

## House Bill 641

By: Representatives Willard of the 49<sup>th</sup>, Lindsey of the 54<sup>th</sup>, Abrams of the 84<sup>th</sup>, Collins of the 27<sup>th</sup>, Oliver of the 83<sup>rd</sup>, 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 proceed.
- 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) 'Comprehensive services plan' means an interagency treatment, habilitation, support,  
 3984 or supervision plan developed at an interagency meeting of state or local agency  
 3985 representatives, parties, and other interested persons following a court's finding that a  
 3986 child is incompetent to proceed. A comprehensive services plan shall be submitted to the  
 3987 court for approval as part of the disposition of the child's case.

3988 (2) 'Habilitation' means the process by which a child is helped to acquire and maintain  
 3989 those life skills which will enable him or her to cope more effectively with the demands  
 3990 of his or her own person and of his or her environment and to raise the level of his or her  
 3991 physical, mental, social, and vocational abilities.

3992 (3) 'Home detention' means court ordered confinement of a child with his or her parent,  
 3993 guardian, legal custodian, or in some other specified home for 24 hours a day unless  
 3994 otherwise prescribed by written court order, under which the child is permitted out of the  
 3995 residence only at such hours and in the company of persons specified in the court order  
 3996 establishing the home detention. Home detention shall be monitored by DJJ or court  
 3997 based probation.

3998 (4) 'Nonsecure facility' means a public or private facility which does not include  
 3999 construction fixtures such as locked rooms and buildings, fences, or other physical  
 4000 structures designed to physically restrict the movements and activities of a child in  
 4001 custody.

4002 (5) 'Plan manager' means a person who is under the supervision of the court and is  
 4003 appointed by the court to convene a meeting of all relevant parties for the purpose of  
 4004 developing a comprehensive services plan. A plan manager shall be responsible for  
 4005 collecting all previous histories of the child including, but not limited to, evaluations,  
 4006 assessments, treatment summaries, and school records.

4007 (6) 'Runaway' means a child who without just cause and without the consent of his or her  
 4008 parent, guardian, or legal custodian is absent from his or her home or place of abode for  
 4009 at least 24 hours.

4010 (7) 'Status offense' means an act prohibited by law which would not be an offense if  
 4011 committed by an adult.

4012 (8) 'Truant' means having ten or more days of unexcused absences from school in the  
 4013 current academic year.

4014 (9) 'Valid court order' means a court order issued by a judge to a child alleged or found  
 4015 to have committed a status offense and:

4016 (A) Who was brought before the court and made subject to the order;

4017 (B) Whose future conduct is regulated by the order;

4018 (C) Who was given verbal and written warning of the consequences of violating the  
 4019 order at the time the order was issued and whose attorney, parent, guardian, or legal  
 4020 custodian was also provided with written notice of the consequences of violating the  
 4021 order, and the notice is reflected in the court record; and

4022 (D) Who was afforded due process prior to the issuance of the order.

4023 Part 2

4024 15-11-390.

4025 (a) A complaint alleging a child is in need of services may be filed by a parent, guardian,  
 4026 or legal custodian, DFCS, a school official, a law enforcement officer, a guardian ad litem,  
 4027 or an attorney who has knowledge of the facts alleged or is informed and believes that such  
 4028 facts are true.

4029 (b) The complaint shall set forth plainly and with particularity:

4030 (1) The name, date of birth, and residence address of the child on whose behalf the  
 4031 complaint is being filed;

4032 (2) The names and residence addresses of the parent, guardian, or legal custodian, any  
 4033 other family members, or any other individuals living within the child's home;

4034 (3) The name of any public institution or agency having the responsibility or ability to  
 4035 supply services alleged to be needed by the child; and

4036 (4) Whether any of the matters required by this subsection are unknown.

4037 (c) When a school official is filing a complaint, information shall be included which shows  
 4038 that:

4039 (1) The legally liable school district has sought to resolve the expressed problem through  
 4040 available educational approaches; and

4041 (2) The school district has sought to engage the parent, guardian, or legal custodian in  
4042 solving the problem but such person has been unwilling or unable to do so, that the  
4043 problem remains, and that court intervention is needed.

4044 (d) When a school official is filing a complaint involving a child who is eligible or  
4045 suspected to be eligible for services under the federal Individuals with Disabilities  
4046 Education Act or Section 504 of the federal Rehabilitation Act of 1973, information shall  
4047 be included which demonstrates that the legally liable school district:

4048 (1) Has determined that the child is eligible or suspected to be eligible under the federal  
4049 Individuals with Disabilities Education Act or Section 504 of the federal Rehabilitation  
4050 Act of 1973; and

4051 (2) Has reviewed for appropriateness the child's current Individualized Education  
4052 Program (IEP) and placement and has made modifications where appropriate.

4053 (e) The juvenile court intake officer shall be responsible for receiving complaints alleging  
4054 that a child is in need of services.

4055 15-11-391.

4056 (a) Upon the filing of a complaint alleging that a child is in need of services, the juvenile  
4057 court intake officer shall convene a multidisciplinary conference to be attended by the  
4058 child, the child's parent, guardian, or legal custodian, DFCS, and any other agency or public  
4059 institution having legal responsibility or discretionary authority to supply services to the  
4060 family except in emergencies or when the court or the juvenile court intake officer  
4061 determines it to be inappropriate or futile.

4062 (b) The juvenile court intake officer shall determine whether a mandatory conference is  
4063 inappropriate or futile based on:

4064 (1) A screening of the child; and

4065 (2) If a parent, guardian, or legal custodian has filed the complaint, the nature of that  
4066 parent, guardian, or legal custodian's participation in and compliance with previous  
4067 mandatory conferences or informal family services plan agreements, if any.

4068 (c) Upon application to the court by the plan manager or upon the motion of any party or  
4069 upon the court's own motion, the court shall issue an order for good cause to any person  
4070 determined by the court to be a required participant in the mandatory multidisciplinary  
4071 conference and who is required by federal or state law to protect the privacy of health  
4072 information in his or her possession relating to the child alleged to be in need of services  
4073 or to such child's primary caregiver. Such order shall require such person to comply with  
4074 the convening of the multidisciplinary conference and to cooperate with the plan manager  
4075 by disclosing relevant protected health information as ordered by the court. The relevant  
4076 health information required to be disclosed by the court order shall be used only for the

4077 purposes of developing and implementing a comprehensive services plan that is reasonably  
4078 related to the promotion of the care, guidance, counseling, structure, supervision, treatment,  
4079 or rehabilitation of the child or the child's primary caregiver for the benefit of such child.  
4080 For the purposes of this subsection, good cause shall exist when the protected health  
4081 information being sought is reasonably related to the child alleged to be in need of services.

4082 15-11-392.

4083 (a) After the mandatory multidisciplinary conference, the child, the child's parent,  
4084 guardian, or legal custodian, DFCS, and any other member of the conference may effect  
4085 an informal family services plan agreement.

4086 (b) An informal family services plan agreement shall include:

4087 (1) The identification of the conduct of the child, the child's parent, guardian, or legal  
4088 custodian, or any family member which is causing serious harm to the child and the  
4089 services needed by that individual to mitigate or eliminate the problems within the  
4090 family;

4091 (2) A description of the services which are needed for the child, the child's parent,  
4092 guardian, or legal custodian, or other family members, the availability of such services  
4093 within the community, and a plan for ensuring that any such services that are available  
4094 will be secured and delivered;

4095 (3) A description of all expected action to be taken by the child, the child's parent,  
4096 guardian, or legal custodian, or other family members;

4097 (4) The identification of DFCS caseworker assigned to the case and who is directly  
4098 responsible for assuring that the informal family services plan agreement is implemented;  
4099 and

4100 (5) An estimate of the time anticipated to be necessary in order to accomplish the goals  
4101 set out in the informal family services plan agreement.

4102 (c) The informal family services plan agreement shall set forth in writing the terms and  
4103 conditions agreed to by the parties as evidenced by their signature thereto.

4104 (d) The informal family services plan agreement shall demonstrate that the child and the  
4105 child's parent, guardian, or legal custodian understand their right to an adjudication hearing  
4106 on their need for services and shall also demonstrate that they consent to its terms with  
4107 knowledge that consent is not obligatory and with knowledge of the effect of such  
4108 agreement.

4109 (e) The duration of the informal family services plan agreement shall not exceed six  
4110 months; however, the court may extend such agreement for one additional period not to  
4111 exceed six months.

Part 3

4112

15-11-400.

4113

DFCS shall be the lead agency and shall have the primary responsibility for the monitoring

4114

and management of child in need of services cases under this article.

4115

15-11-401.

4116

(a) The continued custody hearing for a child in need of services shall be held promptly

4117

and no later than:

4118

(1) Twenty-four hours after a child is taken into temporary custody if the child is being

4119

held in a secure juvenile detention facility; or

4120

(2) Seventy-two hours after the child is placed in eligible shelter care, provided that, if

4121

the 72 hour time frame expires on a weekend or legal holiday, the hearing shall be held

4122

on the next day which is not a weekend or legal holiday.

4123

(b) If a child was never taken into temporary custody or is released from temporary

4124

custody at the continued custody hearing, the following time frames apply:

4125

(1) The petition for a child in need of services shall be filed:

4126

(A) Within 30 days of the juvenile court intake officer's determination that a mandatory

4127

conference would be inappropriate or futile;

4128

(B) Within 30 days of the child's release from temporary custody if the court

4129

determines that the mandatory conference would be inappropriate or futile;

4130

(C) Within 30 days of a court determination that continuing participation in the

4131

informal family services plan procedure would be inappropriate or futile; or

4132

(D) Within 30 days of the conclusion of the period governed by the informal family

4133

services plan agreement if the child and family have not achieved the goals set out in

4134

such agreement and there are reasonable grounds to believe that the child is still in need

4135

of services. If no petition for a child in need of services is filed within the required time

4136

frame, the complaint may be dismissed without prejudice;

4137

(2) Summons shall be served at least 24 hours before the adjudication hearing;

4138

(3) The adjudication hearing shall be scheduled to be held no later than 60 days after the

4139

filing of the petition for a child in need of services; and

4140

(4) If not held in conjunction with the adjudication hearing, the disposition hearing shall

4141

be held and completed within 30 days after the conclusion of the adjudication hearing.

4142

(c) If a child is not released from temporary custody at the continued custody hearing, the

4143

following time frames apply:

4144

(1) The petition for a child in need of services shall be filed within five days of the

4145

continued custody hearing;

4146

4147 (2) Summons shall be served at least 72 hours before the adjudication hearing;

4148 (3) The adjudication hearing shall be scheduled to be held no later than ten days after the  
4149 filing of the petition for a child in need of services; and

4150 (4) If not held in conjunction with the adjudication hearing, the disposition hearing shall  
4151 be held and completed within 30 days after the conclusion of the adjudication hearing.

4152 15-11-402.

4153 (a) A proceeding under this article may be commenced in the county in which the act  
4154 complained of took place.

4155 (b) If a proceeding is commenced in the county in which the act complained of took place,  
4156 the court shall transfer the case to the county in which the child legally resides for further  
4157 proceedings.

4158 (c) When a proceeding is transferred, certified copies of all legal and social documents and  
4159 records pertaining to the proceeding on file with the clerk of court shall accompany such  
4160 transfer.

4161 15-11-403.

4162 (a) A child shall have the right to a qualified and independent attorney at all stages of  
4163 proceedings under this article.

4164 (b) The court shall appoint an attorney for a child alleged to be a child in need of services.

4165 (c) The court shall appoint a guardian ad litem for a child alleged to be a child in need of  
4166 services:

4167 (1) At the request of the child's attorney; or

4168 (2) Upon the court's own motion if it determines that a guardian ad litem is necessary to  
4169 assist the court in determining the best interests of the child.

4170 (d) The role of a guardian ad litem in a proceeding for a child in need of services shall be  
4171 the same role as provided for in all dependency proceedings under Article 3 of this chapter.

4172 (e) If an attorney or a guardian ad litem has previously been appointed for the child in a  
4173 dependency or delinquency proceeding, the court, when possible, shall appoint the same  
4174 attorney or guardian ad litem.

4175 (f) An attorney appointed to represent the child in a proceeding for a child in need of  
4176 services shall continue the representation in any subsequent appeals unless excused by the  
4177 court.

4178 (g) Neither the child nor a representative of the child may waive the right to an attorney  
4179 in a proceeding for a child in need of services.



4180 (h) A child shall be informed of his or her right to an attorney at or prior to the first  
4181 mandatory conference and prior to the first court proceeding for a child in need of services.

4182 A child shall be given an opportunity to:

4183 (1) Obtain and employ an attorney of the child's own choice; or

4184 (2) To obtain a court appointed attorney if the court determines that the child is an  
4185 indigent person.

4186 15-11-404.

4187 A continuance shall be granted only upon a showing of good cause and only for that period  
4188 of time shown to be necessary by the moving party at the hearing on such motion.

4189 Whenever any continuance is granted, the facts which require the continuance shall be  
4190 entered into the court record.

4191 15-11-405.

4192 If a child is alleged or found to be a child in need of services and is placed in an eligible  
4193 shelter care placement, the child shall be required to have a case plan. In addition to the  
4194 case plan requirements of Code Section 15-11-201, a case plan shall include:

4195 (1) A description of the child's strengths and needs;

4196 (2) A description of specific parental strengths and needs;

4197 (3) A description of other personal, family, or environmental problems that may  
4198 contribute to the child's behaviors;

4199 (4) A description of the safety, physical, and mental health needs of the child;

4200 (5) Identification of the least restrictive placement to safeguard the child's best interests  
4201 and protect the community;

4202 (6) An assessment of the availability of community resources to address the child's and  
4203 family's needs;

4204 (7) An assessment of the availability of court diversion services; and

4205 (8) An assessment of the availability of other preventive measures.

4206 15-11-406.

4207 Any proceeding or other processes or actions alleging for the first time that a child is a  
4208 runaway shall be terminated or dismissed upon the request of the parent, guardian, or legal  
4209 custodian of the child.

Part 4

4210

4211 15-11-410.4212 (a) A child may be taken into temporary custody under this article:4213 (1) Pursuant to a court order; or4214 (2) By a law enforcement officer when there are reasonable grounds to believe that a  
4215 child has run away from his or her parent, guardian, or legal custodian or the  
4216 circumstances are such as to endanger the child's health or welfare unless immediate  
4217 action is taken.4218 (b) Before entering an order authorizing temporary custody, the court shall determine  
4219 whether continuation in the home is contrary to the child's welfare and whether there are  
4220 available services that would prevent the need for custody. The court shall make such  
4221 determination on a case-by-case basis and shall make written findings of fact referencing  
4222 any and all evidence relied upon in reaching its decision.4223 (c) A person taking a child into temporary custody shall deliver the child, with all  
4224 reasonable speed and without first taking the child elsewhere, to a medical facility if the  
4225 child is believed to suffer from a serious physical condition or illness which requires  
4226 prompt treatment and, upon delivery, shall promptly contact a juvenile court intake officer.  
4227 Immediately upon being notified by the person taking a child into custody, the juvenile  
4228 court intake officer shall determine if such child should be released, remain in temporary  
4229 custody, or be brought before the court.4230 15-11-411.4231 (a) A person taking a child into temporary custody shall not exercise custody over the  
4232 child except for a period of 12 hours. A child taken into temporary custody may be placed  
4233 in a nonsecure facility for a child in need of services.4234 (b) Counties and municipalities shall be authorized to establish nonsecure facilities where  
4235 a child who is suspected of being a child in need of services may be placed until the parent,  
4236 guardian, or legal custodian assumes custody of the child.4237 (c) Immediately after a child is brought into a nonsecure facility, every effort shall be  
4238 made to contact the parents, guardian, or legal custodian of the child.4239 (d) If a parent, guardian, or legal custodian has not assumed custody of the child in a  
4240 nonsecure facility at the end of the 12 hour period, the court shall be notified and shall  
4241 place the child in the least restrictive placement consistent with the child's needs for  
4242 protection or control in the custody of the child's parents, guardian, or legal custodian upon  
4243 such person's promise to bring the child before the court when requested by the court;  
4244 provided, however, that if such placement is not available, the child shall be placed in the

4245 custody of DFCS which shall promptly arrange for eligible shelter care placement of the  
 4246 child.

4247 15-11-412.

4248 (a) For purposes of this Code section, the term 'separately' means a sight and sound  
 4249 separation in holding cells and sleeping quarters and shall not apply to dining facilities,  
 4250 educational activities, and daily program activities where adequate adult supervision is  
 4251 provided.

4252 (b) A child may be held in a secure juvenile detention facility until a continued custody  
 4253 hearing is held, provided that such child is not held in a secure detention facility for more  
 4254 than 24 hours, can be detained separately from children who have been adjudicated  
 4255 delinquent, and any of the following apply:

4256 (1) It is alleged that the child is a runaway;

4257 (2) It is alleged that the child is habitually disobedient of the reasonable and lawful  
 4258 commands of his or her parent, guardian, or legal custodian and is ungovernable; or

4259 (3) The child has previously failed to appear at a scheduled hearing.

4260 (c) A child placed in a secure detention facility pursuant to subsection (b) of this Code  
 4261 section shall be appointed an attorney prior to the continued custody hearing.

4262 (d) In no case shall a child in custody be detained in a jail, adult lock-up, or other adult  
 4263 detention facility.

4264 15-11-413.

4265 (a) If the child is being held in a secure juvenile detention facility, a continued custody  
 4266 hearing shall be held within 24 hours. If such hearing is not held within the time specified,  
 4267 the child shall be released from temporary detention in accordance with subsection (d) of  
 4268 Code Section 15-11-411 and with authorization of the detaining authority.

4269 (b) If a child is not being held in a secure juvenile detention facility and has not been  
 4270 released to the custody of the child's parent, guardian, or legal custodian, a hearing shall  
 4271 be held promptly and not later than 72 hours after the child is placed in eligible shelter care,  
 4272 provided that, if the 72 hour time frame expires on a weekend or legal holiday, the hearing  
 4273 shall be held on the next day which is not a weekend or legal holiday.

4274 (c) At the commencement of the continued custody hearing, the court shall inform the  
 4275 parties of:

4276 (1) The nature of the allegations;

4277 (2) The nature of the proceedings;

4278 (3) The possible consequences or dispositions that may apply to the child's case  
 4279 following adjudication; and

4280 (4) Due process rights, including the right to an attorney and to an appointed attorney;  
 4281 the privilege against self-incrimination; that the child may remain silent and that anything  
 4282 said may be used against the child; the right to confront anyone who testifies against the  
 4283 child and to cross-examine any persons who appear against the child; the right of the  
 4284 child to testify and to compel other witnesses to attend and testify in his or her own  
 4285 behalf; the right of the child to a speedy adjudication hearing; and the right to appeal and  
 4286 be provided with a transcript for such purpose.

4287 15-11-414.

4288 (a) At the continued custody hearing, the court shall determine whether there is probable  
 4289 cause to believe that the child has committed a status offense or is otherwise a child in need  
 4290 of services and that continued custody is necessary.

4291 (b) If the court determines there is probable cause to believe that the child has committed  
 4292 a status offense or is otherwise in need of services, the court may order that the child:

4293 (1) Be released to the custody of a parent, guardian, or legal custodian; or

4294 (2) Be placed in the least restrictive preadjudication placement consistent with the child's  
 4295 need for protection and control as authorized by Code Section 15-11-411 and in  
 4296 accordance with Code Section 15-11-415.

4297 (c) If the court determines there is probable cause to believe that the child has committed  
 4298 a status offense or is otherwise in need of services, the court shall:

4299 (1) Refer the child and the child's family for a mandatory conference;

4300 (2) Order that a petition for a child in need of services be filed and set a date for an  
 4301 adjudication hearing if the court determines that a mandatory conference would be  
 4302 inappropriate or futile; or

4303 (3) When a child and his or her family are already participating in informal family  
 4304 services plan procedures, order that a petition for a child in need of services be filed and  
 4305 set a date for an adjudication hearing if the court determines that continuing participation  
 4306 in the informal family services plan procedures would be inappropriate or futile.

4307 (d) Following the continued custody hearing, the court may detain a child in a secure  
 4308 juvenile detention facility for up to 24 hours, excluding weekends and legal holidays, only  
 4309 for the purpose of providing adequate time to arrange for an appropriate alternative  
 4310 placement pending the adjudication hearing.

4311 (e) All orders shall contain written findings as to the form or conditions of release. If a  
 4312 child cannot be returned to the custody of his or her parent, guardian, or legal custodian at  
 4313 the hearing, the court shall state the facts upon which the continued custody is based. The  
 4314 court shall make the following findings of fact referencing any and all evidence relied upon  
 4315 to make its determinations:

4316 (1) Whether continuation in the home of the parent, guardian, or legal custodian is  
 4317 contrary to the child's welfare; and

4318 (2) Whether reasonable efforts have been made to safely maintain the child in the home  
 4319 of his or her parent, guardian, or legal custodian and to prevent or eliminate the need for  
 4320 removal. Such finding shall be made at the continued custody hearing if possible but in  
 4321 no case later than 60 days following the child's removal from the home.

4322 15-11-415.

4323 (a) Restraints on the freedom of a child prior to adjudication shall be imposed only when  
 4324 there is probable cause to believe that the child committed the act of which he or she is  
 4325 accused, there is clear and convincing evidence that the child's freedom should be  
 4326 restrained, that no less restrictive alternatives will suffice, and:

4327 (1) The child's detention or care is required to reduce the likelihood that the child may  
 4328 inflict serious bodily harm on others during the interim period;

4329 (2) The child's detention is necessary to secure the child's presence in court to protect the  
 4330 jurisdiction and processes of the court; or

4331 (3) An order for the child's detention has been made by the court.

4332 (b) A child shall not be detained:

4333 (1) To punish, treat, or rehabilitate the child;

4334 (2) To allow a parent, guardian, or legal custodian to avoid his or her legal  
 4335 responsibilities;

4336 (3) To satisfy demands by a victim, law enforcement, or the community;

4337 (4) To permit more convenient administrative access to the child;

4338 (5) To facilitate further interrogation or investigation; or

4339 (6) Due to a lack of a more appropriate facility.

4340 (c) Whenever a child cannot be unconditionally released, conditional or supervised release  
 4341 that results in the least necessary interference with the liberty of the child shall be favored  
 4342 over more intrusive alternatives.

4343 (d) Whenever the curtailment of a child's freedom is permitted, the exercise of authority  
 4344 shall reflect the following values:

4345 (1) Respect for the privacy, dignity, and individuality of the child and his or her family;

4346 (2) Protection of the psychological and physical health of the child;

4347 (3) Tolerance of the diverse values and preferences among different groups and  
 4348 individuals;

4349 (4) Assurance of equality of treatment by race, class, ethnicity, and sex;

4350 (5) Avoidance of regimentation and depersonalization of the child;

4351 (6) Avoidance of stigmatization of the child; and

4352 (7) Assurance that the child has been informed of his or her right to consult with an  
4353 attorney and that, if the child is an indigent person, an attorney will be provided.

4354 (e) Before entering an order authorizing detention, the court shall determine whether  
4355 continuation in the home is contrary to the child's welfare and whether there are available  
4356 services that would prevent or eliminate the need for detention. The court shall make such  
4357 determination on a case-by-case basis and shall make written findings of fact referencing  
4358 any and all evidence relied upon in reaching its decision.

4359 (f) If a child can remain in the custody of his or her parent, guardian, or legal custodian  
4360 through the provision of services to prevent the need for removal, the court shall order that  
4361 such services shall be provided.

4362 15-11-416.

4363 (a) A child alleged or found to have committed a status offense may be held in a secure  
4364 juvenile detention facility for more than 24 hours if:

4365 (1) The child is alleged to have violated a valid court order; and

4366 (2) At the continued custody hearing, the court finds that there is probable cause to  
4367 believe that the child violated the court order.

4368 (b) If there is probable cause to believe that the child violated a valid court order, the child  
4369 may be held in a secure juvenile detention facility until a violation hearing is held but in  
4370 no event shall a child's detention prior to a violation hearing exceed 72 hours, excluding  
4371 weekends and legal holidays.

4372 (c) At a violation hearing, the court may order that the child be placed in a secure juvenile  
4373 detention facility if the court:

4374 (1) Affirms that the requirements for a valid court order were met at the time the original  
4375 order finding the child to have committed a status offense was issued;

4376 (2) Finds that the child was afforded due process rights; and

4377 (3) Received and reviewed a written report prepared by DFCS that described the  
4378 behavior of the child and the circumstances under which the child was brought before the  
4379 court and made subject to such order; determined the reasons for the child's behavior; and  
4380 determined whether all dispositions other than secure confinement have been exhausted  
4381 or are clearly inappropriate.

4382 (d) A child in need of services who is alleged or found to have violated a valid court order  
4383 remains a child in need of services and shall not be considered a delinquent child by virtue  
4384 of such conduct.

4385 (e) If a child is to be held in secure detention under the valid court order exception, the  
4386 report prepared by DFCS in accordance with subsection (c) of this Code section shall be  
4387 provided to DJJ as the detention agency.

Part 5

4388

4389 15-11-420.

4390 All proceedings seeking an adjudication that a child is in need of services shall be initiated  
4391 by a petition filed by an attorney.

4392 15-11-421.

4393 (a) If a child is not released from temporary custody at the continued custody hearing, a  
4394 petition seeking an adjudication that a child is in need of services shall be filed within five  
4395 days of the continued custody hearing.

4396 (b) If the child was never taken into temporary custody or is released from temporary  
4397 custody at the continued custody hearing, the petition seeking an adjudication that a child  
4398 is in need of services shall be filed:

4399 (1) Within 30 days of the juvenile court intake officer's determination that a mandatory  
4400 conference would be inappropriate or futile;

4401 (2) Within 30 days of the child's release from temporary custody if the court determines  
4402 that the mandatory conference would be inappropriate or futile;

4403 (3) Within 30 days of a court determination that continuing participation in the informal  
4404 family services plan procedure would be inappropriate or futile; or

4405 (4) Within 30 days of the conclusion of the period governed by the informal family  
4406 services plan agreement if the child and family have not achieved the goals set out in such  
4407 agreement and there are reasonable grounds to believe that the child is still in need of  
4408 services.

4409 (c) Upon a showing of good cause and notice to all parties, the court may grant a requested  
4410 extension of time for filing a petition seeking an adjudication that a child is in need of  
4411 services in accordance with the best interests of the child. The court shall issue a written  
4412 order reciting the facts justifying the extension.

4413 (d) If no petition seeking an adjudication that a child is in need of services is filed within  
4414 the required time frame, the complaint may be dismissed without prejudice.

4415 15-11-422.

4416 (a) The petition seeking an adjudication that a child is in need of services shall be verified  
4417 and may be on information and belief. It shall set forth plainly and with particularity:

4418 (1) The facts which bring the child within the jurisdiction of the court, with a statement  
4419 that it is in the best interests of the child and the public that the proceeding be brought;

4420 (2) The name, date of birth, and residence address of the child on whose behalf such  
4421 petition is being brought;

4422 (3) The name and residence address of the parent, guardian, or legal custodian of the  
 4423 child; or, if neither the child's parent nor the child's guardian nor the child's legal  
 4424 custodian resides or can be found within the state or if such place of residence address is  
 4425 unknown, the name of any known adult relative residing within the county or, if there is  
 4426 none, the known adult relative residing nearest to the location of the court;

4427 (4) The name, age, and residence address of any other family member living within the  
 4428 child's home;

4429 (5) Whether all available and appropriate attempts to encourage voluntary use of  
 4430 community services by the family have been exhausted; and

4431 (6) Whether any of the matters required by this subsection are unknown.

4432 (b) If a petition seeking an adjudication that a child is in need of services is based on a  
 4433 complaint filed by a school official, such petition shall be dismissed unless it includes  
 4434 information which shows that:

4435 (1) The legally liable school district has sought to resolve the expressed problem through  
 4436 available educational approaches; and

4437 (2) The school district has sought to engage the parent, guardian, or legal custodian in  
 4438 solving the problem but any such individual has been unwilling or unable to do so; that  
 4439 the problem remains; and that court intervention is needed.

4440 (c) If a petition seeking an adjudication that a child is in need of services is based on a  
 4441 complaint filed by a school official involving a child who is eligible or suspected to be  
 4442 eligible for services under the federal Individuals with Disabilities Education Act or  
 4443 Section 504 of the federal Rehabilitation Act, such petition shall be dismissed unless it  
 4444 includes information which demonstrates that the legally liable school district:

4445 (1) Has determined that the child is eligible or suspected to be eligible under the federal  
 4446 Individuals with Disabilities Education Act or Section 504 of the federal Rehabilitation  
 4447 Act; and

4448 (2) Has reviewed for appropriateness the child's current Individualized Education  
 4449 Program (IEP) and placement and has made modifications where appropriate.

4450 15-11-423.

4451 (a) The court shall direct the issuance of a summons to the child, the child's parent,  
 4452 guardian, or legal custodian, DFCS and any other public agencies or institutions providing  
 4453 services, and any other persons who appear to the court to be proper or necessary parties  
 4454 to the child in need of services proceeding requiring them to appear before the court at the  
 4455 time fixed to answer the allegations of the petition seeking an adjudication that a child is  
 4456 in need of services. A copy of such petition shall accompany the summons.



4457 (b) The summons shall state that a party is entitled to an attorney in the proceedings and  
4458 that the court will appoint an attorney if the party is an indigent person.

4459 (c) A party other than the child may waive service of summons by written stipulation or  
4460 by voluntary appearance at the hearing.

4461 15-11-424.

4462 (a) If a party to be served with a summons is within this state and can be found, the  
4463 summons shall be served upon him or her personally as soon as possible and at least 24  
4464 hours before the adjudication hearing.

4465 (b) If a party to be served is within this state and cannot be found but his or her address is  
4466 known or can be ascertained with reasonable diligence, the summons shall be served upon  
4467 such party at least five days before the adjudication hearing by mailing him or her a copy  
4468 by registered or certified mail or statutory overnight delivery, return receipt requested.

4469 (c) If a party to be served is outside this state but his or her address is known or can be  
4470 ascertained with reasonable diligence, service of the summons shall be made at least five  
4471 days before the adjudication hearing either by delivering a copy to such party personally  
4472 or by mailing a copy to him or her by registered or certified mail or statutory overnight  
4473 delivery, return receipt requested.

4474 (d) Service of the summons may be made by any suitable person under the direction of the  
4475 court.

4476 (e) The court may authorize payment from county funds of the costs of service and of  
4477 necessary travel expenses incurred by persons summoned or otherwise required to appear  
4478 at the hearing on the petition seeking an adjudication that a child is in need of services.

4479 15-11-425.

4480 (a) In the event a parent, guardian, or legal custodian of the child willfully fails to appear  
4481 personally at a hearing on the petition seeking an adjudication that a child is in need of  
4482 services after being ordered to so appear or the parent, guardian, or legal custodian of the  
4483 child willfully fails to bring the child to such hearing after being so directed, the court may  
4484 issue a rule nisi against the person directing the person to appear before the court to show  
4485 cause why he or she should not be held in contempt of court.

4486 (b) If the parent, guardian, or legal custodian fails to appear in response to an order to  
4487 show cause, the court may issue a bench warrant directing that the parent, guardian, or  
4488 legal custodian be brought before the court without delay to show cause why he or she  
4489 should not be held in contempt and the court may enter any order authorized by the  
4490 provisions of Code Section 15-11-31.

4491 (c) In the event an agency representative willfully fails to appear at a mandatory  
4492 conference or a hearing on the petition seeking an adjudication that a child is in need of  
4493 services after being ordered to so appear, the court may direct the appropriate agency  
4494 representative to appear before the court to show cause why a contempt order should not  
4495 issue.

4496 (d) If a child 16 years of age or older fails to appear at a hearing on the petition seeking  
4497 an adjudication that a child is in need of services after being ordered to so appear, the court  
4498 may issue a bench warrant requiring that the child be brought before the court without  
4499 delay and the court may enter any order authorized by and in accordance with the  
4500 provisions of Code Section 15-11-31.

4501 (e) If there is sworn testimony that a child 14 years of age but not yet 16 years of age  
4502 willfully refuses to appear at a hearing on the petition seeking an adjudication that a child  
4503 is in need of services after being ordered to so appear, the court may issue a bench warrant  
4504 requiring that the child be brought before the court and the court may enter any order  
4505 authorized by and in accordance with the provisions of Code Section 15-11-31.

4506 Part 6

4507 15-11-440.

4508 The petitioner has the burden of proving the allegations of a child in need of services  
4509 petition beyond a reasonable doubt.

4510 15-11-441.

4511 (a) If a child is in continued custody but not in secure detention, the adjudication hearing  
4512 shall be scheduled to be held no later than ten days after the filing of the petition seeking  
4513 an adjudication that a child is in need of services. If the child is not in continued custody,  
4514 the adjudication hearing shall be scheduled to be held no later than 60 days after the filing  
4515 of such petition.

4516 (b) At the conclusion of the adjudication hearing, the court shall determine whether the  
4517 child is a child in need of services.

4518 15-11-442.

4519 (a) If the court finds the child is in need of services, a final disposition hearing shall be  
4520 held and completed within 30 days of the conclusion of the adjudication hearing.

4521 (b) The court shall order the least restrictive and most appropriate disposition. Such  
4522 disposition may include:

- 4523 (1) Permitting the child to remain with the child's caregiver without limitations or  
4524 conditions;
- 4525 (2) Permitting the child to remain with the child's caregiver subject to such limitations  
4526 and conditions as the court may prescribe, including ordering the child, the family, or  
4527 both to undergo physical examination or treatment, accept individual or family  
4528 counseling, or submit to psychiatric examination or treatment or psychological  
4529 examination or treatment as determined by the court;
- 4530 (3) Placing the child on probation on such terms and conditions as deemed in the best  
4531 interests of the child and the public. An order granting probation to a child in need of  
4532 services may be revoked on the ground that the terms and conditions of the probation  
4533 have not been observed;
- 4534 (4) Requiring that the child perform community service in a manner prescribed by the  
4535 court and under the supervision of an individual designated by the court;
- 4536 (5) Requiring that the child make restitution. A restitution order may remain in force and  
4537 effect simultaneously with another order of the court. Payment of funds shall be made  
4538 by the child or the child's family or employer directly to the clerk of the juvenile court  
4539 entering the order or another employee of that court designated by the judge, and such  
4540 court shall disburse such funds in the manner authorized in the order. While an order  
4541 requiring restitution is in effect, the court may transfer enforcement of its order to:
- 4542 (A) The juvenile court of the county of the child's residence and its probation staff, if  
4543 the child changes his or her place of residence; or
- 4544 (B) A superior court once the child reaches 18 years of age if the child thereafter comes  
4545 under the jurisdiction of the superior court;
- 4546 (6) Imposing a fine on a child who has committed an offense which, if committed by an  
4547 adult, would be a violation under the criminal laws of this state or has violated an  
4548 ordinance or bylaw of a county, city, town, or consolidated government. Such fine shall  
4549 not exceed the fine which may be imposed against an adult for the same offense;
- 4550 (7) Requiring the child to attend structured after-school or evening programs or other  
4551 court approved programs as well as requiring supervision of the child during the time of  
4552 the day in which the child most often used to perform the acts complained of in the  
4553 petition alleging that the child is in need of services;
- 4554 (8) Any order authorized for the disposition of a dependent child;
- 4555 (9) Assigning the child to the custody of a private or public institution or agency  
4556 including committing the child to DJJ. A child shall not be placed in a correctional  
4557 facility designed and operated exclusively for delinquent children, nor shall such facility  
4558 accept the child, unless the child has violated a valid court order; or

4559 (10) Any combination of the dispositions set forth in paragraphs (1) through (9) of this  
4560 subsection as the court deems to be in the best interests of the child and the public.

4561 (c) The court may make orders relative to the support and maintenance of the child during  
4562 the period after the child's eighteenth birthday as permitted by law.

4563 (d) All disposition orders shall include written findings as to the basis for the disposition  
4564 and such conditions as the court imposes and a specific plan of the services to be provided.

4565 15-11-443.

4566 (a) An order of disposition shall be in effect for the shortest time necessary to accomplish  
4567 the purposes of the order and for not more than two years. A written disposition order shall  
4568 state the length of time the order is to be in effect. An order of extension may be made if:

4569 (1) A hearing is held prior to the expiration of the order upon motion of DFCS, DJJ, the  
4570 prosecuting attorney, or on the court's own motion;

4571 (2) Reasonable notice of the factual basis of the motion and of the hearing and  
4572 opportunity to be heard are given to the parties affected;

4573 (3) The court finds that the extension is necessary to accomplish the purposes of the  
4574 order extended; and

4575 (4) The extension does not exceed two years from the expiration of the prior order.

4576 (b) The court may terminate an order of disposition or an extension of such a disposition  
4577 order prior to its expiration, on its own motion or an application of a party, if it appears to  
4578 the court that the purposes of the order have been accomplished.

4579 (c) When a child reaches 18 years of age, all orders affecting him or her then in force shall  
4580 terminate and he or she shall be discharged from further obligation or control.

4581 15-11-444.

4582 (a) An order granting probation to a child found to be a child in need of services may be  
4583 revoked on the ground that the conditions of probation have been violated.

4584 (b) Any violation of a condition of probation may be reported to the prosecuting attorney  
4585 who may file a motion in court for revocation of probation. A motion for revocation of  
4586 probation shall contain specific factual allegations constituting each violation of a condition  
4587 of probation.

4588 (c) The motion shall be served upon the child, his or her attorney, and parent, guardian,  
4589 or legal custodian in accordance with the provisions of Code Section 15-11-424.

4590 (d) If a child is taken into custody because of the alleged violation of probation, the  
4591 provisions governing the detention of a child under this article shall apply.

4592 (e) A revocation hearing shall be scheduled to be held no later than 30 days after the filing  
 4593 of a motion to revoke probation or, if the child has been detained as a result of the filing  
 4594 of the motion for revocation, in accordance with Code Section 15-11-416.

4595 (f) If the court finds, beyond a reasonable doubt, that a child violated the terms and  
 4596 conditions of probation, the court may:

4597 (1) Extend probation;

4598 (2) Impose additional conditions of probation;

4599 (3) Impose the secure probation sanctions program as defined in Code Section  
 4600 15-11-471; or

4601 (4) Make any disposition that could have been made at the time probation was imposed.

4602 15-11-445.

4603 The court shall review the disposition of a child in need of services at least once within  
 4604 three months after such disposition and at least every six months thereafter so long as the  
 4605 order of disposition is in effect.

4606 Part 7

4607 15-11-450.

4608 The periodic review hearing requirements under Article 3 of this chapter shall apply to  
 4609 proceedings involving a child alleged or found to be a child in need of services and placed  
 4610 in an eligible shelter care placement.

4611 15-11-451.

4612 (a) The permanency plan requirements under Article 3 of this chapter shall apply to  
 4613 proceedings involving a child alleged or found to be a child in need of services and placed  
 4614 in an eligible shelter care placement.

4615 (b) In addition to those compelling reasons set forth in Code Section 15-11-233, a  
 4616 compelling reason for determining that filing a termination of parental rights petition is not  
 4617 in the best interests of a child in need of services may include, but shall not be limited to:

4618 (1) The child needs continued out-of-home placement for an additional number of  
 4619 months and the parent, guardian, or legal custodian has cooperated with referrals,  
 4620 visitation, and family conferences as well as therapy;

4621 (2) The child is habitually truant and absconds from the home, the current placement  
 4622 setting has an on-site school with therapeutic intervention and restricted leave policies,  
 4623 and the child and parent are cooperative with services and referrals; or

4624 (3) The child is uncooperative with services or referrals.

Part 8

4625

4626 15-11-460.

4627 (a) After determining, in accordance with the provisions of Article 8 of this chapter, that  
4628 a child who has been alleged to have committed a delinquent act is unrestorably  
4629 incompetent to proceed and the court makes a finding that the child is a child in need of  
4630 services, the court shall appoint a plan manager, if one has not already been appointed, to  
4631 direct the development of a comprehensive services plan for such child.

4632 (b) A comprehensive services plan shall be developed at a meeting of all relevant parties  
4633 convened by the plan manager. The plan manager shall request that the following persons  
4634 attend such meeting:

4635 (1) The parent, guardian, or legal custodian of the child;

4636 (2) The child's attorney;

4637 (3) The prosecuting attorney;

4638 (4) The child's guardian ad litem, if any;

4639 (5) Mental health or mental retardation representatives;

4640 (6) The child's caseworker;

4641 (7) A representative from the child's school; and

4642 (8) Any family member of the child who has shown an interest and involvement in the  
4643 child's well-being.

4644 (c) The plan manager may request that other relevant persons attend the comprehensive  
4645 services plan meeting including but not limited to the following:

4646 (1) A representative from the Division of Public Health of the Department of Community  
4647 Health;

4648 (2) A DFCS caseworker; and

4649 (3) Representatives of the public and private resources to be utilized in the plan.

4650 (d) The plan manager shall be responsible for collecting all previous histories of the child,  
4651 including, but not limited to, previous evaluations, assessments, and school records and for  
4652 making such histories available for consideration by the persons at the comprehensive  
4653 services plan meeting.

4654 (e) Unless a time extension is granted by the court, the plan manager shall submit the  
4655 comprehensive services plan to the court within 30 days of the entry of the court's  
4656 disposition order for a child found to be unrestorably incompetent to proceed under Article  
4657 8 of this chapter. The plan shall include the following:

4658 (1) An outline of the specific provisions for supervision of the child for protection of the  
4659 community and the child;

- 4660 (2) An outline of a plan designed to provide treatment, habilitation, support, or  
4661 supervision services in the least restrictive environment;
- 4662 (3) If the child's evaluation recommends treatment in a secure environment, certification  
4663 by the plan manager that all other appropriate community based treatment options have  
4664 been exhausted; and
- 4665 (4) Identification of all parties, including the child, agency representatives, and other  
4666 persons responsible for each element of the plan.
- 4667 (f) The plan manager shall also be responsible for:
- 4668 (1) Convening a meeting of all parties and representatives of all agencies prior to the  
4669 comprehensive services plan hearing and review hearings;
- 4670 (2) Identifying to the court any person who should provide testimony at the  
4671 comprehensive services plan hearing; and
- 4672 (3) Monitoring the comprehensive services plan, presenting to the court amendments to  
4673 the plan as needed, and presenting evidence to the court for the reapproval of the plan at  
4674 subsequent review hearings.
- 4675 15-11-461.
- 4676 (a) The court shall hold a comprehensive services plan hearing within 30 days after the  
4677 comprehensive services plan has been submitted to the court for the purpose of approving  
4678 the plan. Thereafter, the court shall hold a comprehensive services plan hearing every six  
4679 months for the purpose of reviewing the child's condition and approving the comprehensive  
4680 services plan.
- 4681 (b) The persons required to be notified of the comprehensive services plan hearing and  
4682 witnesses identified by the plan manager shall be given at least ten days' prior notice of the  
4683 hearing and any subsequent hearing to review the child's condition and shall be afforded  
4684 an 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 comprehensive services plan hearing. The judge shall make a determination regarding  
4688 sequestration of witnesses in order to protect the privileges and confidentiality rights of the  
4689 child.
- 4690 (c) At the comprehensive services plan hearing, the court shall enter an order incorporating  
4691 a comprehensive services plan as part of the disposition of the comprehensive services plan  
4692 hearing. At the time of the disposition, the child shall be placed in an appropriate treatment  
4693 setting, as recommended by the examiner, unless the child has already been placed in an  
4694 appropriate treatment setting pursuant to subsection (g) of Code Section 15-11-656.

4695 (d) If, during the comprehensive services plan hearing or any subsequent review hearing,  
 4696 the court determines that the child meets criteria for civil commitment, the child shall be  
 4697 committed to a secure treatment facility.

4698 (e) At any time, in the event of a change in circumstances regarding the child, the court on  
 4699 its own motion or on the motion of the attorney representing the child, any guardian ad  
 4700 litem for the child, the prosecuting attorney, or the plan manager may set a hearing for  
 4701 review of the comprehensive services plan and any proposed amendments to such plan.  
 4702 The court may issue an appropriate order incorporating an amended plan.

4703 (f) If a child is under a comprehensive services plan when he or she reaches the age of 18,  
 4704 the plan manager shall make a referral for appropriate adult services.

## 4705 ARTICLE 7

### 4706 Part 1

4707 15-11-470.

4708 The purpose of this article is:

4709 (1) Consistent with the protection of the public interest, to hold a child committing  
 4710 delinquent acts accountable for his or her actions, taking into account the child's age,  
 4711 education, mental and physical condition, background, and all other relevant factors but  
 4712 to mitigate the adult consequences of criminal behavior;

4713 (2) To accord due process of law to each child who is accused of having committed a  
 4714 delinquent act;

4715 (3) To provide for a child committing delinquent acts programs of supervision, care, and  
 4716 rehabilitation which ensure balanced attention to the protection of the community, the  
 4717 imposition of accountability, and the development of competencies to enable a child to  
 4718 become a responsible and productive member of the community;

4719 (4) To promote a continuum of services for a child and his or her family from prevention  
 4720 to aftercare, considering, whenever possible, prevention, diversion, and early  
 4721 intervention, including an emphasis on community based alternatives;

4722 (5) To provide effective sanctions to acts of juvenile delinquency; and

4723 (6) To strengthen families and to successfully reintegrate children into homes and  
 4724 communities.

4725 15-11-471.

4726 As used in this article, the term:

4727 (1) 'AIDS transmitting crime' means aggravated child molestation, aggravated sodomy,  
 4728 child molestation, incest, prostitution, rape, sodomy, solicitation of sodomy, statutory



4729 rape, or any offense involving a violation of Article 2 of Chapter 13 of Title 16 if such  
 4730 offense involves heroin, cocaine, derivatives of either, or any other controlled substance  
 4731 in Schedule I, II, III, IV, or V and that other substance is commonly intravenously  
 4732 injected, as determined by the regulations of the department.

4733 (2) 'Arrestment' means the formal act of calling the child into open court, informing  
 4734 him or her of the allegations of the petition alleging delinquency, and the entry of a  
 4735 preliminary statement, if any, indicating whether the child shall admit or deny the  
 4736 allegations of such petition.

4737 (3) 'Community rehabilitation center' means a rehabilitation and custodial center  
 4738 established within a county for the purpose of assisting in the rehabilitation of delinquent  
 4739 children and children in need of services in a neighborhood and family environment in  
 4740 cooperation with community educational, medical, and social agencies. Such center  
 4741 shall:

4742 (A) Be located within any county having a juvenile court presided over by at least one  
 4743 full-time judge exercising jurisdiction exclusively over juvenile matters; and

4744 (B) Be operated by a nonprofit corporation organized under Chapter 3 of Title 14, the  
 4745 'Georgia Nonprofit Corporation Code,' and have a full-time chief executive officer. The  
 4746 charter, bylaws, and method of selecting the board of directors and chief executive  
 4747 officer of such nonprofit corporation shall be subject to the unanimous approval of the  
 4748 chief judge of the judicial circuit in which the county is located, the judge or judges of  
 4749 the juvenile court, the superintendent of the county school district, and the  
 4750 commissioner of juvenile justice, which approval shall be in writing and shall be  
 4751 appended to the charter and bylaws of the nonprofit organization. Any amendment of  
 4752 the charter or bylaws of the nonprofit corporation shall be subject to the same written  
 4753 approval as the original charter and bylaws.

4754 (4) 'Determined to be infected with HIV' means having a confirmed positive human  
 4755 immunodeficiency virus ('HIV') test or having been clinically diagnosed as having AIDS.

4756 (5) 'Graduated sanctions' means:

4757 (A) Verbal and written warnings;

4758 (B) Increased restrictions and reporting requirements;

4759 (C) Community service;

4760 (D) Referral to treatment and counseling programs in the community;

4761 (E) Weekend programming;

4762 (F) Electronic monitoring, as such term is defined in Code Section 42-8-151;

4763 (G) Curfew;

4764 (H) An intensive supervision program; or

4765 (I) A home confinement program.

4766 (6) 'Hearing officer' means a DJJ employee or county juvenile probation office  
 4767 employee, as applicable, who has been selected and appointed by DJJ or the county  
 4768 juvenile probation office, as applicable, to hear cases alleging violations of probation for  
 4769 administrative sanctioning. A hearing officer shall not be a probation officer who has  
 4770 direct supervision over the child who is the subject of the hearing.

4771 (7) 'HIV test' means any antibody, antigen, viral particle, viral culture, or other test to  
 4772 indicate the presence of HIV in the human body, which test has been approved for such  
 4773 purposes by the regulations of the department.

4774 (8) 'Intensive supervision' means the monitoring of a child's activities on a more frequent  
 4775 basis than regular aftercare supervision, pursuant to regulations of the commissioner of  
 4776 juvenile justice.

4777 (9) 'Preadjudication custody' begins when a juvenile court intake officer authorizes the  
 4778 placement of a child in a regional youth detention center.

4779 (10) 'Probation management program' means a special condition of probation that  
 4780 includes graduated sanctions.

4781 (11) 'Secure probation sanctions program' means secure confinement of seven, 14, or 30  
 4782 days.

4783 15-11-472.

4784 (a) A detention hearing shall be held promptly and no later than:

4785 (1) Two business days after the child is placed in preadjudication custody if the child is  
 4786 taken into custody without an arrest warrant; or

4787 (2) Three business days after the child is placed in preadjudication custody if the child  
 4788 is taken into custody pursuant to an arrest warrant.

4789 (b) If a child is placed in preadjudication custody without an arrest warrant and the  
 4790 detention hearing cannot be held within 48 hours because the expiration of the 48 hours  
 4791 falls on a weekend or legal holiday, the court shall review the decision to detain a child and  
 4792 make a finding based on probable cause within 48 hours of the child being placed in  
 4793 preadjudication custody.

4794 (c) If a child is released from preadjudication custody at the detention hearing or was never  
 4795 taken into custody, the following time frames apply:

4796 (1) If filed, the petition alleging delinquency shall be heard within 30 days of the filing  
 4797 of the complaint or within 30 days of the child's release from preadjudication custody;

4798 (2) Summons shall be served at least 72 hours before the adjudication hearing;

4799 (3) The arraignment hearing shall be scheduled no later than 30 days after the filing of  
 4800 the petition alleging delinquency;

4801 (4) The adjudication hearing shall be held no later than 60 days from the filing of the  
4802 petition alleging delinquency; and

4803 (5) The disposition hearing shall be held within 30 days of the adjudication hearing  
4804 unless the court makes written findings of fact explaining the delay.

4805 (d) If a child is not released from preadjudication custody at the detention hearing, the  
4806 following time frames apply:

4807 (1) The petition alleging delinquency shall be filed within 72 hours of the detention  
4808 hearing;

4809 (2) Summons shall be served at least 72 hours before the adjudication hearing;

4810 (3) The adjudication hearing shall be held no later than ten days after the filing of the  
4811 petition alleging delinquency; and

4812 (4) The disposition hearing shall be held within 30 days of the adjudication hearing  
4813 unless the court makes written findings of fact explaining the delay.

4814 15-11-473.

4815 (a) A prosecuting attorney shall conduct delinquency proceedings on behalf of the state.

4816 (b) Except as provided in Article 10 of this chapter, in any delinquency proceeding, the  
4817 prosecuting attorney shall be entitled to complete access to all court files, probation files,  
4818 hearing transcripts, delinquency reports, and any other juvenile court records. It shall be  
4819 the duty of the clerk, probation officers of the juvenile court, and DJJ to assist the  
4820 prosecuting attorney in obtaining any requested items.

4821 15-11-474.

4822 (a) The child and the state shall be parties at all stages of delinquency proceedings.

4823 (b) The child's parent, guardian, or legal custodian shall have the right to notice, the right  
4824 to be present in the courtroom, and the opportunity to be heard at all stages of delinquency  
4825 proceedings.

4826 (c) DJJ shall receive notice of the disposition hearing.

4827 15-11-475.

4828 (a) A child shall have the right to be represented by an attorney at all proceedings under  
4829 this article.

4830 (b) A child's parent, guardian, or legal custodian shall not waive the child's right to be  
4831 represented by an attorney.

4832 (c) A child may waive the right to an attorney only after consultation with an attorney.

4833 (d) Prior to the detention hearing, if any, the court shall appoint a qualified and competent  
4834 attorney to represent the child unless an attorney has been retained and appears on behalf

4835 of the child. Nothing in this subsection shall prohibit a judge from releasing a child from  
 4836 detention prior to appointment of an attorney.

4837 (e) Upon presentation by an attorney for the child of the order of appointment or a court  
 4838 order specifically allowing such access, any state or local agency, department, authority,  
 4839 or institution and any school, hospital, physician, or other health or mental health care  
 4840 provider shall permit the child's attorney to inspect and copy, without the consent of the  
 4841 child or the child's parent, guardian, or legal custodian, any records relating to the child  
 4842 involved in the case.

4843 15-11-476.

4844 (a) The court shall appoint a separate guardian ad litem whenever:

4845 (1) A child appears before the court without a parent, guardian, or legal custodian;

4846 (2) It appears to the court that the child's parent, guardian, or legal custodian is incapable  
 4847 or unwilling to make decisions in the best interests of the child with respect to  
 4848 proceedings under this article such that there may be a conflict of interest between the  
 4849 child and his or her parent, guardian, or legal custodian; or

4850 (3) The court finds that it is otherwise in the child's best interests to do so.

4851 (b) The role of a guardian ad litem in a delinquency proceeding shall be the same role as  
 4852 provided for in all dependency proceedings under Article 3 of this chapter.

4853 (c) Neither the child's attorney nor the child's parent, guardian, or legal custodian shall  
 4854 prohibit or impede access to the child by the guardian ad litem.

4855 15-11-477.

4856 A continuance shall be granted only upon a showing of good cause and only for that period  
 4857 of time shown to be necessary by the moving party at the hearing on the motion.  
 4858 Whenever any continuance is granted, the facts which require the continuance shall be  
 4859 entered into the court record.

4860 15-11-478.

4861 Voluntary statements made in the course of intake screening of a child or in the course of  
 4862 treatment, evaluation, or any other related services shall be inadmissible in any  
 4863 adjudication hearing in which the child is the accused and shall not be considered by the  
 4864 court except such statement shall be admissible as rebuttal or impeachment evidence.

4865 15-11-479.

4866 (a) When a child enters a denial to the petition alleging delinquency, jeopardy attaches  
 4867 when the first witness is sworn at the adjudication hearing.

4868 (b) When a child enters an admission to the petition alleging delinquency, jeopardy  
 4869 attaches when the court accepts the admission.

4870 15-11-480.

4871 (a) When a child is alleged to be delinquent and is placed in an eligible shelter care  
 4872 placement, DJJ shall develop and complete the child's case plan. When the child is in  
 4873 DFCS custody, DJJ shall cooperate with DFCS in developing and completing the child's  
 4874 case plan.

4875 (b) In addition to the case plan requirements of Code Section 15-11-201, the case plan for  
 4876 a child in delinquency proceedings shall include:

4877 (1) A description of the child's strengths and needs;

4878 (2) A description of specific parental strengths and needs;

4879 (3) A description of other personal, family, or environmental problems that contribute  
 4880 to the child's delinquent behaviors;

4881 (4) A description of the safety, physical, and mental health needs of the child;

4882 (5) Identification of the least restrictive placement to safeguard the child's best interests  
 4883 and protect the community;

4884 (6) An assessment of the availability of community resources to address the child's and  
 4885 family's needs;

4886 (7) An assessment of the availability of court diversion services; and

4887 (8) An assessment of the availability of other preventive measures.

4888 15-11-481.

4889 (a) In any delinquency proceeding in which a petition has been filed, the juvenile court  
 4890 shall notify any victim of a delinquent child's alleged delinquent act that the victim may  
 4891 submit a victim impact form as provided in Code Section 17-10-1.1 if:

4892 (1) The allegedly delinquent child, in conduct which would constitute a felony if  
 4893 committed by an adult, caused physical, psychological, or economic injury to the victim;

4894 or

4895 (2) The allegedly delinquent child, in conduct which would constitute a misdemeanor if  
 4896 committed by an adult, caused serious physical injury or death to the victim.

4897 (b) The provisions of subsection (e) of Code Section 17-10-1.1 shall apply to the use and  
 4898 disclosure of the victim impact form.

4899 (c) The victim may complete the victim impact form and submit such form to the juvenile  
 4900 court. If the victim is unable to do so because of such victim's mental, emotional, or  
 4901 physical incapacity, or because of such victim's age, the victim's attorney or a family  
 4902 member may complete the victim impact form on behalf of the victim.

4903 (d) Prior to the imposition of a dispositional order for an allegedly delinquent child, the  
 4904 juvenile court shall permit the victim to address the juvenile court and present any  
 4905 information or opinions that concern the victim or the victim's family, including the impact  
 4906 of the delinquent act on the victim, the harm caused by the allegedly delinquent child and  
 4907 the delinquent act, the need for restitution, or the terms of the disposition order. Such  
 4908 statement shall be given in the presence of the allegedly delinquent child and shall be  
 4909 subject to cross-examination. The prosecuting attorney and the allegedly delinquent child  
 4910 shall be afforded the opportunity to explain, support, or deny the victim's statement. It  
 4911 shall be the duty of the juvenile court to advise the victim of the right to address the court  
 4912 prior to the entry of a dispositional order for a delinquent child. The victim shall have the  
 4913 discretion to exercise the right to be present and be heard at the dispositional hearing. If  
 4914 the victim is voluntarily absent from the dispositional hearing, such absence shall constitute  
 4915 a waiver of the rights provided by this subsection.

4916 (e) Except as provided in subsection (d) of this Code section, no disposition of the child  
 4917 shall be invalidated because of failure to comply with the provisions of this Code section.  
 4918 This Code section shall not be construed to create any cause of action or any right of appeal  
 4919 on behalf of the victim, the state, or the accused; provided, however, that if the court  
 4920 intentionally fails to comply with this Code section, the victim may file a complaint with  
 4921 the Judicial Qualifications Commission.

4922 15-11-482.

4923 In accordance with Code Sections 15-11-30 and 15-11-32, DJJ may release a child in DJJ  
 4924 custody in connection with legal holidays and available resources to transport the child.

4925 Part 2

4926 15-11-490.

4927 (a) A proceeding under this article may be commenced:

4928 (1) In the county in which the child legally resides; or

4929 (2) In any county in which the alleged delinquent acts occurred.

4930 (b) If the adjudicating court finds that a nonresident child has committed a delinquent act,  
 4931 the adjudicating court may retain jurisdiction over the disposition of the nonresident child  
 4932 or may transfer the proceeding to the county of the child's residence for disposition. Like  
 4933 transfer may be made if the residence of the child changes pending the proceeding.

4934 (c) If the adjudicating court retains jurisdiction, prior to making any order for disposition  
 4935 of the nonresident child, the adjudicating court shall communicate to the court of the  
 4936 county of the child's residence the fact that the child has been found to have committed a

4937 delinquent act. Such communication shall state the date upon which the adjudicating court  
 4938 plans to enter an order for disposition of the nonresident child and shall request any  
 4939 information or recommendations relevant to the disposition of the nonresident child. Any  
 4940 such recommendation shall be considered by but shall not be binding upon the adjudicating  
 4941 court in making its order for disposition.

4942 (d) When any case is transferred, certified copies of all documents and records pertaining  
 4943 to the case on file with the clerk of the court shall accompany the transfer. Compliance  
 4944 with this subsection shall terminate jurisdiction in the transferring court and initiate  
 4945 jurisdiction in the receiving court.

4946 Part 3

4947 15-11-500.

4948 If it appears from a filed affidavit or from sworn testimony before the court that the  
 4949 conduct, condition, or surroundings of the child are endangering the child's health or  
 4950 welfare or those of others or that the child may abscond or be removed from the  
 4951 jurisdiction of the court or will not be brought before the court, notwithstanding the service  
 4952 of the summons, the court may endorse upon the summons an order that a law enforcement  
 4953 officer shall serve the summons and take the child into immediate custody and bring the  
 4954 child forthwith before the court.

4955 15-11-501.

4956 (a) A child may be taken into custody:

4957 (1) Pursuant to an order of the court under this article, including an order to a DJJ  
 4958 employee to apprehend:

4959 (A) A child who has escaped from an institution or facility operated by DJJ; or

4960 (B) A child who has been placed under supervision and who has violated its  
 4961 conditions;

4962 (2) Pursuant to the laws of arrest; or

4963 (3) By a law enforcement officer or duly authorized officer of the court if there are  
 4964 reasonable grounds to believe that the child has committed a delinquent act.

4965 (b) A law enforcement officer taking a child into custody shall promptly give notice  
 4966 together with a statement of the reasons for taking the child into custody to a parent,  
 4967 guardian, or legal custodian and to the court.

4968 (c) When a child who is taken into custody has committed an act which would constitute  
 4969 a felony if committed by an adult, the juvenile court, within 48 hours after it learns of the

4970 child having been taken into custody, shall notify the prosecuting attorney of the judicial  
4971 circuit in which the juvenile proceedings are to be instituted.

4972 15-11-502.

4973 (a) A person taking a child into custody, with all reasonable speed and without first taking  
4974 the child elsewhere, shall:

4975 (1) Immediately release the child, without bond, to the child's parent, guardian, or legal  
4976 custodian upon such person's promise to bring the child before the court when requested  
4977 by the court;

4978 (2) Immediately deliver the child to a medical facility if the child is believed to suffer  
4979 from a serious physical condition or illness which requires prompt treatment and, upon  
4980 delivery, shall promptly contact a juvenile court intake officer. Immediately upon being  
4981 notified by the person taking a child into custody, the juvenile court intake officer shall  
4982 determine if the child should be released, remain in protective custody, or be brought  
4983 before the court; or

4984 (3) Bring the child immediately before the juvenile court or promptly contact a juvenile  
4985 court intake officer. The court or juvenile court intake officer shall determine if the child  
4986 should be released or detained. All determinations and court orders regarding detention  
4987 shall comply with the requirements of this article and shall be based on an individual  
4988 assessment of the child and the child's circumstances. Such assessment shall include  
4989 completion and review of a detention assessment instrument developed by the Governor's  
4990 Office for Children and Families in consultation with DJJ and the Council of Juvenile  
4991 Court Judges.

4992 (b) Notwithstanding subsection (a) of this Code section, a law enforcement officer may  
4993 detain a child for a reasonable period of time sufficient to conduct interrogations and  
4994 perform routine law enforcement procedures including, but not limited to, fingerprinting,  
4995 photographing, and the preparation of any necessary records.

4996 (c) Prior to a detention hearing, a child shall be placed in detention, if necessary, only in  
4997 such places as are authorized by Code Section 15-11-504.

4998 15-11-503.

4999 (a) Restraints on the freedom of a child prior to adjudication shall be imposed only when  
5000 there is probable cause to believe that the child committed the act of which he or she is  
5001 accused, that there is clear and convincing evidence that the child's freedom should be  
5002 restrained, that no less restrictive alternatives will suffice, and that:

5003 (1) The child's detention or care is required to reduce the likelihood that the child may  
5004 inflict serious bodily harm on others during the interim period;



- 5005 (2) The child has a demonstrated pattern of theft or destruction of property such that  
5006 detention is required to protect the property of others;
- 5007 (3) The child's detention is necessary to secure the child's presence in court to protect the  
5008 jurisdiction and processes of the court; or
- 5009 (4) An order for the child's detention has been made by the court.
- 5010 (b) All children who are detained shall be informed of their right to bail as provided by  
5011 Code Section 15-11-507.
- 5012 (c) A child shall not be detained:
- 5013 (1) To punish, treat, or rehabilitate the child;  
5014 (2) To allow a parent to avoid his or her legal responsibilities;  
5015 (3) To satisfy demands by a victim, law enforcement, or the community;  
5016 (4) To permit more convenient administrative access to the child;  
5017 (5) To facilitate further interrogation or investigation; or  
5018 (6) Due to a lack of a more appropriate facility.
- 5019 (d) Whenever a child cannot be unconditionally released, conditional or supervised release  
5020 that results in the least necessary interference with the liberty of the child shall be favored  
5021 over more intrusive alternatives.
- 5022 (e) Whenever the curtailment of a child's freedom is permitted, the exercise of authority  
5023 shall reflect the following values:
- 5024 (1) Respect for the privacy, dignity, and individuality of the child and his or her family;  
5025 (2) Protection of the psychological and physical health of the child;  
5026 (3) Tolerance of the diverse values and preferences among different groups and  
5027 individuals;  
5028 (4) Assurance of equality of treatment by race, class, ethnicity, and sex;  
5029 (5) Avoidance of regimentation and depersonalization of the child;  
5030 (6) Avoidance of stigmatization of the child; and  
5031 (7) Assurance that the child has been informed of his or her right to consult with an  
5032 attorney and that, if the child is an indigent person, an attorney will be provided.
- 5033 (f) Before entering an order authorizing detention, the court shall determine whether  
5034 continuation in the home is contrary to the child's welfare and whether there are available  
5035 services that would prevent or eliminate the need for detention. The court shall make that  
5036 determination on a case-by-case basis and shall make written findings of fact referencing  
5037 any and all evidence relied upon in reaching its decision.
- 5038 (g) If the child can remain in the custody of his or her parent, guardian, or legal custodian,  
5039 through the provision of services to prevent the need for removal, the court shall order that  
5040 such services shall be provided.

- 5041 15-11-504.
- 5042 (a) A child alleged to be delinquent may be detained only in:
- 5043 (1) A licensed foster home;
- 5044 (2) A home approved by the court which may be a public or private home;
- 5045 (3) The home of a noncustodial parent or of a relative;
- 5046 (4) A facility operated by a licensed child welfare agency; or
- 5047 (5) A detention home or center for delinquent children which is under the direction or
- 5048 supervision of the court or other public authority or of a private agency approved by the
- 5049 court.
- 5050 (b) Placement shall be made in the least restrictive facility available consistent with the
- 5051 best interests of the child.
- 5052 (c) A child 15 years of age or older and alleged to be delinquent may be held in a jail or
- 5053 other facility for the detention of adults for identification or processing procedures or while
- 5054 awaiting transportation only as long as necessary to complete such activities for up to six
- 5055 hours, or for up to 24 hours in nonmetropolitan areas, if all of the following apply:
- 5056 (1) The child is detained for the commission of a crime that would constitute a
- 5057 designated felony or a serious violent felony as defined in Code Section 17-10-6.1;
- 5058 (2) The child is awaiting a detention hearing;
- 5059 (3) The child's detention hearing is scheduled within 24 hours after being taken into
- 5060 custody, excluding weekends and legal holidays;
- 5061 (4) There is no existing acceptable alternative placement for the child; and
- 5062 (5) The jail or other facility for the detention of adults provides sight and sound
- 5063 separation for juveniles which includes:
- 5064 (A) Total separation between juveniles and adult facility spatial areas such that there
- 5065 is no verbal, visual, or physical contact and there could be no haphazard or accidental
- 5066 contact between juvenile and adult residents in the respective facilities;
- 5067 (B) Total separation in all juvenile and adult program activities within the facilities,
- 5068 including recreation, education, counseling, health care, dining, sleeping, and general
- 5069 living activities;
- 5070 (C) Continuous visual supervision of the child; and
- 5071 (D) Separate juvenile and adult staff, specifically direct care staff such as recreation,
- 5072 education, and counseling, although specialized services staff, such as cooks,
- 5073 bookkeepers, and medical professionals who are not normally in contact with detainees
- 5074 or whose infrequent contacts occur under conditions of separation of juvenile and
- 5075 adults, can serve both.

5076 (d) A child shall not be transported with adults who have been charged with or convicted  
 5077 of a crime. DJJ may transport a child with children who have been charged with or  
 5078 convicted of a crime in superior court.

5079 (e) The official in charge of a jail or other facility for the detention of adult offenders or  
 5080 persons charged with crime shall inform the court or the juvenile court intake officer  
 5081 immediately when a child, who appears to be under the age of 17 years, is received at such  
 5082 facility and shall deliver the child to the court upon request or transfer the child to the  
 5083 facility designated by the juvenile court intake officer or the court.

5084 (f) All facilities shall maintain data on each child detained and such data shall be recorded  
 5085 and retained by the facility for three years and shall be made available for inspection during  
 5086 normal business hours by any court exercising juvenile court jurisdiction, by DJJ, and by  
 5087 the Council of Juvenile Court Judges. The required data are:

5088 (1) Name;

5089 (2) Date of birth;

5090 (3) Sex;

5091 (4) Race;

5092 (5) Offense or offenses for which being detained;

5093 (6) Date of and authority for confinement;

5094 (7) Date of and authority for release or transfer; and

5095 (8) Where transferred or to whom released.

5096 15-11-505.

5097 If a child is brought before the court or delivered to a detention or eligible shelter care  
 5098 facility designated by the court, the juvenile court intake officer shall immediately make  
 5099 an investigation and release the child unless it appears that the child's detention is  
 5100 warranted.

5101 15-11-506.

5102 (a) A detention hearing shall be held to determine whether preadjudication custody of a  
 5103 child is required. If such hearing is not held within the time specified, the child shall be  
 5104 released from detention or eligible shelter care.

5105 (b) If a child is detained and is not released from preadjudication custody, a detention  
 5106 hearing shall be held promptly and not later than:

5107 (1) Two business days after the child is placed in preadjudication custody if the child is  
 5108 taken into custody without an arrest warrant; or

5109 (2) Three business days after the child is placed in preadjudication custody if the child  
 5110 is taken into custody pursuant to an arrest warrant.

5111 (c) If the detention hearing cannot be held within two business days, in accordance with  
5112 paragraph (1) of subsection (b) of this Code section, because the date for the hearing falls  
5113 on a weekend or legal holiday, the court shall review the decision to detain a child and  
5114 make a finding based on probable cause within 48 hours of the child being placed in  
5115 preadjudication custody.

5116 (d) Reasonable oral or written notice of the detention hearing, stating the time, place, and  
5117 purpose of the hearing, shall be given to the child and to the child's parent, guardian, or  
5118 legal custodian, if he or she can be found. In the event the child's parent, guardian, or legal  
5119 custodian cannot be found, the court shall forthwith appoint a guardian ad litem for the  
5120 child.

5121 (e) If the child alleged to be delinquent is not released from preadjudication custody and  
5122 a parent, guardian, or legal custodian or guardian ad litem, if any, has not been notified of  
5123 the hearing and did not appear or waive appearance at the hearing and thereafter files the  
5124 affidavit showing such party was not notified of such hearing, the court shall rehear the  
5125 matter without unnecessary delay and shall order the child's release unless it appears from  
5126 the hearing that the child's detention or eligible shelter care is required.

5127 (f) At the commencement of the detention hearing, the court shall inform the child of:

5128 (1) The contents of the complaint or petition;

5129 (2) The nature of the proceedings;

5130 (3) The right to make an application for bail, as provided by Code Section 15-11-507 and  
5131 Title 17;

5132 (4) The possible consequences or dispositions that may apply to the child's case  
5133 following adjudication; and

5134 (5) Due process rights, including the right to an attorney and to an appointed attorney;  
5135 the privilege against self-incrimination; that the child may remain silent and that anything  
5136 said may be used against the child; the right to confront anyone who testifies against the  
5137 child and to cross-examine any persons who appear against the child; the right of the  
5138 child to testify and to compel other witnesses to attend and testify in his or her own  
5139 behalf; the right of the child to a speedy adjudication hearing; and the right to appeal and  
5140 be provided with a transcript for such purpose.

5141 (g) If the child can be returned to the custody of his or her parent, guardian, or legal  
5142 custodian through the provision of services to eliminate the need for removal, the court  
5143 shall release the child to the physical custody of the parent, guardian, or legal custodian and  
5144 order that those services shall be provided.

5145 (h) If the child cannot be returned to the custody of the parent, guardian, or legal  
5146 custodian, the court shall state the facts upon which the detention is based. The court shall

5147 make the following findings of fact referencing any and all evidence relied upon to make  
5148 its determinations:

5149 (1) Whether continuation in the home of the parent, guardian, or legal custodian is  
5150 contrary to the child's welfare; and

5151 (2) Whether reasonable efforts have been made to safely maintain the child in the home  
5152 of his or her parent, guardian, or legal custodian and to prevent the need for removal.  
5153 Such finding shall be made at the detention hearing if possible but in no case later than  
5154 60 days following the child's removal from the home.

5155 (i) If the child cannot be returned to the custody of the parent, guardian, or legal custodian,  
5156 the probation officer shall provide referrals for services as soon as possible to enable the  
5157 child's parent, guardian, or legal custodian to obtain any assistance that may be needed to  
5158 effectively provide the care and control necessary for the child to return home.

5159 15-11-507.

5160 (a) All children alleged to be delinquent shall have the same right to bail as adults.

5161 (b) The judge shall admit to bail all children in the same manner and under the same  
5162 circumstances and procedures as are applicable to adults accused of the commission of  
5163 crimes, with the exception that applying for, holding a hearing on the application, and  
5164 granting bail for children alleged to have committed a delinquent offense may only occur:

5165 (1) At intake in accordance with Code Section 15-11-503; or

5166 (2) At the detention hearing in accordance with Code Section 15-11-506.

5167 (c) A court shall be authorized to release a child on bail if the court finds that the child:

5168 (1) Poses no significant risk of fleeing from the jurisdiction of the court or failing to  
5169 appear in court when required;

5170 (2) Poses no significant threat or danger to any person, to the community, or to any  
5171 property in the community;

5172 (3) Poses no significant risk of committing any felony pending trial; and

5173 (4) Poses no significant risk of intimidating witnesses or otherwise obstructing the  
5174 administration of justice.

5175 (d) If the child is accused of committing an offense that would be a serious violent felony,  
5176 as defined in Code Section 17-10-6.1, if committed by an adult and the child has previously  
5177 been adjudicated delinquent for committing an act that would be a serious violent felony  
5178 if committed by an adult, there shall be a rebuttable presumption that no condition or  
5179 combination of conditions will reasonably assure the appearance of the child as required  
5180 or assure the safety of any other person or the community.

5181 (e) Any person having legal custody or an adult blood relative or stepparent shall be  
 5182 entitled to post bail but shall be required immediately to return the child to the individual  
 5183 or entity having legal custody of the child.

5184 (f) For the purposes of this Code section, the term 'bail' shall include the releasing of a  
 5185 person on such person's own recognizance.

5186 15-11-508.

5187 (a) As used in this Code section, the term:

5188 (1) 'Notice' shall have the same meaning as set forth in Code Section 17-17-3.

5189 (2) 'Victim' shall have the same meaning as set forth in Code Section 17-17-3.

5190 (3) 'Violent delinquent act' means the commission, attempt to commit, conspiracy to  
 5191 commit, or solicitation of another to commit a delinquent act which if committed by an  
 5192 adult would constitute:

5193 (A) A serious violent felony as defined by Code Section 17-10-6.1;

5194 (B) A designated felony act;

5195 (C) Stalking or aggravated stalking as provided by Article 7 of Chapter 5 of Title 16;  
 5196 or

5197 (D) Any attempt to commit, conspiracy to commit, or solicitation of another to commit  
 5198 an offense enumerated in subparagraphs (A) through (C) of this paragraph.

5199 (b) If a child accused of a violent delinquent act is detained pending adjudication, the  
 5200 juvenile court intake officer shall provide notice to the victim, whenever practicable, that  
 5201 such child is to be released from detention not less than 24 hours prior to such child's  
 5202 release from detention.

5203 (c) Not less than 48 hours prior to the release from detention of a child who has been  
 5204 adjudicated to have committed a violent delinquent act, the juvenile court intake officer  
 5205 shall, whenever practicable, provide notice to the victim of such pending release.

5206 (d) Notification need not be given unless the victim has expressed a desire for such  
 5207 notification and has provided the juvenile court intake officer with a current address and  
 5208 telephone number. It shall be the duty of the juvenile court intake officer to advise the  
 5209 victim of his or her right to notification and of the requirement of the victim's providing a  
 5210 primary and personal telephone number to which such notification shall be directed.

5211 Part 4

5212 15-11-510.

5213 (a) If a child has not been detained after the filing of a complaint, he or she shall be  
 5214 promptly referred to intake or given a date for arraignment.

5215 (b) At intake, the court, the juvenile court intake officer, or other officer designated by the  
5216 court shall inform the child of:

5217 (1) The contents of the complaint;

5218 (2) The nature of the proceedings;

5219 (3) The possible consequences or dispositions that may apply to the child's case  
5220 following adjudication; and

5221 (4) Due process rights, including the right to an attorney and to an appointed attorney;  
5222 the privilege against self-incrimination; that the child may remain silent and that anything  
5223 said may be used against the child; the right to confront anyone who testifies against the  
5224 child and to cross-examine any persons who appear against the child; the right of the  
5225 child to testify and to compel other witnesses to attend and testify in his or her own  
5226 behalf; the right of the child to a speedy adjudication hearing; and the right to appeal and  
5227 be provided with a transcript for such purpose.

5228 (c) A juvenile court intake officer may elect to pursue a case through informal adjustment  
5229 or other nonadjudicatory procedure in accordance with the provisions of Code Section  
5230 15-11-515.

5231 (d) If a case is to be prosecuted further and handled other than by informal adjustment or  
5232 other nonadjudicatory procedure, a referral shall be made to the prosecuting attorney and  
5233 a petition for delinquency shall be filed within 30 days of the filing of a complaint.

5234 15-11-511.

5235 (a) At arraignment, the court shall inform the child of:

5236 (1) The contents of the petition for delinquency;

5237 (2) The nature of the proceedings;

5238 (3) The possible consequences or dispositions that may apply to the child's case  
5239 following adjudication; and

5240 (4) Due process rights, including the right to an attorney and to an appointed attorney;  
5241 the privilege against self-incrimination; that the child may remain silent and that anything  
5242 said may be used against the child; the right to confront anyone who testifies against the  
5243 child and to cross-examine any persons who appear against the child; the right of the  
5244 child to testify and to compel other witnesses to attend and testify in his or her own  
5245 behalf; the right of the child to a speedy adjudication hearing; and the right to appeal and  
5246 be provided with a transcript for such purpose.

5247 (b) The court shall appoint a qualified and competent attorney to represent the child at  
5248 arraignment unless an attorney has been retained and appears on the child's behalf.

5249 (c) If a child is pro se at arraignment, the child may make a preliminary statement  
5250 indicating whether he or she shall admit or deny the allegations of the complaint at the

5251 adjudication hearing but the court shall not accept an admission from a child acting pro se  
5252 at arraignment.

5253 Part 5

5254 15-11-515.

5255 (a) Before a petition for informal adjustment is filed, a probation officer or other officer  
5256 designated by the court, subject to the court's direction, may inform the parties of informal  
5257 adjustment if it appears that:

5258 (1) The admitted facts bring the case within the jurisdiction of the court;

5259 (2) Counsel and advice without an adjudication would be in the best interests of the  
5260 public and the child, taking into account at least the following factors:

5261 (A) The nature of the alleged offense;

5262 (B) The age and individual circumstances of the child;

5263 (C) The child's prior record, if any;

5264 (D) Recommendations for informal adjustment made by the complainant or the victim;  
5265 and

5266 (E) Services to meet the child's needs and problems may be unavailable within the  
5267 formal court system or may be provided more effectively by alternative community  
5268 programs; and

5269 (3) The child and the child's parent, guardian, or legal custodian consent with knowledge  
5270 that consent is not obligatory.

5271 (b) The giving of counsel and advice shall not extend beyond three months unless  
5272 extended by the court for an additional period not to exceed three months and shall not  
5273 authorize the detention of the child if not otherwise permitted by this article.

5274 (c) An incriminating statement made by a participant to the person giving counsel or  
5275 advice and in the discussion or conferences incident thereto shall not be used against the  
5276 declarant over objection in any hearing except in a hearing on disposition in a juvenile  
5277 court proceeding or in a criminal proceeding upon conviction for the purpose of a  
5278 presentence investigation.

5279 (d) If a child is alleged to have committed a felony, the case shall not be subject to  
5280 informal adjustment, counsel, or advice without the prior consent of the district attorney  
5281 or his or her authorized representative.



Part 6

5282

5283 15-11-520.5284 A petition alleging delinquency shall be filed only by the prosecuting attorney.5285 15-11-521.

5286 (a) If a child is in detention prior to adjudication, the petition alleging delinquency shall  
5287 be filed not later than 72 hours after the detention hearing. If no petition alleging  
5288 delinquency is filed within the applicable time, the child shall be released.

5289 (b) If the child is not in detention prior to adjudication, the petition alleging delinquency  
5290 shall be filed within 30 days of the filing of the complaint alleging violation of a criminal  
5291 law or within 30 days of the child's release pursuant to a determination that detention is not  
5292 warranted.

5293 15-11-522.

5294 (a) The petition alleging delinquency shall be verified and may be on information and  
5295 belief. It shall set forth plainly and with particularity:

5296 (1) The facts which bring the child within the jurisdiction of the court, with a statement  
5297 that it is in the best interests of the child and the public that the proceeding be brought and  
5298 that the child is in need of supervision, treatment, or rehabilitation, as the case may be;

5299 (2) The name, age, and residence address of the child on whose behalf such petition is  
5300 brought;

5301 (3) The name and residence address of the parent, guardian, or legal custodian of the  
5302 child; or, if neither the child's parent nor the child's guardian nor the child's legal  
5303 custodian resides or can be found within the state or if such place of residence address is  
5304 unknown, the name of any known adult relative residing within the county or, if there is  
5305 none, the known adult relative residing nearest to the location of the court;

5306 (4) If the child is in custody and, if so, the place of his or her detention and the time the  
5307 child was taken into custody; and

5308 (5) If the child is being charged with a designated felony act.

5309 (b) The petition alleging delinquency shall indicate if any of the matters required in this  
5310 Code section are unknown.

5311 15-11-523.

5312 (a) The prosecuting attorney may amend the petition alleging delinquency at any time to  
5313 cure defects of form.

5314 (b) Prior to the adjudication hearing, the prosecuting attorney may amend the petition  
5315 alleging delinquency to include new charges of delinquency. However, if an amendment  
5316 is made, the child may request a continuance of the adjudication hearing. A continuance  
5317 may be granted by the court for such period as required in the interest of justice.

5318 (c) When a petition alleging delinquency is amended to include new charges of  
5319 delinquency for adjudication, the petition shall be served in accordance with Code Sections  
5320 15-11-530 and 15-11-531.

5321 (d) After jeopardy begins, a petition alleging delinquency shall not be amended to include  
5322 new charges of delinquency.

5323 Part 7

5324 15-11-530.

5325 (a) The court shall direct the issuance of a summons to a child and the child's parent,  
5326 guardian, or legal custodian requiring them to appear before the court at the time fixed to  
5327 answer the allegations of the petition. A copy of the petition shall accompany the  
5328 summons.

5329 (b) The summons shall state that a party shall be entitled to have an attorney in the  
5330 proceedings and that the court will appoint an attorney if the party is an indigent person.

5331 15-11-531.

5332 (a) If a party to be served with a summons is within this state and can be found, the  
5333 summons shall be served upon him or her personally as soon as possible and at least 24  
5334 hours before the adjudication hearing.

5335 (b) If a party to be served is within this state and cannot be found but his or her address is  
5336 known or can be ascertained with reasonable diligence, the summons shall be served upon  
5337 such party at least five days before the adjudication hearing by mailing him or her a copy  
5338 by registered or certified mail or statutory overnight delivery, return receipt requested.

5339 (c) If an individual to be served is outside this state but his or her address is known or can  
5340 be ascertained with reasonable diligence, notice of the summons shall be made at least five  
5341 days before the adjudication hearing either by delivering a copy to such party personally  
5342 or by mailing a copy to him or her by registered or certified mail or statutory overnight  
5343 delivery, return receipt requested.

5344 (d) Service of the summons may be made by any suitable person under the direction of the  
5345 court.

5346 (e) The court may authorize payment from county funds of the costs of service and of  
 5347 necessary travel expenses incurred by persons summoned or otherwise required to appear  
 5348 at the hearing.

5349 15-11-532.

5350 (a) In the event a parent, guardian, or other legal custodian of a child willfully fails to  
 5351 appear personally at a hearing after being ordered to so appear or the parent, guardian, or  
 5352 other legal custodian of the child willfully fails to bring the child to a hearing after being  
 5353 so directed, the court may issue a rule nisi against the person directing the person to appear  
 5354 before the court to show cause why he or she should not be held in contempt of court.

5355 (b) If the parent, guardian, or legal custodian fails to appear in response to an order to  
 5356 show cause, the court may issue a bench warrant directing that the parent, guardian, or  
 5357 legal custodian be brought before the court without delay to show cause why he or she  
 5358 should not be held in contempt and the court may enter any order authorized by and in  
 5359 accordance with the provisions of Code Section 15-11-31.

5360 (c) If a child 16 years of age or older fails to appear at a hearing after being ordered to so  
 5361 appear, the court may issue a bench warrant requiring that the child be brought before the  
 5362 court without delay and the court may enter any order authorized by and in accordance with  
 5363 the provisions of Code Section 15-11-31.

5364 (d) If there is sworn testimony that a child 14 years of age but not yet 16 years of age  
 5365 willfully refuses to appear at a hearing after being ordered to so appear, the court may issue  
 5366 a bench warrant requiring that the child be brought before the court and the court may enter  
 5367 any order authorized by and in accordance with the provisions of Code Section 15-11-31.

5368 Part 8

5369 15-11-540.

5370 A delinquency petition shall be dismissed by the court upon the motion of the prosecuting  
 5371 attorney setting forth that there is not sufficient evidence to warrant further proceedings.

5372 15-11-541.

5373 (a) Except as limited by subsection (d) of Code Section 15-11-542, in all cases in which  
 5374 a child is charged with having committed a delinquent act, the child shall, upon filing a  
 5375 motion for discovery with the court and serving a copy of the motion to the prosecuting  
 5376 attorney, have full access to the following for inspection, copying, or photographing:

5377 (1) A copy of the complaint;

5378 (2) A copy of the petition for delinquency;

- 5379 (3) The names and last known addresses and telephone numbers of each witness to the  
5380 occurrence which forms the basis of the charge;
- 5381 (4) A copy of any written statement made by the child or any witness that relates to the  
5382 testimony of a person whom the prosecuting attorney intends to call as a witness;
- 5383 (5) A copy of any written statement made by any alleged coparticipant which the  
5384 prosecuting attorney intends to use at a hearing;
- 5385 (6) Transcriptions, recordings, and summaries of any oral statement of the child or of any  
5386 witness, except attorney work product;
- 5387 (7) Any scientific or other report which is intended to be introduced at the hearing or that  
5388 pertains to physical evidence which is intended to be introduced;
- 5389 (8) Photographs and any physical evidence which are intended to be introduced at the  
5390 hearing; and
- 5391 (9) Copies of the police incident report and supplemental report, if any, regarding the  
5392 occurrence which forms the basis of the charge.
- 5393 (b) The prosecuting attorney shall disclose all evidence, known or that may become known  
5394 to him or her, favorable to the child and material either to guilt or punishment.
- 5395 (c) If the child requests disclosure of information pursuant to subsection (a) of this Code  
5396 section, it shall be the duty of the child to promptly make the following available for  
5397 inspection, copying, or photographing to the prosecuting attorney:
- 5398 (1) The names and last known addresses and telephone numbers of each witness to the  
5399 occurrence which forms the basis of the defense;
- 5400 (2) Any scientific or other report which is intended to be introduced at the hearing or that  
5401 pertains to physical evidence which is intended to be introduced;
- 5402 (3) Photographs and any physical evidence which are intended to be introduced at the  
5403 hearing; and
- 5404 (4) A copy of any written statement made by any witness that relates to the testimony of  
5405 a person whom the child intends to call as a witness.
- 5406 (d) A request for discovery or reciprocal discovery shall be complied with promptly and  
5407 not later than 48 hours prior to the adjudication hearing, except when later compliance is  
5408 made necessary by the timing of the request. If the request for discovery is made fewer  
5409 than 48 hours prior to the adjudication hearing, the discovery response shall be produced  
5410 in a timely manner.
- 5411 (e) Any material or information furnished to the child pursuant to a discovery request shall  
5412 remain in the exclusive custody of the child and shall only be used during the pendency of  
5413 the case and shall be subject to such other terms and conditions as the court may provide.

5414 15-11-542.

5415 (a) If a request for discovery is refused, application may be made to the court for a written  
5416 order granting discovery.

5417 (b) Motions to compel discovery shall certify that a request for discovery was made and  
5418 was refused.

5419 (c) An order granting discovery shall require reciprocal discovery.

5420 (d) The court may deny, in whole or in part, or otherwise limit or set conditions concerning  
5421 discovery upon sufficient showing by a person or entity to whom a request for discovery  
5422 is made that disclosure of the information would:

5423 (1) Jeopardize the safety of a party, witness, or confidential informant;

5424 (2) Create a substantial threat of physical or economic harm to a witness or other person;

5425 (3) Endanger the existence of physical evidence;

5426 (4) Disclose privileged information; or

5427 (5) Impede the criminal prosecution of a child who is being prosecuted as an adult or the  
5428 prosecution of an adult charged with an offense arising from the same transaction or  
5429 occurrence.

5430 15-11-543.

5431 (a) Upon written request by the prosecuting attorney stating the time, date, and place at  
5432 which the alleged delinquent act was committed, the child shall serve upon the prosecuting  
5433 attorney a written notice of the child's intention to offer a defense of alibi.

5434 (b) The notice shall state the specific place or places at which the child claims to have been  
5435 at the time of the alleged delinquent act and the names, addresses, dates of birth, and  
5436 telephone numbers of the witnesses, if known to the child, upon whom the child intends  
5437 to rely to establish the child's alibi, unless previously supplied.

5438 (c) A request for alibi evidence shall be complied with promptly and not later than 48  
5439 hours prior to the adjudication hearing, except when later compliance is made necessary  
5440 by the timing of the request. If the request for alibi evidence is made fewer than 48 hours  
5441 prior to the adjudication hearing, the alibi evidence shall be produced in a timely manner.

5442 (d) If the defendant withdraws the notice of intention to rely upon an alibi defense, the  
5443 notice and intention to rely upon an alibi defense shall not be admissible; provided,  
5444 however, that the prosecuting attorney or entity prosecuting the case may offer any other  
5445 evidence regarding alibi.

5446 (e) The prosecuting attorney shall serve upon the child a written notice stating the names,  
5447 addresses, dates of birth, and telephone numbers of the witnesses, if known to the state,  
5448 upon whom the state intends to rely to rebut the child's evidence of alibi, unless previously  
5449 supplied.

5450 15-11-544.

5451 If, subsequent to providing a discovery response, the existence of additional evidence is  
 5452 found, it shall be promptly provided to the state or child making the discovery request.

5453 15-11-545.

5454 Nothing contained in the provisions governing discovery procedure under this part shall  
 5455 prohibit the court from ordering the disclosure of any information that the court deems  
 5456 necessary and appropriate for proper adjudication.

5457 15-11-546.

5458 If at any time during the course of the proceedings it is brought to the attention of the court  
 5459 that a person or entity has failed to comply with a discovery request, the court may grant  
 5460 a continuance, prohibit the party from introducing in evidence the information not  
 5461 disclosed, or enter such other order as the court deems just under the circumstances.

5462 Part 9

5463 15-11-560.

5464 (a) Except as provided in subsection (b) of this Code section, the court shall have  
 5465 concurrent jurisdiction with the superior court over a child who is alleged to have  
 5466 committed a delinquent act which would be considered a crime if tried in a superior court  
 5467 and for which an adult may be punished by loss of life, imprisonment for life without  
 5468 possibility of parole, or confinement for life in a penal institution.

5469 (b) The superior court shall have exclusive original jurisdiction over the trial of any child  
 5470 13 to 17 years of age who is alleged to have committed any of the following offenses:

5471 (1) Murder;

5472 (2) Voluntary manslaughter;

5473 (3) Rape;

5474 (4) Aggravated sodomy;

5475 (5) Aggravated child molestation;

5476 (6) Aggravated sexual battery; or

5477 (7) Armed robbery if committed with a firearm.

5478 (c) The granting of bail or pretrial release of a child charged with an offense enumerated  
 5479 in subsection (b) of this Code section shall be governed by the provisions of Code Section  
 5480 17-6-1.

5481 (d) At any time before indictment, the district attorney may, after investigation and for  
 5482 cause, decline prosecution in the superior court of a child 13 to 17 years of age alleged to

5483 have committed an offense specified in subsection (b) of this Code section. Upon declining  
5484 such prosecution in the superior court, the district attorney shall immediately cause a  
5485 petition to be filed in the appropriate juvenile court for adjudication. Any case transferred  
5486 by the district attorney to the juvenile court pursuant to this subsection shall be subject to  
5487 the designated felony provisions of Code Section 15-11-602 and the transfer of the case  
5488 from superior court to juvenile court shall constitute notice to the child that such case is  
5489 subject to the designated felony provisions of Code Section 15-11-602.

5490 (e) After indictment, the superior court may after investigation and for extraordinary cause  
5491 transfer any case involving a child 13 to 17 years of age alleged to have committed any  
5492 offense enumerated in paragraph (2), (4), (5), or (6) of subsection (b) of this Code section.  
5493 Any such transfer shall be appealable by the State of Georgia pursuant to Code Section  
5494 5-7-1. Upon such a transfer by the superior court, jurisdiction shall vest in the juvenile  
5495 court and jurisdiction of the superior court shall terminate. Any case transferred by the  
5496 superior court to the juvenile court pursuant to this subsection shall be subject to the  
5497 designated felony provisions of Code Section 15-11-602 and the transfer of the case from  
5498 superior court to juvenile court shall constitute notice to the child that such case is subject  
5499 to the designated felony provisions of Code Section 15-11-602.

5500 (f) The superior court may transfer any case involving a child 13 to 17 years of age alleged  
5501 to have committed any offense enumerated in subsection (b) of this Code section and  
5502 convicted of a lesser included offense not included in subsection (b) of this Code section  
5503 to the juvenile court of the county of the child's residence for disposition. Upon such a  
5504 transfer by the superior court, jurisdiction shall vest in the juvenile court and jurisdiction  
5505 of the superior court shall terminate.

5506 (g) Within 30 days of any proceeding in which a child 13 to 17 years of age is convicted  
5507 of certain offenses over which the superior court has original jurisdiction as provided in  
5508 subsection (b) of this Code section or adjudicated delinquent on the basis of conduct which  
5509 if committed by an adult would constitute such offenses, the superior court shall provide  
5510 written notice to the school superintendent or his or her designee of the school in which  
5511 such child is enrolled or, if the information is known, of the school in which such child  
5512 plans to be enrolled at a future date. Such notice shall include the specific criminal offense  
5513 that such child committed. A local school system to which the child is assigned may  
5514 request further information from the court's file.

5515 15-11-561.

5516 (a) After a petition alleging delinquency has been filed but before the adjudication hearing,  
5517 on its own motion or on a motion by the prosecuting attorney, the court may convene a

5518 hearing to determine whether to transfer the offense to the appropriate superior court for  
5519 criminal trial if the court determines that:

5520 (1) There is probable cause to believe that the child committed the alleged offense;

5521 (2) The child is not committable to an institution for the developmentally disabled or  
5522 mentally ill; and

5523 (3) The petition alleges that the child:

5524 (A) Was at least 15 years of age at the time of the commission of the offense and  
5525 committed an act which would be a felony if committed by an adult; or

5526 (B) Was 13 or 14 years of age and either committed an act for which the punishment  
5527 is loss of life or confinement for life in a penal institution or committed aggravated  
5528 battery resulting in serious bodily injury to a victim.

5529 (b) At least three days prior to the scheduled transfer hearing, written notice shall be given  
5530 to the child and the child's parent, guardian, or legal custodian. The notice shall contain  
5531 a statement that the purpose of the hearing is to determine whether the child is to be tried  
5532 in the juvenile court or transferred for trial as an adult in superior court. The child may  
5533 request and the court shall grant a continuance to prepare for the transfer hearing.

5534 (c) After consideration of a probation report and any other evidence the court deems  
5535 relevant, including any evidence offered by the child, the court may determine that because  
5536 of the seriousness of the offense or the child's prior record, the welfare of the community  
5537 requires that criminal proceedings against the child be instituted.

5538 (d) No child, either before or after reaching age 17 years of age shall be prosecuted in  
5539 superior court for an offense committed before the child turned 17, unless the case has been  
5540 transferred as provided in this part. In addition, no child shall be subject to criminal  
5541 prosecution at any time for an offense arising out of a criminal transaction for which the  
5542 juvenile court retained jurisdiction in its transfer order.

5543 15-11-562.

5544 (a) The criteria which the court shall consider in determining whether to transfer the child  
5545 to superior court includes, but shall not be limited to:

5546 (1) The age of the child;

5547 (2) The seriousness of the alleged offense, especially if personal injury resulted;

5548 (3) Whether the protection of the community requires transfer of jurisdiction;

5549 (4) Whether the alleged offense involved violence or was committed in an aggressive or  
5550 premeditated manner;

5551 (5) The culpability of the child including the child's level of planning and participation  
5552 in the alleged offense;



5553 (6) Whether the alleged offense is a part of a repetitive pattern of offenses which  
 5554 indicates that the child may be beyond rehabilitation in the juvenile justice system;

5555 (7) The record and history of the child, including experience with the juvenile justice  
 5556 system, other courts, supervision, commitments to juvenile institutions, and other  
 5557 placements;

5558 (8) The sophistication and maturity of the child as determined by consideration of the  
 5559 child's home and environmental situation, emotional condition, and pattern of living;

5560 (9) The program and facilities available to the juvenile court in considering disposition;  
 5561 and

5562 (10) Whether or not the child can benefit from the treatment or rehabilitative programs  
 5563 available to the juvenile court.

5564 (b) The probation officer shall prepare a written report developing fully all available  
 5565 information relevant to the transfer criteria. The probation officer shall submit such report  
 5566 to the parties and the court as soon as practicable but not later than 24 hours before the  
 5567 scheduled hearing. The child shall have the right to review such report and cross-examine  
 5568 the individual making such report.

5569 15-11-563.

5570 Statements made by the child at the transfer hearing shall not be admissible against the  
 5571 child over objection in the criminal proceedings if transfer is ordered except as  
 5572 impeachment or rebuttal evidence.

5573 15-11-564.

5574 (a) The decision of the court regarding transfer of the case shall only be an interlocutory  
 5575 judgment which either the child or the prosecuting attorney, or both, have the right to have  
 5576 reviewed by the Court of Appeals.

5577 (b) The pendency of an interlocutory appeal shall stay criminal proceedings in superior  
 5578 court. A child transferred for trial as an adult in superior court shall be detained only in  
 5579 those places authorized for the preadjudication detention of a child.

5580 15-11-565.

5581 (a) Prior to the entry of a judgment ordering a child's transfer or during the pendency of  
 5582 an appeal of a judgment ordering a child's transfer, the child shall be detained only in those  
 5583 places authorized for the preadjudication detention of a child.

5584 (b) After the entry of a judgment ordering transfer, a child shall be detained only in those  
 5585 places authorized for the detention of a child until the child reaches 17 years of age.

5586 15-11-566.

5587 (a) If the court decides to transfer the child for trial in superior court, it shall dismiss the  
5588 juvenile court petition alleging delinquency, set forth the offense or offenses which are  
5589 being transferred, and make the following findings of fact in its dismissal order:

5590 (1) That the court had jurisdiction of the cause and the parties;

5591 (2) That the child was represented by an attorney; and

5592 (3) That the hearing was held in the presence of the child and the child's attorney.

5593 (b) The dismissal order shall also recount the reasons underlying the decision to transfer  
5594 jurisdiction.

5595 (c) A dismissal of the petition alleging delinquency terminates the jurisdiction of the  
5596 juvenile court over the child as to those offenses which are transferred. If the petition  
5597 alleging delinquency alleges multiple offenses that constitute a single criminal transaction,  
5598 the court shall either retain or transfer all offenses relating to a single criminal transaction.

5599 (d) Once juvenile court jurisdiction is terminated, the superior court shall retain  
5600 jurisdiction even though, thereafter, the child pleads guilty to, or is convicted of, a lesser  
5601 included offense. The plea to, or conviction of, a lesser included offense shall not revest  
5602 juvenile jurisdiction over the child.

5603 (e) A copy of the petition alleging delinquency and order of dismissal shall be sent to the  
5604 district attorney of the judicial circuit in which the proceeding is taking place.

5605 (f) If the court decides not to transfer the child for trial in superior court, it shall set a date  
5606 for an adjudication hearing in juvenile court on the petition alleging delinquency.

5607 15-11-567.

5608 (a) Except in those cases in which the superior court has original jurisdiction or juvenile  
5609 court jurisdiction has been terminated and the child has been transferred to superior court,  
5610 if it appears to any court in a criminal proceeding or a quasi-criminal proceeding that the  
5611 accused is a child, the case shall forthwith be transferred to the juvenile court together with  
5612 a copy of the accusatory pleading and all other papers, documents, and transcripts of  
5613 testimony relating to the case.

5614 (b) The transferring court shall order that the child be taken forthwith to the juvenile court  
5615 or to a place of detention designated by the court or shall release him or her to the custody  
5616 of his or her parent, guardian, legal custodian, or other person legally responsible for him  
5617 or her to be brought before the juvenile court at a time designated by that court. The  
5618 accusatory pleading may not serve in lieu of a petition alleging delinquency in the juvenile  
5619 court.

Part 10

5620

5621 15-11-580.

5622 (a) At the commencement of the adjudication hearing, the court shall address the child, in  
5623 language understandable to the child, and determine whether the child is capable of  
5624 understanding statements about his or her rights under this chapter.

5625 (b) If a child is capable, the court shall inquire how the child responds to the allegations  
5626 of the delinquency petition. The child may:

5627 (1) Deny the allegations of such petition, in which case the court shall proceed to hear  
5628 evidence on such petition; or

5629 (2) Admit the allegations of such petition, in which case the court shall further inquire  
5630 to determine whether there is a factual basis for adjudication. If so, the court may then  
5631 adjudge the child to have committed a delinquent act.

5632 (c) If the child stands mute, refuses to answer, or answers evasively, the court shall enter  
5633 a denial of the allegations.

5634 15-11-581.

5635 The state shall have the burden of proving the allegations of a delinquency petition beyond  
5636 a reasonable doubt.

5637 15-11-582.

5638 (a) The court shall fix a time for the adjudication hearing. If the child is in detention, the  
5639 hearing shall be scheduled to be held no later than ten days after the filing of the  
5640 delinquency petition. If the child is not in detention, the hearing shall be scheduled to be  
5641 held no later than 60 days after the filing of such petition.

5642 (b) Adjudication hearings shall be conducted:

5643 (1) By the court without a jury;

5644 (2) In accordance with Title 24 and Title 17; and

5645 (3) In language understandable to the child and participants, to the fullest extent  
5646 practicable.

5647 (c) The court shall determine if the allegations of the petition alleging delinquency are  
5648 admitted or denied in accordance with the provisions of Code Section 15-11-580.

5649 (d) After hearing all of the evidence, the court shall make and record its findings on  
5650 whether the delinquent acts ascribed to the child were committed by the child. If the court  
5651 finds that the allegations of delinquency have not been established, it shall dismiss the  
5652 delinquency petition and order the child released from any detention or legal custody  
5653 imposed in connection with the proceedings.

5654 (e) The court shall make a finding that the child has committed a delinquent act based on  
5655 a valid admission made in open court of the allegations of the delinquency petition or on  
5656 the basis of proof beyond a reasonable doubt. If the court finds that the child has  
5657 committed a delinquent act, the court may proceed immediately or at a postponed hearing  
5658 to make disposition of the case.

5659 Part 11

5660 15-11-590.

5661 (a) After an adjudication that the child has committed a delinquent act, the court may  
5662 direct that a written predisposition investigation report be prepared by the probation officer  
5663 or other person designated by the court.

5664 (b) The predisposition investigation report shall contain information about the child's  
5665 characteristics, family, environment, and the circumstances affecting the child's behavior  
5666 as may be helpful in determining the need for treatment or rehabilitation and a proper  
5667 disposition of the case, including but not limited to:

5668 (1) A summary of the facts with respect to the conduct of the child that led to the  
5669 adjudication;

5670 (2) The sophistication and maturity of the child;

5671 (3) A summary of the child's home environment, family relationships, and background;

5672 (4) A summary of the child's prior contacts with the juvenile court and law enforcement  
5673 agencies, including the disposition following each contact and the reasons therefor;

5674 (5) A summary of the child's educational status, including, but not limited to, the child's  
5675 strengths, abilities, and special educational needs. The report shall identify appropriate  
5676 educational and vocational goals for the child. Examples of appropriate goals include:

5677 (A) Attainment of a high school diploma or its equivalent;

5678 (B) Successful completion of literacy courses;

5679 (C) Successful completion of vocational courses;

5680 (D) Successful attendance and completion of the child's current grade if enrolled in  
5681 school; or

5682 (E) Enrollment in an apprenticeship or a similar program;

5683 (6) A summary of the results and recommendations of any significant physical and  
5684 mental examinations;

5685 (7) The seriousness of the offense to the community;

5686 (8) The nature of the offense; and

5687 (9) Whether the offense was against persons or against property with greater weight  
5688 being given to offenses against persons.

- 5689 (c) If the court has ordered a physical or mental examination to be conducted, the report  
5690 shall include a copy of the results of the examination.
- 5691 (d) All information shall be presented in a concise and factual manner. The report shall  
5692 indicate the sources of information in the report.
- 5693 (e) The original report and any other material to be disclosed shall be furnished to the  
5694 court, and copies shall be furnished to the child's attorney and to the prosecuting attorney  
5695 at least five days prior to the disposition hearing.

5696 Part 12

5697 15-11-600.

5698 (a) After a finding that a child has committed a delinquent act, the court shall conduct a  
5699 hearing for the purpose of hearing evidence as to whether the child is in need of treatment,  
5700 rehabilitation, or supervision and shall make and file its findings thereon.

5701 (b) The court may proceed immediately to the disposition hearing after the adjudication  
5702 hearing or conduct the disposition hearing within 30 days of the adjudication hearing. The  
5703 hearing may occur later than 30 days after the adjudication hearing only if the court makes  
5704 and files written findings of fact explaining the need for delay.

5705 (c) In the absence of evidence to the contrary, evidence sufficient to warrant a finding that  
5706 acts have been committed which constitute a felony shall also be sufficient to sustain a  
5707 finding that the child is in need of treatment or rehabilitation.

5708 (d) If the court finds that the child is not in need of treatment, rehabilitation, or  
5709 supervision, it shall dismiss the proceeding and discharge the child from any detention or  
5710 other restriction previously ordered.

5711 (e) If the court finds that the child is in need of supervision but not of treatment or  
5712 rehabilitation, it shall find that the child is a child in need of services and enter any  
5713 disposition authorized by Code Section 15-11-442.

5714 (f) The court may consider any evidence, including hearsay evidence, that the court finds  
5715 to be relevant, reliable, and necessary to determine the needs of the child and the most  
5716 appropriate disposition.

5717 (g)(1) Prior to the disposition hearing, and upon request, the parties and their attorneys  
5718 shall be afforded an opportunity to examine any written reports received by the court.

5719 (2) Portions of such reports not relied on by the court in reaching its decision which, if  
5720 revealed would be prejudicial to the interests of the child or any party to the proceeding,  
5721 may be withheld in the court's discretion. Confidential sources of information need not  
5722 be disclosed.

5723 (3) Parties and their attorneys shall be given the opportunity to controvert written reports  
5724 received by the court and to cross-examine individuals making such reports.

5725 (h) In scheduling investigations and hearings, the court shall give priority to proceedings  
5726 in which a child is in detention or has otherwise been removed from his or her home.

5727 15-11-601.

5728 (a) At the conclusion of the disposition hearing, if the child is determined to be in need of  
5729 treatment or rehabilitation, the court shall enter the least restrictive disposition order  
5730 appropriate in view of the seriousness of the delinquent act, the child's culpability as  
5731 indicated by the circumstances of the particular case, the age of the child, the child's prior  
5732 record, and the child's strengths and needs. The court may make any of the following  
5733 orders of disposition, or combination of them, best suited to the child's treatment,  
5734 rehabilitation, and welfare:

5735 (1) Any order authorized for the disposition of a dependent child other than placement  
5736 in the temporary custody of DFCS unless the child is also found to be a dependent child;

5737 (2) An order requiring the child and the child's parent, guardian, or legal custodian to  
5738 participate in counseling or in counsel and advice. Such counseling and counsel and  
5739 advice may be provided by the court, court personnel, probation officers, professional  
5740 counselors or social workers, psychologists, physicians, qualified volunteers, or  
5741 appropriate public, private, or volunteer agencies and shall be designed to assist in  
5742 detering future delinquent acts or other conduct or conditions which would be harmful  
5743 to the child or society;

5744 (3) An order placing the child on probation under conditions and limitations the court  
5745 prescribes and which may include the probation management program. The court may  
5746 place a child on probation under the supervision of:

5747 (A) The probation officer of the court or the court of another state;

5748 (B) Any public agency authorized by law to receive and provide care for the child; or

5749 (C) Any community rehabilitation center if its chief executive officer has  
5750 acknowledged in writing its willingness to accept the responsibility for the supervision  
5751 of the child;

5752 (4) In any case in which a child who has not achieved a high school diploma or the  
5753 equivalent is placed on probation, the court shall consider and may order as a condition  
5754 of probation that the child pursue a course of study designed to lead to achieving a high  
5755 school diploma or the equivalent;

5756 (5) An order requiring that the child perform community service in a manner prescribed  
5757 by the court and under the supervision of an individual designated by the court;

5758 (6) An order requiring that the child make restitution. Such order may remain in force  
5759 and effect simultaneously with another order of the court, including, but not limited to an  
5760 order of commitment to DJJ. However, no order of restitution shall be enforced while  
5761 the child is in placement at a youth development center unless the commissioner of  
5762 juvenile justice certifies that a restitution program is available at such center. Payment  
5763 of funds shall be made by the child or the child's family or employer directly to the clerk  
5764 of the juvenile court entering the order or to another employee of such court designated  
5765 by the judge, and that court shall disburse such funds in the manner authorized in the  
5766 order. While an order requiring restitution is in effect, the court may transfer  
5767 enforcement of its order to:

5768 (A) DJJ;

5769 (B) The juvenile court of the county of the child's residence and its probation staff, if  
5770 the child changes his or her place of residence; or

5771 (C) The superior court once the child reaches 17 years of age if the child thereafter  
5772 comes under the jurisdiction of such court;

5773 (7) An order requiring the child remit to the general fund of the county a sum not to  
5774 exceed the maximum fine applicable to an adult for commission of any of the following  
5775 offenses:

5776 (A) Any felony in the commission of which a motor vehicle is used;

5777 (B) Driving under the influence of alcohol or drugs;

5778 (C) Driving without proof of minimum required motor vehicle insurance;

5779 (D) Fraudulent or fictitious use of a driver's license;

5780 (E) Hit and run or leaving the scene of an accident;

5781 (F) Homicide by vehicle;

5782 (G) Manslaughter resulting from the operation of a motor vehicle;

5783 (H) Possession of controlled substances or marijuana;

5784 (I) Racing on highways or streets;

5785 (J) Using a motor vehicle in fleeing or attempting to elude an officer; or

5786 (K) Any violation of the provisions contained in Title 40 which is properly adjudicated  
5787 as a delinquent act;

5788 (8) An order suspending the child's driver's license for a period not to exceed the date on  
5789 which the child reaches 18 years of age or, in the case of a child who does not have a  
5790 driver's license, an order prohibiting the issuance of a driver's license to the child for a  
5791 period not to exceed the date on which the child reaches 18 years of age. The court shall  
5792 retain the driver's license during such period of suspension and return it to the child at the  
5793 end of such period. The court shall notify the Department of Driver Services of any  
5794 actions taken pursuant to this paragraph;

5795 (9) An order placing the child in an institution, camp, or other facility for delinquent  
5796 children operated under the direction of the court or other local public authority; or  
5797 (10) An order committing the child to DJJ.

5798 (b)(1) This subsection shall apply to cases involving:  
5799 (A) An offense that would be a felony if committed by an adult; or  
5800 (B) An offense that would be a misdemeanor of a high and aggravated nature if  
5801 committed by an adult and involving bodily injury or harm or substantial likelihood of  
5802 bodily injury or harm.

5803 (2) In addition to any other treatment or rehabilitation, the court may order the child to  
5804 serve up to a maximum of 30 days in a youth development center or, after assessment and  
5805 with the court's approval, in a treatment program provided by DJJ or the juvenile court.

5806 (3) On and after July 1, 2013, the maximum number of days that the court may order a  
5807 child to serve in a youth development center under this subsection shall be increased to  
5808 60 days.

5809 (c) A child ordered to a youth development center under subsection (b) of this Code  
5810 section and detained after the adjudication hearing in a secure facility pending placement  
5811 in a youth development center shall be given credit for time served in the secured facility  
5812 awaiting placement.

5813 (d) Notwithstanding the provisions of subsections (a) and (b) of this Code section, if a  
5814 child is found to have committed the offense of driving under the influence, the court may  
5815 make an order of disposition which, for purposes of the child's rehabilitation, imposes the  
5816 same penalty, period of confinement, and period of community service which are  
5817 applicable to an adult convicted of violating Code Section 40-6-391. The child shall serve  
5818 any period of confinement in an institution, camp, or other facility for delinquent children  
5819 operated under the direction of the court or other local public authority or, if no such  
5820 facility is available, in a regional youth detention center. A previous finding that the child  
5821 committed the offense of driving under the influence shall be deemed a previous conviction  
5822 for purposes of this subsection. The court shall have the same authority and discretion  
5823 regarding allowing service of confinement on weekends or during nonworking hours as is  
5824 provided under subsection (a) of Code Section 17-10-3.1.

5825 (e) The child shall be given adequate information concerning the obligations and  
5826 conditions imposed upon him or her by the disposition ordered by the court and the  
5827 consequences of failure to meet such obligations and conditions. Such information shall  
5828 be given in terms understandable to the child to enable the child to conform his or her  
5829 conduct to the requirements of the disposition.



5830 15-11-602.

5831 (a) When a child is found to have committed a designated felony act, the order of  
5832 disposition shall be made within 20 days of the conclusion of the disposition hearing. The  
5833 court may make one of the following orders of disposition best suited to provide for the  
5834 rehabilitation of the child and the protection of the community:

5835 (1) Any order authorized by Code Section 15-11-601 if the court finds that restrictive  
5836 custody is not required; or

5837 (2) An order placing the child in restrictive custody.

5838 (b) Every order shall include a finding, based on a preponderance of the evidence, of  
5839 whether the child requires restrictive custody. In determining whether restrictive custody  
5840 is required, the court shall consider and make specific written findings of fact as to each  
5841 of the following factors:

5842 (1) The age and maturity of the child;

5843 (2) The needs and best interests of the child;

5844 (3) The record and background of the child including but not limited to information  
5845 disclosed in the probation investigation, diagnostic assessment, school records, and  
5846 dependency records;

5847 (4) The nature and circumstances of the offense, including whether any injury involved  
5848 was inflicted by the child or another participant, the culpability of the child or another  
5849 participant in planning and carrying out of the offense, and the existence of any  
5850 aggravating or mitigating factors;

5851 (5) The need for protection of the community; and

5852 (6) The age and physical condition of the victim.

5853 (c) A restrictive custody order may provide that:

5854 (1) The child be placed in DJJ custody for an initial period of up to five years;

5855 (2) The child be confined in a youth development center for a period set by the order, not  
5856 to be less than six months nor to exceed 60 months. All time spent in secure detention  
5857 subsequent to the date of the disposition hearing and prior to placement in a youth  
5858 development center shall be counted toward the period set by the order;

5859 (3) After a period of confinement set by the court, the child may be placed under  
5860 intensive supervision not to exceed 12 months; and

5861 (4) If the child is confined in a youth development center, the child may not be released  
5862 or transferred to a nonsecure facility unless by court order pursuant to Code Section  
5863 15-11-32. Such child may not be released from intensive supervision unless by court  
5864 order and with the written approval of the commissioner of juvenile justice or a  
5865 designated deputy. All home visits shall be carefully arranged and monitored while a  
5866 child is confined in a youth development center.

- 5867 (d) During the child's placement order or any extension of the restrictive custody order:  
5868 (1) While in a youth development center, the child shall be permitted to participate in all  
5869 youth development center services and programs and shall be eligible to receive special  
5870 medical and treatment services, regardless of the time of confinement in the youth  
5871 development center. A child may be eligible to participate in programs sponsored by the  
5872 youth development center including community work programs and sheltered workshops  
5873 under the general supervision of a youth development center staff outside of the youth  
5874 development center. In cooperation and coordination with the department, the child shall  
5875 be allowed to participate in state sponsored programs for evaluation and services under  
5876 the Division of Rehabilitation Services of the Department of Labor and DBHDD;  
5877 (2) The child shall not be discharged from restrictive custody unless a motion therefor  
5878 is granted by the court. A motion to discharge a child from restrictive custody shall be  
5879 filed not more than once every six months and shall be accompanied by a written  
5880 recommendation for discharge from the child's counselor, placement supervisor, or DJJ;  
5881 (3) Notwithstanding Code Section 15-11-32, DJJ or any party may move for release from  
5882 restrictive custody. In determining whether a motion for release from restrictive custody  
5883 should be granted in the child's best interests due to changed circumstances, the court  
5884 shall consider and make specific written findings of fact as to each of the following  
5885 factors:  
5886 (A) The child's achievement or progress on the goals of rehabilitation;  
5887 (B) The disciplinary history of the child during the period of restrictive custody and  
5888 subsequent offense history;  
5889 (C) The academic progress of the child during the period of restrictive custody  
5890 including, if the child is receiving services under the federal Individuals with  
5891 Disabilities Education Act, a review of the child's Individualized Education Program  
5892 (IEP) and the child's progress toward IEP goals; and  
5893 (D) The victim's impact form submitted for purposes of this proceeding; and  
5894 (4) Unless otherwise specified in the order, DJJ shall report in writing to the court not  
5895 less than once every six months during the placement on the status, adjustment, and  
5896 progress of the child.  
5897 (e) The period of placement in a youth development center may be extended on motion by  
5898 DJJ, after a disposition hearing, for two additional periods not to exceed 12 months each,  
5899 provided that no placement or extension of custody may continue beyond the child's  
5900 twenty-first birthday.  
5901 (f) The court shall identify the school last attended by the child and the school which the  
5902 child intends to attend and shall transmit a copy of the adjudication to the principals of both

5903 schools within 15 days of the adjudication. Such information shall be subject to  
5904 notification, distribution, and requirements as provided in Code Section 20-2-671.

5905 15-11-603.

5906 (a) As part of any order of disposition regarding a child adjudged to have committed a  
5907 delinquent act constituting an AIDS transmitting crime, the court may in its discretion and  
5908 after conferring with the director of the health district, order that the child submit to an HIV  
5909 test within 45 days following the adjudication of delinquency. The court shall mail DJJ a  
5910 copy of the order within three days following its issuance.

5911 (b) Within 30 days following receipt of the copy of the order, DJJ shall arrange for the  
5912 HIV test for the child.

5913 (c) Any child placed in the custody and control of DJJ shall be HIV tested in accordance  
5914 with DJJ's policies and procedures.

5915 (d) If a child is determined to be infected with HIV, that determination and the name of  
5916 the child shall be deemed to be AIDS confidential information and shall only be reported  
5917 to:

5918 (1) DJJ or the Department of Corrections, as the case may be, and the Department of  
5919 Community Health, which may disclose the name of the child if necessary to provide  
5920 counseling and which shall provide counseling to each victim of the AIDS transmitting  
5921 crime or to any parent, guardian, or legal custodian of any victim who is a minor or  
5922 incompetent person, if DJJ or the Department of Corrections believes the crime posed a  
5923 reasonable risk of transmitting HIV to the victim. Counseling shall include providing the  
5924 person with information and explanations medically appropriate for such person which  
5925 may include all or part of the following: accurate information regarding AIDS and HIV;  
5926 an explanation of behaviors that reduce the risk of transmitting AIDS and HIV; an  
5927 explanation of the confidentiality of information relating to AIDS diagnoses and HIV  
5928 tests; an explanation of information regarding both social and medical implications of  
5929 HIV tests; and disclosure of commonly recognized treatment or treatments for AIDS and  
5930 HIV;

5931 (2) The court which ordered the HIV test; and

5932 (3) Those persons in charge of any facility to which the child has been confined by order  
5933 of the court. In addition to any other restrictions regarding the confinement of a child,  
5934 a child determined to be an HIV infected person may be confined separately from any  
5935 other children in that facility other than those who have been determined to be infected  
5936 with HIV if:

5937 (A) That child is reasonably believed to be sexually active while confined;

5938 (B) That child is reasonably believed to be sexually predatory either during or prior to  
5939 detention; or  
5940 (C) The commissioner of juvenile justice reasonably determines that other  
5941 circumstances or conditions exist which indicate that separate confinement would be  
5942 warranted.

5943 15-11-604.

5944 (a) A child found to have committed a delinquent act shall be given credit for each day  
5945 spent in secure confinement awaiting adjudication and for each day spent in secure  
5946 confinement, in connection with and resulting from a court order entered in the proceedings  
5947 for which the sentence was imposed, and in any institution or facility for treatment or  
5948 examination of a physical or mental disability. Such credit shall be applied toward the  
5949 child's sentence and shall also be considered by parole authorities in determining the  
5950 eligibility of the child for parole.

5951 (b) Subsection (a) of this Code section shall apply to sentences for all offenses, whether  
5952 classified as violations, misdemeanors, or felonies.

5953 15-11-605.

5954 (a) In addition to any other terms or conditions of probation provided for under this article,  
5955 the court may require that children who receive a disposition of probation:

5956 (1) Be ordered to a probation management program; or

5957 (2) Be ordered to a secure probation sanctions program by a probation officer or hearing  
5958 officer.

5959 (b) Where a child has been ordered to a probation management program or secure  
5960 probation sanctions program, the court shall retain jurisdiction throughout the period of the  
5961 probated sentence and may modify or revoke any part of a probated sentence as provided  
5962 in Code Section 15-11-32.

5963 (c)(1) DJJ in jurisdictions where DJJ is authorized to provide probation supervision, or  
5964 the county juvenile probation office in jurisdictions where probation supervision is  
5965 provided directly by the county, as applicable, shall be authorized to establish rules and  
5966 regulations for graduated sanctions as an alternative to judicial modifications or  
5967 revocations for probationers who violate the terms and conditions of a probation  
5968 management program.

5969 (2) DJJ or the county juvenile probation office, as applicable, shall not sanction  
5970 probationers for violations of conditions of probation if the court has expressed an  
5971 intention in a written order that such violations be heard by the court.

5972 (d) DJJ or the county juvenile probation office, as applicable, shall impose only those  
5973 restrictions equal to or less restrictive than the maximum sanction established by the court.  
5974 (e) The secure probation sanctions program shall be established by DJJ. Exclusion of a  
5975 child from a secure probation sanctions program otherwise authorized by this Code section  
5976 to enter such program shall be mutually agreed upon by the Council of Juvenile Court  
5977 Judges and DJJ. The secure probation sanctions program shall be available to the juvenile  
5978 courts to the extent that each secure facility has capacity for such offenders within its  
5979 facilities. Prior to reaching full capacity, DJJ shall inform the various juvenile courts of  
5980 its capacity constraints.

5981 (f)(1) When requesting the secure probation sanctions program, probation officers  
5982 supervising a child under a probation management program shall provide an affidavit to  
5983 the court specifying:

5984 (A) The elements of the child's probation program;  
5985 (B) The child's failures to respond to graduated sanctions in the community; and  
5986 (C) The child's number of violations and the nature of each violation.

5987 (2) If a probation officer fails to document the violations and specify how the child has  
5988 failed to complete a probation management program, such child shall be ineligible to  
5989 enter the secure probation sanctions program.

5990 (3) A child may enter the secure probation sanctions program if ordered by the court and:

5991 (A) The probation officer has complied with the provisions of paragraph (1) of this  
5992 subsection and the criteria set by the department for entrance into such program and the  
5993 child has had three or more violations of probation; or

5994 (B) A child in a probation management program and his or her parent or guardian, or  
5995 a child in such program and his or her attorney, admit to three or more violations of  
5996 such program and sign a waiver accepting the sanction proposed by the probation  
5997 officer.

5998 (4) Each new violation of a condition of a probated sentence may result in a child being  
5999 sentenced to the secure probation sanctions program; provided, however, that if a child  
6000 is sentenced to the secure probation sanctions program and completes all program  
6001 components in the seven, 14, and 30 day programs, such child shall be ineligible to attend  
6002 the secure probation sanctions program for a future violation of a condition of the same  
6003 probated sentence.

6004 (g)(1) When a violation of a condition of probation occurs, a child may have an  
6005 administrative hearing conducted by a hearing officer. If the hearing officer determines  
6006 by a preponderance of the evidence that such child violated the conditions of probation,  
6007 the probation officer shall be authorized to impose graduated sanctions. A child's failure

6008 to comply with a sanction imposed under this paragraph shall constitute another violation  
 6009 of probation.

6010 (2) The hearing officer's decision shall be final unless such child files, within five days  
 6011 of the service of such decision, a written demand with the hearing officer for review of  
 6012 such decision. Such demand shall not stay the sanction decision. The hearing officer  
 6013 shall issue a response to such demand within five days of receiving such demand.

6014 (3) If the hearing officer insists on the sanction, such decision shall be final unless the  
 6015 child files an appeal in the court that originally adjudicated the child. Such appeal shall  
 6016 be filed within ten days of the date of the decision of the hearing officer.

6017 (4) The appeal shall first be reviewed by the court upon the record. At the court's  
 6018 discretion, a de novo hearing may be held on the decision. The filing of the appeal shall  
 6019 not stay the sanction decision.

6020 (5) Where the court does not act on the appeal within 15 days of the date of the filing of  
 6021 the appeal, the sanction decision shall be affirmed by operation of law.

6022 15-11-606.

6023 An order of disposition or adjudication shall not be a conviction of a crime and shall not  
 6024 impose any civil disability ordinarily resulting from a conviction nor operate to disqualify  
 6025 the child in any civil service application or appointment.

6026 15-11-607.

6027 (a) Except as otherwise provided in Code Section 15-11-602, an order of disposition  
 6028 committing a child adjudicated delinquent to DJJ shall continue in force for two years or  
 6029 until the child is sooner discharged by DJJ. The court which made the order may extend  
 6030 its duration for a period not to exceed two years subject to like discharge, if:

6031 (1) A hearing is held upon DJJ's motion prior to the expiration of the order;

6032 (2) Reasonable notice of the factual basis of the motion and of the hearing and an  
 6033 opportunity to be heard are given to the child and the parent, guardian, or legal custodian;  
 6034 and

6035 (3) The court finds that the extension is necessary for the treatment or rehabilitation of  
 6036 the child.

6037 (b) Any other order of disposition except an order of restitution as allowed by paragraph  
 6038 (6) or (7) of subsection (a) of Code Section 15-11-601 shall continue in force for not more  
 6039 than two years. An order of extension may be made if:

6040 (1) A hearing is held prior to the expiration of the order upon motion of DJJ, the  
 6041 prosecuting attorney, or on the court's own motion;

6042 (2) Reasonable notice of the factual basis of the motion and of the hearing and  
6043 opportunity to be heard are given to the parties affected;

6044 (3) The court finds that the extension is necessary to accomplish the purposes of the  
6045 order extended; and

6046 (4) The extension does not exceed two years from the expiration of the prior order.

6047 (c) The court may terminate an order of disposition or an extension of such a disposition  
6048 order prior to its expiration, on its own motion or an application of a party, if it appears to  
6049 the court that the purposes of the order have been accomplished.

6050 (d) When a child reaches 21 years of age, all orders affecting him or her then in force  
6051 terminate and he or she is discharged from further obligation or control.

6052 15-11-608.

6053 (a) An order granting probation to a child found to be delinquent may be revoked on the  
6054 ground that the conditions of probation have been violated.

6055 (b) Any violation of a condition of probation may be reported to the prosecuting attorney  
6056 who may file a motion in the court for revocation of probation. A motion for revocation  
6057 of probation shall contain specific factual allegations constituting each violation of a  
6058 condition of probation.

6059 (c) The motion for revocation of probation shall be served upon the child, his or her  
6060 attorney, and his or her parent, guardian, or legal custodian in accordance with the  
6061 provisions of Code Section 15-11-531.

6062 (d) If a child is taken into custody because of an alleged violation of probation, the  
6063 provisions governing the detention of a child shall apply.

6064 (e) A revocation hearing shall be scheduled to be held no later than 30 days after the filing  
6065 of such motion or, if the child has been detained as a result of the filing of such motion for  
6066 revocation, no later than ten days after the filing of the motion.

6067 (f) If the court finds, beyond a reasonable doubt, that the child violated the terms and  
6068 conditions of probation, the court may:

6069 (1) Extend probation;

6070 (2) Impose additional conditions of probation;

6071 (3) Make any disposition that could have been made at the time probation was imposed;  
6072 or

6073 (4) Upon finding that graduated alternative sanctions have failed, order the child to serve  
6074 up to a maximum of 60 days in a youth development center or, after assessment and with  
6075 the court's approval, in a treatment program provided by DJJ or the juvenile court.

6076 (g) In the case of a designated felony, if the court finds that the child violated the terms  
6077 and conditions of probation, the court shall reconsider and make specific findings of fact

6078 as to each of the factors in subsection (b) of Code Section 15-11-602 to determine whether  
 6079 restrictive custody is required.

6080 (h) In the case of a designated felony, if the court finds, beyond a reasonable doubt, that  
 6081 the child violated the terms and conditions of probation and that the order granting  
 6082 probation to the child shall be revoked, the child shall be given credit for time served on  
 6083 probation.

6084 Part 13

6085 15-11-620.

6086 (a) When a child is alleged to be both delinquent and dependent, the date the child is  
 6087 considered to have entered foster care shall be the date of the first judicial finding that the  
 6088 child has been subjected to child abuse or neglect or the date that is 60 days after the date  
 6089 on which the child is removed from his or her home, whichever is earlier.

6090 (b) If a child alleged or adjudicated to be delinquent is first placed in a noneligible  
 6091 placement but is later placed in an eligible shelter care placement within 60 days of the  
 6092 child's removal from the home, then the date of entry into foster care shall be 60 days from  
 6093 the date of removal.

6094 (c) If a child is detained in a facility operated primarily for the detention of a child  
 6095 determined to be delinquent pending eligible shelter care placement and remains detained  
 6096 for more than 60 days, then the date of entry into foster care shall be the date the child is  
 6097 placed in eligible shelter care.

6098 15-11-621.

6099 The periodic review hearing requirements under Code Sections 15-11-216, 15-11-217, and  
 6100 15-11-218 shall apply to proceedings involving a child alleged or adjudicated to be  
 6101 delinquent and placed in an eligible shelter care placement.

6102 15-11-622.

6103 (a) The permanency plan requirements under Code Sections 15-11-230, 15-11-231, and  
 6104 15-11-232 shall apply to proceedings involving a child alleged or adjudicated to be  
 6105 delinquent and placed in an eligible shelter care placement.

6106 (b) In addition to the compelling reasons set forth in Code Section 15-11-233 under  
 6107 Article 3 of this chapter, a compelling reason for determining that filing a termination of  
 6108 parental rights petition is not in the best interests of a child alleged or adjudicated to be  
 6109 delinquent may include but shall not be limited to:



- 6110 (1) The child's developmental needs require continued out-of-home placement for an  
 6111 additional number of months, and the parent, guardian, or legal custodian has cooperated  
 6112 with referrals, visitation, and family conferences, as well as therapy;  
 6113 (2) The child is uncooperative with services or referrals; and  
 6114 (3) The length of the delinquency disposition affects the permanency plan.

6115 Part 14

6116 15-11-630.

6117 (a) A juvenile traffic offense consists of a violation by a child of:

6118 (1) A law or local ordinance governing the operation of a moving motor vehicle upon the  
 6119 streets or highways of this state or upon the waterways within or adjoining this state; or

6120 (2) Any other motor vehicle traffic law or local ordinance if the child is taken into  
 6121 custody and detained for its violation or is transferred to the juvenile court by the court  
 6122 hearing the charge.

6123 (b) The following offenses shall be acts of delinquency and shall not be handled as  
 6124 juvenile traffic offenses: aggressive driving, reckless driving, a four-point speeding offense,  
 6125 homicide by vehicle, manslaughter resulting from the operation of a vehicle, any felony in  
 6126 the commission of which a motor vehicle is used, racing on highways and streets, using a  
 6127 motor vehicle in fleeing or attempting to elude an officer, fraudulent or fictitious use of a  
 6128 driver's license, hit and run or leaving the scene of an accident, driving under the influence  
 6129 of alcohol or drugs, and any offense committed by an unlicensed driver under 16 years of  
 6130 age.

6131 (c) A juvenile traffic offense shall not be an act of delinquency unless the case is  
 6132 transferred to the delinquency calendar.

6133 (d) The summons, notice to appear, or other designation of a citation accusing a child of  
 6134 committing a juvenile traffic offense constitutes the commencement of the proceedings in  
 6135 the court of the county in which the alleged violation occurred and serves in place of a  
 6136 summons and petition under this article. These cases shall be filed and heard separately  
 6137 from other proceedings of the court. If the child is taken into custody on the charge, Code  
 6138 Sections 15-11-503 and 15-11-505 shall apply. If the child is, or after commencement of  
 6139 the proceedings becomes, a resident of another county of this state, the court in the county  
 6140 where the alleged traffic offense occurred may retain jurisdiction over the entire case.

6141 (e) The court shall fix a time for a hearing and shall give reasonable notice thereof to the  
 6142 child and, if his or her address is known, to the parent, guardian, or legal custodian. If the  
 6143 accusation made in the summons, notice to appear, or other designation of a citation is  
 6144 denied, a hearing shall be held at which the parties shall have the right to subpoena

6145 witnesses, present evidence, cross-examine witnesses, and appear by their attorney. The  
6146 hearing shall be open to the public.

6147 (f) If the court finds on the admission of the child or upon the evidence that the child  
6148 committed the offense charged, it may make one or more of the following orders:

6149 (1) Reprimand, counsel, or warn the child and the child's parent, guardian, or legal  
6150 custodian; provided, however, that this disposition order shall not be available for any act  
6151 of delinquency;

6152 (2) As a matter of probation or if the child is committed to the custody of the state, order  
6153 the Department of Driver Services to suspend the child's privilege to drive under stated  
6154 conditions and limitations for a period not to exceed 12 months;

6155 (3) Require the child to attend a traffic school approved by the Department of Driver  
6156 Services or a substance abuse clinic or program approved by either DBHDD or the  
6157 Council of Juvenile Court Judges for a reasonable period of time;

6158 (4) Assess a fine and order the child to remit to the general fund of the county a sum not  
6159 exceeding the maximum applicable to an adult for a like offense. The fine shall be  
6160 subject to all additions and penalties as specified under this title and Title 47;

6161 (5) Require the child to participate in a program of community service as specified by  
6162 the court;

6163 (6) Impose any sanction authorized by Code Section 15-11-442 or 15-11-601; or

6164 (7) Place the child on probation subject to the conditions and limitations imposed by  
6165 Title 40 governing probation granted to adults for like offenses, but such probation shall  
6166 be supervised by the court.

6167 (g) In lieu of the preceding orders, if the evidence warrants, the court may transfer the case  
6168 to the delinquency calendar of the court and direct the filing and service of a summons and  
6169 delinquency petition.

6170 (h) Upon finding that the child has committed a juvenile traffic offense or an act of  
6171 delinquency which would be a violation of Title 40 if committed by an adult, the court shall  
6172 forward, within ten days, a report of the final adjudication and disposition of the charge to  
6173 the Department of Driver Services; provided, however, that this procedure shall not be  
6174 applicable to those cases which have been dismissed or in which the child and the child's  
6175 parent, guardian, or legal custodian have been reprimanded, counseled, or warned by the  
6176 court. The Department of Driver Services shall record the adjudication and disposition of  
6177 the offense on the child's permanent record, and such adjudication and disposition shall be  
6178 deemed a conviction for the purpose of suspending or revoking the individual's driver's  
6179 license. Such record shall also be available to law enforcement agencies and courts as are  
6180 the permanent traffic records of adults.

ARTICLE 8

6181

6182 15-11-650.6183 The purpose of this article is to:6184 (1) Set forth procedures for a determination of whether a child is incompetent to proceed;6185 and6186 (2) Provide a mechanism for the development and implementation of competency6187 restoration or remediation services, when appropriate, including treatment, habilitation,6188 support, or supervision services.6189 15-11-651.6190 As used in this article, the term:6191 (1) 'Comprehensive services plan' shall have the same meaning as set forth in Code  
6192 Section 15-11-381.6193 (2) 'Developmental disability' shall have the same meaning as set forth in Code Section  
6194 37-1-1.6195 (3) 'Incompetent to proceed' means lacking sufficient present ability to understand the  
6196 nature and object of the proceedings, to comprehend his or her own situation in relation  
6197 to the proceedings, and to assist his or her attorney in the preparation and presentation of  
6198 his or her case in all adjudication, disposition, or transfer hearings. The child's age or  
6199 immaturity may be used as the basis for determining a child's competency.6200 (4) 'Mental competency proceedings' means hearings conducted to determine whether  
6201 a child is mentally competent to participate in adjudication, a disposition hearing, or a  
6202 transfer proceeding.6203 (5) 'Plan manager' shall have the same meaning as set forth in Code Section 15-11-381.6204 (6) 'Remediation services' means services or interventions for a child found to be  
6205 incompetent to proceed due to age, immaturity, or for any reason other than mental illness  
6206 or developmental disability directed at remediating deficits that exist and render the child  
6207 incompetent to proceed because a child is at a relatively normal, immature stage of  
6208 development.6209 (7) 'Restoration to competency services' means services or interventions directed at  
6210 enabling a child who has been found incompetent to proceed due to mental illness or  
6211 developmental disability to participate in the proceeding.6212 (8) 'Treatment facility' means a facility designated by the department to receive patients  
6213 for psychiatric treatment as provided in Code Sections 37-3-80 through 37-3-84 and shall  
6214 not include a secure detention facility operated by DJJ.

6215 15-11-652.

6216 (a) If at any time after the filing of a petition alleging delinquency the court has reason to  
6217 believe that the child named in the petition may be incompetent to proceed, the court on  
6218 its own motion or on the motion of the attorney representing the child, any guardian ad  
6219 litem for the child, the child's parent, guardian, or legal custodian, or the prosecuting  
6220 attorney shall stay all delinquency proceedings relating to such petition and order a full  
6221 competency evaluation of and report on the child's mental condition.

6222 (b) When a delinquency petition is filed alleging a child under the age of 13 has committed  
6223 a serious violent felony, as defined in Code Section 17-10-6.1, the court shall stay all  
6224 delinquency proceedings relating to such petition and order a full competency evaluation  
6225 and report concerning the child's mental condition.

6226 (c) Any motion, notice of hearing, order, or other pleading relating to a child's  
6227 incompetency to proceed shall be served upon the child, the child's attorney, the child's  
6228 guardian ad litem, if any, the child's parent, guardian, or legal custodian and the  
6229 prosecuting attorney.

6230 (d) Prior to the administration of any evaluation, the court shall appoint an attorney to  
6231 represent a child if the child is not yet represented by an attorney.

6232 (e) All time limits set forth in Article 7 of this chapter for adjudication and disposition of  
6233 a delinquency proceeding shall be tolled during the evaluation, adjudication, and  
6234 disposition phases of the mental competency proceeding.

6235 15-11-653.

6236 (a) The court ordered evaluation and report shall be conducted by an examiner who shall  
6237 consider whether a child is incompetent to proceed. The court shall provide the examiner  
6238 with any law enforcement or court records necessary for understanding the petition alleging  
6239 delinquency. The attorney for the child and the prosecuting attorney shall provide the  
6240 examiner with any records from any other available sources that are deemed necessary for  
6241 the competency evaluation.

6242 (b) The competency evaluation shall be performed on an outpatient basis unless the  
6243 examiner determines and the court makes specific findings that hospitalization of the child  
6244 for evaluation of competency is clinically appropriate and may occur in the least restrictive  
6245 environment or the child is currently hospitalized in a psychiatric hospital. If  
6246 hospitalization is warranted, the court may order the child sent to a hospital designated by  
6247 the commissioner of behavioral health and developmental disabilities as appropriate for the  
6248 evaluation of a child.

6249 (c) If a child is hospitalized, the child shall be hospitalized only for such time as the  
6250 director of the hospital deems necessary to perform an adequate evaluation of the child's  
6251 competency.

6252 (d) An examiner who conducts the evaluation shall submit a written report to the court  
6253 within 30 days from receipt of the court order requiring an evaluation. The court may, in  
6254 its discretion, grant the examiner an extension in filing such report. The report shall  
6255 contain the following:

6256 (1) The specific reason for the evaluation, as provided by the court or the party  
6257 requesting the evaluation;

6258 (2) The evaluation procedures used, including any psychometric instruments  
6259 administered, any records reviewed, and the identity of any persons interviewed;

6260 (3) Any available pertinent background information;

6261 (4) The results of a mental status exam, including the diagnosis if any and description  
6262 of any psychiatric symptoms, cognitive deficiency, or both;

6263 (5) A description of the child's abilities and deficits in the following mental competency  
6264 functions:

6265 (A) The ability to understand and appreciate the nature and object of the proceedings;

6266 (B) The ability to comprehend his or her situation in relation to the proceedings; and

6267 (C) The ability to assist his or her attorney in the preparation and presentation of his  
6268 or her case;

6269 (6) An opinion regarding the potential significance of the child's mental competency,  
6270 strengths, and deficits;

6271 (7) An opinion regarding whether or not the child should be considered incompetent to  
6272 proceed; and

6273 (8) A specific statement explaining the reasoning supporting the examiner's final  
6274 determination.

6275 (e) If, in the opinion of the examiner, the child should be considered incompetent to  
6276 proceed, the report shall also include the following:

6277 (1) An opinion as to whether there is a substantial probability that the child will attain  
6278 the mental competency necessary to participate in adjudication, a disposition hearing, or  
6279 a transfer hearing in the foreseeable future;

6280 (2) If the examiner believes that the child will attain mental competency,  
6281 recommendations for the general level and type of remediation necessary for significant  
6282 deficits;

6283 (3) A recommendation as to the appropriate treatment or services;

6284 (4) When appropriate, recommendations for modifications of court procedure which may  
6285 help compensate for mental competency weaknesses; and

6286 (5) Any relevant medication history.

6287 (f) If the examiner determines that the child is currently competent because of ongoing  
6288 treatment with psychotropic medication, the report shall address the necessity of continuing  
6289 such treatment and shall include a description of any limitation that the medication may  
6290 have on competency.

6291 (g) Copies of the written evaluation report shall be provided by the court to the attorney  
6292 representing the child, the prosecuting attorney or a member of his or her staff, and any  
6293 guardian ad litem for the child no later than five days after receipt of the report by the  
6294 court.

6295 (h) Upon a showing of good cause by any party or upon the court's own motion, the court  
6296 may order additional examinations by other examiners. In no event shall more than one  
6297 examination be conducted by an examiner employed by DBHDD.

6298 15-11-654.

6299 (a) If at any time following a finding that a child is incompetent to proceed, the court  
6300 determines that the child is a resident of a county of this state other than the county in  
6301 which the court sits, the court may transfer the proceeding to the county of the child's  
6302 residence unless the alleged delinquent act would be a felony if committed by an adult.

6303 (b) When any case is transferred, certified copies of all legal, social history, health, or  
6304 mental health records pertaining to the case on file with the clerk of the court shall  
6305 accompany the transfer. Compliance with this subsection shall terminate jurisdiction in the  
6306 transferring court and initiate jurisdiction in the receiving court.

6307 (c) If the child's mental competency is restored, jurisdiction of the case may be returned  
6308 to the transferring court for the adjudication hearing and any subsequent proceedings.

6309 15-11-655.

6310 (a) A hearing to determine if a child is incompetent to proceed shall be conducted within  
6311 60 days after the initial court order for evaluation. The hearing may be continued by the  
6312 court for good cause shown.

6313 (b) Written notice shall be given to all parties and the victim at least ten days prior to such  
6314 hearing.

6315 (c) The burden of proving that the child is incompetent to proceed shall be on the child.  
6316 The standard of proof necessary for proving mental competency shall be a preponderance  
6317 of the evidence.

6318 (d) At the hearing to determine incompetency to proceed, the child's attorney and the  
6319 prosecuting attorney shall have the right to:

6320 (1) Present evidence;

6321 (2) Call and examine witnesses;

6322 (3) Cross-examine witnesses; and

6323 (4) Present arguments.

6324 (e) The examiner appointed by the court shall be considered the court's witness and shall  
6325 be subject to cross-examination by both the child's attorney and the prosecuting attorney.

6326 (f) The court's findings of fact shall be based on any evaluations of the child's mental  
6327 condition conducted by examiners appointed by the court, any evaluations of the child's  
6328 mental condition conducted by independent evaluators hired by the parties, and any  
6329 additional evidence presented.

6330 (g) If the court finds that the child is not incompetent to proceed, the proceedings which  
6331 have been suspended shall be resumed. The time limits under Article 7 of this chapter for  
6332 adjudication and disposition of the petition shall begin to run from the date of the order  
6333 finding the child mentally competent.

6334 (h) Copies of the court's findings shall be given to the parties within ten days following the  
6335 issuance of such findings.

6336 15-11-656.

6337 (a) If the court initially finds that the child is incompetent to proceed because of mental  
6338 illness or developmental disability but may be restored to competency, the court shall order  
6339 that the child undergo an attempt at restoration to competency.

6340 (b) If the court initially finds that the child is incompetent to proceed because of age or  
6341 immaturity or any other reason other than mental illness or developmental disability but  
6342 the child's incompetence may be remediated, the court shall order remediation services for  
6343 the child.

6344 (c) If the child is determined to be incompetent to proceed and:

6345 (1) The child is alleged to have committed an act that would be a felony if committed by  
6346 an adult, the court shall retain jurisdiction of the child for up to two years after the date  
6347 of the order of incompetency, with review hearings at least every six months to  
6348 redetermine competency; or

6349 (2) The child is alleged to have committed an act that would be a misdemeanor if  
6350 committed by an adult, the court shall retain jurisdiction of the child for up to 120 days  
6351 after the date of the order of incompetency.

6352 (d) All court orders determining incompetency shall include specific written findings by  
6353 the court as to the nature of the incompetency and whether the child requires secure or  
6354 nonsecure treatment. A child may be placed in a secure treatment facility or program if the  
6355 court makes a finding by clear and convincing evidence that:

- 6356 (1) The child is mentally ill or developmentally disabled and meets the requirements for  
 6357 civil commitment pursuant to Chapters 3 and 4 of Title 37; and
- 6358 (2) All available less restrictive alternatives, including treatment in community  
 6359 residential facilities or community settings which would offer an opportunity for  
 6360 improvement of the child's condition, are inappropriate.
- 6361 (e) A child who is incompetent to proceed shall not be subject to transfer to superior court,  
 6362 adjudication, disposition, or modification of disposition so long as the mental  
 6363 incompetency exists.
- 6364 (f) If the court determines that a child is incompetent to proceed and is alleged to have  
 6365 committed a delinquent act which would be a misdemeanor if committed by an adult, the  
 6366 court may at any time dismiss the petition without prejudice.
- 6367 (g) If a child is detained in a secure detention facility and the court determines that the  
 6368 child is incompetent to proceed, the child shall be released from detention and shall be  
 6369 referred for appropriate treatment or services, as recommended by the examiner, within  
 6370 five days of such determination.
- 6371 15-11-657.
- 6372 (a) All restoration to competency orders issued by the court shall contain:
- 6373 (1) The name of the competency restoration or remediation program provider and the  
 6374 location of the program;
- 6375 (2) A statement of the arrangements for the child's transportation to the program site;
- 6376 (3) The length of the competency restoration or remediation program;
- 6377 (4) A statement of the arrangements for the child's transportation after the program ends;  
 6378 and
- 6379 (5) A direction concerning the frequency of reports required by the court.
- 6380 (b) The competency restoration or remediation program provider shall file a written report  
 6381 with the court:
- 6382 (1) Not later than six months after the date the court orders that restoration to  
 6383 competency or remediation be attempted but prior to the first review hearing;
- 6384 (2) At the end of any period of extended treatment;
- 6385 (3) At any time DBHDD, through its restoration or remediation program provider,  
 6386 determines the child has attained competency; or
- 6387 (4) At shorter intervals designated by the court in its restoration to competency or  
 6388 remediation order.
- 6389 (c) The competency restoration or remediation program provider's written report shall  
 6390 include, but shall not be limited to:



- 6391 (1) Whether the child can be remediated or restored to competency or whether the child  
6392 is likely to remain incompetent to proceed for the foreseeable future;
- 6393 (2) Whether additional time is needed to remediate or restore the child to competency;  
6394 and
- 6395 (3) If the child has attained competency, the effect, if any, of any limitations that are  
6396 imposed by any medications used in the effort to remediate or restore competency.
- 6397 (d) When appropriate, the provider's report shall also detail:
- 6398 (1) If the child has reached the age of 18 years at the time of the competency  
6399 determination, whether a referral should be made for appropriate adult services; and  
6400 (2) Whether the child should be provided other services by the court.
- 6401 15-11-658.
- 6402 (a) If the court initially finds that a child is unrestorably incompetent to proceed, the court  
6403 shall dismiss the delinquency petition, find that the child is a child in need of services,  
6404 appoint a plan manager, and order that procedures for a comprehensive services plan be  
6405 initiated. When appropriate, the court may:
- 6406 (1) Order that civil commitment proceedings pursuant to Chapters 3 and 4 of Title 37 be  
6407 initiated. Such proceedings shall be instituted not less than 60 days prior to the dismissal  
6408 of the delinquency petition; or
- 6409 (2) Order that referral be made for appropriate adult services if the child has reached the  
6410 age of 18 years at the time of the competency determination.
- 6411 (b) If at any time after the child is ordered to undergo restoration to competency services,  
6412 DBHDD, through its restoration program provider, determines that the child is likely to  
6413 remain incompetent to proceed for the foreseeable future, DBHDD shall submit a report  
6414 to the court so stating.
- 6415 (c) Upon receipt of the DBHDD report, the court shall make a competency determination  
6416 and shall dismiss the delinquency petition, find that the child is a child in need of services,  
6417 appoint a plan manager, and order that procedures for a comprehensive services plan be  
6418 initiated. When appropriate, the court may:
- 6419 (1) Order that civil commitment proceedings pursuant to Chapters 3 and 4 of Title 37 be  
6420 initiated. Such proceedings shall be instituted not less than 60 days prior to the dismissal  
6421 of the delinquency petition; or
- 6422 (2) Order that referral be made for appropriate adult services if the child has reached the  
6423 age of 18 years at the time of the competency determination.

6424 15-11-659.

6425 If at any time after a child is found to be incompetent to proceed due to age, immaturity,  
 6426 or for any reason other than mental illness or developmental disability and is ordered to  
 6427 undergo competence remediation services and DBHDD determines that the child is likely  
 6428 to remain incompetent to proceed for the foreseeable future, DBHDD shall submit a report  
 6429 and its conclusions to the court. Upon receipt of the report, the court shall:

6430 (1) Make a competency determination;

6431 (2) Order that the delinquency petition be dismissed;

6432 (3) Find that the child is a child in need of services; and

6433 (4) Order that a plan manager be appointed and that the procedures for a comprehensive  
 6434 services plan be initiated.

6435 15-11-660.

6436 (a) The court shall hold a hearing to review a child's progress toward competency:

6437 (1) At least every six months;

6438 (2) At any time, on its own motion or on the motion of the prosecuting attorney, the  
 6439 child's attorney, or the child's guardian ad litem, if any;

6440 (3) On receipt of a report submitted by DBHDD; or

6441 (4) Not less than three months before the child's eighteenth birthday.

6442 (b) If at a review hearing the court finds that the child has regained competency, the  
 6443 suspended proceedings shall be resumed and the time limits under Article 7 of this chapter  
 6444 for adjudication and disposition of the petition alleging delinquency shall begin to run from  
 6445 the date of the order finding the child mentally competent.

6446 (c) If at a review hearing held following the court's receipt of a DBHDD report, the court  
 6447 finds that the child has not been restored to competency or that the child's incompetency  
 6448 has not been remediated but that the child has made substantial progress toward  
 6449 remediation or restoration to competency, the court may extend the competency  
 6450 remediation or restoration program period for an additional 60 days if the court determines  
 6451 by clear and convincing evidence that further participation is likely to lead to remediation  
 6452 or restoration to competency.

6453 (d) If at a review hearing the court finds that the child is not remediated or restored to  
 6454 competency and is not restorable within the time left before the child's eighteenth birthday,  
 6455 the court shall dismiss the delinquency petition with prejudice if the child is alleged to have  
 6456 committed a delinquent act which would be a misdemeanor if committed by an adult.

6457 (e) At each review hearing, the court shall also consider whether the petition alleging  
 6458 delinquency should be withdrawn, maintained, or dismissed, without prejudice, upon  
 6459 grounds other than the child's being incompetent to proceed. If the court dismisses the

6460 petition, the prosecuting attorney may seek to refile a petition alleging a delinquent act  
 6461 which would be a felony if committed by an adult if the child is later determined to be  
 6462 mentally competent. The prosecuting attorney may also seek transfer to superior court if  
 6463 the child is later determined to be mentally competent and otherwise meets all the  
 6464 requirements for transfer under Article 7 of this chapter.

6465 ARTICLE 9

6466 15-11-680.

6467 This article shall be known and may be cited as the 'Parental Notification Act.'

6468 15-11-681.

6469 As used in this article, the term:

6470 (1) 'Abortion' means the use or prescription of any instrument, medicine, drug, or any  
 6471 other substance or device with the intent to terminate the pregnancy of a female known  
 6472 to be pregnant. The term 'abortion' shall not include the use or prescription of any  
 6473 instrument, medicine, drug, or any other substance or device employed solely to increase  
 6474 the probability of a live birth, to preserve the life or health of the child after live birth, or  
 6475 to remove a dead unborn child who died as a result of a spontaneous abortion. The term  
 6476 'abortion' also shall not include the prescription or use of contraceptives.

6477 (2) 'Proper identification' means any document issued by a governmental agency  
 6478 containing a description of the person, the person's photograph, or both, including, but  
 6479 not limited to, a driver's license, an identification card authorized under Code Sections  
 6480 40-5-100 through 40-5-104 or similar identification card issued by another state, a  
 6481 military identification card, a passport, or an appropriate work authorization issued by the  
 6482 United States Immigration and Customs Enforcement Division of the Department of  
 6483 Homeland Security.

6484 (3) 'Unemancipated minor' means any person under the age of 18 who is not or has not  
 6485 been married or who is under the care, custody, and control of such person's parent or  
 6486 parents, guardian, or the juvenile court of competent jurisdiction.

6487 15-11-682.

6488 (a) No physician or other person shall perform an abortion upon an unemancipated minor  
 6489 under the age of 18 years unless:

6490 (1)(A) The minor seeking an abortion shall be accompanied by a parent or guardian  
 6491 who shall show proper identification and state that the parent or guardian is the lawful

6492 parent or guardian of the minor and that the parent or guardian has been notified that  
6493 an abortion is to be performed on the minor;

6494 (B) The physician or the physician's qualified agent gives at least 24 hours' actual  
6495 notice, in person or by telephone, to a parent or guardian of the pending abortion and  
6496 the name and address of the place where the abortion is to be performed; provided,  
6497 however, that, if the person so notified indicates that he or she has been previously  
6498 informed that the minor was seeking an abortion or if the person so notified has not  
6499 been previously informed and he or she clearly expresses that he or she does not wish  
6500 to consult with the minor, then in either event the abortion may proceed in accordance  
6501 with Chapter 9A of Title 31; or

6502 (C) The physician or a physician's qualified agent gives written notice of the pending  
6503 abortion and the address of the place where the abortion is to be performed, sent by  
6504 registered or certified mail or statutory overnight delivery, return receipt requested with  
6505 delivery confirmation, addressed to a parent or guardian at the usual place of abode of  
6506 the parent or guardian. Unless proof of delivery is otherwise sooner established, such  
6507 notice shall be deemed delivered 48 hours after mailing. The time of mailing shall be  
6508 recorded by the physician or agent in the minor's file. The abortion may be performed  
6509 24 hours after the delivery of the notice; provided, however, that, if the person so  
6510 notified certifies in writing that he or she has been previously informed that the minor  
6511 was seeking an abortion or if the person so notified has not been previously informed  
6512 and he or she certifies in writing that he or she does not wish to consult with the minor,  
6513 then in either event the abortion may proceed in accordance with Chapter 9A of Title  
6514 31; and

6515 (2) The minor signs a consent form stating that she consents, freely and without  
6516 coercion, to the abortion.

6517 (b) If the unemancipated minor or the physician or a physician's qualified agent, as the  
6518 case may be, elects not to comply with any one of the requirements of subparagraph  
6519 (a)(1)(A), (a)(1)(B), or (a)(1)(C) of this Code section, or if the parent or legal guardian of  
6520 the minor cannot be located, the minor may petition, on the minor's own behalf or by next  
6521 friend, any juvenile court in the state for a waiver of such requirement pursuant to the  
6522 procedures provided for in Code Section 15-11-684. The juvenile court shall assist the  
6523 minor or next friend in preparing the petition and notices required pursuant to this Code  
6524 section. Venue shall be lawful in any county, notwithstanding Code Section 15-11-30.

6525 (c) No abortion shall be performed unless the requirements of subparagraph (a)(1)(A),  
6526 (a)(1)(B), or (a)(1)(C) of this Code section have been met or the minor has obtained a court  
6527 order waiving such requirements.

6528 15-11-683.  
6529 Notwithstanding Code Sections 15-11-40, 15-11-150, 15-11-152, 15-11-160, 15-11-281,  
6530 15-11-424, and 15-11-531, the unemancipated minor or next friend shall be notified of the  
6531 date, time, and place of the hearing in such proceedings at the time of filing the petition.  
6532 The hearing shall be held within three days of the date of filing, excluding weekends and  
6533 legal holidays. The parent, guardian, or legal custodian of the unemancipated minor shall  
6534 not be served with the petition or with a summons or otherwise notified of the proceeding.  
6535 If a hearing is not held within the time prescribed in this Code section, the petition shall be  
6536 deemed granted.

6537 15-11-684.

6538 (a) An unemancipated minor may participate in proceedings in the court on such minor's  
6539 own behalf and the court shall advise such minor of the right to court appointed counsel  
6540 and shall provide such minor with such counsel upon request or if such minor is not already  
6541 adequately represented.

6542 (b) All court proceedings under this Code section shall be conducted in a manner to  
6543 preserve the complete anonymity of the parties and shall be given such precedence over  
6544 other pending matters as is necessary to ensure that a decision is reached by the court as  
6545 expeditiously as is possible under the circumstances of the case. In no event shall the  
6546 name, address, birth date, or social security number of such minor be disclosed.

6547 (c) The requirement of subparagraph (a)(1)(A), (a)(1)(B), or (a)(1)(C) of Code Section  
6548 15-11-682 shall be waived if the court finds either:

6549 (1) That the unemancipated minor is mature enough and well enough informed to make  
6550 the abortion decision in consultation with her physician, independently of the wishes of  
6551 such minor's parent or guardian; or

6552 (2) That the notice to a parent or, if the minor is subject to guardianship, the legal  
6553 guardian pursuant to Code Section 15-11-682 would not be in the best interests of the  
6554 minor.

6555 (d) A court that conducts proceedings under this Code section shall issue written and  
6556 specific factual findings and legal conclusions supporting its decision and shall order that  
6557 a record of the evidence be maintained. The juvenile court shall render its decision within  
6558 24 hours of the conclusion of the hearing and a certified copy of same shall be furnished  
6559 immediately to the minor. If the juvenile court fails to render its decision within 24 hours  
6560 after the conclusion of the hearing, then the petition shall be deemed granted. All juvenile  
6561 court records shall be sealed in a manner which will preserve anonymity.

6562 (e) An expedited appeal completely preserving the anonymity of the parties shall be  
6563 available to any unemancipated minor to whom the court denies a waiver of notice. The

6564 appellate courts are authorized and requested to issue promptly such rules as are necessary  
6565 to preserve anonymity and to ensure the expeditious disposition of procedures provided by  
6566 this Code section. In no event shall the name, address, birth date, or social security number  
6567 of such minor be disclosed during the expedited appeal or thereafter.

6568 (f) No filing fees shall be required of any unemancipated minor who uses the procedures  
6569 provided by this Code section.

6570 15-11-685.

6571 The requirements and procedures of this article shall apply to all unemancipated minors  
6572 within this state whether or not such persons are residents of this state.

6573 15-11-686.

6574 This article shall not apply when, in the best clinical judgment of the attending physician  
6575 on the facts of the case before him or her, a medical emergency exists that so complicates  
6576 the condition of the minor as to require an immediate abortion. A person who performs an  
6577 abortion as a medical emergency under the provisions of this Code section shall certify in  
6578 writing the medical indications on which this judgment was based when filing such reports  
6579 as are required by law.

6580 15-11-687.

6581 Any physician or any person employed or connected with a physician, hospital, or health  
6582 care facility performing abortions who acts in good faith shall be justified in relying on the  
6583 representations of the unemancipated minor or of any other person providing the  
6584 information required under this article. No physician or other person who furnishes  
6585 professional services related to an act authorized or required by this article and who relies  
6586 upon the information furnished pursuant to this article shall be held to have violated any  
6587 criminal law or to be civilly liable for such reliance, provided that the physician or other  
6588 person acted in good faith.

6589 15-11-688.

6590 Any person who violates the provisions of this article shall be guilty of a misdemeanor and  
6591 any person who intentionally encourages another to provide false information pursuant to  
6592 this article shall be guilty of a misdemeanor.

ARTICLE 10

6593

6594 15-11-700.

6595 (a) As used in this Code section, the term 'dependency proceeding' means a court  
 6596 proceeding stemming from a petition alleging that a child is a dependent child.

6597 (b) The general public shall be admitted to:

6598 (1) An adjudicatory hearing involving an allegation of a designated felony;

6599 (2) An adjudicatory hearing involving an allegation of delinquency brought in the  
 6600 interest of any child who has previously been adjudicated delinquent; provided, however,  
 6601 the court shall close any delinquency hearing on an allegation of sexual assault or any  
 6602 delinquency hearing at which any party expects to introduce substantial evidence related  
 6603 to matters of dependency;

6604 (3) Any child support hearing;

6605 (4) Any hearing in a legitimation action filed pursuant to Code Section 19-7-22;

6606 (5) At the court's discretion, any dispositional hearing involving any proceeding under  
 6607 this article; or

6608 (6) Any hearing in a dependency proceeding, except as otherwise provided in subsection  
 6609 (c) of this Code section.

6610 (c) The court may close the hearing in a dependency proceeding only upon making a  
 6611 finding upon the record and issuing a signed order as to the reason or reasons for closing  
 6612 all or part of a hearing in such proceeding and stating that:

6613 (A) The proceeding involves an allegation of an act which, if done by an adult, would  
 6614 constitute a sexual offense under Chapter 6 of Title 16; or

6615 (B) It is in the best interests of the child. In making such a determination, the court  
 6616 shall consider such factors as:

6617 (i) The age of the child;

6618 (ii) The nature of the allegations;

6619 (iii) The effect that an open court proceeding will have on the court's ability to reunite  
 6620 and rehabilitate the family unit; and

6621 (iv) Whether the closure is necessary to protect the privacy of a child, of a foster  
 6622 parent or other caretaker of a child, or of a victim of domestic violence.

6623 (d) The court may close a hearing or exclude a person from a hearing in any proceeding  
 6624 on its own motion, by motion of a party to the proceeding, or by motion of a child who is  
 6625 the subject of the proceeding or the child's attorney or guardian ad litem.

6626 (e) Only the parties, their counsel, witnesses, persons accompanying a party for his or her  
 6627 assistance, the victim, and any other persons as the court finds have a proper interest in the  
 6628 proceeding or in the work of the court may be admitted by the court to hearings from which

6629 the public is excluded; provided, however, that when the conduct alleged in the dependency  
 6630 proceeding could give rise to a criminal or delinquent prosecution, attorneys for the  
 6631 prosecution and the defense shall be admitted.

6632 (f) The court may refuse to admit a person to a hearing in any proceeding upon making a  
 6633 finding upon the record and issuing a signed order that the person's presence at the hearing  
 6634 would:

6635 (1) Be detrimental to the best interests of a child who is a party to the proceeding;

6636 (2) Impair the fact-finding process; or

6637 (3) Be otherwise contrary to the interest of justice.

6638 (g) The court may temporarily exclude any child from a termination of parental rights  
 6639 hearing except while allegations of his or her delinquency or unruly conduct are being  
 6640 heard.

6641 (h) Any request for installation and use of electronic recording, transmission, videotaping,  
 6642 or motion picture or still photography of any judicial proceeding shall be made to the court  
 6643 at least two days in advance of the hearing. The request shall be evaluated by the court  
 6644 pursuant to the standards set forth in Code Section 15-1-10.1.

6645 (i) The judge may order the media not to release identifying information concerning any  
 6646 child or family members or foster parent or other caretaker of a child involved in hearings  
 6647 open to the public.

6648 (j) The general public shall be excluded from proceedings in juvenile court unless such  
 6649 hearing has been specified as one in which the general public shall be admitted to pursuant  
 6650 to this Code section.

6651 15-11-701.

6652 (a) Upon dismissal of a petition or complaint alleging delinquency or that a child is a child  
 6653 in need of services or completion of the process in a case handled through informal  
 6654 adjustment, mediation, or other nonadjudicatory procedure, the court shall order the sealing  
 6655 of the files and records in the case.

6656 (b) On application of a person who has been adjudicated delinquent or a child in need of  
 6657 services or on the court's own motion, and after a hearing, the court shall order the sealing  
 6658 of the files and records in the proceeding if the court finds that:

6659 (1) Two years have elapsed since the final discharge of the person;

6660 (2) Since the final discharge of the person he or she has not been convicted of a felony  
 6661 or of a misdemeanor involving moral turpitude or adjudicated a delinquent child or a  
 6662 child in need of services and no proceeding seeking conviction or adjudication is pending  
 6663 against the person; and

6664 (3) The person has been rehabilitated.



6665 (c) Reasonable notice of the hearing required by subsection (b) of this Code section shall  
6666 be given to:

6667 (1) The district attorney;

6668 (2) DJJ, when appropriate;

6669 (3) The authority granting the discharge if the final discharge was from an institution or  
6670 from parole; and

6671 (4) The law enforcement officers or department having custody of the files and records  
6672 if the files and records specified in Code Sections 15-11-702 and 15-11-708 are included  
6673 in the application or motion.

6674 (d) Upon the entry of the order the proceeding shall be treated as if it had never occurred.  
6675 All index references shall be deleted and the person, the court, the law enforcement  
6676 officers, and the departments shall properly reply that no record exists with respect to the  
6677 person upon inquiry in any matter. Copies of the order shall be sent to each agency or  
6678 designated official and shall also be sent to the deputy director of the Georgia Crime  
6679 Information Center. Inspection of the sealed files and records thereafter may be permitted  
6680 by an order of the court upon petition by the person who is the subject of the records and  
6681 otherwise only by those persons named in the order or to criminal justice officials upon  
6682 petition to the court for official judicial enforcement or criminal justice purposes.

6683 (e) The court may seal any record containing information identifying a victim of an act  
6684 which, if done by an adult, would constitute a sexual offense under Chapter 6 of Title 16.

6685 15-11-702.

6686 (a)(1) Every child charged with an offense which would be a felony if committed by an  
6687 adult, shall be fingerprinted and photographed upon being taken into custody.

6688 (2) Fingerprints and photographs of children shall be taken and filed separately from  
6689 those of adults by law enforcement officials to be used in investigating the commission  
6690 of crimes and to be made available as provided in this article and as may be directed by  
6691 the court.

6692 (b) Fingerprint files and photographs of children may be inspected by law enforcement  
6693 officers when necessary for criminal justice purposes and for the discharge of their official  
6694 duties. Other inspections may be authorized by the court in individual cases upon a  
6695 showing that it is necessary in the public interest.

6696 (c) If a child has been charged with an offense that if committed by an adult would be a  
6697 felony or if the case is transferred to another court for prosecution, the child's fingerprints,  
6698 personal identification data, and other pertinent information shall be forwarded to the  
6699 Georgia Crime Information Center of the Georgia Bureau of Investigation. The center  
6700 shall create a juvenile fingerprint file and enter the data into the computerized criminal

6701 history files. The Georgia Bureau of Investigation shall act as the official state repository  
6702 for juvenile history data and shall be authorized to disseminate such data for the purposes  
6703 specified in Code Section 15-11-708.

6704 (d) Upon application of a child, fingerprints and photographs of the child shall be removed  
6705 from the file and destroyed if a petition alleging delinquency is not filed or the proceedings  
6706 are dismissed after either such petition is filed or the case is transferred to the juvenile court  
6707 or the child is adjudicated not to be a delinquent child. The court shall notify the deputy  
6708 director of the Georgia Crime Information Center when fingerprints and photographs are  
6709 destroyed, and the Georgia Bureau of Investigation shall treat such records in the same  
6710 manner as expunged records pursuant to subsection (c) of Code Section 35-3-37.

6711 (e) Except as provided in subsection (a) of this Code section, without the consent of the  
6712 judge, a child shall not be photographed after he or she is taken into custody unless the case  
6713 is transferred to another court for prosecution.

6714 (f) Upon request, the judge or his or her designee shall release the name of any child with  
6715 regard to whom a petition has been filed alleging the child committed a designated felony  
6716 or alleging the child committed a delinquent act if the child has previously been  
6717 adjudicated delinquent or if the child has previously been before the court on a delinquency  
6718 charge and adjudication was withheld.

6719 15-11-703.

6720 The disposition of a child and evidence adduced in a hearing in the juvenile court may not  
6721 be used against such child in any proceeding in any court other than for a proceeding for  
6722 delinquency or a child in need of services, whether before or after reaching majority,  
6723 except in the establishment of conditions of bail, plea negotiations, and sentencing in  
6724 felony offenses; and, in such excepted cases, such records of dispositions and evidence  
6725 shall be available to prosecuting attorneys and superior court judges and the accused and  
6726 may be used in the same manner as adult records.

6727 15-11-704.

6728 (a) Except as provided in subsection (b) of this Code section and Code Sections 15-11-705  
6729 and 15-11-706, all files and records of the court in a proceeding under this chapter shall be  
6730 open to inspection only upon order of the court.

6731 (b) The general public shall be allowed to inspect court files and records for any  
6732 proceeding that was open to the public pursuant to paragraphs (1) through (5) of subsection  
6733 (b) of Code Section 15-11-700.

6734 (c) The judge may permit authorized representatives of recognized organizations  
6735 compiling statistics for proper purposes to inspect and make abstracts from official records

6736 under whatever conditions upon their use and distribution the judge may deem proper and  
6737 may punish by contempt any violation of those conditions.

6738 (d) The judge shall permit authorized representatives of DJJ, the Governor's Office for  
6739 Children and Families, and the Council of Juvenile Court Judges to inspect and extract data  
6740 from any court files and records for the purpose of obtaining statistics on children and to  
6741 make copies pursuant to the order of the court.

6742 (e) Except as otherwise provided in Code Sections 15-11-701 and 15-11-703, the  
6743 complaint, petition, order of adjudication, and order of disposition in any delinquency case  
6744 shall be disclosed upon request of the prosecuting attorney or the accused for use  
6745 preliminarily to or in conjunction with a subsequent juvenile or criminal proceeding in a  
6746 court of record.

6747 15-11-705.

6748 (a) Notwithstanding other provisions of this article, the court records of proceedings under  
6749 Article 6 of this chapter shall be withheld from public inspection but shall be open to  
6750 inspection by the child, juvenile probation and parole officers, a parent, guardian, or legal  
6751 custodian, the child's attorney, and others entrusted with the supervision of the child.  
6752 Additional access to court records may be granted by court order.

6753 (b) It shall be unlawful for any person to disclose court records, or any part thereof, to  
6754 persons other than those entitled to access under subsection (a) of this Code section, except  
6755 by court order. Any person who knowingly violates this subsection shall be guilty of  
6756 contempt and the court may enter any order authorized by the provisions of Code Section  
6757 15-11-31.

6758 15-11-706.

6759 (a) When a decision is made to handle a case through informal adjustment, mediation, or  
6760 other nonadjudicatory procedure, the juvenile court intake officer shall file with the court  
6761 in the county in which the child legally resides all of the following information:

6762 (1) The child's name, address, and date of birth;

6763 (2) The act or offense for which the child was apprehended;

6764 (3) The diversion decision made;

6765 (4) The nature of the child's compliance with an informal adjustment agreement; and

6766 (5) If an informal adjustment agreement is revoked, the fact of and reasons for the  
6767 revocation.

6768 (b) Notwithstanding subsection (a) of Code Section 15-11-701, the court in the county in  
6769 which the child resides shall keep a separate record for that child which shall be open to  
6770 the court, the prosecuting attorney, or an officer designated by the court only for the

6771 purpose of deciding whether to handle a subsequent case through informal adjustment,  
6772 mediation, or other nonadjudicatory procedure or for use in disposition of a subsequent  
6773 proceeding. Any person who knowingly violates this subsection shall be guilty of  
6774 contempt and the court may enter any order authorized by the provisions of Code Section  
6775 15-11-31.

6776 15-11-707.

6777 Within 30 days of any proceeding in which a child is adjudicated delinquent for a second  
6778 or subsequent time or is found to have committed a designated felony act, the court shall  
6779 provide written notice to the school superintendent of the school in which the child is  
6780 enrolled or his or her designee or, if the information is known, of the school in which such  
6781 child plans to be enrolled at a future date. Such notice shall include the specific delinquent  
6782 act or designated felony that the child committed.

6783 15-11-708.

6784 (a) Law enforcement records and files concerning a child shall be kept separate from the  
6785 records and files of arrests of adults.

6786 (b) Unless a charge of delinquency is transferred for criminal prosecution or the interest  
6787 of national security requires or the case is one in which the general public may not be  
6788 excluded from the hearings or the court otherwise orders in the best interests of the child,  
6789 the records and files shall not be open to public inspection nor shall their contents be  
6790 disclosed to the public.

6791 (c) Inspection of the records and files shall be permitted by:

6792 (1) A juvenile court having the child before it in any proceeding;

6793 (2) The attorney for a party to the proceedings, with the consent of the court;

6794 (3) The officers of public institutions or agencies to whom the child is committed;

6795 (4) Law enforcement officers of this state, the United States, or any other jurisdiction  
6796 when necessary for the discharge of their official duties;

6797 (5) A court in which the child is convicted of a criminal offense, for the purpose of a  
6798 presentence report or other disposition proceeding;

6799 (6) Officials of penal institutions and other penal facilities to which the child is  
6800 committed; or

6801 (7) A parole board in considering the child's parole or discharge or in exercising  
6802 supervision over the child.

6803 (d) The court shall allow authorized representatives of DJJ, the Governor's Office for  
6804 Children and Families, and the Council of Juvenile Court Judges to inspect and copy law  
6805 enforcement records for the purpose of obtaining statistics on children.

6806 (e) Access to fingerprint records submitted to the Georgia Bureau of Investigation shall  
6807 be limited to the administration of criminal justice purposes as defined in Code Section  
6808 15-11-2.

6809 15-11-709.

6810 (a) Subject to the earlier sealing of certain records pursuant to Code Section 15-11-701,  
6811 the juvenile court shall make and keep records of all cases brought before it and shall  
6812 preserve the records pertaining to a child in accordance with the common records retention  
6813 schedules for courts approved by the State Records Committee pursuant to Code Section  
6814 50-18-92.

6815 (b) Thereafter, the court may destroy such records, except that the records of cases in  
6816 which a court terminates the parental rights of a parent and the records of cases involving  
6817 a petition for legitimation of a child shall be preserved permanently.

6818 (c) The juvenile court shall make official minutes consisting of all petitions and orders  
6819 filed in a case and any other pleadings, certificates, proofs of publication, summonses,  
6820 warrants, and other writs which may be filed and shall make social records consisting of  
6821 records of investigation and treatment and other confidential information.

6822 (d) Identification data shall be maintained and shall be disseminated to criminal justice  
6823 officials for official judicial enforcement or criminal justice purposes as provided in Code  
6824 Section 35-3-33.

6825 (e) Nothing in this chapter shall restrict or otherwise prohibit a juvenile court clerk from  
6826 electing to store for computer retrieval any or all records, dockets, indexes, or files; nor  
6827 shall a juvenile court clerk be prohibited from combining or consolidating any books,  
6828 dockets, files, or indexes in connection with the filing for record of papers of the kind  
6829 specified in this chapter or any other law, provided that any automated or computerized  
6830 record-keeping method or system shall provide for the systematic and safe preservation and  
6831 retrieval of all books, dockets, records, or indexes. When the clerk of a juvenile court  
6832 elects to store for computer retrieval any or all records, the same data elements used in a  
6833 manual system shall be used, and the same integrity and security shall be maintained.

6834 15-11-710.

6835 (a) As used in this Code section, the term 'governmental entity' shall mean the court,  
6836 superior court, the DJJ, DBHDD, DFACS, county departments of family and children  
6837 services, or public school, as such term is defined in Code Section 16-11-35.

6838 (b) Governmental entities and state, county, municipal, or consolidated government  
6839 departments, boards, or agencies shall exchange with each other all information not held  
6840 as confidential pursuant to federal law and relating to a child which may aid a

6841 governmental entity in the assessment, treatment, intervention, or rehabilitation of a child,  
 6842 notwithstanding Code Section 15-1-15, 15-11-40, 15-11-105, 15-11-170, 15-11-264,  
 6843 15-11-541, 15-11-542, 15-11-603, 15-11-708, 15-11-709, 15-11-744, 20-2-751.2,  
 6844 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,  
 6845 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,  
 6846 49-5-183, 49-5-184, 49-5-185, or 49-5-186, in order to serve the best interests of the child.  
 6847 Information which is shared pursuant to this subsection shall not be utilized to assist in the  
 6848 prosecution of the child in juvenile court or superior court or utilized to the detriment of  
 6849 the child.  
 6850 (c) Information released pursuant to this Code section shall not change or rescind the  
 6851 confidential nature of such information and such information shall not be subject to public  
 6852 disclosure or inspection unless otherwise provided by law.

6853 ARTICLE 11

6854 15-11-720.

6855 (a) Emancipation may occur by operation of law or pursuant to a petition filed with the  
 6856 court as provided in this article by a child who is at least 16 years of age.

6857 (b) An emancipation occurs by operation of law:

6858 (1) When a child is validly married;

6859 (2) When a child reaches the age of 18 years; or

6860 (3) During the period when the child is on active duty with the armed forces of the  
 6861 United States.

6862 (c) An emancipation occurs by court order pursuant to a petition filed by a child with the  
 6863 juvenile court.

6864 15-11-721.

6865 A child seeking emancipation shall file a petition for emancipation in the juvenile court in  
 6866 the county where the child resides. The petition shall be signed and verified by the child,  
 6867 and shall include:

6868 (1) The child's full name and birth date and the county and state where the child was  
 6869 born;

6870 (2) A certified copy of the child's birth certificate;

6871 (3) The name and last known address of the child's parent, guardian, or legal custodian  
 6872 and, if no parent, guardian, or legal custodian can be found, the name and address of the  
 6873 child's nearest living relative residing within this state;

6874 (4) The child's present address and length of residency at that address;

- 6875 (5) A declaration by the child demonstrating the ability to manage his or her financial  
 6876 affairs together with any information necessary to support the declaration;  
 6877 (6) A declaration by the child demonstrating the ability to manage his or her personal and  
 6878 social affairs together with any information necessary to support the declaration; and  
 6879 (7) The names of individuals who have personal knowledge of the child's circumstances  
 6880 and believe that under those circumstances emancipation is in the best interests of the  
 6881 child. Such individuals may include any of the following:  
 6882 (A) A licensed physician or osteopath;  
 6883 (B) A registered professional nurse or licensed practical nurse;  
 6884 (C) A licensed psychologist;  
 6885 (D) A licensed professional counselor, social worker, or marriage and family therapist;  
 6886 (E) A school guidance counselor, school social worker, or school psychologist;  
 6887 (F) A school administrator, school principal, or school teacher;  
 6888 (G) A member of the clergy;  
 6889 (H) A law enforcement officer; or  
 6890 (I) An attorney.

6891 15-11-722.

- 6892 (a) Upon filing the petition, a copy of the petition for emancipation and a summons to  
 6893 appear at the hearing shall be served on all persons named in the petition and upon any  
 6894 individual who provided an affidavit for the emancipation.  
 6895 (b) A person served with a petition may file an answer in the juvenile court in which the  
 6896 petition was filed within 30 days of being served.

6897 15-11-723.

- 6898 (a) After a petition for emancipation is filed, the court may:  
 6899 (1) Appoint a guardian ad litem to investigate the allegations of the petition and to file  
 6900 a report with the court, including a recommendation as to whether it is in the best  
 6901 interests of the child that the petition for emancipation be granted;  
 6902 (2) Appoint an attorney for the child; and  
 6903 (3) Appoint an attorney for the child's parent, guardian, or legal custodian if he or she is  
 6904 an indigent person and if he or she opposes the petition.  
 6905 (b) After a petition for emancipation is filed, the court shall seek an affidavit from each  
 6906 person identified in the petition pursuant to paragraph (7) of Code Section 15-11-721 which  
 6907 describes why that person believes the child should be emancipated.

6908 15-11-724.

6909 A child who petitions the court for emancipation shall have the burden of showing that  
6910 emancipation should be ordered by a preponderance of evidence.

6911 15-11-725.

6912 (a) The court shall issue an emancipation order if, after a hearing, it determines that  
6913 emancipation is in the best interests of the child and the child has established:

6914 (1) That the child's parent, guardian, or legal custodian does not object to the petition;  
6915 or, if a parent, guardian, or legal custodian objects to the petition, that the best interests  
6916 of the child are served by allowing the emancipation to occur by court order;

6917 (2) That the child is a resident of this state;

6918 (3) That the child has demonstrated the ability to manage his or her financial affairs,  
6919 including proof of employment or other means of support. 'Other means of support' shall  
6920 not include general assistance or aid received from means-tested public assistance  
6921 programs such as Temporary Assistance for Needy Families as provided in Article 9 of  
6922 Chapter 4 of Title 49 or similar programs under Title IV-A of the federal Social Security  
6923 Act;

6924 (4) That the child has the ability to manage his or her personal and social affairs,  
6925 including, but not limited to, proof of housing; and

6926 (5) That the child understands his or her rights and responsibilities under this article as  
6927 an emancipated child.

6928 (b) If the court issues an emancipation order, the court shall retain a copy of the order until  
6929 the emancipated child becomes 25 years of age.

6930 (c) An emancipation obtained by fraud is voidable. Voiding an emancipation order shall  
6931 not affect an obligation, responsibility, right, or interest that arose during the period of time  
6932 the order was in effect.

6933 (d) The child or the child's parent, guardian, or legal custodian may appeal the court's grant  
6934 or denial of an emancipation petition.

6935 15-11-726.

6936 (a) A child emancipated by court order may petition the juvenile court that issued the  
6937 emancipation order to rescind such order.

6938 (b) A copy of the petition for rescission and a summons shall be served on the child's  
6939 parent, guardian, or legal custodian.

6940 (c) The court shall grant the petition and rescind the order of emancipation if it finds:

6941 (1) That the child is an indigent person and has no means of support;



- 6942 (2) That the child and the child's parent, guardian, or legal custodian agree that the order  
 6943 should be rescinded; or
- 6944 (3) That there is a resumption of family relations inconsistent with the existing  
 6945 emancipation order.
- 6946 (d) If a petition for rescission is granted, the court shall issue an order rescinding the  
 6947 emancipation order and retain a copy of the order until the child becomes 25 years of age.
- 6948 (e) Rescission of an emancipation order shall not alter any contractual obligations or rights  
 6949 or any property rights or interests that arose during the period of time that the emancipation  
 6950 order was in effect.
- 6951 (f) The child or a parent, guardian, or legal custodian of the child may appeal the court's  
 6952 grant or denial of a petition for rescission of an emancipation order. The appeal shall be  
 6953 filed in the Court of Appeals.

6954 15-11-727.

- 6955 (a) A child emancipated by operation of law or by court order shall be considered to have  
 6956 the rights and responsibilities of an adult, except for those specific constitutional and  
 6957 statutory age requirements regarding voting, use of alcoholic beverages, and other health  
 6958 and safety regulations relevant to the child because of his or her age. The rights of a child  
 6959 to receive any transfer of property or money pursuant to 'The Georgia Transfers to Minors  
 6960 Act' under Article 5 of Chapter 5 of Title 44; under the Uniform Transfers to Minors Act,  
 6961 the Uniform Gift to Minors Act, or other substantially similar act of another state; or  
 6962 pursuant to a trust agreement shall not be affected by a declaration of an emancipation  
 6963 under this article.
- 6964 (b) A child shall be considered emancipated for the purposes of, but not limited to:
- 6965 (1) The right to enter into enforceable contracts, including apartment leases;
- 6966 (2) The right to sue or be sued in his or her own name;
- 6967 (3) The right to retain his or her own earnings;
- 6968 (4) The right to establish a separate domicile;
- 6969 (5) The right to act autonomously, and with the rights and responsibilities of an adult, in  
 6970 all business relationships, including, but not limited to, property transactions and  
 6971 obtaining accounts for utilities, except for those estate or property matters that the court  
 6972 determines may require a conservator or guardian ad litem;
- 6973 (6) The right to earn a living, subject only to the health and safety regulations designed  
 6974 to protect those under the age of 18 regardless of their legal status;
- 6975 (7) The right to authorize his or her own preventive health care, medical care, dental  
 6976 care, and mental health care, without parental knowledge or liability;

- 6977 (8) The right to apply for a driver's license or other state licenses for which he or she  
 6978 might be eligible;  
 6979 (9) The right to register for school;  
 6980 (10) The right to apply for medical assistance programs and for other welfare assistance,  
 6981 if needed;  
 6982 (11) The right, if a parent, to make decisions and give authority in caring for his or her  
 6983 own minor child; and  
 6984 (12) The right to make a will.  
 6985 (c) The parent, guardian, or legal custodian of a child emancipated by court order shall not  
 6986 be liable for any debts incurred by the child during the period of emancipation.

6987 15-11-728.

- 6988 (a) The duty to provide support for a child shall continue until an emancipation order is  
 6989 granted.  
 6990 (b) A child emancipated under this article shall not be considered a dependent child.  
 6991 (c) The provisions set forth in Code Section 19-3-2 regarding age limitations to contract  
 6992 for marriage shall apply to a child who has become emancipated under this article.

6993 ARTICLE 12

6994 15-11-740.

- 6995 (a) This article shall be known and may be cited as the 'Georgia Child Advocate for the  
 6996 Protection of Children Act.'  
 6997 (b) In keeping with this article's purpose of assisting, protecting, and restoring the security  
 6998 of children whose well-being is threatened, it is the intent of the General Assembly that the  
 6999 mission of protection of the children of this state should have the greatest legislative and  
 7000 executive priority. Recognizing that the needs of children must be attended to in a timely  
 7001 manner and that more aggressive action should be taken to protect children from abuse and  
 7002 neglect, the General Assembly creates the Office of the Child Advocate for the Protection  
 7003 of Children to provide independent oversight of persons, organizations, and agencies  
 7004 responsible for providing services to or caring for children who are victims of child abuse  
 7005 and neglect, or whose domestic situation requires intervention by the state. The Office of  
 7006 the Child Advocate for the Protection of Children will provide children with an avenue  
 7007 through which to seek relief when their rights are violated by state officials and agents  
 7008 entrusted with their protection and care.

7009 15-11-741.

7010 As used in this article, the term:

7011 (1) 'Advocate' or 'child advocate' means the Child Advocate for the Protection of  
7012 Children established under Code Section 15-11-742.

7013 (2) 'Agency' shall have the same meaning and application as provided for in paragraph  
7014 (1) of subsection (a) of Code Section 50-14-1.

7015 (3) 'Child' or 'children' means an individual receiving protective services from DFCS, for  
7016 whom DFCS has an open case file, or who has been, or whose siblings, parents, or other  
7017 caretakers have been the subject of a report to DFCS within the previous five years.

7018 15-11-742.

7019 (a) There is created the Office of the Child Advocate for the Protection of Children. The  
7020 Governor, by executive order, shall create a nominating committee which shall consider  
7021 nominees for the position of the advocate and shall make a recommendation to the  
7022 Governor. Such person shall have knowledge of the child welfare system, the juvenile  
7023 justice system, and the legal system and shall be qualified by training and experience to  
7024 perform the duties of the office as set forth in this article.

7025 (b) The advocate shall be appointed by the Governor from a list of at least three names  
7026 submitted by the nominating committee for a term of three years and until his or her  
7027 successor is appointed and qualified and may be reappointed. The salary of the advocate  
7028 shall not be less than \$60,000.00 per year, shall be fixed by the Governor, and shall come  
7029 from funds appropriated for the purposes of the advocate.

7030 (c) The Office of the Child Advocate for the Protection of Children shall be assigned to  
7031 the Office of Planning and Budget for administrative purposes only, as described in Code  
7032 Section 50-4-3.

7033 (d) The advocate may appoint such staff as may be deemed necessary to effectively fulfill  
7034 the purposes of this article, within the limitations of the funds available for the purposes  
7035 of the advocate. The duties of the staff may include the duties and powers of the advocate  
7036 if performed under the direction of the advocate. The advocate and his or her staff shall  
7037 receive such reimbursement for travel and other expenses as is normally allowed to state  
7038 employees from funds appropriated for the purposes of the advocate.

7039 (e) The advocate shall have the authority to contract with experts in fields including but  
7040 not limited to medicine, psychology, education, child development, juvenile justice, mental  
7041 health, and child welfare, as needed to support the work of the advocate, utilizing funds  
7042 appropriated for the purposes of the advocate.

7043 (f) Notwithstanding any other provision of state law, the advocate shall act independently  
7044 of any state official, department, or agency in the performance of his or her duties.

7045 (g) The advocate or his or her designee shall be an ex officio member of the State-wide  
7046 Child Abuse Prevention Panel.

7047 15-11-743.

7048 The advocate shall perform the following duties:

7049 (1) Identify, receive, investigate, and seek the resolution or referral of complaints made  
7050 by or on behalf of children concerning any act, omission to act, practice, policy, or  
7051 procedure of an agency or any contractor or agent thereof that may adversely affect the  
7052 health, safety, or welfare of the children;

7053 (2) Refer complaints involving abused children to appropriate regulatory and law  
7054 enforcement agencies;

7055 (3) Coordinate and supervise the work of the Georgia Child Fatality Review Panel  
7056 created by Code Section 19-15-4 and provide such staffing and administrative support to  
7057 the panel as may be necessary to enable the panel to carry out its statutory duties;

7058 (4) Report the death of any child to the chairperson of the child fatality review  
7059 subcommittee of the county in which such child resided at the time of death, unless the  
7060 advocate has knowledge that such death has been reported by the county medical  
7061 examiner or coroner, pursuant to Code Section 19-15-3, and to provide such  
7062 subcommittee access to any records of the advocate relating to such child;

7063 (5) Provide periodic reports on the work of the Office of the Child Advocate for the  
7064 Protection of Children, including but not limited to an annual written report for the  
7065 Governor and the General Assembly and other persons, agencies, and organizations  
7066 deemed appropriate. Such reports shall include recommendations for changes in policies  
7067 and procedures to improve the health, safety, and welfare of children and shall be made  
7068 expeditiously in order to timely influence public policy;

7069 (6) Establish policies and procedures necessary for the Office of the Child Advocate for  
7070 the Protection of Children to accomplish the purposes of this article including without  
7071 limitation providing DFCS with a form of notice of availability of the Office of the Child  
7072 Advocate for the Protection of Children. Such notice shall be posted prominently, by  
7073 DFCS, in DFCS offices and in facilities receiving public moneys for the care and  
7074 placement of children and shall include information describing the Office of the Child  
7075 Advocate for the Protection of Children and procedures for contacting that office; and

7076 (7) Convene quarterly meetings with organizations, agencies, and individuals who work  
7077 in the area of child protection to seek opportunities to collaborate and improve the status  
7078 of children in Georgia.

7079 15-11-744.

7080 (a) The advocate shall have the following rights and powers:

7081 (1) To communicate privately, by mail or orally, with any child and with each child's  
7082 parent, guardian, or legal custodian;

7083 (2) To have access to all records and files of DFCS concerning or relating to a child, and  
7084 to have access, including the right to inspect, copy, and subpoena records held by clerks  
7085 of the various courts, law enforcement agencies, service providers, including medical and  
7086 mental health, and institutions, public or private, with whom a particular child has been  
7087 either voluntarily or otherwise placed for care or from whom the child has received  
7088 treatment within the state. To the extent any such information provides the names and  
7089 addresses of individuals who are the subject of any confidential proceeding or statutory  
7090 confidentiality provisions, such names and addresses or related information which has the  
7091 effect of identifying such individuals shall not be released to the public without the  
7092 consent of such individuals. The Office of the Child Advocate for the Protection of  
7093 Children shall be bound by all confidentiality safeguards provided in Code Sections  
7094 49-5-40 and 49-5-44. Anyone wishing to obtain records held by the Office of the Child  
7095 Advocate shall petition the original agency of record where such records exist;

7096 (3) To enter and inspect any and all institutions, facilities, and residences, public and  
7097 private, where a child has been placed by a court or DFCS and is currently residing.  
7098 Upon entering such a place, the advocate shall notify the administrator or, in the absence  
7099 of the administrator, the person in charge of the facility, before speaking to any children.  
7100 After notifying the administrator or the person in charge of the facility, the advocate may  
7101 communicate privately and confidentially with children in the facility, individually or in  
7102 groups, or the advocate may inspect the physical plant. To the extent possible, entry and  
7103 investigation provided by this Code section shall be conducted in a manner which will  
7104 not significantly disrupt the provision of services to children;

7105 (4) To apply to the Governor to bring legal action in the nature of a writ of mandamus  
7106 or application for injunction pursuant to Code Section 45-15-18 to require an agency to  
7107 take or refrain from taking any action required or prohibited by law involving the  
7108 protection of children;

7109 (5) To apply for and accept grants, gifts, and bequests of funds from other states, federal  
7110 and interstate agencies, independent authorities, private firms, individuals, and  
7111 foundations for the purpose of carrying out the lawful responsibilities of the Office of the  
7112 Child Advocate for the Protection of Children;

7113 (6) When less formal means of resolution do not achieve appropriate results, to pursue  
7114 remedies provided by this article on behalf of children for the purpose of effectively  
7115 carrying out the provisions of this article; and

7116 (7) To engage in programs of public education and legislative advocacy concerning the  
 7117 needs of children requiring the intervention, protection, and supervision of courts and  
 7118 state and county agencies.

7119 (b)(1) Upon issuance by the advocate of a subpoena in accordance with this article for  
 7120 law enforcement investigative records concerning an ongoing investigation, the  
 7121 subpoenaed party may move a court with appropriate jurisdiction to quash said subpoena.

7122 (2) The court shall order a hearing on the motion to quash within five days of the filing  
 7123 of the motion to quash, which hearing may be continued for good cause shown by any  
 7124 party or by the court on its own motion. Subject to any right to an open hearing in  
 7125 contempt proceedings, such hearing shall be closed to the extent necessary to prevent  
 7126 disclosure of the identity of a confidential source; disclosure of confidential investigative  
 7127 or prosecution material which would endanger the life or physical safety of any person  
 7128 or persons; or disclosure of the existence of confidential surveillance, investigation, or  
 7129 grand jury materials or testimony in an ongoing criminal investigation or prosecution.  
 7130 Records, motions, and orders relating to a motion to quash shall be kept sealed by the  
 7131 court to the extent and for the time necessary to prevent public disclosure of such matters,  
 7132 materials, evidence, or testimony.

7133 (c) The court shall, at or before the time specified in the subpoena for compliance  
 7134 therewith, enter an order:

7135 (1) Enforcing the subpoena as issued;

7136 (2) Quashing or modifying the subpoena if it is unreasonable and oppressive; or

7137 (3) Conditioning enforcement of the subpoena on the advocate maintaining confidential  
 7138 any evidence, testimony, or other information obtained from law enforcement or  
 7139 prosecution sources pursuant to the subpoena until the time the criminal investigation and  
 7140 prosecution are concluded. Unless otherwise ordered by the court, an investigation or  
 7141 prosecution shall be deemed to be concluded when the information becomes subject to  
 7142 public inspection pursuant to Code Section 50-18-72. The court shall include in its order  
 7143 written findings of fact and conclusions of law.

7144 15-11-745.

7145 (a) No person shall discriminate or retaliate in any manner against any child, parent,  
 7146 guardian, or legal custodian of a child, employee of a facility, agency, institution or other  
 7147 type of provider, or any other person because of the making of a complaint or providing  
 7148 of information in good faith to the advocate or willfully interfere with the advocate in the  
 7149 performance of his or her official duties.

7150 (b) Any person violating subsection (a) of this Code section shall be guilty of a  
 7151 misdemeanor.

7152 15-11-746.

7153 The advocate shall be authorized to request an investigation by the Georgia Bureau of  
7154 Investigation of any complaint of criminal misconduct involving a child.

7155 15-11-747.

7156 (a) There is established a Child Advocate Advisory Committee. The advisory committee  
7157 shall consist of:

7158 (1) One representative of a not for profit children's agency appointed by the Governor;

7159 (2) One representative of a for profit children's agency appointed by the Lieutenant  
7160 Governor;

7161 (3) One pediatrician appointed by the Speaker of the House of Representatives;

7162 (4) One social worker with experience and knowledge of child protective services who  
7163 is not employed by the state appointed by the Governor;

7164 (5) One psychologist appointed by the Lieutenant Governor;

7165 (6) One attorney appointed by the Speaker of the House of Representatives from the  
7166 Children and the Courts Committee of the State Bar of Georgia; and

7167 (7) One juvenile court judge appointed by the Chief Justice of the Supreme Court of  
7168 Georgia.

7169 Each member of the advisory committee shall serve a two-year term and until the  
7170 appointment and qualification of such member's successor. Appointments to fill vacancies  
7171 in such offices shall be filled in the same manner as the original appointment.

7172 (b) The advisory committee shall meet a minimum of three times a year with the advocate  
7173 and his or her staff to review and assess the following:

7174 (1) Patterns of treatment and service for children;

7175 (2) Policy implications; and

7176 (3) Necessary systemic improvements.

7177 The advisory committee shall also provide for an annual evaluation of the effectiveness of  
7178 the Office of the Child Advocate for the Protection of Children."

## PART II

## CHILDREN AND YOUTH SERVICES

## SECTION 2-1.

7182 Article 1 of Chapter 5 of Title 49 of the Official Code of Georgia Annotated, relating to  
7183 children and youth services, is amended by adding two new Code sections to read as follows:

7184 "49-5-24.

7185 (a) The department shall adopt a procedure by which a child or young adult as such terms  
7186 are defined in Code Sections 15-11-2 and 15-11-351, respectively, formerly in foster care  
7187 may appeal an eligibility determination or the failure of the Division of Family and  
7188 Children Services of the department to provide aftercare or transitional support services,  
7189 as set forth in Article 5 Chapter 11 of Title 15, or the termination of such services.

7190 (b) The appeal procedure developed by the department shall be readily available to a child  
7191 or a young adult formerly in foster care, shall provide timely decisions, and shall provide  
7192 for an administrative appeal and judicial review of the administrative decision.

7193 49-5-25.

7194 The department shall develop outcome and other performance measures for the  
7195 independent living skills program, as set forth in Article 5 Chapter 11 of Title 15, in order  
7196 to maintain oversight of such program."

## PART III

## CROSS REFERENCES

## SECTION 3-1.

7200 Code Section 1-2-8 of the Official Code of Georgia Annotated, relating to rights of minors,  
7201 is revised as follows:

7202 "1-2-8.

7203 The law prescribes certain ages at which persons shall be considered of sufficient maturity  
7204 to discharge certain civil functions, to make contracts, and to dispose of property. Prior to  
7205 those ages they are minors and are, on account of that disability, unable to exercise these  
7206 rights as citizens unless such minor becomes emancipated by operation of law or pursuant  
7207 to Article 6 11 of Chapter 11 of Title 15."



7208 **SECTION 3-2.**

7209 Code Section 5-7-1 of the Official Code of Georgia Annotated, relating to orders, decisions,  
 7210 or judgments appealable by the state, is amended by revising paragraph (6) of subsection (a)  
 7211 as follows:

7212 "(6) From an order, decision, or judgment of a superior court transferring a case to the  
 7213 juvenile court pursuant to ~~subparagraph (b)(2)(B) of Code Section 15-11-28~~ 15-11-567;"

7214 **SECTION 3-3.**

7215 Code Section 13-3-20 of the Official Code of Georgia Annotated, relating to minors and  
 7216 contracts for property or valuable consideration and contracts for necessities, is revised as  
 7217 follows:

7218 "13-3-20.

7219 (a) Generally the contract of a minor is voidable. If in a contractual transaction a minor  
 7220 receives property or other valuable consideration and, after arrival at the age of 18, retains  
 7221 possession of such property or continues to enjoy the benefit of such other valuable  
 7222 consideration, the minor shall have thereby ratified or affirmed the contract and it shall be  
 7223 binding on him or her. Such contractual transaction shall also be binding upon any minor  
 7224 who becomes emancipated by operation of law or pursuant to Article ~~6~~ 11 of Chapter 11  
 7225 of Title 15.

7226 (b) The contract of a minor for necessities shall be binding on the minor as if the minor  
 7227 were 18 years of age except that the party furnishing them to the minor shall prove that the  
 7228 parent or guardian of such minor had failed or refused to supply sufficient necessities for  
 7229 the minor, that the minor was emancipated by operation of law, or the minor was  
 7230 emancipated pursuant to Article ~~6~~ 11 of Chapter 11 of Title 15."

7231 **SECTION 3-4.**

7232 Code Section 15-23-7 of the Official Code of Georgia Annotated, relating to collection of  
 7233 additional legal costs in civil actions for purposes of providing court-connected or  
 7234 court-referred alternative dispute resolution programs, is amended by revising subsection (e)  
 7235 as follows:

7236 "(e) Juvenile court supervision fees collected pursuant to Code Section ~~15-11-71~~ 15-11-37  
 7237 may be used for mediation services provided by court programs pursuant to this chapter."

7238 **SECTION 3-5.**

7239 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is  
 7240 amended by revising paragraphs (1) and (3) of subsection (a) of Code Section 16-5-45,  
 7241 relating to interference with custody, as follows:

7242 "(1) 'Child' means any individual who is under the age of 17 years or any individual who  
 7243 is under the age of 18 years who is alleged to be a ~~deprived~~ dependent child as such is  
 7244 defined in Code Section 15-11-2, relating to juvenile proceedings."

7245 "(3) 'Lawful custody' means that custody inherent in the natural parents, that custody  
 7246 awarded by proper authority as provided in Code Section ~~15-11-45~~ 15-11-133, or that  
 7247 custody awarded to a parent, guardian, or other person by a court of competent  
 7248 jurisdiction."

#### 7249 SECTION 3-6.

7250 Said title is further amended by revising paragraph (3) of subsection (a) of Code Section  
 7251 16-10-52, relating to escape, as follows:

7252 "(3) Having been adjudicated of a delinquent ~~or unruly~~ act or a juvenile traffic offense,  
 7253 or as a child in need of services subject to lawful custody or lawful confinement,  
 7254 intentionally escapes from lawful custody or from any place of lawful confinement;"

#### 7255 SECTION 3-7.

7256 Said title is further amended by revising paragraph (3) of subsection (c) of Code Section  
 7257 16-11-101.1, relating to furnishing a pistol or revolver to a person under the age of 18 years,  
 7258 as follows:

7259 "(3) In addition to any other act which violates this subsection, a parent or legal guardian  
 7260 shall be deemed to have violated this subsection if such parent or legal guardian furnishes  
 7261 to or permits possession of a pistol or revolver by any minor who has been convicted of  
 7262 a forcible felony or forcible misdemeanor, as defined in Code Section 16-1-3, or who has  
 7263 been adjudicated delinquent under the provisions of Article ~~7~~ 7 of Chapter 11 of Title 15  
 7264 for an offense which would constitute a forcible felony or forcible misdemeanor, as  
 7265 defined in Code Section 16-1-3, if such minor were an adult."

#### 7266 SECTION 3-8.

7267 Said title is further amended by revising subsection (b) of Code Section 16-11-127.1, relating  
 7268 to carrying weapons within school safety zones, at school functions, or on school property,  
 7269 as follows:

7270 "(b)(1) Except as otherwise provided in subsection (c) of this Code section, it shall be  
 7271 unlawful for any person to carry to or to possess or have under such person's control  
 7272 while within a school safety zone or at a school building, school function, or school  
 7273 property or on a bus or other transportation furnished by the school any weapon or  
 7274 explosive compound, other than fireworks the possession of which is regulated by  
 7275 Chapter 10 of Title 25.

7276 (2) Any license holder who violates this subsection shall be guilty of a misdemeanor.  
 7277 Any person who is not a license holder who violates this subsection shall be guilty of a  
 7278 felony and, upon conviction thereof, be punished by a fine of not more than \$10,000.00,  
 7279 by imprisonment for not less than two nor more than ten years, or both.

7280 (3) Any person convicted of a violation of this subsection involving a dangerous weapon  
 7281 or machine gun, as such terms are defined in Code Section 16-11-121, shall be punished  
 7282 by a fine of not more than \$10,000.00 or by imprisonment for a period of not less than  
 7283 five nor more than ten years, or both.

7284 (4) A child who violates this subsection may be subject to the provisions of Code Section  
 7285 ~~15-11-63~~ 15-11-601."

7286 **SECTION 3-9.**

7287 Said title is further amended by revising subsection (d) of Code Section 16-11-132, relating  
 7288 to possession of a pistol or revolver by a person under the age of 18 years, as follows:

7289 "(d) Subsection (c) of this Code section shall not apply to any person under the age of 18  
 7290 years who has been convicted of a forcible felony or forcible misdemeanor, as defined in  
 7291 Code Section 16-1-3, or who has been adjudicated delinquent under the provisions of  
 7292 Article ~~7~~ of Chapter 11 of Title 15 for an offense which would constitute a forcible felony  
 7293 or forcible misdemeanor, as defined in Code Section 16-1-3, if such person were an adult."

7294 **SECTION 3-10.**

7295 Said title is further amended by revising subsections (a) through (d) of Code Section 16-12-1,  
 7296 relating to contributing to the delinquency, unruliness, or deprivation of a minor, as follows:

7297 "(a) As used in this Code section, the term:

7298 (1) 'Delinquent act' means a delinquent act as defined in Code Section 15-11-2.

7299 (2) 'Felony' means any act which constitutes a felony under the laws of this state, the  
 7300 laws of any other state of the United States, or the laws of the United States.

7301 (3) 'Minor' means any individual who is under the age of 17 years who is alleged to have  
 7302 committed a delinquent act or any individual under the age of 18 years ~~who is alleged to~~  
 7303 ~~be a deprived child as such is defined in Code Section 15-11-2, relating to juvenile~~  
 7304 ~~proceedings.~~

7305 (4) 'Serious injury' means an injury involving a broken bone, the loss of a member of the  
 7306 body, the loss of use of a member of the body, the substantial disfigurement of the body  
 7307 or of a member of the body, an injury which is life threatening, or any sexual abuse of a  
 7308 child under 16 years of age by means of an act described in subparagraph (a)(4)(A),  
 7309 (a)(4)(G), or (a)(4)(I) of Code Section 16-12-100.

7310 (b) A person commits the offense of contributing to the delinquency, ~~unruliness~~, or  
 7311 ~~deprivation~~ dependency of a minor or causing a child to be in need of services when such  
 7312 person:

7313 (1) Knowingly and willfully encourages, causes, abets, connives, or aids a minor in  
 7314 committing a delinquent act as such is defined in Code Section 15-11-2, ~~relating to~~  
 7315 ~~juvenile proceedings~~;

7316 (2) Knowingly and willfully encourages, causes, abets, connives, or aids a minor in  
 7317 committing an act which would cause such minor to be found to be ~~an unruly child~~ a  
 7318 child in need of services as such is defined in Code Section 15-11-2, ~~relating to juvenile~~  
 7319 ~~proceedings~~;

7320 (3) Willfully commits an act or acts or willfully fails to act when such act or omission  
 7321 would cause a minor to be found to be a ~~deprived~~ dependent child as such is defined in  
 7322 Code Section 15-11-2, ~~relating to juvenile proceedings~~;

7323 (4) Knowingly and willfully hires, solicits, engages, contracts with, conspires with,  
 7324 encourages, abets, or directs any minor to commit any felony which encompasses force  
 7325 or violence as an element of the offense or delinquent act which would constitute a felony  
 7326 which encompasses force or violence as an element of the offense if committed by an  
 7327 adult;

7328 (5) Knowingly and willfully provides to a minor any weapon as defined in paragraph (2)  
 7329 of subsection (a) of Code Section 16-11-127.1 or any weapon as defined in Code Section  
 7330 16-11-121 to commit any felony which encompasses force or violence as an element of  
 7331 the offense or delinquent act which would constitute a felony which encompasses force  
 7332 or violence as an element of the offense if committed by an adult; or

7333 (6) Knowingly and willfully hires, solicits, engages, contracts with, conspires with,  
 7334 encourages, abets, or directs any minor to commit any smash and grab burglary which  
 7335 would constitute a felony if committed by an adult.

7336 (c) It shall not be a defense to the offense provided for in this Code section that the minor  
 7337 has not been formally adjudged to have committed a delinquent act or has not been found  
 7338 to be ~~unruly or deprived~~ dependent or a child in need of services.

7339 (d) A person convicted pursuant to paragraph (1) ~~or (2)~~ of subsection (b) of this Code  
 7340 section shall be punished as follows:

7341 (1) Upon conviction of the first or second offense, the defendant shall be guilty of a  
 7342 misdemeanor and shall be fined not more than \$1,000.00 or shall be imprisoned for not  
 7343 more than 12 months, or both fined and imprisoned; and

7344 (2) Upon the conviction of the third or subsequent offense, the defendant shall be guilty  
 7345 of a felony and shall be fined not less than \$1,000.00 nor more than \$5,000.00 or shall

7346 be imprisoned for not less than one year nor more than three years, or both fined and  
7347 imprisoned."

7348 **SECTION 3-11.**

7349 Said title is further amended by revising subsections (c), (e), and (g) of Code Section  
7350 16-12-141.1, relating to disposal of aborted fetuses, as follows:

7351 "(c) Within 90 days after May 10, 2005, the Department of Human Resources (now known  
7352 as the Department of Community Health for these purposes) shall prepare a reporting form  
7353 for physicians which shall include:

7354 (1) The number of females whose parent or guardian was provided the notice required  
7355 in paragraph (1) of subsection (a) of Code Section ~~15-11-112~~ 15-11-682 by the physician  
7356 or such physician's agent; of that number, the number of notices provided personally  
7357 under subparagraphs (a)(1)(A) and (a)(1)(B) of Code Section ~~15-11-112~~ 15-11-682 and  
7358 the number of notices provided by mail under subparagraph (a)(1)(C) of Code Section  
7359 ~~15-11-112~~ 15-11-682; and, of each of those numbers, the number of females who, to the  
7360 best of the reporting physician's information and belief, went on to obtain the abortion;

7361 (2) The number of females upon whom the physician performed an abortion without  
7362 providing to the parent or guardian of a minor the notice required by subsection (a) of  
7363 Code Section ~~15-11-112~~ 15-11-682; and of that number, the number of females for which  
7364 subsection (b) of Code Section ~~15-11-112~~ 15-11-682 and Code Section ~~15-11-116~~  
7365 15-11-686 were applicable;

7366 (3) The number of abortions performed upon a female by the physician after receiving  
7367 judicial authorization pursuant to subsection (b) of Code Section ~~15-11-112~~ 15-11-682  
7368 and Code Section ~~15-11-114~~ 15-11-684; and

7369 (4) The same information described in paragraphs (1), (2), and (3) of this subsection with  
7370 respect to females for whom a guardian or conservator has been appointed."

7371 "(e) By February 28 of each year following a calendar year in any part of which this  
7372 subsection was in effect, each physician who provided, or whose agent provided, the notice  
7373 described in subsection (a) of Code Section ~~15-11-112~~ 15-11-682 and any physician who  
7374 knowingly performed an abortion upon a female or upon a female for whom a guardian or  
7375 conservator had been appointed because of a finding of incompetency during the previous  
7376 calendar year shall submit to the Department of Community Health a copy of the form  
7377 described in subsection (c) of this Code section with the requested data entered accurately  
7378 and completely."

7379 "(g) By June 30 of each year, the Department of Community Health shall issue a public  
7380 report providing statistics for the previous calendar year compiled from all the reports  
7381 covering that year submitted in accordance with this Code section for each of the items

7382 listed in subsection (c) of this Code section. The report shall also include statistics which  
 7383 shall be obtained by the Administrative Office of the Courts giving the total number of  
 7384 petitions or motions filed under subsection (b) of Code Section ~~15-11-112~~ 15-11-682 and,  
 7385 of that number, the number in which the court appointed a guardian ad litem, the number  
 7386 in which the court appointed counsel, the number in which the judge issued an order  
 7387 authorizing an abortion without notification, the number in which the judge denied such  
 7388 an order, and, of the last, the number of denials from which an appeal was filed, the number  
 7389 of such appeals that resulted in the denials being affirmed, and the number of such appeals  
 7390 that resulted in reversals of such denials. Each report shall also provide the statistics for  
 7391 all previous calendar years for which such a public statistical report was required to be  
 7392 issued, adjusted to reflect any additional information from late or corrected reports. The  
 7393 Department of Community Health shall ensure that none of the information included in the  
 7394 public reports could reasonably lead to the identification of any individual female or of any  
 7395 female for whom a guardian or conservator has been appointed."

7396 **SECTION 3-12.**

7397 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is  
 7398 amended by revising paragraph (1) of subsection (a) of Code Section 17-7-130, relating to  
 7399 proceedings upon a plea of mental incompetency to stand trial, as follows:

7400 "(1) 'Child' means a person under the jurisdiction of the superior court pursuant to Code  
 7401 Section ~~15-11-28~~ 15-11-560."

7402 **SECTION 3-13.**

7403 Said title is further amended by revising subsection (a) of Code Section 17-7-50.1, relating  
 7404 to time for presentment of child's case to a grand jury, as follows:

7405 "(a) Any child who is charged with a crime that is within the jurisdiction of the superior  
 7406 court, as provided in Code Section ~~15-11-28~~ 15-11-560 or ~~15-11-30.2~~ 15-11-561, who is  
 7407 detained shall within 180 days of the date of detention be entitled to have the charge  
 7408 against him or her presented to the grand jury. The superior court shall, upon motion for  
 7409 an extension of time and after a hearing and good cause shown, grant one extension to the  
 7410 original 180 day period, not to exceed 90 additional days."

7411 **SECTION 3-14.**

7412 Said title is further amended by revising subsection (e) of Code Section 17-10-1, relating to  
 7413 fixing of sentence, as follows:

7414 "(e) In any case involving a felony in which the defendant previously appeared before a  
 7415 juvenile court, the records of the dispositions of the defendant as well as any evidence used

7416 in any juvenile court hearing shall be available to the district attorney, the defendant, and  
 7417 the superior court judge in determining sentencing as provided in Code Section ~~15-11-79.1~~  
 7418 15-11-703."

7419 **SECTION 3-15.**

7420 Said title is further amended by revising Code Section 17-10-14, relating to committal of  
 7421 person under 17 convicted of a felony, as follows:

7422 "17-10-14.

7423 (a) Notwithstanding any other provisions of this article and except as otherwise provided  
 7424 in ~~subsections (b) and (c)~~ subsection (b) of this Code section, in any case where a person  
 7425 under the age of 17 years is convicted of a felony and sentenced as an adult to life  
 7426 imprisonment or to a certain term of imprisonment, such person shall be committed to the  
 7427 Department of Juvenile Justice to serve such sentence in a detention center of such  
 7428 department until such person is 17 years of age at which time such person shall be  
 7429 transferred to the Department of Corrections to serve the remainder of the sentence. This  
 7430 Code section shall apply to any person convicted on or after July 1, 1987, and to any person  
 7431 convicted prior to such date who has not been committed to an institution operated by the  
 7432 Department of Corrections.

7433 (b) If a child is transferred to superior court according to subsection (b) of Code Section  
 7434 ~~15-11-30.2~~ 15-11-561 and convicted of aggravated assault as defined in Chapter 5 of Title  
 7435 16, the court may sentence such child to the Department of Corrections. Such child shall  
 7436 be housed in a designated youth confinement unit until such person is 17 years of age, at  
 7437 which time such person may be housed in any other unit designated by the Department of  
 7438 Corrections.

7439 ~~(c) In any case where a child 13 to 17 years of age is convicted of a felony provided under~~  
 7440 ~~subparagraph (b)(2)(A) of Code Section 15-11-28, such child shall be committed to the~~  
 7441 ~~custody of the Department of Corrections and shall be housed in a designated youth~~  
 7442 ~~confinement unit until such person is 17 years of age, at which time such person may be~~  
 7443 ~~housed in any other unit designated by the Department of Corrections."~~

7444 **SECTION 3-16.**

7445 Said title is further amended by revising paragraph (5) of Code Section 17-14-2, relating to  
 7446 definitions regarding restitution, as follows:

7447 "(5) 'Parent' means a person who is the legal mother as defined in ~~paragraph (10.2) of~~  
 7448 Code Section 15-11-2, the legal father as defined in ~~paragraph (10.1) of~~ Code Section  
 7449 15-11-2, or the legal guardian. Such term shall not include a foster parent."

7450 **SECTION 3-17.**

7451 Said title is further amended by revising subsection (d) of Code Section 17-15-13, relating  
7452 to debt to state created, as follows:

7453 "(d) When a child is adjudicated delinquent in a juvenile court proceeding involving a  
7454 crime upon which a claim under this chapter can be made, the juvenile court in its  
7455 discretion may order that the child pay the debt to the state as an adult would have to pay  
7456 had an adult committed the crime. Any assessments so ordered may be made a condition  
7457 of probation as provided in ~~paragraph (2) of subsection (a) of Code Section 15-11-66~~  
7458 15-11-601."

7459 **SECTION 3-18.**

7460 Said title is further amended by revising subsection (c) of Code Section 17-16-2, relating to  
7461 applicability of rules of discovery, as follows:

7462 "(c) This article shall be deemed to have been automatically invoked, without the written  
7463 notice provided for in subsection (a) of this Code section, when a defendant has sought  
7464 discovery pursuant to Chapter 11 of Title 9, the 'Georgia Civil Practice Act,' pursuant to  
7465 ~~Code Section 15-11-75~~ Part 8 of Article 7 of Chapter 11 of Title 15, or pursuant to the  
7466 Uniform Rules for the Juvenile Courts of Georgia where such discovery material is the  
7467 same as the discovery material that may be provided under this article when a written  
7468 notice is filed pursuant to subsection (a) of this Code section."

7469 **SECTION 3-19.**

7470 Said title is further amended by revising subsection (d) of Code Section 19-7-22, relating to  
7471 petition for legitimation of a child, as follows:

7472 "(d) A legitimation petition may be filed, pursuant to ~~paragraph (2) of subsection (e) of~~  
7473 ~~Code Section 15-11-28~~ 15-11-11, in the juvenile court of the county in which a ~~deprivation~~  
7474 dependency proceeding regarding the child is pending."

7475 **SECTION 3-20.**

7476 Said title is further amended by revising paragraph (4) of subsection (a) of Code Section  
7477 19-8-10, relating to when surrender or termination of parental rights not required, as follows:

7478 "(4) 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 3-21.**

7481  
7482 Said title is further amended by revising subparagraph (a)(3)(D) of Code Section 19-8-11,  
7483 relating to petitioning superior court to terminate parental rights, as follows:

7484 "(D) Parent has failed to exercise proper parental care or control due to misconduct or  
7485 inability, as set out in paragraph ~~(2)~~, (3), ~~or (4)~~, or (5) of subsection ~~(b)~~ (a) of Code  
7486 Section ~~15-11-94~~ 15-11-310,"

**SECTION 3-22.**

7487  
7488 Said title is further amended by revising subsection (g) of Code Section 19-8-13, relating to  
7489 petition for adoption, as follows:

7490 "(g) Notwithstanding the provisions of Code Sections 19-8-5 and 19-8-7 and this Code  
7491 section which require obtaining and attaching a written voluntary surrender and  
7492 acknowledgment thereof and affidavits of the legal mother and a representative of the  
7493 petitioner, where the adoption is sought under subsection (a) of Code Section 19-8-5 or  
7494 19-8-7 following the termination of parental rights and the placement of the child by the  
7495 juvenile court pursuant to ~~paragraph (1) of subsection (a) of Code Section 15-11-103~~  
7496 15-11-321, obtaining and attaching to the petition a certified copy of the order terminating  
7497 parental rights of the parent shall take the place of obtaining and attaching those otherwise  
7498 required surrenders, acknowledgments, and affidavits."

**SECTION 3-23.**

7499  
7500 Said title is further amended by revising Code Section 19-10A-4, relating to no criminal  
7501 prosecution for leaving a child in the custody of a medical facility, as follows:

7502 "19-10A-4.  
7503 A mother shall not be prosecuted for the crimes of cruelty to a child, as provided in Code  
7504 Section 16-5-70; contributing to the delinquency, ~~unruliness~~, or ~~deprivation~~ dependency  
7505 of a child or causing a child to be in need of services, as provided in Code Section 16-12-1;  
7506 or abandonment of a dependent child, as provided in Code Section 19-10-1, because of the  
7507 act of leaving her newborn child in the physical custody of an employee, agent, or member  
7508 of the staff of a medical facility who is on duty, whether there in a paid or volunteer  
7509 position, provided that the newborn child is no more than one week old and the mother  
7510 shows proof of her identity, if available, to the person with whom the newborn is left and  
7511 provides her name and address."

**SECTION 3-24.**

7512  
7513 Said title is further amended by revising Code Section 19-10A-6, relating to reimbursement  
7514 of medical costs, as follows:

7515 "19-10A-6.  
 7516 A medical facility which accepts for inpatient admission a child left pursuant to Code  
 7517 Section 19-10A-4 shall be reimbursed by the Department of Human Services for all  
 7518 reasonable medical and other reasonable costs associated with the child prior to the child  
 7519 being placed in the care of the department. A medical facility shall notify the Department  
 7520 of Human Services at such time as the child is left and at the time the child is medically  
 7521 ready for discharge. Upon notification that the child is medically ready for discharge, the  
 7522 Department of Human Services shall take physical custody of the child within six hours.  
 7523 The Department of Human Services upon taking physical custody shall promptly bring the  
 7524 child before the juvenile court as required by Code Section ~~15-11-47~~ 15-11-145."

7525 **SECTION 3-25.**

7526 Said title is further amended by revising Code Section 19-13-20, relating to definitions  
 7527 regarding family violence shelters, as follows:

7528 "(5) 'Family violence shelter' means a facility approved by the department for the purpose  
 7529 of receiving, on a temporary basis, persons who are subject to family violence. Family  
 7530 violence shelters are distinguished from shelters operated for detention or placement of  
 7531 children only, as provided in subsection (a) of Code Section ~~15-11-48~~ 15-11-504 and  
 7532 subsection (c) of Code Section 15-11-135."

7533 **SECTION 3-26.**

7534 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by  
 7535 revising subsection (b) of Code Section 20-2-670, relating to requirements for transferring  
 7536 students beyond sixth grade, as follows:

7537 "(b) In lieu of complying with the provision of subsection (a) of this Code section, a  
 7538 transferring student may be admitted on a conditional basis if he or she and his or her  
 7539 parent or legal guardian executes a document providing the name and address of the school  
 7540 last attended and authorizing the release of all academic and disciplinary records to the  
 7541 school administration. The parent or guardian shall be notified of the transfer of such  
 7542 records and shall, upon written request made within ten days of such notice, be entitled to  
 7543 receive a copy of such records. Within five days of the receipt of a copy of such records,  
 7544 the parent or guardian may make a written request for and shall be entitled to a hearing  
 7545 before the principal of the school or his or her designee which is the custodian of such  
 7546 records for the purpose of challenging the content of the records. The student or his or her  
 7547 parent or legal guardian shall also disclose on the same document as the release whether  
 7548 the child has ever been adjudicated guilty of the commission of a designated felony act as  
 7549 defined in Code Section ~~15-11-63~~ 15-11-2 and, if so, the date of such adjudication, the

7550 offense committed, the jurisdiction in which such adjudication was made, and the sentence  
 7551 imposed. Any form document to authorize the release of records which is provided by a  
 7552 school to a transferring student or such student's parent or legal guardian shall include a list  
 7553 of designated felony acts. The student or his or her parent or legal guardian shall also  
 7554 disclose on the document whether the student is currently serving a suspension or expulsion  
 7555 from another school, the reason for such discipline, and the term of such discipline. If a  
 7556 student so conditionally admitted is found to be ineligible for enrollment pursuant to the  
 7557 provisions of Code Section 20-2-751.2, or is subsequently found to be so ineligible, he or  
 7558 she shall be dismissed from enrollment until such time as he or she becomes so eligible."

7559 **SECTION 3-27.**

7560 Said title is further amended by revising Code Section 20-2-671, relating to transfer students  
 7561 who have committed felony acts, as follows:

7562 "20-2-671.

7563 If any school administrator determines from the information obtained pursuant to Code  
 7564 Section ~~15-11-63~~ 15-11-602 or 20-2-670 or from any other source that a student has  
 7565 committed a designated felony act, such administrator shall so inform all teachers to whom  
 7566 the student is assigned that they may review the information in the student's file provided  
 7567 pursuant to subsection (b) of Code Section 20-2-670 received from other schools or from  
 7568 the juvenile courts. Such information shall be kept confidential."

7569 **SECTION 3-28.**

7570 Said title is further amended by revising paragraph (14) of subsection (c) and subsection (g)  
 7571 of Code Section 20-2-690.2, relating to establishment of student attendance protocol  
 7572 committee, membership and protocol, summary of penalties for failure to comply, and  
 7573 reporting, as follows:

7574 "(14) The court approved community based risk reduction program established by the  
 7575 juvenile court in accordance with Code Section ~~15-11-10~~ 15-11-38, if such a program has  
 7576 been established."

7577 "(g) The committee shall write the summary of possible consequences and penalties for  
 7578 failing to comply with compulsory attendance under Code Section 20-2-690.1 for children  
 7579 and their parents, guardians, or other persons who have control or charge of children for  
 7580 distribution by schools in accordance with Code Section 20-2-690.1. The summary of  
 7581 possible consequences for children shall include possible dispositions for ~~unruly~~  
 7582 in need of services and possible denial or suspension of a driver's license for a child in  
 7583 accordance with Code Section 40-5-22."

**SECTION 3-29.**

7584

7585 Said title is further amended by revising Code Section 20-2-699, relating to the disposition  
7586 of children taken into custody, as follows:

7587 "20-2-699.

7588 Any person assuming temporary custody of a child pursuant to Code Section 20-2-698  
7589 shall immediately deliver the child either to the parent, guardian, or other person having  
7590 control or charge of the child or to the school from which the child is absent, or if the child  
7591 is found to have been adjudged a delinquent or ~~unruly~~ in need of services, ~~he~~ the person  
7592 shall cause the child to be brought before the probation officer of the county having  
7593 jurisdiction over such child."

**SECTION 3-30.**

7594

7595 Said title is further amended by revising subsection (d) of Code Section 20-2-751.2, relating  
7596 to students subject to disciplinary orders of other school systems, as follows:

7597 "(d) If any school administrator determines from the information obtained pursuant to this  
7598 Code section or from Code Section ~~15-11-28~~ or ~~15-11-80~~ 15-11-599, 15-11-602, or  
7599 15-11-707 that a student has been convicted of or has been adjudicated to have committed  
7600 an offense which is a designated felony act under Code Section ~~15-11-63~~ 15-11-2, such  
7601 administrator shall so inform all teachers to whom the student is assigned and other school  
7602 personnel to whom the student is assigned. Such teachers and other certificated  
7603 professional personnel as the administrator deems appropriate may review the information  
7604 in the student's file provided pursuant to this Code section that has been received from  
7605 other schools or from the juvenile courts or superior courts. Such information shall be kept  
7606 confidential."

**SECTION 3-31.**

7607

7608 Said title is further amended by revising Code Section 20-2-766.1, relating to proceeding  
7609 against parents for failure to cooperate in educational programs, as follows:

7610 "20-2-766.1.

7611 The local board of education may, by petition to the juvenile court, proceed against a parent  
7612 or guardian as provided in this Code section. If the court finds that the parent or guardian  
7613 has willfully and unreasonably failed to attend a conference requested by a principal  
7614 pursuant to Code Section 20-2-765 or 20-2-766, the court may order the parent or guardian  
7615 to attend such a conference, order the parent or guardian to participate in such programs  
7616 or such treatment as the court deems appropriate to improve the student's behavior, or both.  
7617 After notice and opportunity for hearing, the court may impose a fine, not to exceed  
7618 \$500.00, on a parent or guardian who willfully disobeys an order of the court entered under

7619 this Code section. The court may use its contempt and other powers specified in Code  
7620 Section ~~15-11-5~~ 15-11-31 to enforce any order entered under this Code section."

7621 **SECTION 3-32.**

7622 Said title is further amended by revising subsection (a) of Code Section 20-2-768, relating  
7623 to expulsion or suspension of students for felonies, as follows:

7624 "(a) Each local board of education is authorized to refuse to readmit or enroll any student  
7625 who has been suspended or expelled for being convicted of, being adjudicated to have  
7626 committed, being indicted for, or having information filed for the commission of any  
7627 felony or any delinquent act under Code ~~Section 15-11-28~~ Sections 15-11-602 and  
7628 15-11-707 which would be a felony if committed by an adult. If refused readmission or  
7629 enrollment, the student or the student's parent or legal guardian has the right to request a  
7630 hearing pursuant to the procedures provided for in Code Section 20-2-754."

7631 **SECTION 3-33.**

7632 Said title is further amended by revising subparagraph (B) of paragraph (1) of Code Section  
7633 20-3-660, relating to program of grants for foster children created, as follows:

7634 "(B) The student is currently committed to the Division of Family and Children  
7635 Services within the Department of Human Services under Code Section ~~15-11-55~~  
7636 15-11-212 and placed in a family foster home or is placed in accordance with  
7637 subparagraph (a)(2)(C) of Code Section ~~15-11-2~~ 15-11-212;"

7638 **SECTION 3-34.**

7639 Title 24 of the Official Code of Georgia Annotated, relating to evidence, is amended by  
7640 revising subsection (b) of Code Section 24-9-5, relating to competency of persons without  
7641 the use of reason, as follows:

7642 "(b) Notwithstanding the provisions of subsection (a) of this Code section, in all cases  
7643 involving ~~deprivation~~ dependency as defined by Code Section 15-11-2, or in criminal cases  
7644 involving child molestation, and in all other criminal cases in which a child was a victim  
7645 of or a witness to any crime, any such child shall be competent to testify, and his or her  
7646 credibility shall be determined as provided in Article 4 of this chapter."

7647 **SECTION 3-35.**

7648 Said title is further amended by revising subsection (q) of Code Section 24-9-47, relating to  
7649 disclosure of AIDS confidential information, as follows:

7650 "(q) A public safety agency or district attorney may obtain the results from an HIV test to  
7651 which the person named in the request has submitted under Code Section ~~15-11-66.1~~

7652 15-11-603, 17-10-15, 42-5-52.1, or 42-9-42.1, notwithstanding that the results may be  
7653 contained in a sealed record."

7654 **SECTION 3-36.**

7655 Code Section 31-22-9.2 of the Official Code of Georgia Annotated, relating to HIV tests and  
7656 reports of positive results, is amended by revising subsection (c) as follows:

7657 "(c) Unless exempted under this Code section, each health care provider who orders an  
7658 HIV test for any person shall do so only after counseling the person to be tested. Unless  
7659 exempted under this subsection, the person to be tested shall have the opportunity to refuse  
7660 the test. The provisions of this subsection shall not be required if the person is required to  
7661 submit to an HIV test pursuant to Code Section ~~15-11-66.1~~ 15-11-603, 17-10-15,  
7662 31-17-4.2, 31-17A-3, 42-5-52.1, or 42-9-42.1. The provisions of this subsection shall not  
7663 be required if the person is a minor or incompetent and the parent or guardian thereof  
7664 permits the test after compliance with this subsection. The provisions of this subsection  
7665 shall not be required if the person is unconscious, temporarily incompetent, or comatose  
7666 and the next of kin permits the test after compliance with this subsection. The provisions  
7667 of this subsection shall not apply to emergency or life-threatening situations. The  
7668 provisions of this subsection shall not apply if the physician ordering the test is of the  
7669 opinion that the person to be tested is in such a medical or emotional state that disclosure  
7670 of the test would be injurious to the person's health. The provisions of this subsection shall  
7671 only be required prior to drawing the body fluids required for the HIV test and shall not be  
7672 required for each test performed upon that fluid sample."

7673 **SECTION 3-37.**

7674 Title 35 of the Official Code of Georgia Annotated, relating to law enforcement officers and  
7675 agencies, is amended by revising subsection (c) of Code Section 35-3-33, relating to powers  
7676 and duties of the Georgia Crime Information Center, as follows:

7677 "(c) The provisions of this article notwithstanding, information and records of children  
7678 shall only be inspected and disclosed as provided in Code Sections ~~15-11-82~~ 15-11-702 and  
7679 ~~15-11-83~~ 15-11-708. Such records and information shall be sealed or destroyed according  
7680 to the procedures outlined in Code Sections ~~15-11-79.2~~ 15-11-701 and ~~15-11-81~~  
7681 15-11-709."

7682 **SECTION 3-38.**

7683 Said title is further amended by revising subparagraph (B) of paragraph (7) of Code Section  
7684 35-8-2, relating to definitions regarding peace officers, as follows:

7685 "(B) The Office of Permits and Enforcement of the Department of Transportation, the  
 7686 Department of Juvenile Justice and its institutions and facilities for the purpose of  
 7687 personnel who are authorized to exercise the power of arrest and who are employed or  
 7688 appointed by said department or institutions, and the office or section in the Department  
 7689 of Juvenile Justice in which persons are assigned who have been designated by the  
 7690 commissioner to investigate and apprehend ~~unruly and delinquent children~~ and any  
 7691 child with a pending juvenile court case alleging the child to be in need of services;  
 7692 and"

7693 **SECTION 3-39.**

7694 Code Section 36-32-10 of the Official Code of Georgia Annotated, relating to jurisdiction  
 7695 in cases of furnishing alcoholic beverages, is amended by revising subsection (e) as follows:  
 7696 "(e) Nothing in this Code section shall affect the original and exclusive jurisdiction of the  
 7697 juvenile court as set forth in Code Section ~~15-11-28~~ 15-11-10."

7698 **SECTION 3-40.**

7699 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is  
 7700 amended by revising subsection (g) of Code Section 40-5-75, relating to suspension of  
 7701 licenses by operation of law, as follows:  
 7702 "(g) Notwithstanding the provisions of Code Section ~~15-11-72~~ 15-11-606 and except as  
 7703 provided in subsection (c) of this Code section, an adjudication of a minor child as a  
 7704 delinquent child ~~or an unruly child~~ for any offense listed in subsection (a) of this Code  
 7705 section shall be deemed a conviction for purposes of this Code section."

7706 **SECTION 3-41.**

7707 Said title is further amended by revising subsection (l) of Code Section 40-6-391, relating  
 7708 to driving under the influence of alcohol, drugs, or other intoxicating substances, as follows:  
 7709 "(l) A person who violates this Code section while transporting in a motor vehicle a child  
 7710 under the age of 14 years is guilty of the separate offense of endangering a child by driving  
 7711 under the influence of alcohol or drugs. The offense of endangering a child by driving  
 7712 under the influence of alcohol or drugs shall not be merged with the offense of driving  
 7713 under the influence of alcohol or drugs for the purposes of prosecution and sentencing. An  
 7714 offender who is convicted of a violation of this subsection shall be punished in accordance  
 7715 with the provisions of subsection (d) of Code Section 16-12-1, ~~relating to the offense of~~  
 7716 ~~contributing to the delinquency, unruliness, or deprivation of a child.~~"

**SECTION 3-42.**

7717  
7718 Code Section 44-5-41 of the Official Code of Georgia Annotated, relating to voidance and  
7719 ratification of conveyance to or by a minor, is revised as follows:

7720 "44-5-41.

7721 A deed, security deed, bill of sale to secure debt, or any other conveyance of property or  
7722 interest in property to or by a minor is voidable unless such minor has become emancipated  
7723 by operation of law or pursuant to Article 6 11 of Chapter 11 of Title 15. If a minor has  
7724 conveyed property or an interest in property, the minor may void the conveyance upon  
7725 arrival at the age of 18; and, if the minor makes another conveyance at that time, it will  
7726 void the first conveyance without reentry or repossession. If property or an interest in  
7727 property has been conveyed to a minor and, after arrival at the age of 18, the minor retains  
7728 the possession or benefit of the property or interest in property, the minor shall have  
7729 thereby ratified or affirmed the conveyance."

**SECTION 3-43.**

7730  
7731 Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees,  
7732 is amended by revising paragraph (7) of Code Section 45-9-81, relating to definitions  
7733 regarding certain indemnification, as follows:

7734 "(7) 'Law enforcement officer' means any agent or officer of this state, a political  
7735 subdivision or municipality of this state, or an authority of this state or a political  
7736 subdivision of this state who, as a full-time or part-time employee, is vested either  
7737 expressly by law or by virtue of public employment or service with authority to enforce  
7738 the criminal or traffic laws with the power of arrest and whose duties include the  
7739 preservation of public order, the protection of life and property, or the prevention,  
7740 detection, or investigation of crime. Such term also includes the employees designated  
7741 by the commissioner of juvenile justice ~~of the Department of Juvenile Justice~~ pursuant  
7742 to paragraph (2) of subsection (i) of Code Section 49-4A-8, which employees have the  
7743 duty to investigate and apprehend delinquent ~~and unruly~~ children and any child with a  
7744 pending juvenile court case alleging the child to be in need of services who ~~have~~ has  
7745 escaped from a facility under the jurisdiction of the Department of Juvenile Justice or  
7746 who ~~have~~ has broken the conditions of supervision. Such term also includes members  
7747 of the Georgia National Guard, the composition of which is set forth in Code Section  
7748 38-2-3, who have been called into active state service by the Governor."

**SECTION 3-44.**

7749  
7750 Said title is further amended by revising paragraph (7) of Code Section 45-9-101, relating  
7751 to definitions regarding certain compensation, as follows:



7752 "(7) 'Law enforcement officer' means any agent or officer of this state, or a political  
 7753 subdivision or municipality thereof, who, as a full-time or part-time employee, is vested  
 7754 either expressly by law or by virtue of public employment or service with authority to  
 7755 enforce the criminal or traffic laws and whose duties include the preservation of public  
 7756 order, the protection of life and property, or the prevention, detection, or investigation of  
 7757 crime. Such term also includes the employees designated by the commissioner of  
 7758 juvenile justice ~~of the Department of Juvenile Justice~~ pursuant to paragraph (2) of  
 7759 subsection (i) of Code Section 49-4A-8, which employees have the duty to investigate  
 7760 and apprehend delinquent ~~and unruly~~ children and any child with a pending juvenile court  
 7761 case alleging the child to be in need of services who ~~have~~ has escaped from a facility  
 7762 under the jurisdiction of the Department of Juvenile Justice or who ~~have~~ has broken the  
 7763 conditions of supervision. Such term also includes members of the Georgia National  
 7764 Guard, the composition of which is set forth in Code Section 38-2-3, who have been  
 7765 called into active state service by the Governor."

7766 **SECTION 3-45.**

7767 Said title is further amended by revising subsection (a) of Code Section 45-20-1, relating to  
 7768 purposes and principles of personnel administration, as follows:

7769 "(a) It is the purpose of this article to establish in the state a system of personnel  
 7770 administration which will attract, select, and retain the best employees based on merit, free  
 7771 from coercive political influences, with incentives in the form of equal opportunities for  
 7772 all; which will provide technically competent and loyal personnel to render impartial  
 7773 service to the public at all times and to render such service according to the dictates of  
 7774 ethics and morality; and which will remove unnecessary and inefficient employees. It is  
 7775 specifically the intent of the General Assembly to promote this purpose by allowing  
 7776 agencies greater flexibility in personnel management so as to promote the overall  
 7777 effectiveness and efficiency of state government. To this end, and in accordance with Code  
 7778 Sections 45-20-2 and 45-20-6, all positions filled after July 1, 1996, shall be included in  
 7779 the unclassified service of the State Personnel Administration, except as provided in Code  
 7780 Section ~~15-11-24.3~~ 15-11-68. It is also specifically the intent of the General Assembly that  
 7781 employees in the classified service prior to July 1, 1996, shall continue to be employees in  
 7782 the classified service so long as they remain in classified positions or as otherwise provided  
 7783 by law. It is further specifically the intent of the General Assembly that state government  
 7784 operate within a framework of consistent core personnel policies and practices across all  
 7785 state agencies and entities and that the state's most valued resource, its employees, be  
 7786 managed in a manner to promote work force productivity and sound business practices."

**SECTION 3-46.**

7787  
7788 Said title is further amended by revising subsection (a) of Code Section 45-20-6, relating to  
7789 composition of classified and unclassified service, as follows:

7790 "(a) The classified service as defined by Code Section 45-20-2 shall consist of only those  
7791 employees who were in the classified service on June 30, 1996, and who have remained  
7792 in a classified position without a break in service since that date. Any officer or employee  
7793 who occupies a classified position under the State Personnel Administration prior to July  
7794 1, 1996, or as provided in Code Section ~~15-11-24.3~~ 15-11-68 shall remain in the classified  
7795 service so long as such officer or employee shall remain in a classified position or as  
7796 otherwise provided by law. Employees in the classified service shall have, upon  
7797 completing a working test period, appeal rights as provided in Code Sections 45-20-8 and  
7798 45-20-9."

**SECTION 3-47.**

7799  
7800 Title 49 of the Official Code of Georgia Annotated, relating to social services, is amended  
7801 by revising paragraph (3) of Code Section 49-4A-1, relating to definitions regarding the  
7802 Department of Juvenile Justice, as follows:

7803 "(3) '~~Delinquent or unruly~~ child or youth or a child in need of services' means any person  
7804 so adjudged under Article ~~6~~ 6 or 7 of Chapter 11 of Title 15."

**SECTION 3-48.**

7805  
7806 Said title is further amended by revising subsection (b) of Code Section 49-4A-2, relating to  
7807 the creation of the Board of Juvenile Justice, as follows:

7808 "(b) The board shall provide leadership in developing programs to successfully rehabilitate  
7809 ~~juvenile delinquents and unruly~~ children adjudicated delinquent or in need of services  
7810 committed to the state's custody and to provide technical assistance to private and public  
7811 entities for prevention programs for children at risk."

**SECTION 3-49.**

7812  
7813 Said title is further amended by revising Code Section 49-4A-4, relating to purpose of  
7814 chapter, as follows:

7815 "49-4A-4.

7816 It is the purpose of this chapter to establish the department as the agency to administer,  
7817 supervise, and manage juvenile detention facilities. Except for the purposes of  
7818 administration, supervision, and management as provided in this chapter, juvenile detention  
7819 facilities shall continue to be detention care facilities for delinquent ~~and unruly~~ children and  
7820 youth and children in need of services who have violated a valid court order for the

7821 purposes of Article ~~† 6 or 7~~ of Chapter 11 of Title 15, ~~relating to juvenile courts and~~  
 7822 ~~juvenile proceedings.~~"

7823 **SECTION 3-50.**

7824 Said title is further amended by revising paragraphs (1) and (2) of subsection (a) and the  
 7825 introductory language of subsection (b) of Code Section 49-4A-7, relating to powers and  
 7826 duties of the department, as follows:

7827 "(1) Accept for detention in a youth development center or other juvenile detention  
 7828 facility any child who is committed to the department under Article ~~† 7~~ of Chapter 11 of  
 7829 Title 15;

7830 (2) Provide probation and parole and other court services for children and youth pursuant  
 7831 to a request from a court under Article ~~† 7~~ of Chapter 11 of Title 15;"

7832 "(b) When given legal custody over a child or youth for detention in a youth development  
 7833 center or other facility under court order under Article ~~† 7~~ of Chapter 11 of Title 15, the  
 7834 department shall have:"

7835 **SECTION 3-51.**

7836 Said title is further amended by revising Code Section 49-4A-8, relating to commitment of  
 7837 delinquent or unruly children, as follows:

7838 "49-4A-8.

7839 (a) When any child or youth is adjudged to be in a state of delinquency ~~or unruliness or~~  
 7840 a child in need of services who has violated a valid court order under Article ~~† 6 or 7~~ of  
 7841 Chapter 11 of Title 15 and the court does not release such child or youth unconditionally  
 7842 or place him or her on probation or in a suitable public or private institution or agency, the  
 7843 court may commit ~~him~~ such child to the department as provided in said Article ~~† 6 or 7~~ of  
 7844 Chapter 11 of Title 15; provided, however, that no delinquent ~~or unruly~~ child or youth or  
 7845 child in need of services who has violated a valid court order shall be committed to the  
 7846 department until the department certifies to the Governor that it has facilities available and  
 7847 personnel ready to assume responsibility for delinquent ~~or unruly~~ children and youths and  
 7848 children in need of services who have violated a valid court order.

7849 (b) When the court commits a delinquent ~~or unruly~~ child or a child in need of services who  
 7850 has violated a valid court order to the department, it may order the child conveyed  
 7851 forthwith to any facility designated by the department or direct that the child be left at  
 7852 liberty until otherwise ordered by the department under such conditions as will ensure his  
 7853 or her availability and submission to any orders of the department. If such delinquent ~~or~~  
 7854 ~~unruly~~ child or child in need of services who has violated a valid court order is ordered  
 7855 conveyed to the department, the court shall assign an officer or other suitable person to

7856 convey such child to any facility designated by the department, provided that the person  
7857 assigned to convey a girl must be a female. The cost of conveying such child committed  
7858 to the department to the facility designated by the department shall be paid by the county  
7859 from which such child is committed, provided that no compensation shall be allowed  
7860 beyond the actual and necessary expenses of the party conveying and the child conveyed.

7861 (c) When a court commits a delinquent ~~or unruly~~ child or a child in need of services who  
7862 has violated a valid court order to the department, the court shall at once forward to the  
7863 department a certified copy of the order of commitment and the court, the probation officer,  
7864 the prosecuting and police authorities, the school authorities, and other public officials shall  
7865 make available to the department all pertinent information in their possession with respect  
7866 to the case. Such reports shall, if the department so requests, be made upon forms  
7867 furnished by the department or according to an outline provided by the department.

7868 (d)(1) When a delinquent ~~or unruly~~ child or a child in need of services who has violated  
7869 a valid court order has been committed to the department, the department shall, under  
7870 rules and regulations established by the board, forthwith examine and study the child and  
7871 investigate all pertinent circumstances of his or her life and behavior. The department  
7872 shall make periodic reexaminations of all ~~delinquent or unruly~~ such children within its  
7873 control, except those on release under supervision of the department. Such  
7874 reexaminations may be made as frequently as the department considers desirable and  
7875 shall be made with respect to every child at intervals not exceeding one year. Failure of  
7876 the department to examine a ~~delinquent or unruly child~~ such a child committed to it or to  
7877 reexamine him or her within one year of a previous examination shall not of itself entitle  
7878 the child to discharge from control of the department but shall entitle the child to petition  
7879 the committing court for an order of discharge; and the court shall discharge him or her  
7880 unless the department, upon due notice, satisfies the court of the necessity of further  
7881 control.

7882 (2) The department shall keep written records of all examinations and reexaminations,  
7883 of conclusions based thereon, and of all orders concerning the disposition or treatment  
7884 of every delinquent ~~or unruly~~ child and every child in need of services who has violated  
7885 a valid court order subject to its control. Records as may be maintained by the  
7886 department with respect to a delinquent ~~or unruly~~ child or a child in need of services who  
7887 has violated a valid court order committed to the department shall not be public records  
7888 but shall be privileged records and may be disclosed by direction of the commissioner  
7889 pursuant to federal law in regard to disseminating juvenile criminal history records only  
7890 to those persons having a legitimate interest therein; provided, however, that the  
7891 commissioner shall permit the Council of Juvenile Court Judges to inspect and copy such  
7892 records for the purposes of obtaining statistics on juveniles.

7893 (e) Except as provided by subsection (e.1) of this Code section and subsection ~~(b)~~ (c) of  
 7894 Code Section ~~15-11-70~~ 15-11-602, when a delinquent ~~or unruly~~ child or a child in need of  
 7895 services who has violated a valid court order has been committed to the department for  
 7896 detention and a diagnostic study for the purpose of determining the most satisfactory plan  
 7897 for the child's care and treatment has been completed, the department may:

7898 (1) Permit the child liberty under supervision and upon such conditions as the department  
 7899 may believe conducive to acceptable behavior;

7900 (2) Order the child's confinement under such conditions as the department may believe  
 7901 best designed to serve the child's welfare and as may be in the best interest of the public;

7902 (3) Order reconfinement or renewed release as often as conditions indicate to be  
 7903 desirable;

7904 (4) Revoke or modify any order of the department affecting the child, except an order  
 7905 of final discharge, as often as conditions indicate to be desirable; or

7906 (5) Discharge the child from control of the department pursuant to Code Section  
 7907 15-11-32 and subsection ~~(a)~~ (c) of Code Section ~~15-11-70~~ 15-11-607 when it is satisfied  
 7908 that such discharge will best serve the child's welfare and the protection of the public.

7909 (e.1)(1) When a child who has been adjudicated delinquent for the commission of a  
 7910 designated felony act as defined in Code Section ~~15-11-63~~ 15-11-2 is released from  
 7911 confinement or custody of the department, it shall be the responsibility of the department  
 7912 to provide notice to any person who was the victim of the child's delinquent acts that the  
 7913 child is being released from confinement or custody.

7914 (2) As long as a good faith attempt to comply with paragraph (1) of this subsection has  
 7915 been made, the department and employees of the department shall not be liable for  
 7916 damages incurred by reason of the department's failure to provide the notice required by  
 7917 paragraph (1) of this subsection.

7918 (3) When a child convicted of a felony offense in a superior court is released from  
 7919 confinement or custody of the department, the department shall provide written notice,  
 7920 including the delinquent or designated felony act committed, to the superintendent of the  
 7921 school system in which such child was enrolled or, if the information is known, the  
 7922 school in which such child was enrolled or plans to be enrolled.

7923 (4) As long as a good faith attempt to comply with paragraph (3) of this subsection has  
 7924 been made, the department and employees of the department shall not be liable for  
 7925 damages incurred by reason of the department's failure to provide notice required by  
 7926 paragraph (3) of this subsection.

7927 (f) As a means of correcting the socially harmful tendencies of a delinquent ~~or unruly~~ child  
 7928 or a child in need of services who has violated a valid court order committed to it, the  
 7929 department may:

- 7930 (1) Require participation by youth in moral, academic, vocational, physical, and  
 7931 correctional training and activities, and provide youth the opportunity for religious  
 7932 activities where practicable in the institutions under the control and supervision of the  
 7933 department;
- 7934 (2) Require such modes of life and conduct as may seem best adapted to fit and equip  
 7935 him or her for return to full liberty without danger to the public;
- 7936 (3) Provide such medical, psychiatric, or casework treatment as is necessary; or
- 7937 (4) Place him or her, if physically fit, in a park, maintenance camp, or forestry camp or  
 7938 on a ranch owned by the state or by the United States and require any child so housed to  
 7939 perform suitable conservation and maintenance work, provided that the children shall not  
 7940 be exploited and that the dominant purpose of such activities shall be to benefit and  
 7941 rehabilitate the children rather than to make the camps self-sustaining.
- 7942 (g) When funds are available, the department may:
- 7943 (1) Establish and operate places for detention and diagnosis of all delinquent ~~or unruly~~  
 7944 children or children in need of services who have violated a valid court order committed  
 7945 to it;
- 7946 (2) Establish and operate additional treatment and training facilities, including parks,  
 7947 forestry camps, maintenance camps, ranches, and group residences necessary to classify  
 7948 and handle juvenile delinquents of different ages and habits and different mental and  
 7949 physical conditions, according to their needs; and
- 7950 (3) Establish parole or aftercare supervision to aid children given conditional release to  
 7951 find homes and employment and otherwise to assist them to become reestablished in the  
 7952 community and to lead socially acceptable lives.
- 7953 (h) Whenever the department finds that any ~~delinquent or unruly~~ child committed to the  
 7954 department is mentally ill or ~~mentally retarded~~ developmentally disabled, the department  
 7955 shall have the power to return such ~~delinquent or unruly~~ child to the court of original  
 7956 jurisdiction for appropriate disposition by that court or may, if it so desires, request the  
 7957 court having jurisdiction in the county in which the youth development center or other  
 7958 facility is located to take such action as the condition of the child may require.
- 7959 (i)(1) A child who has been committed to the department as a ~~delinquent or unruly child~~  
 7960 for detention in a youth development center or who has been otherwise taken into custody  
 7961 and who has escaped therefrom or who has been placed under supervision and broken the  
 7962 conditions thereof may be taken into custody without a warrant by a sheriff, deputy  
 7963 sheriff, constable, police officer, probation officer, parole officer, or any other officer of  
 7964 this state authorized to serve criminal process, upon a written request made by an  
 7965 employee of the department having knowledge of the escape or of the violation of  
 7966 conditions of supervision. Before a child may be taken into custody for violation of the

7967 conditions of supervision, the written request mentioned above must be reviewed by the  
7968 commissioner or his or her designee. If the commissioner or his or her designee finds  
7969 that probable cause exists to believe that the child has violated his or her conditions of  
7970 supervision, he or she may issue an order directing that the child be picked up and  
7971 returned to custody.

7972 (2) The commissioner may designate as a peace officer who is authorized to exercise the  
7973 power of arrest any employee of the department whose full-time duties include the  
7974 preservation of public order, the protection of life and property, the detection of crime,  
7975 or the supervision of delinquent ~~and unruly~~ children or children in need of services who  
7976 have violated a valid court order in its institutions, facilities, or programs, or any  
7977 employee who is a line supervisor of any such employee. The commissioner also may  
7978 designate as a peace officer who is authorized to exercise the power of arrest any  
7979 employee of a person or organization which contracts with the department pertaining to  
7980 the management, custody, care, and control of delinquent children or children in need of  
7981 services who have violated a valid court order retained by the person or organization, if  
7982 that employee's full-time duties include the preservation of public order, the protection  
7983 of life and property, the detection of crime, or the supervision of delinquent ~~and unruly~~  
7984 children or children in need of services who have violated a valid court order in the  
7985 department's institutions, facilities, or programs, or any employee who is a line supervisor  
7986 of such employee. The commissioner may designate one or more employees of the  
7987 department to investigate and apprehend delinquent ~~and unruly~~ children or children in  
7988 need of services who have violated a valid court order who have escaped from an  
7989 institution or facility or who have broken the conditions of supervision; provided,  
7990 however, that the employees so designated shall only be those with primary responsibility  
7991 for the security functions of youth development centers or whose primary duty consists  
7992 of the apprehension of youths who have escaped from such institutions or facilities or  
7993 who have broken the conditions of supervision. An employee of the department so  
7994 designated shall have the police power to investigate, to apprehend such children, and to  
7995 arrest any person physically interfering with the proper apprehension of such children.  
7996 An employee of the department so designated in the investigative section of the  
7997 department shall have the power to obtain a search warrant for the purpose of locating  
7998 and apprehending such children. Additionally, such employee, while on the grounds or  
7999 in the buildings of the department's institutions or facilities, shall have the same law  
8000 enforcement powers, including the power of arrest, as a law enforcement officer of the  
8001 local government with police jurisdiction over such institutions or facilities. Such  
8002 employee shall be authorized to carry weapons, upon written approval of the  
8003 commissioner, notwithstanding Code Sections 16-11-126 and 16-11-129. The

8004 commissioner shall also be authorized to designate any person or organization with whom  
 8005 the department contracts for services pertaining to the management, custody, care, and  
 8006 control of delinquent ~~and unruly~~ children or children in need of services who have  
 8007 violated a valid court order detained by the person or organization as a law enforcement  
 8008 unit under paragraph (7) of Code Section 35-8-2. Any employee or person designated  
 8009 under this subsection shall be considered to be a peace officer within the meaning of  
 8010 Chapter 8 of Title 35 and must be certified under that chapter.

8011 (3) For the purposes of investigation of delinquent ~~or unruly~~ children or children in need  
 8012 of services who have violated a valid court order who have escaped from institutions or  
 8013 facilities of the department or of delinquent ~~or unruly~~ children or children in need of  
 8014 services who have violated a valid court order who are alleged to have broken the  
 8015 conditions of supervision, the department is empowered and authorized to request and  
 8016 receive from the Georgia Crime Information Center, established by Chapter 3 of Title 35,  
 8017 any information in the files of the Georgia Crime Information Center which will aid in  
 8018 the apprehension of such children.

8019 (4) An employee designated pursuant to paragraph (2) of this subsection may take a child  
 8020 into custody without a warrant upon personal knowledge or written request of a person  
 8021 having knowledge of the escape or violation of conditions of supervision, or a child may  
 8022 be taken into custody pursuant to Code Section ~~15-11-45~~ 15-11-501. When taking a child  
 8023 into custody pursuant to this paragraph, a designated employee of the department shall  
 8024 have the power to use all force reasonably necessary to take the child into custody.

8025 (5) The child shall be kept in custody in a suitable place designated by the department  
 8026 and there detained until such child may be returned to the custody of the department.

8027 (6) Such taking into custody shall not be termed an arrest; provided, however, that any  
 8028 person taking a child into custody pursuant to this subsection shall have the same  
 8029 immunity from civil and criminal liability as a peace officer making an arrest pursuant  
 8030 to a valid warrant.

8031 (j) The department shall ensure that each delinquent ~~or unruly~~ child or child in need of  
 8032 services who has violated a valid court order it releases under supervision or otherwise has  
 8033 suitable clothing, transportation to his or her home or to the county in which a suitable  
 8034 home or employment has been found for him or her, and such an amount of money as the  
 8035 rules and regulations of the board may authorize. The expenditure for clothing and for  
 8036 transportation and the payment of money to a delinquent ~~or unruly~~ child or a child in need  
 8037 of services who has violated a valid court order released may be made from funds for  
 8038 support and maintenance appropriated by the General Assembly to the department or to the  
 8039 institution from which such child is released or from local funds.



8040 (k) Every child committed to the department as delinquent ~~or unruly~~, if not already  
 8041 discharged, shall be discharged from custody of the department when he reaches his or her  
 8042 twenty-first birthday.

8043 (l) Commitment of a ~~delinquent or unruly~~ child to the custody of the department shall not  
 8044 operate to disqualify such child in any future examination, appointment, or application for  
 8045 public service under the government either of the state or of any political subdivision  
 8046 thereof.

8047 (m) A commitment to the department shall not be received in evidence or used in any way  
 8048 in any proceedings in any court, except in subsequent proceedings for delinquency or  
 8049 ~~unruliness~~ being in need of services involving the same child and except in imposing  
 8050 sentence in any criminal proceeding against the same person.

8051 (n) The department shall conduct a continuing inquiry into the effectiveness of treatment  
 8052 methods it employs in seeking the rehabilitation of maladjusted children. To this end, the  
 8053 department shall maintain a statistical record of arrests and commitments of its wards  
 8054 subsequent to their discharge from the jurisdiction and control of the department and shall  
 8055 tabulate, analyze, and publish in print or electronically annually these data so that they may  
 8056 be used to evaluate the relative merits of methods of treatment. The department shall  
 8057 cooperate with courts and public and private agencies in the collection of statistics and  
 8058 information regarding juvenile delinquency; arrests made; complaints, informations, and  
 8059 petitions filed; the disposition made thereof; and other information useful in determining  
 8060 the amount and causes of juvenile delinquency in this state. In order to facilitate the  
 8061 collection of such information, the department shall be authorized to inspect and copy all  
 8062 records of the court and law enforcement agencies pertaining to juveniles.

8063 (o) When a child who is committed to the department is under court order to make certain  
 8064 restitution as a part of his or her treatment by the court, the requirement that the restitution  
 8065 be paid in full shall not cease with the order of commitment. The provision of the order  
 8066 requiring restitution shall remain in force and effect during the period of commitment and  
 8067 the department is empowered to enforce said restitution requirement and to direct that  
 8068 payment of funds or notification of service completed be made to the clerk of the juvenile  
 8069 court or another employee of that court designated by the judge."

8070 **SECTION 3-52.**

8071 Said title is further amended by revising subsection (b) of Code Section 49-4A-9, relating to  
 8072 sentence of youthful offenders, as follows:

8073 "(b) Any final order of judgment by the court in the case of any such child shall be subject  
 8074 to such modification from time to time as the court may consider to be for the welfare of  
 8075 such child. No commitment of any child to any institution or other custodial agency shall

8076 deprive the court of jurisdiction to change the form of the commitment or transfer the  
 8077 custody of the child to some other institution or agency on such conditions as the court may  
 8078 see fit to impose, the duty being constant upon the court to give to all children subject to  
 8079 its jurisdiction such oversight and control in the premises as will be conducive to the  
 8080 welfare of the child and the best interests of the state; provided, however, that the release  
 8081 or parole of any child committed to the department for detention in any of its institutions  
 8082 under the terms of this chapter during the period of one year from the date of commitment  
 8083 shall be had only with the concurrence and recommendation of the commissioner or the  
 8084 commissioner's designated representative; provided, further, that upon releasing or paroling  
 8085 any child adjudicated delinquent for the commission of a designated felony act as defined  
 8086 in Code Section ~~15-11-63~~ 15-11-2 and committed to the department for detention in any  
 8087 of its institutions under the terms of this chapter, the department shall provide notice to any  
 8088 person who was the victim of the child's delinquent acts that the child is being released or  
 8089 paroled. As long as a good faith attempt to comply with the notice requirement of this  
 8090 subsection has been made, the department and employees of the department shall not be  
 8091 liable for damages incurred by reason of the department's failure to provide the notice  
 8092 required by this subsection."

### 8093 **SECTION 3-53.**

8094 Said title is further amended by revising paragraphs (3), (5), (12), and (16) of Code Section  
 8095 49-5-3, relating to definitions regarding services for children and youth, as follows:

8096 "(3) 'Child welfare and youth services' means duties and functions authorized or required  
 8097 by this article to be provided by the department with respect to:

8098 (A) Establishment and enforcement of standards for social services and facilities for  
 8099 children and youths which supplement or substitute for parental care and supervision  
 8100 for the purpose of preventing or remedying or assisting in the solution of problems  
 8101 which may result in neglect, abuse, exploitation, or delinquency of children and youths;

8102 (B) Protecting and caring for ~~deprived~~ dependent children and youths;

8103 (C) Protecting and promoting the welfare of children of working mothers;

8104 (D) Providing social services to children and youths and their parents and care for  
 8105 children and youths born out of wedlock and their mothers;

8106 (E) Promotion of coordination and cooperation among organizations, agencies, and  
 8107 citizen groups in community planning, organization, development, and implementation  
 8108 of such services; and

8109 (F) Otherwise protecting and promoting the welfare of children and youths, including  
 8110 the strengthening of their homes where possible or, where needed, the provision of

8111 adequate care of children and youths away from their homes in foster family homes or  
8112 day-care or other child care facilities."

8113 "(5) '~~Deprived~~ Dependent child or youth' means any person so adjudged under Chapter  
8114 11 of Title 15."

8115 "(12) 'Legal custody' means a legal status created by court order embodying the  
8116 following rights and responsibilities:

8117 (A) The right to have the physical possession of the child;

8118 (B) The right and the duty to protect, train, and discipline the child;

8119 (C) The responsibility to provide the child with food, clothing, shelter, education, and  
8120 ordinary medical care; and

8121 (D) The right to determine where and with whom the child shall live,

8122 provided that these rights and responsibilities shall be exercised subject to the powers,  
8123 rights, duties, and responsibilities of the guardian of the person of the child and subject  
8124 to any residual parental rights and responsibilities. These rights shall be subject to  
8125 judicial oversight and review pursuant to Code Section ~~15-11-55~~ 15-11-212."

8126 "(16) 'Protective supervision' means a legal status created by court order following  
8127 adjudication in a ~~deprivation~~ dependency case, whereby a child's place of abode is not  
8128 changed but assistance directed at correcting the ~~deprivation~~ dependency is provided  
8129 through the court or an agency designated by the court."

8130 **SECTION 3-54.**

8131 Said title is further amended by revising paragraphs (1) and (2) of subsection (a) of Code  
8132 Section 49-5-8, relating to powers and duties of the department, as follows:

8133 "(1) Preventive services as follows:

8134 (A) Collecting and disseminating information about the problems of children and  
8135 youths and providing consultative assistance to groups, public and private, interested  
8136 in developing programs and services for the prevention, control, and treatment of  
8137 dependency, ~~deprivation~~, and delinquency among the children of this state; and

8138 (B) Research and demonstration projects designed to add to the store of information  
8139 about the social and emotional problems of children and youths and improve the  
8140 methods for dealing with these problems;

8141 (2) Child welfare services as follows:

8142 (A) Casework services for children and youths and for mothers bearing children out  
8143 of wedlock, whether living in their own homes or elsewhere, to help overcome  
8144 problems that result in dependency, ~~deprivation~~, or delinquency;

8145 (B) Protective services that will investigate complaints of ~~deprivation~~, abuse; or  
8146 abandonment of children and youths by parents, guardians, custodians, or persons

8147 serving in loco parentis and, on the basis of the findings of such investigation, offer  
 8148 social services to such parents, guardians, custodians, or persons serving in loco  
 8149 parentis in relation to the problem or bring the situation to the attention of a law  
 8150 enforcement agency, an appropriate court, or another community agency;

8151 (C) Supervising and providing required services and care involved in the interstate  
 8152 placement of children;

8153 (D) Homemaker service, or payment of the cost of such service, when needed due to  
 8154 the absence or incapacity of the mother;

8155 (E) Boarding care, or payment of maintenance costs, in foster family homes or in  
 8156 group-care facilities for children and youths who cannot be adequately cared for in their  
 8157 own homes;

8158 (F) Boarding care or payment of maintenance costs for mothers bearing children out  
 8159 of wedlock prior to, during, and for a reasonable period after childbirth; and

8160 (G) Day-care services for the care and protection of children whose parents are absent  
 8161 from the home or unable for other reasons to provide parental supervision;"

8162 **SECTION 3-55.**

8163 Said title is further amended by revising subsection (e) of Code Section 49-5-41, relating to  
 8164 persons and agencies permitted access to records, as follows:

8165 "(e) Notwithstanding any other provisions of law, with the exception of medical and  
 8166 mental health records made confidential by other provisions of law, child abuse and  
 8167 ~~deprivation~~ dependency records applicable to a child who at the time of his or her fatality  
 8168 or near fatality was:

- 8169 (1) In the custody of a state department or agency or foster parent;
- 8170 (2) A child as defined in paragraph (3) of Code Section ~~15-11-171~~ 15-11-741; or
- 8171 (3) The subject of an investigation, report, referral, or complaint under Code Section  
 8172 ~~15-11-173~~ 15-11-743

8173 shall not be confidential and shall be subject to Article 4 of Chapter 18 of Title 50, relating  
 8174 to open records; provided, however, that any identifying information, including but not  
 8175 limited to the child or caretaker's name, race, ethnicity, address, or telephone numbers and  
 8176 any other information that is privileged or confidential, shall be redacted to preserve the  
 8177 confidentiality of the child, other children in the household, and the child's parents,  
 8178 guardians, custodians, or caretakers. Upon the release of documents pursuant to this  
 8179 subsection, the department may comment publicly on the case."

**SECTION 3-56.**

8180  
8181 Said title is further amended by revising paragraph (2) of Code Section 49-5-131, relating  
8182 to definitions, as follows:

8183 "(2) 'Child' means a person under the age of 17 years who is alleged to have committed  
8184 a delinquent act or a person under the age of 18 years who is alleged to be ~~deprived~~  
8185 dependent or is alleged to be a ~~status offender~~ child in need of services as those terms are  
8186 defined by Code Section 15-11-2."

**SECTION 3-57.**

8187  
8188 Said title is further amended by revising paragraphs (15) and (18) of subsection (a) of Code  
8189 Section 49-5-281, relating to bill of rights for foster parents, as follows:

8190 "(15) The right to participate in the case planning and decision-making process with the  
8191 Division of Family and Children Services regarding the child as provided in Code Section  
8192 ~~15-11-58~~ 15-11-201;"

8193 "(18) The right to be notified in advance, in writing, by the Division of Family and  
8194 Children Services or the court of any hearing or review where the case plan or  
8195 permanency of the child is an issue, including initial and periodic reviews held by the  
8196 court in accordance with Code Section 15-11-216 or by the Judicial Citizen Review Panel  
8197 in accordance with Code Section 15-11-217, hearings following revocation of the license  
8198 of an agency which has permanent custody of a child in accordance with Code Section  
8199 31-2-6, and permanency plan hearings, ~~and motions to extend custody, in accordance~~  
8200 ~~with Code Section 15-11-58~~ in accordance with Code Section 15-11-230;"

**SECTION 3-58.**

8201  
8202 Code Section 52-7-12 of the Official Code of Georgia Annotated, relating to operation of  
8203 watercraft while under the influence of alcohol or drugs, is amended by revising subsection  
8204 (l) as follows:

8205 "(l) A person who violates this Code section while transporting in a moving vessel or  
8206 personal watercraft or towing on water skis, an aquaplane, a surfboard or similar device a  
8207 child under the age of 14 years is guilty of the separate offense of endangering a child by  
8208 operating a moving vessel or personal watercraft under the influence of alcohol or drugs.  
8209 The offense of endangering a child by operating a moving vessel or personal watercraft  
8210 under the influence of alcohol or drugs shall not be merged with the offense of operating  
8211 a vessel under the influence of alcohol or drugs for the purposes of prosecution and  
8212 sentencing. An offender who is convicted of a violation of this subsection shall be  
8213 punished in accordance with the provisions of subsection (d) of Code Section 16-12-1;

8214 ~~relating to the offense of contributing to the delinquency, unruliness, or deprivation of a~~  
8215 ~~child."~~

8216 PART IV

8217 EFFECTIVE DATE, APPLICABILITY, AND REPEALER

8218 SECTION 4-1.

8219 This Act shall become effective on January 1, 2013, and this Act shall apply to all juvenile  
8220 proceedings commenced on and after such date. The enactment of this Act shall not affect  
8221 any prosecutions for acts occurring before January 1, 2013, and shall not act as an abatement  
8222 of any such prosecutions.

8223 SECTION 4-2.

8224 All laws and parts of laws in conflict with this Act are repealed.