217 binding on him or her. Such contractual transaction shall also be binding upon any minor
 7218 who becomes emancipated by operation of law or pursuant to Article ~~6~~ 11 of Chapter 11
 7219 of Title 15.

7220 (b) The contract of a minor for necessities shall be binding on the minor as if the minor
 7221 were 18 years of age except that the party furnishing them to the minor shall prove that the
 7222 parent or guardian of such minor had failed or refused to supply sufficient necessities for
 7223 the minor, that the minor was emancipated by operation of law, or the minor was
 7224 emancipated pursuant to Article ~~6~~ 11 of Chapter 11 of Title 15."

7225 **SECTION 3-4.**

7226 Code Section 15-23-7 of the Official Code of Georgia Annotated, relating to collection of
 7227 additional legal costs in civil actions for purposes of providing court-connected or
 7228 court-referred alternative dispute resolution programs, is amended by revising subsection (e)
 7229 as follows:

7230 "(e) Juvenile court supervision fees collected pursuant to Code Section ~~15-11-71~~ 15-11-37
 7231 may be used for mediation services provided by court programs pursuant to this chapter."

7232 **SECTION 3-5.**

7233 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is
 7234 amended by revising paragraphs (1) and (3) of subsection (a) of Code Section 16-5-45,
 7235 relating to interference with custody, as follows:

7236 "(1) 'Child' means any individual who is under the age of 17 years or any individual who
 7237 is under the age of 18 years who is alleged to be a ~~deprived~~ dependent child as such is
 7238 defined in Code Section 15-11-2, relating to juvenile proceedings."

7239 "(3) 'Lawful custody' means that custody inherent in the natural parents, that custody
 7240 awarded by proper authority as provided in Code Section ~~15-11-45~~ 15-11-133, or that
 7241 custody awarded to a parent, guardian, or other person by a court of competent
 7242 jurisdiction."

7243 **SECTION 3-6.**

7244 Said title is further amended by revising paragraph (3) of subsection (a) of Code Section
 7245 16-10-52, relating to escape, as follows:

7246 "(3) Having been adjudicated of a delinquent ~~or unruly~~ act or a juvenile traffic offense,
 7247 or as a child in need of services subject to lawful custody or lawful confinement,
 7248 intentionally escapes from lawful custody or from any place of lawful confinement;"

7249 **SECTION 3-7.**

7250 Said title is further amended by revising paragraph (3) of subsection (c) of Code Section
 7251 16-11-101.1, relating to furnishing a pistol or revolver to a person under the age of 18 years,
 7252 as follows:

7253 "(3) In addition to any other act which violates this subsection, a parent or legal guardian
 7254 shall be deemed to have violated this subsection if such parent or legal guardian furnishes
 7255 to or permits possession of a pistol or revolver by any minor who has been convicted of
 7256 a forcible felony or forcible misdemeanor, as defined in Code Section 16-1-3, or who has
 7257 been adjudicated delinquent under the provisions of Article ~~7~~ 7 of Chapter 11 of Title 15
 7258 for an offense which would constitute a forcible felony or forcible misdemeanor, as
 7259 defined in Code Section 16-1-3, if such minor were an adult."

7260 **SECTION 3-8.**

7261 Said title is further amended by revising subsection (b) of Code Section 16-11-127.1, relating
 7262 to carrying weapons within school safety zones, at school functions, or on school property,
 7263 as follows:

7264 "(b)(1) Except as otherwise provided in subsection (c) of this Code section, it shall be
 7265 unlawful for any person to carry to or to possess or have under such person's control
 7266 while within a school safety zone or at a school building, school function, or school
 7267 property or on a bus or other transportation furnished by the school any weapon or
 7268 explosive compound, other than fireworks the possession of which is regulated by
 7269 Chapter 10 of Title 25.

7270 (2) Any license holder who violates this subsection shall be guilty of a misdemeanor.
 7271 Any person who is not a license holder who violates this subsection shall be guilty of a
 7272 felony and, upon conviction thereof, be punished by a fine of not more than \$10,000.00,
 7273 by imprisonment for not less than two nor more than ten years, or both.

7274 (3) Any person convicted of a violation of this subsection involving a dangerous weapon
 7275 or machine gun, as such terms are defined in Code Section 16-11-121, shall be punished
 7276 by a fine of not more than \$10,000.00 or by imprisonment for a period of not less than
 7277 five nor more than ten years, or both.

7278 (4) A child who violates this subsection may be subject to the provisions of Code Section
 7279 ~~15-11-63~~ 15-11-601."

7280 **SECTION 3-9.**

7281 Said title is further amended by revising subsection (d) of Code Section 16-11-132, relating
 7282 to possession of a pistol or revolver by a person under the age of 18 years, as follows:

7283 "(d) Subsection (c) of this Code section shall not apply to any person under the age of 18
 7284 years who has been convicted of a forcible felony or forcible misdemeanor, as defined in
 7285 Code Section 16-1-3, or who has been adjudicated delinquent under the provisions of
 7286 Article ~~7~~ of Chapter 11 of Title 15 for an offense which would constitute a forcible felony
 7287 or forcible misdemeanor, as defined in Code Section 16-1-3, if such person were an adult."

7288 **SECTION 3-10.**

7289 Said title is further amended by revising subsections (a) through (d) of Code Section 16-12-1,
 7290 relating to contributing to the delinquency, unruliness, or deprivation of a minor, as follows:

7291 "(a) As used in this Code section, the term:

7292 (1) 'Delinquent act' means a delinquent act as defined in Code Section 15-11-2.

7293 (2) 'Felony' means any act which constitutes a felony under the laws of this state, the
 7294 laws of any other state of the United States, or the laws of the United States.

7295 (3) 'Minor' means any individual who is under the age of 17 years who is alleged to have
 7296 committed a delinquent act or any individual under the age of 18 years ~~who is alleged to~~
 7297 ~~be a deprived child as such is defined in Code Section 15-11-2, relating to juvenile~~
 7298 ~~proceedings.~~

7299 (4) 'Serious injury' means an injury involving a broken bone, the loss of a member of the
 7300 body, the loss of use of a member of the body, the substantial disfigurement of the body
 7301 or of a member of the body, an injury which is life threatening, or any sexual abuse of a
 7302 child under 16 years of age by means of an act described in subparagraph (a)(4)(A),
 7303 (a)(4)(G), or (a)(4)(I) of Code Section 16-12-100.

7304 (b) A person commits the offense of contributing to the delinquency, ~~unruliness~~, or
 7305 ~~deprivation~~ dependency of a minor or causing a child to be in need of services when such
 7306 person:

7307 (1) Knowingly and willfully encourages, causes, abets, connives, or aids a minor in
 7308 committing a delinquent act as such is defined in Code Section 15-11-2, ~~relating to~~
 7309 ~~juvenile proceedings~~;

7310 (2) Knowingly and willfully encourages, causes, abets, connives, or aids a minor in
 7311 committing an act which would cause such minor to be found to be ~~an unruly child~~ a
 7312 child in need of services as such is defined in Code Section 15-11-2, ~~relating to juvenile~~
 7313 ~~proceedings~~;

7314 (3) Willfully commits an act or acts or willfully fails to act when such act or omission
 7315 would cause a minor to be found to be a ~~deprived~~ dependent child as such is defined in
 7316 Code Section 15-11-2, ~~relating to juvenile proceedings~~;

7317 (4) Knowingly and willfully hires, solicits, engages, contracts with, conspires with,
 7318 encourages, abets, or directs any minor to commit any felony which encompasses force
 7319 or violence as an element of the offense or delinquent act which would constitute a felony
 7320 which encompasses force or violence as an element of the offense if committed by an
 7321 adult;

7322 (5) Knowingly and willfully provides to a minor any weapon as defined in paragraph (2)
 7323 of subsection (a) of Code Section 16-11-127.1 or any weapon as defined in Code Section
 7324 16-11-121 to commit any felony which encompasses force or violence as an element of
 7325 the offense or delinquent act which would constitute a felony which encompasses force
 7326 or violence as an element of the offense if committed by an adult; or

7327 (6) Knowingly and willfully hires, solicits, engages, contracts with, conspires with,
 7328 encourages, abets, or directs any minor to commit any smash and grab burglary which
 7329 would constitute a felony if committed by an adult.

7330 (c) It shall not be a defense to the offense provided for in this Code section that the minor
 7331 has not been formally adjudged to have committed a delinquent act or has not been found
 7332 to be ~~unruly or deprived~~ dependent or a child in need of services.

7333 (d) A person convicted pursuant to paragraph (1) ~~or (2)~~ of subsection (b) of this Code
 7334 section shall be punished as follows:

7335 (1) Upon conviction of the first or second offense, the defendant shall be guilty of a
 7336 misdemeanor and shall be fined not more than \$1,000.00 or shall be imprisoned for not
 7337 more than 12 months, or both fined and imprisoned; and

7338 (2) Upon the conviction of the third or subsequent offense, the defendant shall be guilty
 7339 of a felony and shall be fined not less than \$1,000.00 nor more than \$5,000.00 or shall

7340 be imprisoned for not less than one year nor more than three years, or both fined and
7341 imprisoned."

7342 **SECTION 3-11.**

7343 Said title is further amended by revising subsections (c), (e), and (g) of Code Section
7344 16-12-141.1, relating to disposal of aborted fetuses, as follows:

7345 "(c) Within 90 days after May 10, 2005, the Department of Human Resources (now known
7346 as the Department of Community Health for these purposes) shall prepare a reporting form
7347 for physicians which shall include:

7348 (1) The number of females whose parent or guardian was provided the notice required
7349 in paragraph (1) of subsection (a) of Code Section ~~15-11-112~~ 15-11-682 by the physician
7350 or such physician's agent; of that number, the number of notices provided personally
7351 under subparagraphs (a)(1)(A) and (a)(1)(B) of Code Section ~~15-11-112~~ 15-11-682 and
7352 the number of notices provided by mail under subparagraph (a)(1)(C) of Code Section
7353 ~~15-11-112~~ 15-11-682; and, of each of those numbers, the number of females who, to the
7354 best of the reporting physician's information and belief, went on to obtain the abortion;
7355 (2) The number of females upon whom the physician performed an abortion without
7356 providing to the parent or guardian of a minor the notice required by subsection (a) of
7357 Code Section ~~15-11-112~~ 15-11-682; and of that number, the number of females for which
7358 subsection (b) of Code Section ~~15-11-112~~ 15-11-682 and Code Section ~~15-11-116~~
7359 15-11-686 were applicable;

7360 (3) The number of abortions performed upon a female by the physician after receiving
7361 judicial authorization pursuant to subsection (b) of Code Section ~~15-11-112~~ 15-11-682
7362 and Code Section ~~15-11-114~~ 15-11-684; and

7363 (4) The same information described in paragraphs (1), (2), and (3) of this subsection with
7364 respect to females for whom a guardian or conservator has been appointed."

7365 "(e) By February 28 of each year following a calendar year in any part of which this
7366 subsection was in effect, each physician who provided, or whose agent provided, the notice
7367 described in subsection (a) of Code Section ~~15-11-112~~ 15-11-682 and any physician who
7368 knowingly performed an abortion upon a female or upon a female for whom a guardian or
7369 conservator had been appointed because of a finding of incompetency during the previous
7370 calendar year shall submit to the Department of Community Health a copy of the form
7371 described in subsection (c) of this Code section with the requested data entered accurately
7372 and completely."

7373 "(g) By June 30 of each year, the Department of Community Health shall issue a public
7374 report providing statistics for the previous calendar year compiled from all the reports
7375 covering that year submitted in accordance with this Code section for each of the items

7376 listed in subsection (c) of this Code section. The report shall also include statistics which
 7377 shall be obtained by the Administrative Office of the Courts giving the total number of
 7378 petitions or motions filed under subsection (b) of Code Section ~~15-11-112~~ 15-11-682 and,
 7379 of that number, the number in which the court appointed a guardian ad litem, the number
 7380 in which the court appointed counsel, the number in which the judge issued an order
 7381 authorizing an abortion without notification, the number in which the judge denied such
 7382 an order, and, of the last, the number of denials from which an appeal was filed, the number
 7383 of such appeals that resulted in the denials being affirmed, and the number of such appeals
 7384 that resulted in reversals of such denials. Each report shall also provide the statistics for
 7385 all previous calendar years for which such a public statistical report was required to be
 7386 issued, adjusted to reflect any additional information from late or corrected reports. The
 7387 Department of Community Health shall ensure that none of the information included in the
 7388 public reports could reasonably lead to the identification of any individual female or of any
 7389 female for whom a guardian or conservator has been appointed."

7390 **SECTION 3-12.**

7391 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is
 7392 amended by revising paragraph (1) of subsection (a) of Code Section 17-7-130, relating to
 7393 proceedings upon a plea of mental incompetency to stand trial, as follows:

7394 "(1) 'Child' means a person under the jurisdiction of the superior court pursuant to Code
 7395 Section ~~15-11-28~~ 15-11-560."

7396 **SECTION 3-13.**

7397 Said title is further amended by revising subsection (a) of Code Section 17-7-50.1, relating
 7398 to time for presentment of child's case to a grand jury, as follows:

7399 "(a) Any child who is charged with a crime that is within the jurisdiction of the superior
 7400 court, as provided in Code Section ~~15-11-28~~ 15-11-560 or ~~15-11-30.2~~ 15-11-561, who is
 7401 detained shall within 180 days of the date of detention be entitled to have the charge
 7402 against him or her presented to the grand jury. The superior court shall, upon motion for
 7403 an extension of time and after a hearing and good cause shown, grant one extension to the
 7404 original 180 day period, not to exceed 90 additional days."

7405 **SECTION 3-14.**

7406 Said title is further amended by revising subsection (e) of Code Section 17-10-1, relating to
 7407 fixing of sentence, as follows:

7408 "(e) In any case involving a felony in which the defendant previously appeared before a
 7409 juvenile court, the records of the dispositions of the defendant as well as any evidence used

7410 in any juvenile court hearing shall be available to the district attorney, the defendant, and
 7411 the superior court judge in determining sentencing as provided in Code Section ~~15-11-79.1~~
 7412 15-11-703."

7413 **SECTION 3-15.**

7414 Said title is further amended by revising Code Section 17-10-14, relating to committal of
 7415 person under 17 convicted of a felony, as follows:

7416 "17-10-14.

7417 (a) Notwithstanding any other provisions of this article and except as otherwise provided
 7418 in ~~subsections (b) and (c)~~ subsection (b) of this Code section, in any case where a person
 7419 under the age of 17 years is convicted of a felony and sentenced as an adult to life
 7420 imprisonment or to a certain term of imprisonment, such person shall be committed to the
 7421 Department of Juvenile Justice to serve such sentence in a detention center of such
 7422 department until such person is 17 years of age at which time such person shall be
 7423 transferred to the Department of Corrections to serve the remainder of the sentence. This
 7424 Code section shall apply to any person convicted on or after July 1, 1987, and to any person
 7425 convicted prior to such date who has not been committed to an institution operated by the
 7426 Department of Corrections.

7427 (b) If a child is transferred to superior court according to subsection (b) of Code Section
 7428 ~~15-11-30.2~~ 15-11-561 and convicted of aggravated assault as defined in Chapter 5 of Title
 7429 16, the court may sentence such child to the Department of Corrections. Such child shall
 7430 be housed in a designated youth confinement unit until such person is 17 years of age, at
 7431 which time such person may be housed in any other unit designated by the Department of
 7432 Corrections.

7433 ~~(c) In any case where a child 13 to 17 years of age is convicted of a felony provided under~~
 7434 ~~subparagraph (b)(2)(A) of Code Section 15-11-28, such child shall be committed to the~~
 7435 ~~custody of the Department of Corrections and shall be housed in a designated youth~~
 7436 ~~confinement unit until such person is 17 years of age, at which time such person may be~~
 7437 ~~housed in any other unit designated by the Department of Corrections."~~

7438 **SECTION 3-16.**

7439 Said title is further amended by revising paragraph (5) of Code Section 17-14-2, relating to
 7440 definitions regarding restitution, as follows:

7441 "(5) 'Parent' means a person who is the legal mother as defined in ~~paragraph (10.2) of~~
 7442 Code Section 15-11-2, the legal father as defined in ~~paragraph (10.1) of~~ Code Section
 7443 15-11-2, or the legal guardian. Such term shall not include a foster parent."

SECTION 3-17.

7444

7445 Said title is further amended by revising subsection (d) of Code Section 17-15-13, relating
7446 to debt to state created, as follows:

7447 "(d) When a child is adjudicated delinquent in a juvenile court proceeding involving a
7448 crime upon which a claim under this chapter can be made, the juvenile court in its
7449 discretion may order that the child pay the debt to the state as an adult would have to pay
7450 had an adult committed the crime. Any assessments so ordered may be made a condition
7451 of probation as provided in ~~paragraph (2) of subsection (a) of Code Section 15-11-66~~
7452 15-11-601."

SECTION 3-18.

7453

7454 Said title is further amended by revising subsection (c) of Code Section 17-16-2, relating to
7455 applicability of rules of discovery, as follows:

7456 "(c) This article shall be deemed to have been automatically invoked, without the written
7457 notice provided for in subsection (a) of this Code section, when a defendant has sought
7458 discovery pursuant to Chapter 11 of Title 9, the 'Georgia Civil Practice Act,' pursuant to
7459 ~~Code Section 15-11-75~~ Part 8 of Article 7 of Chapter 11 of Title 15, or pursuant to the
7460 Uniform Rules for the Juvenile Courts of Georgia where such discovery material is the
7461 same as the discovery material that may be provided under this article when a written
7462 notice is filed pursuant to subsection (a) of this Code section."

SECTION 3-19.

7463

7464 Said title is further amended by revising subsection (d) of Code Section 19-7-22, relating to
7465 petition for legitimation of a child, as follows:

7466 "(d) A legitimation petition may be filed, pursuant to ~~paragraph (2) of subsection (e) of~~
7467 ~~Code Section 15-11-28~~ 15-11-11, in the juvenile court of the county in which a ~~deprivation~~
7468 dependency proceeding regarding the child is pending."

SECTION 3-20.

7469

7470 Said title is further amended by revising paragraph (4) of subsection (a) of Code Section
7471 19-8-10, relating to when surrender or termination of parental rights not required, as follows:

7472 "(4) Parent has failed to exercise proper parental care or control due to misconduct or
7473 inability, as set out in ~~paragraph (2), (3), or (4), or (5)~~ of subsection (b) (a) of Code
7474 Section ~~15-11-94~~ 15-11-310,"

SECTION 3-21.

7475
7476 Said title is further amended by revising subparagraph (a)(3)(D) of Code Section 19-8-11,
7477 relating to petitioning superior court to terminate parental rights, as follows:

7478 "(D) Parent has failed to exercise proper parental care or control due to misconduct or
7479 inability, as set out in paragraph ~~(2)~~, (3), ~~or (4)~~, or (5) of subsection ~~(b)~~ (a) of Code
7480 Section ~~15-11-94~~ 15-11-310,"

SECTION 3-22.

7481
7482 Said title is further amended by revising subsection (g) of Code Section 19-8-13, relating to
7483 petition for adoption, as follows:

7484 "(g) Notwithstanding the provisions of Code Sections 19-8-5 and 19-8-7 and this Code
7485 section which require obtaining and attaching a written voluntary surrender and
7486 acknowledgment thereof and affidavits of the legal mother and a representative of the
7487 petitioner, where the adoption is sought under subsection (a) of Code Section 19-8-5 or
7488 19-8-7 following the termination of parental rights and the placement of the child by the
7489 juvenile court pursuant to ~~paragraph (1) of subsection (a) of Code Section 15-11-103~~
7490 15-11-321, obtaining and attaching to the petition a certified copy of the order terminating
7491 parental rights of the parent shall take the place of obtaining and attaching those otherwise
7492 required surrenders, acknowledgments, and affidavits."

SECTION 3-23.

7493
7494 Said title is further amended by revising Code Section 19-10A-4, relating to no criminal
7495 prosecution for leaving a child in the custody of a medical facility, as follows:

7496 "19-10A-4.

7497 A mother shall not be prosecuted for the crimes of cruelty to a child, as provided in Code
7498 Section 16-5-70; contributing to the delinquency, ~~unruliness~~, or ~~deprivation dependency~~
7499 of a child or causing a child to be in need of services, as provided in Code Section 16-12-1;
7500 or abandonment of a dependent child, as provided in Code Section 19-10-1, because of the
7501 act of leaving her newborn child in the physical custody of an employee, agent, or member
7502 of the staff of a medical facility who is on duty, whether there in a paid or volunteer
7503 position, provided that the newborn child is no more than one week old and the mother
7504 shows proof of her identity, if available, to the person with whom the newborn is left and
7505 provides her name and address."

SECTION 3-24.

7506
7507 Said title is further amended by revising Code Section 19-10A-6, relating to reimbursement
7508 of medical costs, as follows:

7509 "19-10A-6.
 7510 A medical facility which accepts for inpatient admission a child left pursuant to Code
 7511 Section 19-10A-4 shall be reimbursed by the Department of Human Services for all
 7512 reasonable medical and other reasonable costs associated with the child prior to the child
 7513 being placed in the care of the department. A medical facility shall notify the Department
 7514 of Human Services at such time as the child is left and at the time the child is medically
 7515 ready for discharge. Upon notification that the child is medically ready for discharge, the
 7516 Department of Human Services shall take physical custody of the child within six hours.
 7517 The Department of Human Services upon taking physical custody shall promptly bring the
 7518 child before the juvenile court as required by Code Section ~~15-11-47~~ 15-11-145."

7519 **SECTION 3-25.**

7520 Said title is further amended by revising Code Section 19-13-20, relating to definitions
 7521 regarding family violence shelters, as follows:

7522 "(5) 'Family violence shelter' means a facility approved by the department for the purpose
 7523 of receiving, on a temporary basis, persons who are subject to family violence. Family
 7524 violence shelters are distinguished from shelters operated for detention or placement of
 7525 children only, as provided in subsection (a) of Code Section ~~15-11-48~~ 15-11-504 and
 7526 subsection (c) of Code Section 15-11-135."

7527 **SECTION 3-26.**

7528 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by
 7529 revising subsection (b) of Code Section 20-2-670, relating to requirements for transferring
 7530 students beyond sixth grade, as follows:

7531 "(b) In lieu of complying with the provision of subsection (a) of this Code section, a
 7532 transferring student may be admitted on a conditional basis if he or she and his or her
 7533 parent or legal guardian executes a document providing the name and address of the school
 7534 last attended and authorizing the release of all academic and disciplinary records to the
 7535 school administration. The parent or guardian shall be notified of the transfer of such
 7536 records and shall, upon written request made within ten days of such notice, be entitled to
 7537 receive a copy of such records. Within five days of the receipt of a copy of such records,
 7538 the parent or guardian may make a written request for and shall be entitled to a hearing
 7539 before the principal of the school or his or her designee which is the custodian of such
 7540 records for the purpose of challenging the content of the records. The student or his or her
 7541 parent or legal guardian shall also disclose on the same document as the release whether
 7542 the child has ever been adjudicated guilty of the commission of a designated felony act as
 7543 defined in Code Section ~~15-11-63~~ 15-11-2 and, if so, the date of such adjudication, the

7544 offense committed, the jurisdiction in which such adjudication was made, and the sentence
 7545 imposed. Any form document to authorize the release of records which is provided by a
 7546 school to a transferring student or such student's parent or legal guardian shall include a list
 7547 of designated felony acts. The student or his or her parent or legal guardian shall also
 7548 disclose on the document whether the student is currently serving a suspension or expulsion
 7549 from another school, the reason for such discipline, and the term of such discipline. If a
 7550 student so conditionally admitted is found to be ineligible for enrollment pursuant to the
 7551 provisions of Code Section 20-2-751.2, or is subsequently found to be so ineligible, he or
 7552 she shall be dismissed from enrollment until such time as he or she becomes so eligible."

7553 **SECTION 3-27.**

7554 Said title is further amended by revising Code Section 20-2-671, relating to transfer students
 7555 who have committed felony acts, as follows:

7556 "20-2-671.

7557 If any school administrator determines from the information obtained pursuant to Code
 7558 Section ~~15-11-63~~ 15-11-602 or 20-2-670 or from any other source that a student has
 7559 committed a designated felony act, such administrator shall so inform all teachers to whom
 7560 the student is assigned that they may review the information in the student's file provided
 7561 pursuant to subsection (b) of Code Section 20-2-670 received from other schools or from
 7562 the juvenile courts. Such information shall be kept confidential."

7563 **SECTION 3-28.**

7564 Said title is further amended by revising paragraph (14) of subsection (c) and subsection (g)
 7565 of Code Section 20-2-690.2, relating to establishment of student attendance protocol
 7566 committee, membership and protocol, summary of penalties for failure to comply, and
 7567 reporting, as follows:

7568 "(14) The court approved community based risk reduction program established by the
 7569 juvenile court in accordance with Code Section ~~15-11-10~~ 15-11-38, if such a program has
 7570 been established."

7571 "(g) The committee shall write the summary of possible consequences and penalties for
 7572 failing to comply with compulsory attendance under Code Section 20-2-690.1 for children
 7573 and their parents, guardians, or other persons who have control or charge of children for
 7574 distribution by schools in accordance with Code Section 20-2-690.1. The summary of
 7575 possible consequences for children shall include possible dispositions for ~~unruly~~
 7576 in need of services and possible denial or suspension of a driver's license for a child in
 7577 accordance with Code Section 40-5-22."

SECTION 3-29.

7578

7579 Said title is further amended by revising Code Section 20-2-699, relating to the disposition
7580 of children taken into custody, as follows:

7581 "20-2-699.

7582 Any person assuming temporary custody of a child pursuant to Code Section 20-2-698
7583 shall immediately deliver the child either to the parent, guardian, or other person having
7584 control or charge of the child or to the school from which the child is absent, or if the child
7585 is found to have been adjudged a delinquent or ~~unruly~~ in need of services, ~~he~~ the person
7586 shall cause the child to be brought before the probation officer of the county having
7587 jurisdiction over such child."

SECTION 3-30.

7588

7589 Said title is further amended by revising subsection (d) of Code Section 20-2-751.2, relating
7590 to students subject to disciplinary orders of other school systems, as follows:

7591 "(d) If any school administrator determines from the information obtained pursuant to this
7592 Code section or from Code Section ~~15-11-28 or 15-11-80~~ 15-11-599, 15-11-602, or
7593 15-11-707 that a student has been convicted of or has been adjudicated to have committed
7594 an offense which is a designated felony act under Code Section ~~15-11-63~~ 15-11-2, such
7595 administrator shall so inform all teachers to whom the student is assigned and other school
7596 personnel to whom the student is assigned. Such teachers and other certificated
7597 professional personnel as the administrator deems appropriate may review the information
7598 in the student's file provided pursuant to this Code section that has been received from
7599 other schools or from the juvenile courts or superior courts. Such information shall be kept
7600 confidential."

SECTION 3-31.

7601

7602 Said title is further amended by revising Code Section 20-2-766.1, relating to proceeding
7603 against parents for failure to cooperate in educational programs, as follows:

7604 "20-2-766.1.

7605 The local board of education may, by petition to the juvenile court, proceed against a parent
7606 or guardian as provided in this Code section. If the court finds that the parent or guardian
7607 has willfully and unreasonably failed to attend a conference requested by a principal
7608 pursuant to Code Section 20-2-765 or 20-2-766, the court may order the parent or guardian
7609 to attend such a conference, order the parent or guardian to participate in such programs
7610 or such treatment as the court deems appropriate to improve the student's behavior, or both.
7611 After notice and opportunity for hearing, the court may impose a fine, not to exceed
7612 \$500.00, on a parent or guardian who willfully disobeys an order of the court entered under

7613 this Code section. The court may use its contempt and other powers specified in Code
7614 Section ~~15-11-5~~ 15-11-31 to enforce any order entered under this Code section."

7615 **SECTION 3-32.**

7616 Said title is further amended by revising subsection (a) of Code Section 20-2-768, relating
7617 to expulsion or suspension of students for felonies, as follows:

7618 "(a) Each local board of education is authorized to refuse to readmit or enroll any student
7619 who has been suspended or expelled for being convicted of, being adjudicated to have
7620 committed, being indicted for, or having information filed for the commission of any
7621 felony or any delinquent act under Code Section ~~15-11-28~~ Sections 15-11-602 and
7622 15-11-707 which would be a felony if committed by an adult. If refused readmission or
7623 enrollment, the student or the student's parent or legal guardian has the right to request a
7624 hearing pursuant to the procedures provided for in Code Section 20-2-754."

7625 **SECTION 3-33.**

7626 Said title is further amended by revising subparagraph (B) of paragraph (1) of Code Section
7627 20-3-660, relating to program of grants for foster children created, as follows:

7628 "(B) The student is currently committed to the Division of Family and Children
7629 Services within the Department of Human Services under Code Section ~~15-11-55~~
7630 15-11-212 and placed in a family foster home or is placed in accordance with
7631 subparagraph (a)(2)(C) of Code Section ~~15-11-2~~ 15-11-212;"

7632 **SECTION 3-34.**

7633 Title 24 of the Official Code of Georgia Annotated, relating to evidence, is amended by
7634 revising subsection (b) of Code Section 24-9-5, relating to competency of persons without
7635 the use of reason, as follows:

7636 "(b) Notwithstanding the provisions of subsection (a) of this Code section, in all cases
7637 involving ~~deprivation~~ dependency as defined by Code Section 15-11-2, or in criminal cases
7638 involving child molestation, and in all other criminal cases in which a child was a victim
7639 of or a witness to any crime, any such child shall be competent to testify, and his or her
7640 credibility shall be determined as provided in Article 4 of this chapter."

7641 **SECTION 3-35.**

7642 Said title is further amended by revising subsection (q) of Code Section 24-9-47, relating to
7643 disclosure of AIDS confidential information, as follows:

7644 "(q) A public safety agency or district attorney may obtain the results from an HIV test to
7645 which the person named in the request has submitted under Code Section ~~15-11-66.1~~

7646 15-11-603, 17-10-15, 42-5-52.1, or 42-9-42.1, notwithstanding that the results may be
7647 contained in a sealed record."

7648 **SECTION 3-36.**

7649 Code Section 31-22-9.2 of the Official Code of Georgia Annotated, relating to HIV tests and
7650 reports of positive results, is amended by revising subsection (c) as follows:

7651 "(c) Unless exempted under this Code section, each health care provider who orders an
7652 HIV test for any person shall do so only after counseling the person to be tested. Unless
7653 exempted under this subsection, the person to be tested shall have the opportunity to refuse
7654 the test. The provisions of this subsection shall not be required if the person is required to
7655 submit to an HIV test pursuant to Code Section ~~15-11-66.1~~ 15-11-603, 17-10-15,
7656 31-17-4.2, 31-17A-3, 42-5-52.1, or 42-9-42.1. The provisions of this subsection shall not
7657 be required if the person is a minor or incompetent and the parent or guardian thereof
7658 permits the test after compliance with this subsection. The provisions of this subsection
7659 shall not be required if the person is unconscious, temporarily incompetent, or comatose
7660 and the next of kin permits the test after compliance with this subsection. The provisions
7661 of this subsection shall not apply to emergency or life-threatening situations. The
7662 provisions of this subsection shall not apply if the physician ordering the test is of the
7663 opinion that the person to be tested is in such a medical or emotional state that disclosure
7664 of the test would be injurious to the person's health. The provisions of this subsection shall
7665 only be required prior to drawing the body fluids required for the HIV test and shall not be
7666 required for each test performed upon that fluid sample."

7667 **SECTION 3-37.**

7668 Title 35 of the Official Code of Georgia Annotated, relating to law enforcement officers and
7669 agencies, is amended by revising subsection (c) of Code Section 35-3-33, relating to powers
7670 and duties of the Georgia Crime Information Center, as follows:

7671 "(c) The provisions of this article notwithstanding, information and records of children
7672 shall only be inspected and disclosed as provided in Code Sections ~~15-11-82~~ 15-11-702 and
7673 ~~15-11-83~~ 15-11-708. Such records and information shall be sealed or destroyed according
7674 to the procedures outlined in Code Sections ~~15-11-79.2~~ 15-11-701 and ~~15-11-81~~
7675 15-11-709."

7676 **SECTION 3-38.**

7677 Said title is further amended by revising subparagraph (B) of paragraph (7) of Code Section
7678 35-8-2, relating to definitions regarding peace officers, as follows:

7679 "(B) The Office of Permits and Enforcement of the Department of Transportation, the
 7680 Department of Juvenile Justice and its institutions and facilities for the purpose of
 7681 personnel who are authorized to exercise the power of arrest and who are employed or
 7682 appointed by said department or institutions, and the office or section in the Department
 7683 of Juvenile Justice in which persons are assigned who have been designated by the
 7684 commissioner to investigate and apprehend ~~unruly and delinquent children~~ and any
 7685 child with a pending juvenile court case alleging the child to be in need of services;
 7686 and"

7687 **SECTION 3-39.**

7688 Code Section 36-32-10 of the Official Code of Georgia Annotated, relating to jurisdiction
 7689 in cases of furnishing alcoholic beverages, is amended by revising subsection (e) as follows:
 7690 "(e) Nothing in this Code section shall affect the original and exclusive jurisdiction of the
 7691 juvenile court as set forth in Code Section ~~15-11-28~~ 15-11-10."

7692 **SECTION 3-40.**

7693 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is
 7694 amended by revising subsection (g) of Code Section 40-5-75, relating to suspension of
 7695 licenses by operation of law, as follows:
 7696 "(g) Notwithstanding the provisions of Code Section ~~15-11-72~~ 15-11-606 and except as
 7697 provided in subsection (c) of this Code section, an adjudication of a minor child as a
 7698 delinquent child ~~or an unruly child~~ for any offense listed in subsection (a) of this Code
 7699 section shall be deemed a conviction for purposes of this Code section."

7700 **SECTION 3-41.**

7701 Said title is further amended by revising subsection (l) of Code Section 40-6-391, relating
 7702 to driving under the influence of alcohol, drugs, or other intoxicating substances, as follows:
 7703 "(l) A person who violates this Code section while transporting in a motor vehicle a child
 7704 under the age of 14 years is guilty of the separate offense of endangering a child by driving
 7705 under the influence of alcohol or drugs. The offense of endangering a child by driving
 7706 under the influence of alcohol or drugs shall not be merged with the offense of driving
 7707 under the influence of alcohol or drugs for the purposes of prosecution and sentencing. An
 7708 offender who is convicted of a violation of this subsection shall be punished in accordance
 7709 with the provisions of subsection (d) of Code Section 16-12-1, ~~relating to the offense of~~
 7710 ~~contributing to the delinquency, unruliness, or deprivation of a child.~~"

SECTION 3-42.

7711
7712 Code Section 44-5-41 of the Official Code of Georgia Annotated, relating to voidance and
7713 ratification of conveyance to or by a minor, is revised as follows:

7714 "44-5-41.

7715 A deed, security deed, bill of sale to secure debt, or any other conveyance of property or
7716 interest in property to or by a minor is voidable unless such minor has become emancipated
7717 by operation of law or pursuant to Article 6 11 of Chapter 11 of Title 15. If a minor has
7718 conveyed property or an interest in property, the minor may void the conveyance upon
7719 arrival at the age of 18; and, if the minor makes another conveyance at that time, it will
7720 void the first conveyance without reentry or repossession. If property or an interest in
7721 property has been conveyed to a minor and, after arrival at the age of 18, the minor retains
7722 the possession or benefit of the property or interest in property, the minor shall have
7723 thereby ratified or affirmed the conveyance."

SECTION 3-43.

7724
7725 Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees,
7726 is amended by revising paragraph (7) of Code Section 45-9-81, relating to definitions
7727 regarding certain indemnification, as follows:

7728 "(7) 'Law enforcement officer' means any agent or officer of this state, a political
7729 subdivision or municipality of this state, or an authority of this state or a political
7730 subdivision of this state who, as a full-time or part-time employee, is vested either
7731 expressly by law or by virtue of public employment or service with authority to enforce
7732 the criminal or traffic laws with the power of arrest and whose duties include the
7733 preservation of public order, the protection of life and property, or the prevention,
7734 detection, or investigation of crime. Such term also includes the employees designated
7735 by the commissioner of juvenile justice ~~of the Department of Juvenile Justice~~ pursuant
7736 to paragraph (2) of subsection (i) of Code Section 49-4A-8, which employees have the
7737 duty to investigate and apprehend delinquent ~~and unruly~~ children and any child with a
7738 pending juvenile court case alleging the child to be in need of services who ~~have~~ has
7739 escaped from a facility under the jurisdiction of the Department of Juvenile Justice or
7740 who ~~have~~ has broken the conditions of supervision. Such term also includes members
7741 of the Georgia National Guard, the composition of which is set forth in Code Section
7742 38-2-3, who have been called into active state service by the Governor."

SECTION 3-44.

7743
7744 Said title is further amended by revising paragraph (7) of Code Section 45-9-101, relating
7745 to definitions regarding certain compensation, as follows:

7746 "(7) 'Law enforcement officer' means any agent or officer of this state, or a political
 7747 subdivision or municipality thereof, who, as a full-time or part-time employee, is vested
 7748 either expressly by law or by virtue of public employment or service with authority to
 7749 enforce the criminal or traffic laws and whose duties include the preservation of public
 7750 order, the protection of life and property, or the prevention, detection, or investigation of
 7751 crime. Such term also includes the employees designated by the commissioner of
 7752 juvenile justice ~~of the Department of Juvenile Justice~~ pursuant to paragraph (2) of
 7753 subsection (i) of Code Section 49-4A-8, which employees have the duty to investigate
 7754 and apprehend delinquent ~~and unruly~~ children and any child with a pending juvenile court
 7755 case alleging the child to be in need of services who ~~have~~ has escaped from a facility
 7756 under the jurisdiction of the Department of Juvenile Justice or who ~~have~~ has broken the
 7757 conditions of supervision. Such term also includes members of the Georgia National
 7758 Guard, the composition of which is set forth in Code Section 38-2-3, who have been
 7759 called into active state service by the Governor."

7760 SECTION 3-45.

7761 Said title is further amended by revising subsection (a) of Code Section 45-20-1, relating to
 7762 purposes and principles of personnel administration, as follows:

7763 "(a) It is the purpose of this article to establish in the state a system of personnel
 7764 administration which will attract, select, and retain the best employees based on merit, free
 7765 from coercive political influences, with incentives in the form of equal opportunities for
 7766 all; which will provide technically competent and loyal personnel to render impartial
 7767 service to the public at all times and to render such service according to the dictates of
 7768 ethics and morality; and which will remove unnecessary and inefficient employees. It is
 7769 specifically the intent of the General Assembly to promote this purpose by allowing
 7770 agencies greater flexibility in personnel management so as to promote the overall
 7771 effectiveness and efficiency of state government. To this end, and in accordance with Code
 7772 Sections 45-20-2 and 45-20-6, all positions filled after July 1, 1996, shall be included in
 7773 the unclassified service of the State Personnel Administration, except as provided in Code
 7774 Section ~~15-11-24.3~~ 15-11-68. It is also specifically the intent of the General Assembly that
 7775 employees in the classified service prior to July 1, 1996, shall continue to be employees in
 7776 the classified service so long as they remain in classified positions or as otherwise provided
 7777 by law. It is further specifically the intent of the General Assembly that state government
 7778 operate within a framework of consistent core personnel policies and practices across all
 7779 state agencies and entities and that the state's most valued resource, its employees, be
 7780 managed in a manner to promote work force productivity and sound business practices."

SECTION 3-46.

7781
7782 Said title is further amended by revising subsection (a) of Code Section 45-20-6, relating to
7783 composition of classified and unclassified service, as follows:

7784 "(a) The classified service as defined by Code Section 45-20-2 shall consist of only those
7785 employees who were in the classified service on June 30, 1996, and who have remained
7786 in a classified position without a break in service since that date. Any officer or employee
7787 who occupies a classified position under the State Personnel Administration prior to July
7788 1, 1996, or as provided in Code Section ~~15-11-24.3~~ 15-11-68 shall remain in the classified
7789 service so long as such officer or employee shall remain in a classified position or as
7790 otherwise provided by law. Employees in the classified service shall have, upon
7791 completing a working test period, appeal rights as provided in Code Sections 45-20-8 and
7792 45-20-9."

SECTION 3-47.

7793
7794 Title 49 of the Official Code of Georgia Annotated, relating to social services, is amended
7795 by revising paragraph (3) of Code Section 49-4A-1, relating to definitions regarding the
7796 Department of Juvenile Justice, as follows:

7797 "(3) '~~Delinquent or unruly~~ child or youth or a child in need of services' means any person
7798 so adjudged under Article ~~6~~ 6 or 7 of Chapter 11 of Title 15."

SECTION 3-48.

7799
7800 Said title is further amended by revising subsection (b) of Code Section 49-4A-2, relating to
7801 the creation of the Board of Juvenile Justice, as follows:

7802 "(b) The board shall provide leadership in developing programs to successfully rehabilitate
7803 ~~juvenile delinquents and unruly~~ children adjudicated delinquent or in need of services
7804 committed to the state's custody and to provide technical assistance to private and public
7805 entities for prevention programs for children at risk."

SECTION 3-49.

7806
7807 Said title is further amended by revising Code Section 49-4A-4, relating to purpose of
7808 chapter, as follows:

7809 "49-4A-4.

7810 It is the purpose of this chapter to establish the department as the agency to administer,
7811 supervise, and manage juvenile detention facilities. Except for the purposes of
7812 administration, supervision, and management as provided in this chapter, juvenile detention
7813 facilities shall continue to be detention care facilities for delinquent ~~and unruly~~ children and
7814 youth and children in need of services who have violated a valid court order for the

7815 purposes of Article ~~† 6 or 7~~ of Chapter 11 of Title 15, ~~relating to juvenile courts and~~
 7816 ~~juvenile proceedings.~~"

7817 **SECTION 3-50.**

7818 Said title is further amended by revising paragraphs (1) and (2) of subsection (a) and the
 7819 introductory language of subsection (b) of Code Section 49-4A-7, relating to powers and
 7820 duties of the department, as follows:

7821 "(1) Accept for detention in a youth development center or other juvenile detention
 7822 facility any child who is committed to the department under Article ~~† 7~~ of Chapter 11 of
 7823 Title 15;

7824 (2) Provide probation and parole and other court services for children and youth pursuant
 7825 to a request from a court under Article ~~† 7~~ of Chapter 11 of Title 15;"

7826 "(b) When given legal custody over a child or youth for detention in a youth development
 7827 center or other facility under court order under Article ~~† 7~~ of Chapter 11 of Title 15, the
 7828 department shall have:"

7829 **SECTION 3-51.**

7830 Said title is further amended by revising Code Section 49-4A-8, relating to commitment of
 7831 delinquent or unruly children, as follows:

7832 "49-4A-8.

7833 (a) When any child or youth is adjudged to be in a state of delinquency ~~or unruliness or~~
 7834 a child in need of services who has violated a valid court order under Article ~~† 6 or 7~~ of
 7835 Chapter 11 of Title 15 and the court does not release such child or youth unconditionally
 7836 or place him or her on probation or in a suitable public or private institution or agency, the
 7837 court may commit ~~him~~ such child to the department as provided in said Article ~~† 6 or 7~~ of
 7838 Chapter 11 of Title 15; provided, however, that no delinquent ~~or unruly~~ child or youth ~~or~~
 7839 child in need of services who has violated a valid court order shall be committed to the
 7840 department until the department certifies to the Governor that it has facilities available and
 7841 personnel ready to assume responsibility for delinquent ~~or unruly~~ children and youths ~~and~~
 7842 children in need of services who have violated a valid court order.

7843 (b) When the court commits a delinquent ~~or unruly~~ child ~~or a child in need of services who~~
 7844 has violated a valid court order to the department, it may order the child conveyed
 7845 forthwith to any facility designated by the department or direct that the child be left at
 7846 liberty until otherwise ordered by the department under such conditions as will ensure his
 7847 ~~or her~~ availability and submission to any orders of the department. If such delinquent ~~or~~
 7848 ~~unruly~~ child ~~or child in need of services who has violated a valid court order~~ is ordered
 7849 conveyed to the department, the court shall assign an officer or other suitable person to

7850 convey such child to any facility designated by the department, provided that the person
7851 assigned to convey a girl must be a female. The cost of conveying such child committed
7852 to the department to the facility designated by the department shall be paid by the county
7853 from which such child is committed, provided that no compensation shall be allowed
7854 beyond the actual and necessary expenses of the party conveying and the child conveyed.

7855 (c) When a court commits a delinquent ~~or unruly~~ child or a child in need of services who
7856 has violated a valid court order to the department, the court shall at once forward to the
7857 department a certified copy of the order of commitment and the court, the probation officer,
7858 the prosecuting and police authorities, the school authorities, and other public officials shall
7859 make available to the department all pertinent information in their possession with respect
7860 to the case. Such reports shall, if the department so requests, be made upon forms
7861 furnished by the department or according to an outline provided by the department.

7862 (d)(1) When a delinquent ~~or unruly~~ child or a child in need of services who has violated
7863 a valid court order has been committed to the department, the department shall, under
7864 rules and regulations established by the board, forthwith examine and study the child and
7865 investigate all pertinent circumstances of his or her life and behavior. The department
7866 shall make periodic reexaminations of all ~~delinquent or unruly~~ such children within its
7867 control, except those on release under supervision of the department. Such
7868 reexaminations may be made as frequently as the department considers desirable and
7869 shall be made with respect to every child at intervals not exceeding one year. Failure of
7870 the department to examine a ~~delinquent or unruly child~~ such a child committed to it or to
7871 reexamine him or her within one year of a previous examination shall not of itself entitle
7872 the child to discharge from control of the department but shall entitle the child to petition
7873 the committing court for an order of discharge; and the court shall discharge him or her
7874 unless the department, upon due notice, satisfies the court of the necessity of further
7875 control.

7876 (2) The department shall keep written records of all examinations and reexaminations,
7877 of conclusions based thereon, and of all orders concerning the disposition or treatment
7878 of every delinquent ~~or unruly~~ child and every child in need of services who has violated
7879 a valid court order subject to its control. Records as may be maintained by the
7880 department with respect to a delinquent ~~or unruly~~ child or a child in need of services who
7881 has violated a valid court order committed to the department shall not be public records
7882 but shall be privileged records and may be disclosed by direction of the commissioner
7883 pursuant to federal law in regard to disseminating juvenile criminal history records only
7884 to those persons having a legitimate interest therein; provided, however, that the
7885 commissioner shall permit the Council of Juvenile Court Judges to inspect and copy such
7886 records for the purposes of obtaining statistics on juveniles.

7887 (e) Except as provided by subsection (e.1) of this Code section and subsection ~~(b)~~ (c) of
 7888 Code Section ~~15-11-70~~ 15-11-602, when a delinquent ~~or unruly~~ child or a child in need of
 7889 services who has violated a valid court order has been committed to the department for
 7890 detention and a diagnostic study for the purpose of determining the most satisfactory plan
 7891 for the child's care and treatment has been completed, the department may:

7892 (1) Permit the child liberty under supervision and upon such conditions as the department
 7893 may believe conducive to acceptable behavior;

7894 (2) Order the child's confinement under such conditions as the department may believe
 7895 best designed to serve the child's welfare and as may be in the best interest of the public;

7896 (3) Order reconfinement or renewed release as often as conditions indicate to be
 7897 desirable;

7898 (4) Revoke or modify any order of the department affecting the child, except an order
 7899 of final discharge, as often as conditions indicate to be desirable; or

7900 (5) Discharge the child from control of the department pursuant to Code Section
 7901 15-11-32 and subsection ~~(a)~~ (c) of Code Section ~~15-11-70~~ 15-11-607 when it is satisfied
 7902 that such discharge will best serve the child's welfare and the protection of the public.

7903 (e.1)(1) When a child who has been adjudicated delinquent for the commission of a
 7904 designated felony act as defined in Code Section ~~15-11-63~~ 15-11-2 is released from
 7905 confinement or custody of the department, it shall be the responsibility of the department
 7906 to provide notice to any person who was the victim of the child's delinquent acts that the
 7907 child is being released from confinement or custody.

7908 (2) As long as a good faith attempt to comply with paragraph (1) of this subsection has
 7909 been made, the department and employees of the department shall not be liable for
 7910 damages incurred by reason of the department's failure to provide the notice required by
 7911 paragraph (1) of this subsection.

7912 (3) When a child convicted of a felony offense in a superior court is released from
 7913 confinement or custody of the department, the department shall provide written notice,
 7914 including the delinquent or designated felony act committed, to the superintendent of the
 7915 school system in which such child was enrolled or, if the information is known, the
 7916 school in which such child was enrolled or plans to be enrolled.

7917 (4) As long as a good faith attempt to comply with paragraph (3) of this subsection has
 7918 been made, the department and employees of the department shall not be liable for
 7919 damages incurred by reason of the department's failure to provide notice required by
 7920 paragraph (3) of this subsection.

7921 (f) As a means of correcting the socially harmful tendencies of a delinquent ~~or unruly~~ child
 7922 or a child in need of services who has violated a valid court order committed to it, the
 7923 department may:

- 7924 (1) Require participation by youth in moral, academic, vocational, physical, and
 7925 correctional training and activities, and provide youth the opportunity for religious
 7926 activities where practicable in the institutions under the control and supervision of the
 7927 department;
- 7928 (2) Require such modes of life and conduct as may seem best adapted to fit and equip
 7929 him or her for return to full liberty without danger to the public;
- 7930 (3) Provide such medical, psychiatric, or casework treatment as is necessary; or
- 7931 (4) Place him or her, if physically fit, in a park, maintenance camp, or forestry camp or
 7932 on a ranch owned by the state or by the United States and require any child so housed to
 7933 perform suitable conservation and maintenance work, provided that the children shall not
 7934 be exploited and that the dominant purpose of such activities shall be to benefit and
 7935 rehabilitate the children rather than to make the camps self-sustaining.
- 7936 (g) When funds are available, the department may:
- 7937 (1) Establish and operate places for detention and diagnosis of all delinquent ~~or unruly~~
 7938 children or children in need of services who have violated a valid court order committed
 7939 to it;
- 7940 (2) Establish and operate additional treatment and training facilities, including parks,
 7941 forestry camps, maintenance camps, ranches, and group residences necessary to classify
 7942 and handle juvenile delinquents of different ages and habits and different mental and
 7943 physical conditions, according to their needs; and
- 7944 (3) Establish parole or aftercare supervision to aid children given conditional release to
 7945 find homes and employment and otherwise to assist them to become reestablished in the
 7946 community and to lead socially acceptable lives.
- 7947 (h) Whenever the department finds that any ~~delinquent or unruly~~ child committed to the
 7948 department is mentally ill or ~~mentally retarded~~ developmentally disabled, the department
 7949 shall have the power to return such ~~delinquent or unruly~~ child to the court of original
 7950 jurisdiction for appropriate disposition by that court or may, if it so desires, request the
 7951 court having jurisdiction in the county in which the youth development center or other
 7952 facility is located to take such action as the condition of the child may require.
- 7953 (i)(1) A child who has been committed to the department as a ~~delinquent or unruly child~~
 7954 for detention in a youth development center or who has been otherwise taken into custody
 7955 and who has escaped therefrom or who has been placed under supervision and broken the
 7956 conditions thereof may be taken into custody without a warrant by a sheriff, deputy
 7957 sheriff, constable, police officer, probation officer, parole officer, or any other officer of
 7958 this state authorized to serve criminal process, upon a written request made by an
 7959 employee of the department having knowledge of the escape or of the violation of
 7960 conditions of supervision. Before a child may be taken into custody for violation of the

7961 conditions of supervision, the written request mentioned above must be reviewed by the
7962 commissioner or his or her designee. If the commissioner or his or her designee finds
7963 that probable cause exists to believe that the child has violated his or her conditions of
7964 supervision, he or she may issue an order directing that the child be picked up and
7965 returned to custody.

7966 (2) The commissioner may designate as a peace officer who is authorized to exercise the
7967 power of arrest any employee of the department whose full-time duties include the
7968 preservation of public order, the protection of life and property, the detection of crime,
7969 or the supervision of delinquent ~~and unruly~~ children or children in need of services who
7970 have violated a valid court order in its institutions, facilities, or programs, or any
7971 employee who is a line supervisor of any such employee. The commissioner also may
7972 designate as a peace officer who is authorized to exercise the power of arrest any
7973 employee of a person or organization which contracts with the department pertaining to
7974 the management, custody, care, and control of delinquent children or children in need of
7975 services who have violated a valid court order retained by the person or organization, if
7976 that employee's full-time duties include the preservation of public order, the protection
7977 of life and property, the detection of crime, or the supervision of delinquent ~~and unruly~~
7978 children or children in need of services who have violated a valid court order in the
7979 department's institutions, facilities, or programs, or any employee who is a line supervisor
7980 of such employee. The commissioner may designate one or more employees of the
7981 department to investigate and apprehend delinquent ~~and unruly~~ children or children in
7982 need of services who have violated a valid court order who have escaped from an
7983 institution or facility or who have broken the conditions of supervision; provided,
7984 however, that the employees so designated shall only be those with primary responsibility
7985 for the security functions of youth development centers or whose primary duty consists
7986 of the apprehension of youths who have escaped from such institutions or facilities or
7987 who have broken the conditions of supervision. An employee of the department so
7988 designated shall have the police power to investigate, to apprehend such children, and to
7989 arrest any person physically interfering with the proper apprehension of such children.
7990 An employee of the department so designated in the investigative section of the
7991 department shall have the power to obtain a search warrant for the purpose of locating
7992 and apprehending such children. Additionally, such employee, while on the grounds or
7993 in the buildings of the department's institutions or facilities, shall have the same law
7994 enforcement powers, including the power of arrest, as a law enforcement officer of the
7995 local government with police jurisdiction over such institutions or facilities. Such
7996 employee shall be authorized to carry weapons, upon written approval of the
7997 commissioner, notwithstanding Code Sections 16-11-126 and 16-11-129. The

7998 commissioner shall also be authorized to designate any person or organization with whom
 7999 the department contracts for services pertaining to the management, custody, care, and
 8000 control of delinquent ~~and unruly~~ children or children in need of services who have
 8001 violated a valid court order detained by the person or organization as a law enforcement
 8002 unit under paragraph (7) of Code Section 35-8-2. Any employee or person designated
 8003 under this subsection shall be considered to be a peace officer within the meaning of
 8004 Chapter 8 of Title 35 and must be certified under that chapter.

8005 (3) For the purposes of investigation of delinquent ~~or unruly~~ children or children in need
 8006 of services who have violated a valid court order who have escaped from institutions or
 8007 facilities of the department or of delinquent ~~or unruly~~ children or children in need of
 8008 services who have violated a valid court order who are alleged to have broken the
 8009 conditions of supervision, the department is empowered and authorized to request and
 8010 receive from the Georgia Crime Information Center, established by Chapter 3 of Title 35,
 8011 any information in the files of the Georgia Crime Information Center which will aid in
 8012 the apprehension of such children.

8013 (4) An employee designated pursuant to paragraph (2) of this subsection may take a child
 8014 into custody without a warrant upon personal knowledge or written request of a person
 8015 having knowledge of the escape or violation of conditions of supervision, or a child may
 8016 be taken into custody pursuant to Code Section ~~15-11-45~~ 15-11-501. When taking a child
 8017 into custody pursuant to this paragraph, a designated employee of the department shall
 8018 have the power to use all force reasonably necessary to take the child into custody.

8019 (5) The child shall be kept in custody in a suitable place designated by the department
 8020 and there detained until such child may be returned to the custody of the department.

8021 (6) Such taking into custody shall not be termed an arrest; provided, however, that any
 8022 person taking a child into custody pursuant to this subsection shall have the same
 8023 immunity from civil and criminal liability as a peace officer making an arrest pursuant
 8024 to a valid warrant.

8025 (j) The department shall ensure that each delinquent ~~or unruly~~ child or child in need of
 8026 services who has violated a valid court order it releases under supervision or otherwise has
 8027 suitable clothing, transportation to his or her home or to the county in which a suitable
 8028 home or employment has been found for him or her, and such an amount of money as the
 8029 rules and regulations of the board may authorize. The expenditure for clothing and for
 8030 transportation and the payment of money to a delinquent ~~or unruly~~ child or a child in need
 8031 of services who has violated a valid court order released may be made from funds for
 8032 support and maintenance appropriated by the General Assembly to the department or to the
 8033 institution from which such child is released or from local funds.

8034 (k) Every child committed to the department as delinquent ~~or unruly~~, if not already
 8035 discharged, shall be discharged from custody of the department when he reaches his or her
 8036 twenty-first birthday.

8037 (l) Commitment of a ~~delinquent or unruly~~ child to the custody of the department shall not
 8038 operate to disqualify such child in any future examination, appointment, or application for
 8039 public service under the government either of the state or of any political subdivision
 8040 thereof.

8041 (m) A commitment to the department shall not be received in evidence or used in any way
 8042 in any proceedings in any court, except in subsequent proceedings for delinquency or
 8043 ~~unruliness~~ being in need of services involving the same child and except in imposing
 8044 sentence in any criminal proceeding against the same person.

8045 (n) The department shall conduct a continuing inquiry into the effectiveness of treatment
 8046 methods it employs in seeking the rehabilitation of maladjusted children. To this end, the
 8047 department shall maintain a statistical record of arrests and commitments of its wards
 8048 subsequent to their discharge from the jurisdiction and control of the department and shall
 8049 tabulate, analyze, and publish in print or electronically annually these data so that they may
 8050 be used to evaluate the relative merits of methods of treatment. The department shall
 8051 cooperate with courts and public and private agencies in the collection of statistics and
 8052 information regarding juvenile delinquency; arrests made; complaints, informations, and
 8053 petitions filed; the disposition made thereof; and other information useful in determining
 8054 the amount and causes of juvenile delinquency in this state. In order to facilitate the
 8055 collection of such information, the department shall be authorized to inspect and copy all
 8056 records of the court and law enforcement agencies pertaining to juveniles.

8057 (o) When a child who is committed to the department is under court order to make certain
 8058 restitution as a part of his or her treatment by the court, the requirement that the restitution
 8059 be paid in full shall not cease with the order of commitment. The provision of the order
 8060 requiring restitution shall remain in force and effect during the period of commitment and
 8061 the department is empowered to enforce said restitution requirement and to direct that
 8062 payment of funds or notification of service completed be made to the clerk of the juvenile
 8063 court or another employee of that court designated by the judge."

8064 **SECTION 3-52.**

8065 Said title is further amended by revising subsection (b) of Code Section 49-4A-9, relating to
 8066 sentence of youthful offenders, as follows:

8067 "(b) Any final order of judgment by the court in the case of any such child shall be subject
 8068 to such modification from time to time as the court may consider to be for the welfare of
 8069 such child. No commitment of any child to any institution or other custodial agency shall

8070 deprive the court of jurisdiction to change the form of the commitment or transfer the
 8071 custody of the child to some other institution or agency on such conditions as the court may
 8072 see fit to impose, the duty being constant upon the court to give to all children subject to
 8073 its jurisdiction such oversight and control in the premises as will be conducive to the
 8074 welfare of the child and the best interests of the state; provided, however, that the release
 8075 or parole of any child committed to the department for detention in any of its institutions
 8076 under the terms of this chapter during the period of one year from the date of commitment
 8077 shall be had only with the concurrence and recommendation of the commissioner or the
 8078 commissioner's designated representative; provided, further, that upon releasing or paroling
 8079 any child adjudicated delinquent for the commission of a designated felony act as defined
 8080 in Code Section ~~15-11-63~~ 15-11-2 and committed to the department for detention in any
 8081 of its institutions under the terms of this chapter, the department shall provide notice to any
 8082 person who was the victim of the child's delinquent acts that the child is being released or
 8083 paroled. As long as a good faith attempt to comply with the notice requirement of this
 8084 subsection has been made, the department and employees of the department shall not be
 8085 liable for damages incurred by reason of the department's failure to provide the notice
 8086 required by this subsection."

8087 **SECTION 3-53.**

8088 Said title is further amended by revising paragraphs (3), (5), (12), and (16) of Code Section
 8089 49-5-3, relating to definitions regarding services for children and youth, as follows:

8090 "(3) 'Child welfare and youth services' means duties and functions authorized or required
 8091 by this article to be provided by the department with respect to:

8092 (A) Establishment and enforcement of standards for social services and facilities for
 8093 children and youths which supplement or substitute for parental care and supervision
 8094 for the purpose of preventing or remedying or assisting in the solution of problems
 8095 which may result in neglect, abuse, exploitation, or delinquency of children and youths;

8096 (B) Protecting and caring for ~~deprived~~ dependent children and youths;

8097 (C) Protecting and promoting the welfare of children of working mothers;

8098 (D) Providing social services to children and youths and their parents and care for
 8099 children and youths born out of wedlock and their mothers;

8100 (E) Promotion of coordination and cooperation among organizations, agencies, and
 8101 citizen groups in community planning, organization, development, and implementation
 8102 of such services; and

8103 (F) Otherwise protecting and promoting the welfare of children and youths, including
 8104 the strengthening of their homes where possible or, where needed, the provision of

8105 adequate care of children and youths away from their homes in foster family homes or
8106 day-care or other child care facilities."

8107 "(5) '~~Deprived~~ Dependent child or youth' means any person so adjudged under Chapter
8108 11 of Title 15."

8109 "(12) 'Legal custody' means a legal status created by court order embodying the
8110 following rights and responsibilities:

8111 (A) The right to have the physical possession of the child;

8112 (B) The right and the duty to protect, train, and discipline the child;

8113 (C) The responsibility to provide the child with food, clothing, shelter, education, and
8114 ordinary medical care; and

8115 (D) The right to determine where and with whom the child shall live,

8116 provided that these rights and responsibilities shall be exercised subject to the powers,
8117 rights, duties, and responsibilities of the guardian of the person of the child and subject
8118 to any residual parental rights and responsibilities. These rights shall be subject to
8119 judicial oversight and review pursuant to Code Section ~~15-11-55~~ 15-11-212."

8120 "(16) 'Protective supervision' means a legal status created by court order following
8121 adjudication in a ~~deprivation~~ dependency case, whereby a child's place of abode is not
8122 changed but assistance directed at correcting the ~~deprivation~~ dependency is provided
8123 through the court or an agency designated by the court."

8124 **SECTION 3-54.**

8125 Said title is further amended by revising paragraphs (1) and (2) of subsection (a) of Code
8126 Section 49-5-8, relating to powers and duties of the department, as follows:

8127 "(1) Preventive services as follows:

8128 (A) Collecting and disseminating information about the problems of children and
8129 youths and providing consultative assistance to groups, public and private, interested
8130 in developing programs and services for the prevention, control, and treatment of
8131 dependency, ~~deprivation~~, and delinquency among the children of this state; and

8132 (B) Research and demonstration projects designed to add to the store of information
8133 about the social and emotional problems of children and youths and improve the
8134 methods for dealing with these problems;

8135 (2) Child welfare services as follows:

8136 (A) Casework services for children and youths and for mothers bearing children out
8137 of wedlock, whether living in their own homes or elsewhere, to help overcome
8138 problems that result in dependency, ~~deprivation~~, or delinquency;

8139 (B) Protective services that will investigate complaints of ~~deprivation~~, abuse; or
8140 abandonment of children and youths by parents, guardians, custodians, or persons

8141 serving in loco parentis and, on the basis of the findings of such investigation, offer
 8142 social services to such parents, guardians, custodians, or persons serving in loco
 8143 parentis in relation to the problem or bring the situation to the attention of a law
 8144 enforcement agency, an appropriate court, or another community agency;
 8145 (C) Supervising and providing required services and care involved in the interstate
 8146 placement of children;
 8147 (D) Homemaker service, or payment of the cost of such service, when needed due to
 8148 the absence or incapacity of the mother;
 8149 (E) Boarding care, or payment of maintenance costs, in foster family homes or in
 8150 group-care facilities for children and youths who cannot be adequately cared for in their
 8151 own homes;
 8152 (F) Boarding care or payment of maintenance costs for mothers bearing children out
 8153 of wedlock prior to, during, and for a reasonable period after childbirth; and
 8154 (G) Day-care services for the care and protection of children whose parents are absent
 8155 from the home or unable for other reasons to provide parental supervision;"

8156 **SECTION 3-55.**

8157 Said title is further amended by revising subsection (e) of Code Section 49-5-41, relating to
 8158 persons and agencies permitted access to records, as follows:

8159 "(e) Notwithstanding any other provisions of law, with the exception of medical and
 8160 mental health records made confidential by other provisions of law, child abuse and
 8161 ~~deprivation~~ dependency records applicable to a child who at the time of his or her fatality
 8162 or near fatality was:

- 8163 (1) In the custody of a state department or agency or foster parent;
 8164 (2) A child as defined in paragraph (3) of Code Section ~~15-11-171~~ 15-11-741; or
 8165 (3) The subject of an investigation, report, referral, or complaint under Code Section
 8166 ~~15-11-173~~ 15-11-743

8167 shall not be confidential and shall be subject to Article 4 of Chapter 18 of Title 50, relating
 8168 to open records; provided, however, that any identifying information, including but not
 8169 limited to the child or caretaker's name, race, ethnicity, address, or telephone numbers and
 8170 any other information that is privileged or confidential, shall be redacted to preserve the
 8171 confidentiality of the child, other children in the household, and the child's parents,
 8172 guardians, custodians, or caretakers. Upon the release of documents pursuant to this
 8173 subsection, the department may comment publicly on the case."

8174 **SECTION 3-56.**

8175 Said title is further amended by revising paragraph (2) of Code Section 49-5-131, relating
8176 to definitions, as follows:

8177 "(2) 'Child' means a person under the age of 17 years who is alleged to have committed
8178 a delinquent act or a person under the age of 18 years who is alleged to be ~~deprived~~
8179 dependent or is alleged to be a ~~status offender~~ child in need of services as those terms are
8180 defined by Code Section 15-11-2."

8181 **SECTION 3-57.**

8182 Said title is further amended by revising paragraphs (15) and (18) of subsection (a) of Code
8183 Section 49-5-281, relating to bill of rights for foster parents, as follows:

8184 "(15) The right to participate in the case planning and decision-making process with the
8185 Division of Family and Children Services regarding the child as provided in Code Section
8186 ~~15-11-58~~ 15-11-201;"

8187 "(18) The right to be notified in advance, in writing, by the Division of Family and
8188 Children Services or the court of any hearing or review where the case plan or
8189 permanency of the child is an issue, including initial and periodic reviews held by the
8190 court in accordance with Code Section 15-11-216 or by the Judicial Citizen Review Panel
8191 in accordance with Code Section 15-11-217, hearings following revocation of the license
8192 of an agency which has permanent custody of a child in accordance with Code Section
8193 31-2-6, and permanency plan hearings, ~~and motions to extend custody, in accordance~~
8194 ~~with Code Section 15-11-58~~ in accordance with Code Section 15-11-230;"

8195 **SECTION 3-58.**

8196 Code Section 52-7-12 of the Official Code of Georgia Annotated, relating to operation of
8197 watercraft while under the influence of alcohol or drugs, is amended by revising subsection
8198 (l) as follows:

8199 "(l) A person who violates this Code section while transporting in a moving vessel or
8200 personal watercraft or towing on water skis, an aquaplane, a surfboard or similar device a
8201 child under the age of 14 years is guilty of the separate offense of endangering a child by
8202 operating a moving vessel or personal watercraft under the influence of alcohol or drugs.
8203 The offense of endangering a child by operating a moving vessel or personal watercraft
8204 under the influence of alcohol or drugs shall not be merged with the offense of operating
8205 a vessel under the influence of alcohol or drugs for the purposes of prosecution and
8206 sentencing. An offender who is convicted of a violation of this subsection shall be
8207 punished in accordance with the provisions of subsection (d) of Code Section 16-12-1;

8208 ~~relating to the offense of contributing to the delinquency, unruliness, or deprivation of a~~
8209 ~~child."~~

8210 **PART IV**

8211 **EFFECTIVE DATE, APPLICABILITY, AND REPEALER**

8212 **SECTION 4-1.**

8213 This Act shall become effective on January 1, 2013, and this Act shall apply to all juvenile
8214 proceedings commenced on and after such date. The enactment of this Act shall not affect
8215 any prosecutions for acts occurring before January 1, 2013, and shall not act as an abatement
8216 of any such prosecutions.

8217 **SECTION 4-2.**

8218 All laws and parts of laws in conflict with this Act are repealed.