

The Senate Judiciary Committee offered the following substitute to SB 127:

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 Chapter 12 of Title 17 of the Official Code of Georgia Annotated,
 30 relating to legal defense for indigents, so as to remove mandatory juvenile representation
 31 from the 'Georgia Indigent Defense Act of 2003'; to amend Article 1 of Chapter 5 of Title 49
 32 of the Official Code of Georgia Annotated, relating to children and youth services so as to
 33 provide for an appeal procedure when the Division of Family and Children Services of the
 34 Department of Human Services fails to provide aftercare and transitional services to certain
 35 children; to provide for the Department of Human Services to provide for performance
 36 measures for an independent living skills program; to amend the Official Code of Georgia
 37 Annotated so as to conform provisions to the new Chapter 11 of Title 15 and correct
 38 cross-references; to provide for related matters; to provide for an effective date and
 39 applicability; to repeal conflicting laws; and for other purposes.

40 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

41 **PART I**
 42 **JUVENILE CODE**
 43 **SECTION 1-1.**

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

46 "CHAPTER 11
 47 ARTICLE 1

48 15-11-1.

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

61 fair hearings at which legal rights are recognized and enforced. Above all, this chapter
 62 shall be liberally construed to reflect that the paramount child welfare policy of this state
 63 is to determine and ensure the best interests of its children.

64 15-11-2.

65 As used in this chapter, the term:

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

68 Intent may be evidenced by:

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

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

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

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

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

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

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

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

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

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

89 (2) 'Abuse' means:

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

93 (B) Emotional abuse;

94 (C) Sexual abuse or sexual exploitation;

95 (D) Prenatal abuse; or

96 (E) The commission of an act of family violence as defined in Code Section 19-13-1
97 in the presence of a child. An act includes a single act, multiple acts, or a continuing
98 course of conduct. As used in this subparagraph, the term 'presence' means physically
99 present or able to see or hear.

100 (3) 'Adult' means any individual who is not a child as defined in paragraph (10) of this
101 Code section.

102 (4) 'Affiliate court appointed special advocate program' means a locally operated
103 program operating with the approval of the local juvenile court which screens, trains, and
104 supervises volunteers to advocate for the best interests of an abused and neglected child
105 in dependency proceedings.

106 (5) 'Aggravated circumstances' means the parent has:

107 (A) Abandoned an infant;

108 (B) Attempted, conspired to attempt, or has subjected a child or a sibling of the child
109 to death or great bodily harm;

110 (C) Attempted, conspired to attempt, or has subjected a child or a sibling of the child
111 to torture, chronic abuse, sexual abuse, or sexual exploitation; or

112 (D) Committed the murder or voluntary manslaughter of the other parent of the child
113 or has been convicted of aiding or abetting, attempting, or soliciting the murder or
114 voluntary manslaughter of the other parent of the child.

115 (6) 'Biological father' means the male who impregnated the biological mother resulting
116 in the birth of the child.

117 (7) 'Business day' means Mondays through Fridays and shall not include weekends or
118 legal holidays.

119 (8) 'Caregiver' means any person providing a residence for a child or any person legally
120 obligated to provide or secure adequate care for a child, including a parent, guardian, or
121 legal custodian.

122 (9) 'Case plan' means a plan which is designed to ensure that a child receives protection,
123 proper care, and case management and may include services for the child, the child's
124 parent, guardian, or legal custodian, and other caregivers.

125 (10) 'Child' means any individual who is:

126 (A) Under the age of 18 years;

127 (B) Under the age of 17 years when alleged to have committed a delinquent act;

128 (C) Under the age of 22 years and in the care of DFCS;

129 (D) Under the age of 23 years and is eligible for and receiving independent living
130 services through DFCS; or

131 (E) Under the age of 21 years who committed an act of delinquency before reaching
 132 the age of 17 years and who has been placed under the supervision of the court or on
 133 probation to the court for the purpose of enforcing orders of the court.

134 (11) 'Child in need of services' means:

135 (A) A child who is found to be in need of care, guidance, counseling, structure,
 136 supervision, treatment, or rehabilitation and who is found to be:

137 (i) Subject to compulsory school attendance and who is habitually and without good
 138 and sufficient cause truant, as such term is defined in Code Section 15-11-381, from
 139 school;

140 (ii) Habitually disobedient of the reasonable and lawful commands of his or her
 141 parent, guardian, or legal custodian and is ungovernable or places himself or herself
 142 or others in unsafe circumstances;

143 (iii) A runaway, as such term is defined in Code Section 15-11-381;

144 (iv) A child who has committed an offense applicable only to a child;

145 (v) A child who wanders or loiters about the streets of any city or in or about any
 146 highway or any public place between the hours of 12:00 Midnight and 5:00 A.M.;

147 (vi) A child who disobeys the terms of supervision contained in a court order which
 148 has been directed to such child who has been adjudicated a child in need of services;
 149 or

150 (vii) A child who patronizes any bar where alcoholic beverages are being sold,
 151 unaccompanied by his or her parent, guardian, or legal custodian, or who possesses
 152 alcoholic beverages;

153 (B) A child who has committed a delinquent act and is found to be in need of
 154 supervision but not of treatment or rehabilitation; or

155 (C) A child who is alleged to have committed a delinquent act and is unrestorably
 156 incompetent to proceed.

157 (12) 'Complaint' is the initial document setting out the circumstances that resulted in the
 158 child being brought before the court.

159 (13) 'Court' means the juvenile court or the court exercising jurisdiction over juvenile
 160 matters.

161 (14) 'Court appointed special advocate' or 'CASA' means a community volunteer who:

162 (A) Has been screened and trained regarding child abuse and neglect, child
 163 development, and juvenile court proceedings;

164 (B) Has met all the requirements of an affiliate court appointed special advocate
 165 program;

166 (C) Is being actively supervised by an affiliate court appointed special advocate
 167 program; and

- 168 (D) Has been sworn in by a judge of the juvenile court in the court or circuit in which
169 he or she wishes to serve.
- 170 (15) 'Criminal justice purposes' means the performance of any activity directly involving
171 the investigation, detection, apprehension, detention, pretrial release, post-trial release,
172 prosecution, adjudication, correctional supervision, or rehabilitation of children or adults
173 who are accused of, convicted of, adjudicated of, or charged with crimes, delinquent acts
174 or the collection, storage, and dissemination of criminal history record information.
- 175 (16) 'DBHDD' means the Department of Behavioral Health and Developmental
176 Disabilities.
- 177 (17) 'Delinquent act' means:
- 178 (A) An act committed by a child designated a crime by the laws of this state, or by the
179 laws of another state if the act occurred in that state, under federal laws, or by local
180 ordinance, and the crime shall not be an offense applicable only to a child or a juvenile
181 traffic offense;
- 182 (B) The act of disobeying the terms of supervision contained in a court order which has
183 been directed to a child who has been adjudged to have committed a delinquent act; or
- 184 (C) Failing to appear as required by a citation issued for an act that would be a crime
185 if committed by an adult.
- 186 (18) 'Delinquent child' means a child who has committed a delinquent act and is in need
187 of treatment or rehabilitation.
- 188 (19) 'Department' means the Department of Human Services.
- 189 (20) 'Dependent child' means a child who:
- 190 (A) Has been abused or neglected and is in need of the protection of the court;
191 (B) Has been placed for care or adoption in violation of law; or
192 (C) Is without a parent, guardian, or legal custodian.
- 193 (21) 'Designated felony act' means a delinquent act committed by a child 13 years of age
194 or older which, if committed by an adult, would be one or more of the following crimes:
- 195 (A) Aggravated assault;
196 (B) Aggravated battery or battery in violation of Code Section 16-5-23.1 if the victim
197 is a teacher or other school personnel;
198 (C) Armed robbery not involving a firearm;
199 (D) Arson in the first or second degree;
200 (E) Attempted murder;
201 (F) Conspiracy in violation of Article 4 of Chapter 7 of Title 16;
202 (G) Escape in violation of Code Section 16-10-52 if the child has previously been
203 adjudicated to have committed a designated felony;
204 (H) Hijacking a motor vehicle;

- 205 (I) Kidnapping or attempted kidnapping;
- 206 (J) Possession, manufacture, or distribution of destructive devices and any other
 207 violation of Code Section 16-7-82 or 16-7-84;
- 208 (K) Racketeering in violation of Code Section 16-14-4;
- 209 (L) Robbery;
- 210 (M) Trafficking of certain controlled substances in violation of Code Section 16-13-31;
- 211 (N) Any violation of Code Section 16-7-2;
- 212 (O) Any violation of Code Section 16-15-4;
- 213 (P) Any subsequent violation of Code Sections 16-8-2 through 16-8-9, if the property
 214 which was the subject of the theft was a motor vehicle and the child committing the
 215 violation has had one or more separate, prior adjudications of delinquency based upon
 216 a violation of Code Sections 16-8-2 through 16-8-9, provided that the prior
 217 adjudications of delinquency shall not have arisen out of the same transaction or
 218 occurrence or series of events related in time and location;
- 219 (Q) Any subsequent violation of Code Section 16-7-85 or 16-7-87, if the child
 220 committing the violation has had one or more separate, prior adjudications of
 221 delinquency based upon a violation of Code Section 16-7-85 or 16-7-87, provided that
 222 the prior adjudications of delinquency shall not have arisen out of the same transaction
 223 or occurrence or series of events related in time and location;
- 224 (R) Any subsequent violation of subsection (b) of Code Section 16-11-132, if the child
 225 committing the violation has had one or more separate, prior adjudications of
 226 delinquency based upon a violation of subsection (b) of Code Section 16-11-132,
 227 provided that the prior adjudications of delinquency shall not have arisen out of the
 228 same transaction or occurrence or series of events related in time and location; or
- 229 (S) Any other act which, if committed by an adult, would be a felony, if the child
 230 committing the act has three times previously been adjudicated delinquent for acts
 231 which, if committed by an adult, would have been felonies, provided that the prior
 232 adjudications of delinquency shall not have arisen out of the same transaction or
 233 occurrence or series of events related in time and location.
- 234 Such term shall also mean an act which constitutes a second or subsequent adjudication
 235 of delinquency based on a violation of Code Section 16-11-127.1 or which is a first
 236 violation of Code Section 16-11-127.1 involving a firearm as defined in paragraph (2) of
 237 subsection (a) of Code Section 16-11-131 or a dangerous weapon or machine gun as
 238 defined in Code Section 16-11-121 or any weapon as defined in Code Section
 239 16-11-127.1, together with an assault.

- 240 (22) 'Developmental level' is a child's ability to understand and communicate, taking into
241 account such factors as age, maturity, mental capacity, level of education, cultural
242 background, and degree of language acquisition.
- 243 (23) 'DFCS' means the Division of Family and Children Services of the department.
- 244 (24) 'DJJ' means the Department of Juvenile Justice.
- 245 (25) 'Emancipation' means termination of the rights of a parent to the custody, control,
246 services, and earnings of a child.
- 247 (26) 'Emotional abuse' means acts or omissions by a person responsible for the care of
248 the child that cause any mental injury to a child's intellectual or psychological capacity
249 as evidenced by an observable and significant impairment in a child's ability to function
250 within the child's normal range of performance and behavior or create a substantial risk
251 of impairment, if the impairment or substantial risk of impairment is diagnosed and
252 confirmed by a licensed mental health professional or physician qualified to render such
253 diagnosis.
- 254 (27) 'Evaluation' means a comprehensive, individualized examination of a child by an
255 examiner that may include the administration of one or more assessment instruments.
256 The purpose of an evaluation may include diagnosing the type and extent of a child's
257 behavioral health disorders and needs, making specific recommendations, and assessing
258 a child's legal competencies.
- 259 (28) 'Examiner' means a licensed psychologist, psychiatrist, or clinical social worker who
260 has expertise in child development specific to severe or chronic disability of children
261 attributable to intellectual impairment or mental illness and has received training in
262 forensic evaluation procedures through formal instruction, professional supervision, or
263 both.
- 264 (29) 'Foster care' means placement in foster family homes, child care institutions, or
265 another substitute care setting approved by the department. Such term shall exclude
266 secure detention facilities or other facilities operated primarily for the purpose of
267 detention of a child adjudicated delinquent.
- 268 (30) 'Guardian ad litem' means an individual appointed to assist the court in determining
269 the best interests of a child.
- 270 (31) 'Guardianship order' means the court judgment that establishes a permanent
271 guardianship and enumerates a permanent guardian's rights and responsibilities
272 concerning the care, custody, and control of a child.
- 273 (32) 'Identification data' means the fingerprints, name, race, sex, date of birth, and any
274 other unique identifiers of a child.

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

- 278 (A) The severity, regularity, and duration of abuse or neglect to the child;
- 279 (B) The strength of the evidence supporting the allegations of abuse or neglect;
- 280 (C) The risk that the parent will flee with the child;
- 281 (D) Any harm to the child that might result in removal; or
- 282 (E) The time to obtain a court order.

283 (34) 'Indigent person' means a person who, at the time of requesting an attorney, is
 284 unable without undue financial hardship to provide for full payment of an attorney and
 285 all other necessary expenses for representation or a child who is a party to a dependency
 286 proceeding. To determine indigence in a delinquency proceeding, the court shall follow
 287 the standards set forth in Chapter 12 of Title 17.

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

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

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

297 (38) 'Legal custodian' means:

- 298 (A) A person to whom legal custody of the child has been given by order of a court;
- 299 or
- 300 (B) A public or private agency or other private organization licensed or otherwise
 301 authorized by law to receive and provide care for a child to which legal custody of the
 302 child has been given by order of a court.

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

- 304 (A) Has legally adopted a child;
- 305 (B) Was married to the biological mother of that child at the time the child was
 306 conceived or was born, unless such paternity was disproved by a final order pursuant
 307 to Article 3 of Chapter 7 of Title 19;
- 308 (C) Married the legal mother of the child after the child was born and recognized the
 309 child as his own, unless such paternity was disproved by a final order pursuant to
 310 Article 3 of Chapter 7 of Title 19;

- 311 (D) Has been determined to be the father by a final paternity order pursuant to Article
312 3 of Chapter 7 of Title 19; or
- 313 (E) Has legitimated the child by a final order pursuant to Code Section 19-7-22 or by
314 voluntary acknowledgment of paternity that has not been rescinded pursuant to Code
315 Section 19-7-46.1
- 316 and who has not surrendered or had terminated his rights to the child.
- 317 (40) 'Legal mother' means the female who is the biological or adoptive mother of the
318 child and who has not surrendered or had terminated her rights to the child.
- 319 (41) 'Mediation' means the procedure in which a mediator facilitates communication
320 between the parties concerning the matters in dispute and explores possible solutions to
321 promote reconciliation, understanding, and settlement.
- 322 (42) 'Mediator' means a neutral third party who attempts to focus the attention of the
323 parties upon their needs and interests rather than upon their rights and positions and who
324 lacks the authority to impose any particular agreement upon the parties or to recommend
325 any particular disposition of the case to the court.
- 326 (43) 'Mentally ill' means having a disorder of thought or mood which significantly
327 impairs judgment, behavior, capacity to recognize reality, or ability to cope with the
328 ordinary demands of life.
- 329 (44) 'Neglect' means:
- 330 (A) The failure to provide proper parental care or control, subsistence, education as
331 required by law, or other care or control necessary for the child's physical, mental, or
332 emotional health or morals;
- 333 (B) The failure to provide the child with adequate supervision necessary for the child's
334 well-being; or
- 335 (C) The abandonment of a child by his or her parent, guardian, or legal custodian.
- 336 (45) 'Other persons who have demonstrated an ongoing commitment to the child'
337 includes:
- 338 (A) 'Fictive kin,' meaning a person who is known to a child as a relative, but is not, in
339 fact, related by blood or marriage to the child and with whom the child has resided or
340 had significant contact; and
- 341 (B) 'Other individuals,' including but not limited to, neighbors, teachers, scout masters,
342 caregivers, or parents of friends of the child and with whom a child has resided or had
343 significant contact.
- 344 (46) 'Parent' means either the legal father or the legal mother of the child.
- 345 (47) 'Party' means a child, parent, guardian, legal custodian, or other person subject to
346 any judicial proceeding under this chapter; provided, however, that for purposes of
347 Article 7 of this chapter, only a child and the state shall be a party.

- 348 (48) 'Permanency plan' means a specific written plan prepared by DFCS designed to
349 ensure that a child is reunified with his or her family or ensure that the child quickly
350 attains a substitute long-term home when return to the child's family is not possible or is
351 not in the child's best interests.
- 352 (49) 'Permanent placement' means:
- 353 (A) Return of the legal custody of a child to the child's parent;
354 (B) Placement of a child with an adoptive parent pursuant to a final order of adoption;
355 or
356 (C) Placement of a child with a permanent guardian.
- 357 (50) 'Person responsible for the care of the child' means:
- 358 (A) An adult member of the child's household;
359 (B) A person exercising supervision over a child for any part of the 24 hour day; or
360 (C) Any adult who, based on relationship to the parent, guardian, or legal custodian or
361 a member of the child's household, has access to the child.
- 362 (51) 'Preliminary protective hearing' means the hearing held within 72 hours after a child
363 who is alleged to be abused or neglected is placed in foster care.
- 364 (52) 'Prenatal abuse' means exposure to chronic or severe use of alcohol or the unlawful
365 use of any controlled substance, as such term is defined in Code Section 16-13-21, which
366 results in:
- 367 (A) Symptoms of withdrawal in a newborn or the presence of a controlled substance
368 or a metabolite thereof in the newborn's body, blood, urine, or meconium that is not the
369 result of medical treatment; or
370 (B) Medically diagnosed and harmful effects in the newborn's physical appearance or
371 functioning.
- 372 (53) 'Probation and intake officer' means any probation officer and any personnel of a
373 juvenile court to whom are delegated the duties of an intake officer under this chapter,
374 other than a juvenile court judge, associate juvenile court judge, or court service worker.
- 375 (54) 'Probation officer' means any personnel of a juvenile court or staff of DJJ to whom
376 are delegated the duties of a probation officer under this chapter, other than a juvenile
377 court judge or associate juvenile court judge.
- 378 (55) 'Prosecuting attorney' means the district attorney of the judicial circuit or county in
379 which juvenile proceedings are instituted or the solicitor of the juvenile court in which
380 the juvenile proceedings are instituted or such individuals' designees.
- 381 (56) 'Putative father registry' means the registry established and maintained pursuant to
382 subsections (d) and (e) of Code Section 19-11-9.
- 383 (57) 'Reasonable efforts' means due diligence and the provision of appropriate services.

384 (58) 'Reasonably diligent search' means the efforts of DFCS to identify and locate a
385 parent whose identity or location is unknown or a relative or other person who has
386 demonstrated an ongoing commitment to a child. Such search shall be initiated at the
387 outset of a case under Article 3 of this chapter and shall be conducted throughout the
388 duration of a case, when appropriate. A reasonably diligent search shall include at a
389 minimum:

390 (A) Interviews with the child's parent during the course of an investigation, while child
391 protective services are provided, and while the child is in care;

392 (B) Interviews with the child;

393 (C) Interviews with identified relatives throughout the case;

394 (D) Interviews with any other person who is likely to have information about the
395 identity or location of the person being sought;

396 (E) Comprehensive searches of data bases available to DFCS including, but not limited
397 to, searches of employment, residence, utilities, vehicle registration, child support
398 enforcement, law enforcement, corrections records, and any other records likely to
399 result in identifying and locating the person being sought;

400 (F) Appropriate inquiry during the course of hearings in the case; and

401 (G) Any other reasonable means that are likely to identify relatives or other persons
402 who have demonstrated an ongoing commitment to the child.

403 (59) 'Relative' means a person related to a child by blood, marriage, or adoption,
404 including the spouse of any of those persons even if the marriage was terminated by death
405 or dissolution.

406 (60) 'Restitution' means any property, lump sum, or periodic payment ordered to be made
407 to any victim. Restitution may also be in the form of services ordered to be performed
408 by a child.

409 (61) 'Screening' means a relatively brief process to identify a child who potentially may
410 have mental health or substance abuse needs, through administration of a formal
411 screening instrument, to identify a child who may warrant immediate attention or
412 intervention or a further, more comprehensive evaluation.

413 (62) 'Secure detention facility' means a detention facility operated by or on behalf of DJJ
414 and shall include a Youth Development Campus or a Regional Youth Detention Center.

415 (63) 'Services' means assistance including, but not limited to, care, guidance, education,
416 counseling, supervision, treatment, and rehabilitation or any combination thereof.

417 (64) 'Sexual abuse' means a caregiver or other person responsible for the care of the child
418 employing, using, persuading, inducing, enticing, or coercing any child to engage in any
419 act which involves:

- 420 (A) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or
 421 oral-anal, whether between persons of the same or opposite sex;
- 422 (B) Bestiality;
- 423 (C) Masturbation;
- 424 (D) Lewd exhibition of the genitals or pubic area of any person;
- 425 (E) Flagellation or torture by or upon a person who is nude;
- 426 (F) The condition of being fettered, bound, or otherwise physically restrained on the
 427 part of a person who is nude;
- 428 (G) Physical contact in an act of apparent sexual stimulation or gratification with any
 429 person's clothed or unclothed genitals, pubic area, or buttocks or with a female's clothed
 430 or unclothed breasts;
- 431 (H) Defecation or urination for the purpose of sexual stimulation; or
- 432 (I) Penetration of the vagina or rectum by any object except when done as part of a
 433 recognized medical procedure by a licensed health care professional.
- 434 (65) 'Sexual exploitation' means conduct by a caregiver or other person responsible for
 435 the care of the child who allows, permits, encourages, or requires a child to engage in:
- 436 (A) Prostitution, in violation of Code Section 16-6-9; or
- 437 (B) Sexually explicit conduct for the purpose of producing any visual or print medium
 438 depicting such conduct, in violation of Code Section 16-12-100.
- 439 (66) 'Sibling' means a person with whom the child shares one or both parents in common
 440 by blood, adoption, or marriage, even if the marriage was terminated by death or
 441 dissolution.
- 442 (67) 'Statutory overnight delivery' means delivery of notice as provided in Code Section
 443 9-10-12.
- 444 (68) 'Visitation' means a period of access to a child by a parent, guardian, legal
 445 custodian, sibling, other relative, or other person who has demonstrated an ongoing
 446 commitment to the child in order to maintain parental and familial involvement in the
 447 child's life when the child is not residing with such person.
- 448 (69) 'Weekend' means Saturday or Sunday.
- 449 15-11-3.
- 450 Through direct calendaring, whenever possible, a single judge shall hear all successive
 451 cases or proceedings involving the same child or family.
- 452 15-11-4.
- 453 Where procedures are not provided in this chapter, the court shall proceed in accordance
 454 with:

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

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

457 15-11-5.

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

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

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

469 15-11-6.

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

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

474 15-11-7.

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

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

489 15-11-8.

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

492 15-11-9.

493 The juvenile court judge, associate juvenile court judge, and judge pro tempore shall have
 494 authority to issue a warrant for the arrest of any child for an offense committed against the
 495 laws of this state, based either on personal knowledge or the information of others given
 496 under oath.

497 15-11-10.

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

500 (1) Concerning any child who:

501 (A) Is alleged to be delinquent;

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

503 (C) Is alleged to be dependent;

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

506 (E) Is alleged to have committed a juvenile traffic offense as defined in Code Section
 507 15-11-630;

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

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

517 (H) Requires a comprehensive services plan in accordance with Code Section
 518 15-11-658; or

519 (2) Involving any proceedings:

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

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

- 524 (C) Under Code Section 39-3-2, the Interstate Compact on Juveniles, or any
 525 comparable law, enacted or adopted in this state;
- 526 (D) For the termination of the legal parent-child relationship and the rights of the
 527 biological father who is not the legal father of the child, other than that in connection
 528 with adoption proceedings under Article 1 of Chapter 8 of Title 19, in which the
 529 superior courts shall have concurrent jurisdiction to terminate the legal parent-child
 530 relationship and the rights of the biological father who is not the legal father of the
 531 child;
- 532 (E) For emancipation brought pursuant to the provisions of Article 11 of this chapter;
- 533 (F) Under Article 9 of this chapter, relating to prior notice to a parent, guardian, or
 534 legal custodian relative to an unemancipated minor's decision to seek an abortion; or
- 535 (G) Brought by a local board of education pursuant to Code Section 20-2-766.1
 536 relating to court orders requiring that a parent, guardian, or legal custodian attend a
 537 conference or participate in programs or treatment to improve a student's behavior.

538 15-11-11.

- 539 (a) The juvenile court shall have concurrent jurisdiction to hear:
- 540 (1) Any legitimation petition filed pursuant to Code Section 19-7-22 concerning a child
 541 who is alleged to be dependant;
- 542 (2) Any legitimation petition transferred to the court by proper order of the superior
 543 court;
- 544 (3) The issue of custody and support when the issue is transferred by proper order of the
 545 superior court; and
- 546 (4) Any petition for the establishment or termination of a temporary guardianship
 547 transferred to the court by proper order of the probate court.
- 548 (b) If a demand for a jury trial as to support has been properly filed by either parent, then
 549 the case shall be transferred to superior court for the jury trial.

550 15-11-12.

- 551 (a) Nothing in this chapter shall be construed to prevent a child from being found both
 552 dependent and delinquent or both dependent and a child in need of services if there exists
 553 a factual basis for such a finding.
- 554 (b) If a child alleged or found to be delinquent or a child in need of services is also alleged
 555 or found to be dependent, dependency proceedings may be consolidated with delinquency
 556 or child in need of services proceedings to the extent consistent with due process of law as
 557 provided in Articles 3, 6, and 7 of this chapter.

558 (c) The time frames and requirements of Article 3 of this chapter shall apply to cases in
559 which a child alleged or found to be a child in need of services or delinquent is placed in
560 foster care and has also been alleged or found to be dependent.

561 15-11-13.

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

567 15-11-14.

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

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

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

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

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

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

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

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

589 15-11-15.

590 (a) In handling divorce, alimony, habeas corpus, or other cases involving the custody of
591 a child, a superior court may transfer the question of the determination of custody, support,

592 or custody and support to the juvenile court either for investigation and a report back to the
 593 superior court or for investigation and determination.

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

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

600 15-11-16.

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

602 (1) By an order of transfer of a case from another court as provided in Code Section
 603 15-11-11 or 15-11-567 or subsection (f) of Code Section 29-2-6 or subsection (b) of Code
 604 Section 29-2-8;

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

608 (3) By the filing of a petition for adoption or legitimation under Code Section 15-11-11,
 609 or in other cases by the filing of a complaint or a petition as provided in Articles 3, 4, 6,
 610 7, 9, and 11 of this chapter.

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

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

616 15-11-17.

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

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

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

624 (d) A juvenile court judge, an associate juvenile court judge, a judge pro tempore of the
 625 juvenile court, or any person sitting as a juvenile court judge may conduct hearings in
 626 connection with any proceeding under this chapter in any county within the judicial circuit.

627 When a superior court judge sits as a juvenile court judge, hearings in connection with any
628 proceeding under this chapter may be heard before such judge in any county within the
629 judicial circuit over which the judge presides.

630 15-11-18.

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

635 15-11-19.

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

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

644 15-11-20.

645 (a) At any time during a proceeding under this chapter, the court may refer the case to
646 mediation.

647 (b) When referring a case to mediation, the court shall take into consideration the
648 guidelines from the Georgia Commission of Dispute Resolution for mediating cases
649 involving domestic violence or family violence.

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

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

655 15-11-21.

656 (a) Once an order referring a case to mediation has been signed, the court shall appoint a
657 mediator from a list of court approved mediators who are registered with the Georgia
658 Office of Dispute Resolution to mediate juvenile court cases.

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

661 15-11-22.

662 (a) The parties shall sign and date a written agreement to mediate. The agreement to
663 mediate shall identify the controversies between the parties, affirm the parties' intent to
664 resolve such controversies through mediation, and specify the circumstances under which
665 mediation may continue. The agreement to mediate shall specify the confidentiality
666 requirements of mediation and the exceptions to confidentiality in mediation as such are
667 set forth in the Supreme Court of Georgia's Uniform Rules for Alternative Dispute
668 Resolution Programs.

669 (b) A mediator shall not knowingly assist the parties in reaching an agreement which
670 would be unenforceable for reasons such as fraud, duress, the absence of bargaining ability,
671 unconscionability, or lack of court jurisdiction.

672 (c) Prior to the parties signing an agreement to mediate, the mediator shall advise the
673 parties that each of them may obtain review by an attorney of any agreement reached as a
674 result of the mediation.

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

676 15-11-23.

677 (a) Upon issuing a referral to mediation the court may stay the proceeding.

678 (b) Mediation shall occur as soon as practicable and be scheduled within 30 days of the
679 order referring the matter to mediation unless the time frame is extended by the court.

680 (c) The court may extend the timeline for scheduling a mediation for an additional 30 days.

681 15-11-24.

682 (a) Either party may withdraw from or terminate further participation in mediation at any
683 time.

684 (b) A mediator shall terminate mediation when:

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

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

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

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

691 15-11-25.

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

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

696 15-11-26.

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

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

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

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

704 (4) The child's background and ties, including familial, cultural, and religious;

705 (5) The child's sense of attachments, including the child's sense of security, the child's
706 sense of familiarity, and continuity of affection for the child;

707 (6) The least disruptive placement alternative for the child;

708 (7) The child's wishes and long-term goals;

709 (8) The child's community ties, including church, school, and friends;

710 (9) The child's need for permanence which includes the child's need for stability and
711 continuity of relationships with a parent, siblings, other relatives, and any other person
712 who has provided significant care of the child;

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

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

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

716 (13) Any other factors considered by the court to be relevant and proper to its
717 determination.

718 15-11-27.

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

720 (1) The child to be examined by outside parties or private providers at a suitable place
721 by a physician or psychologist; provided, however, that orders to perform an evaluation
722 shall not be imposed upon DJJ; and

723 (2) Medical or surgical treatment of a child who is suffering from a serious physical
724 condition or illness which, in the opinion of a licensed physician, requires prompt
725 treatment, even if the parent, guardian, or legal custodian has not been given notice of a

726 hearing, is not available, or without good cause informs the court of his or her refusal to
727 consent to the treatment.

728 15-11-28.

729 (a) No admission, confession, or incriminating information obtained from a child in the
730 course of any screening that is undertaken in conjunction with proceedings under this
731 chapter, including but not limited to, court ordered screenings, shall be admitted into
732 evidence in any adjudication hearing in which the child is accused under this chapter. Such
733 admission, confession, or incriminating information may be considered by the court at
734 disposition.

735 (b) No admission, confession, or incriminating information obtained from a child in the
736 course of any assessment or evaluation, or any treatment that is undertaken in conjunction
737 with proceedings under this chapter, including but not limited to court ordered assessments
738 and evaluations, shall be admitted into evidence against the child, except as rebuttal or
739 impeachment evidence, or used as a basis for such evidence, in any future adjudication
740 hearing or criminal proceeding in which the child is accused. Such admission, confession,
741 or incriminating information may be considered by the court at disposition.

742 15-11-29.

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

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

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

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

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

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

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

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

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

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

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

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

771 15-11-30.

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

777 15-11-31.

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

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

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

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

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

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

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

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

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

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

804 (4) Require the parent, guardian, or legal custodian of the child to enter into a contract
 805 or plan as a part of the disposition of any charges against the child, so as to provide for
 806 the supervision and control of the child by the parent, guardian, or legal custodian and
 807 reunification with the child.

808 15-11-32.

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

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

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

812 (3) Newly discovered evidence so requires.

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

816 (c) Except as otherwise provided in Code Section 15-11-602, an order committing a child
 817 to DJJ may only be modified after the child has been transferred to DJJ custody upon
 818 motion of DJJ.

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

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

827 15-11-33.

828 (a) Whenever an order of disposition incorporates a reunification plan and the residence
 829 of the parent is not in the county of the court with jurisdiction or the residence of the parent
 830 changes to a county other than the county of the court with jurisdiction, the court may

831 transfer jurisdiction to the juvenile court of the residence of the parent to whom the
832 reunification plan is directed.

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

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

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

841 15-11-34.

842 Except as otherwise provided by Code Section 17-10-14, a child shall not be committed
843 to an adult correctional facility or other facility used primarily for the execution of
844 sentences of persons convicted of a crime.

845 15-11-35.

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

851 15-11-36.

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

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

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

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

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

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

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

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

871 (c) If, after due notice to the parent or other person legally obligated to care for and
 872 support the child and after affording such person an opportunity to be heard, the court finds
 873 that such person is financially able to pay all or part of the costs and expenses outlined in
 874 subsection (a) of this Code section, the court may order such person to pay the same and
 875 prescribe the manner of payment. In addition, the court may order payment from the parent
 876 or other legally obligated person or entity to reimburse all or part of the costs and expenses
 877 of the department or DJJ for treatment, care, and support of the child. Unless otherwise
 878 ordered, payment shall be made to the clerk of the court for remittance to the person or
 879 agency, including the department or DJJ, to whom compensation is due or, if the costs and
 880 expenses have been paid by the county, to the appropriate officer of the county.

881 15-11-37.

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

885 (1) Housing in nonsecure facilities;

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

887 (3) Counseling and diagnostic testing;

888 (4) Mediation;

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

890 (6) Truancy intervention services;

891 (7) Restitution programs;

892 (8) Job development or work experience programs;

893 (9) Community services; and

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

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

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

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

902 The child and each parent, guardian, or legal custodian of the child may be jointly and
903 severally liable for the payment of such fee and shall be subject to the enforcement
904 procedure in subsection (c) of Code Section 15-11-36. The judge shall provide that any
905 such fees shall be imposed on such terms and conditions as shall assure that the funds for
906 the payment are from moneys earned by the child. All moneys collected by the clerk under
907 this subsection shall be transferred to the county treasurer, or such other county official or
908 employee who performs duties previously performed by the treasurer, who shall deposit
909 the moneys into a county supplemental juvenile services fund. The governing authority of
910 the county shall appropriate moneys from the county supplemental juvenile services fund
911 to the juvenile court for the court's discretionary use in providing supplemental community
912 based services described in subsection (a) of this Code section to child offenders. These
913 funds shall be administered by the county and the court may draw upon them by submitting
914 invoices to the county. The county supplemental juvenile services fund may be used only
915 for these services. Any moneys remaining in the fund at the end of the county fiscal year
916 shall not revert to any other fund but shall continue in the county supplemental juvenile
917 services fund. The county supplemental juvenile services fund may not be used to replace
918 other funding of services.

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

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

923 15-11-38.

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

930 (b) As part of a risk reduction program, a court may implement or adopt an early
931 intervention program designed to identify children and families who are at risk of
932 becoming involved with the court. Such early intervention program shall be for the
933 purpose of developing and implementing intervention actions or plans to divert the children

934 and their families from becoming involved in future cases in the court. The court's
935 involvement shall be for the limited purpose of facilitating the development of the program
936 and for the purpose of protecting the confidentiality of the children and families
937 participating in the program.

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

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

959 15-11-39.

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

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

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

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

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

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

981 (e) If a child or a parent, guardian, or legal custodian objects to the case plan, the court
982 shall conduct a hearing. The court may decline to adopt the case plan or may confirm or
983 modify the case plan. In implementing a case plan, the court shall have available all of the
984 protective powers set forth in Code Section 15-11-29, without the necessity of a show
985 cause hearing, unless objection is made to the case plan.

986 15-11-40.

987 (a) Notwithstanding any provision contained in this chapter or in any rule or regulation
988 adopted by any department, board, or agency of the state to the contrary, the court and any
989 individual, public or private agency, or other entity participating in a community based risk
990 reduction program may exchange, as necessary, information, medical records, school
991 records, immigration records, records of adjudication, treatment records, and any other
992 records or information which may aid in the assessment of and intervention with the
993 children and families in the program if such exchange of information is ordered by the
994 court or consented to by the parties. Such information shall be used by such individuals
995 and agencies only for the purposes provided in this chapter and as authorized by the court
996 for the purpose of implementing the case plan and for the purposes permitted under each
997 agency's own rules and regulations. Such information shall not be released to any other
998 individual or agency except as may be necessary to effect the appropriate treatment or
999 intervention as provided in the case plan. Such information shall otherwise remain
1000 confidential as required by state and federal law and the court may punish any violations
1001 of confidentiality as contempt of court.

1002 (b) Any person who authorizes or permits any unauthorized person or agency to have
1003 access to confidential records or reports of child abuse shall be guilty of a misdemeanor.
1004 Any person who knowingly and under false pretenses obtains or attempts to obtain

1005 confidential records or reports of child abuse or information contained therein shall be
 1006 guilty of a misdemeanor.

1007 (c) Confidential records or reports of child abuse and information obtained from such
 1008 records may not be made a part of any record which is open to the public except that a
 1009 prosecuting attorney may use and make public that record or information in the course of
 1010 any criminal prosecution for any offense which constitutes or results from child abuse.

1011 (d) This Code section shall not abridge the provisions relating to confidentiality of patient
 1012 or client records and shall not serve to destroy or in any way abridge the confidential or
 1013 privileged character thereof.

1014 15-11-41.

1015 (a) Except as otherwise provided in Code Section 15-11-710, entities governed by federal
 1016 or state privacy laws may require the following before sharing confidential information:

1017 (1) For release of child abuse records by the department, a subpoena and subsequent
 1018 order of the court requiring the release of such information in accordance with Code
 1019 Section 49-5-41;

1020 (2) For release of information relating to diagnosis, prognosis, or treatment of drug and
 1021 alcohol abuse:

1022 (A) If the person is 18 or has been emancipated, consent from the person to whom such
 1023 information relates;

1024 (B) If the person is under the age of 18 years and has not been emancipated, valid
 1025 consent from such person's parent, guardian, or legal custodian or consent by a parent,
 1026 guardian, or legal custodian to a confidentiality agreement between the health care
 1027 provider and the unemancipated minor; provided, however, that consent from an
 1028 unemancipated minor shall be sufficient for the release of such information if the
 1029 unemancipated minor is allowed by law to consent to the health care service to which
 1030 the records relate without the consent of a parent, guardian, or legal custodian and the
 1031 unemancipated minor has not designated anyone as a personal representative; or

1032 (C) A subpoena requiring the release of such information and protective order of the
 1033 court regarding the release of such information; and

1034 (3) For release of confidential health, mental health, or education records:

1035 (A) If the person is 18 or has been emancipated, consent from the person to whom such
 1036 information relates;

1037 (B) If the person is under the age of 18 years and has not been emancipated, valid
 1038 consent from such person's parent, guardian, or legal custodian or consent by a parent,
 1039 guardian, or legal custodian to a confidentiality agreement between the health care
 1040 provider and the unemancipated minor; provided, however, that consent from an

unemancipated minor shall be sufficient for the release of such information if the unemancipated minor is allowed by law to consent to the health care service to which the records relate without the consent of a parent, guardian, or legal custodian and has not designated anyone as a personal representative;

(C) A subpoena requiring the release of such information; or

(D) An order of the court requiring the release of such information.

(b) In issuing an order for the release of information under this Code section, the court may:

(1) Include protections against further disclosure of the information;

(2) Limit the purposes for which the information may be used; and

(3) Require records to be redacted so that only relevant information is shared.

(c) Nothing in this Code section shall be deemed to replace the responsibility of entities governed by federal and state privacy laws to comply with such laws.

ARTICLE 2

15-11-50.

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

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

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

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

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

1076 (f) After the initial appointments and prior to any subsequent appointment or
 1077 reappointment of any part-time or full-time juvenile court judge, the judge or judges
 1078 responsible for making the appointment shall publish notice of the vacancy of the juvenile
 1079 court judgeship once a month for three months prior to such appointment or reappointment.
 1080 Such notice shall be published in the official legal organ of each of the counties in the
 1081 circuit where the juvenile court judge has venue. The expense of such publication shall be
 1082 paid by the county governing authority in the county where such notice is published.

1083 (g) In the event that more than one juvenile court judge is appointed, one judge shall be
 1084 designated presiding judge.

1085 (h) In any case in which action under this Code section is to be taken by a superior court
 1086 judge of the circuit, such action shall be taken as follows:

1087 (1) Where there are one or two superior court judges, such action shall be taken by the
 1088 chief judge of the circuit; and

1089 (2) Where there are more than two superior court judges, such action shall be taken by
 1090 a majority vote of the judges of the circuit.

1091 15-11-51.

1092 (a) No person shall be judge of the juvenile court unless, at the time of his or her
 1093 appointment, he or she has attained the age of 30 years, has been a citizen of the state for
 1094 three years, is a member of the State Bar of Georgia, and has practiced law for five years.

1095 (b) A juvenile court judge shall be eligible for reappointment or election.

1096 15-11-52.

1097 (a) Each appointed juvenile court judge shall serve for a term of four years.

1098 (b) The compensation of the full-time or part-time juvenile court judges shall be set by the
 1099 superior court with the approval of the governing authority or governing authorities of the
 1100 county or counties for which the juvenile court judge is appointed.

1101 (c) Out of funds appropriated to the judicial branch of government, the state shall
 1102 contribute toward the salary of the judges on a per circuit basis in the following amounts:

1103 (1) Each circuit with one or more juvenile court judges who are not superior court judges
 1104 assuming the duties of juvenile court judges shall receive a state base grant of
 1105 \$85,000.00;

1106 (2) In addition to this base amount, each circuit which has more than four superior court
 1107 judges is eligible for additional state grants. For each superior court judge who exceeds
 1108 the base of four judges, the circuit shall be eligible for an additional grant in an amount
 1109 equal to one-fourth of the base amount of the state grant;

1110 (3) In circuits where the superior court judges elect to use the state grant for one or more
 1111 part-time judges, the amount of the state grant shall be as follows:

1112 (A) For each part-time judge who works one day weekly \$17,000.00

1113 (B) For each part-time judge who works two days weekly 34,000.00

1114 (C) For each part-time judge who works three days weekly 51,000.00

1115 (D) For each part-time judge who works four days weekly 68,000.00;

1116 provided, however, that a grant for one or more part-time judges shall not exceed the
 1117 amount the circuit is eligible for in accordance with paragraphs (1) and (2) of this
 1118 subsection; and

1119 (4) All state grants provided by this subsection shall be spent solely on salaries for
 1120 juvenile court judges and shall not be used for any other purposes.

1121 15-11-53.

1122 (a) It shall be unlawful for any full-time juvenile court judge to engage in any practice of
 1123 law outside his or her role as a juvenile court judge.

1124 (b) It shall be unlawful for a part-time judge of any juvenile court to engage directly or
 1125 indirectly in the practice of law in his or her own name or in the name of another as a
 1126 partner in any manner in any case, proceeding, or matter of any kind in the court to which
 1127 he or she is assigned or in any other court in any case, proceeding, or any other matters of
 1128 which it has pending jurisdiction or has had jurisdiction.

1129 (c) It shall be unlawful for any juvenile court judge, full time or part time, to give advice
 1130 or counsel to any person on any matter of any kind whatsoever which has arisen directly
 1131 or indirectly in court, except such advice or counsel as a judge is called upon to give while
 1132 performing the duties of a juvenile court judge.

1133 15-11-54.

1134 (a) Each juvenile court shall be assigned and attached to the superior court of the county
 1135 for administrative purposes.

1136 (b) The governing authority of the county of residence of each juvenile court judge shall
 1137 offer the juvenile court judge insurance benefits and any other benefits except retirement
 1138 or pension benefits equivalent to those offered to employees of the county, with a right to
 1139 contribution from other counties in the circuit for a pro rata contribution toward the costs
 1140 of such benefits, based on county population. Counties shall continue to provide
 1141 membership in retirement plans available to county employees for any juvenile court judge
 1142 in office before July 1, 1998, who did not become a member of the Georgia Judicial
 1143 Retirement System provided by Chapter 23 of Title 47.

1144 (c) Except for state base grants provided by Code Section 15-11-52, all expenditures of the
 1145 court are declared to be an expense of the court and payable out of the county treasury with
 1146 the approval of the governing authority or governing authorities of the county or counties
 1147 for which the juvenile court judge is appointed.

1148 15-11-55.

1149 (a) To the extent that the provisions of this article conflict with a local constitutional
 1150 amendment authorizing the election of a juvenile court judge and with the provisions of a
 1151 local Act authorized by such local constitutional amendment to provide for the term of
 1152 office, vacancies in office, qualifications, compensation, and full-time or part-time status
 1153 of a juvenile court judge or judges, the provisions of such local constitutional amendment
 1154 and such local Act shall govern.

1155 (b) The state grants provided by Code Section 15-11-52 shall be provided to any circuit
 1156 encompassing a juvenile court governed by the provisions of a local constitutional
 1157 amendment and a local Act in the same manner as other circuits, except that, in any circuit
 1158 with one or more elected juvenile court judges, the elected juvenile court judge who is
 1159 senior in duration of service as a juvenile court judge shall establish, subject to other
 1160 applicable provisions of law, the total number of circuit-wide juvenile court judges,
 1161 whether the judge or judges shall be full time or part time or a combination of full time and
 1162 part time, and the compensation of any part-time juvenile court judge or judges.

1163 15-11-56.

1164 (a) No person who is serving as a full-time juvenile court judge shall at the same time hold
 1165 the office of judge of any other class of court of this state.

1166 (b) No person serving as a juvenile court judge after being elected juvenile court judge
 1167 pursuant to a local law authorized by a constitutional amendment shall at the same time
 1168 hold the office of judge of any other class of court of this state.

1169 (c) Nothing in this Code section shall prevent any duly appointed or elected juvenile court
 1170 judge from sitting by designation as a superior court judge pursuant to Code Section
 1171 15-1-9.1.

1172 15-11-57.

1173 (a) Whenever a juvenile court judge is appointed it shall be the duty of the clerk of the
 1174 superior court to forward to the Secretary of State and to the Council of Juvenile Court
 1175 Judges a certified copy of the order of appointment. The order of appointment shall set out
 1176 the name of the person appointed, the term of office, the effective date of the appointment,
 1177 the name of the person being succeeded, if any, and whether the office was vacated by

1178 resignation, death, or otherwise. Upon receipt of such order, the Secretary of State shall
 1179 issue a commission as for superior court judges.

1180 (b) Whenever an associate juvenile court judge is appointed to serve in a juvenile court,
 1181 the clerk of the juvenile court shall forward a certified copy of the order of appointment to
 1182 the Council of Juvenile Court Judges.

1183 15-11-58.

1184 (a) All of the judges and associate judges of the courts exercising jurisdiction over children
 1185 shall constitute a Council of Juvenile Court Judges. The council shall annually elect from
 1186 among its members a judge to serve as presiding judge and chairperson of the council.

1187 (b) The Council of Juvenile Court Judges:

1188 (1) Shall meet at stated times to be fixed by it or on call of the chairperson;

1189 (2) May establish general policies for the conduct of courts exercising jurisdiction over
 1190 children;

1191 (3) May promulgate uniform rules and forms governing procedures and practices of the
 1192 courts;

1193 (4) Shall publish in print or electronically an annual report of the work of the courts
 1194 exercising jurisdiction over children, which shall include statistical and other data on the
 1195 courts' work and services, research studies the council may make of the problems of
 1196 children and families dealt with by the courts, and any recommendations for legislation;
 1197 and

1198 (5) Shall be authorized to inspect and copy records of the courts, law enforcement
 1199 agencies, the department, and DJJ for the purpose of compiling statistical data on
 1200 children.

1201 (c) Subject to the approval of the Council of Juvenile Court Judges, the presiding judge
 1202 of the council shall appoint a chief administrative and executive officer for the Council of
 1203 Juvenile Court Judges who shall have the title of director of the Council of Juvenile Court
 1204 Judges. Under the general supervision of the presiding judge of the council and within the
 1205 policies established by the Council of Juvenile Court Judges, the director shall:

1206 (1) Provide consultation to the courts regarding the administration of court services and
 1207 the recruitment and training of personnel;

1208 (2) Make recommendations to the Council of Juvenile Court Judges for improvement in
 1209 court services;

1210 (3) With the approval of the presiding judge, appoint consultants and necessary clerical
 1211 personnel to perform the duties assigned to the Council of Juvenile Court Judges and the
 1212 director;

1213 (4) Collect necessary statistics and prepare an annual report of the work of the courts;

1214 (5) Promulgate in cooperation with DJJ standard procedures for coordinating state and
1215 local probation services throughout the state; and

1216 (6) Perform such other duties as the presiding judge of the council shall specify.

1217 15-11-59.

1218 (a) The Council of Juvenile Court Judges, in conjunction with the Institute of Continuing
1219 Judicial Education of Georgia, shall establish seminars for all judges and associate juvenile
1220 court judges exercising juvenile court jurisdiction and may make provisions relative to such
1221 seminars by court rules properly adopted.

1222 (b) Seminars shall offer instruction and training in juvenile law and procedure, child
1223 development and psychology, sociological theories relative to delinquency and breakdown
1224 of the family structure, and such other training and activities as the Council of Juvenile
1225 Court Judges may determine would promote the quality of justice in the juvenile court
1226 system.

1227 (c) Expenses of administration of seminar programs and actual expenses incurred by the
1228 judges or associate juvenile court judges in attending such seminars shall be paid from state
1229 funds appropriated for the Council of Juvenile Court Judges for such purpose, from federal
1230 funds available to the Council of Juvenile Court Judges for such purpose, or from other
1231 appropriate sources. Expenses for judges and associate juvenile court judges shall not
1232 exceed the allowances allowed members of the General Assembly.

1233 (d) Each judge and associate juvenile court judge exercising juvenile jurisdiction shall
1234 receive training appropriate to the role and participate in at least 12 hours of continuing
1235 legal education or continuing judicial education established or approved by the Council of
1236 Juvenile Court Judges each year and meet such rules as established by the Council of
1237 Juvenile Court Judges pertaining to such training. Superior court judges may meet this
1238 requirement by attending seminars held in conjunction with the seminars for superior court
1239 judges provided by the Institute of Continuing Judicial Education of Georgia. Judges and
1240 associate juvenile court judges shall not exercise juvenile court jurisdiction unless the
1241 Council of Juvenile Court Judges certifies that annual training has been accomplished or
1242 unless the judge is in the first year of his or her initial appointment; provided, however, that
1243 the Council of Juvenile Court Judges may in hardship cases extend deadlines for
1244 compliance with this Code section.

1245 15-11-60.

1246 (a) A judge may appoint one or more persons to serve as associate juvenile court judges
1247 in juvenile matters on a full-time or part-time basis. The associate juvenile court judge
1248 shall serve at the pleasure of the judge, and his or her salary shall be fixed by the judge

1249 with the approval of the governing authority or governing authorities of the county or
1250 counties for which the associate juvenile court judge is appointed. The salary of each
1251 associate juvenile court judge shall be paid from county funds.

1252 (b) Each associate juvenile court judge shall have the same qualifications as required for
1253 a judge of the juvenile court as provided in Code Section 15-11-51; provided, however, that
1254 any person serving as an associate juvenile court judge on January 1, 2013, shall be
1255 qualified for appointment thereafter to serve as an associate juvenile court judge.

1256 15-11-61.

1257 (a) The judge may appoint one or more persons to serve at the pleasure of the judge as
1258 associate juvenile court traffic judges on a full-time or part-time basis.

1259 (b) An associate juvenile court traffic judge shall be a member of the State Bar of Georgia.

1260 (c) The compensation of associate juvenile court traffic judges shall be fixed by the judge
1261 with the approval of the governing authority of the county and shall be paid in equal
1262 monthly installments from county funds, unless otherwise provided by law.

1263 15-11-62.

1264 (a) In the event of the disqualification, illness, or absence of the judge of the juvenile
1265 court, the judge of the juvenile court may appoint any member of the State Bar of Georgia
1266 who is resident in the judicial circuit in which the court lies and has practiced law for five
1267 years, any judge or senior judge of the superior courts, or any duly appointed juvenile court
1268 judge to serve as judge pro tempore of the juvenile court. In the event the judge of the
1269 juvenile court is absent or unable to make such appointment, the judge of the superior court
1270 of that county may so appoint.

1271 (b) The person appointed shall have the authority to preside in the stead of the disqualified,
1272 ill, or absent judge and shall be paid from the county treasury such emolument as the
1273 appointing judge shall prescribe; provided, however, that the emolument shall not exceed
1274 the compensation received by the regular juvenile court judge for such services.

1275 15-11-63.

1276 (a) The judge of the juvenile court shall have the authority to appoint clerks and any other
1277 personnel necessary for the execution of the purposes of this chapter.

1278 (b) The salary, tenure, compensation, and all other conditions of employment of such
1279 employees shall be fixed by the judge, with the approval of the governing authority of the
1280 county. The salaries of the employees shall be paid out of county funds.

1281 (c) Any employee of the court may be removed for cause by the judge of the court, the
1282 reasons therefor to be assigned in writing.

1283 15-11-64.

1284 (a) Any person who is appointed as or is performing the duties of a clerk of the juvenile
1285 court shall satisfactorily complete 20 hours of training in the performance of the duties of
1286 a clerk of the juvenile court within the first 12 months following such appointment or the
1287 first performance of such duties.

1288 (b) In each year after the initial appointment, any person who is appointed as or is
1289 performing the duties of a clerk of the juvenile court shall satisfactorily complete in that
1290 year 12 hours of additional training in the performance of such person's duties as clerk.

1291 (c) Training pursuant to this Code section shall be provided by the Institute of Continuing
1292 Judicial Education of Georgia. Upon satisfactory completion of such training, a certificate
1293 issued by the institute shall be placed into the minutes of the juvenile court record in the
1294 county in which such person serves as a clerk of the juvenile court. All reasonable
1295 expenses of such training including, but not limited to, any tuition fixed by such institution
1296 shall be paid from county funds by the governing authority of the county for which the
1297 person serves as a clerk of the juvenile court, unless funding is provided from other
1298 sources.

1299 (d) A judge of the juvenile court shall appoint a clerk pro tempore for that court in order
1300 for the regular clerk to attend required training. Such clerk pro tempore shall not be
1301 required to meet the training requirements for performing the clerk's duties.

1302 (e) The provisions of this Code section shall not apply to clerks of juvenile courts who also
1303 act as clerks of superior courts and who already have mandatory training requirements in
1304 such capacity.

1305 15-11-65.

1306 (a) The judge may appoint one or more probation and intake officers.

1307 (b) The salaries of the probation and intake officers shall be fixed by the judge with the
1308 approval of the governing authority of the county or counties for which he or she is
1309 appointed and shall be payable from county funds.

1310 15-11-66.

1311 (a) A county juvenile probation officer or DJJ staff member serving as a juvenile probation
1312 officer:

1313 (1) Shall make investigations, reports, and recommendations to the court as directed by
1314 this chapter;

1315 (2) Shall supervise and assist a child placed on probation or under the protective
1316 supervision or care of such probation officer by order of the court or other authority of
1317 law;

1318 (3) Shall make appropriate referrals to other private or public agencies of the community
 1319 if such assistance appears to be needed or desirable;

1320 (4) May take into custody and detain a child who is under the supervision or care of such
 1321 probation officer if the probation officer has reasonable cause to believe that the child's
 1322 health or safety or that of another is in imminent danger, or that the child may abscond
 1323 or be removed from the jurisdiction of the court, or when so ordered by the court pursuant
 1324 to this chapter;

1325 (5) May not conduct accusatory proceedings against a child who is or may be under such
 1326 probation officer's care or supervision;

1327 (6) May not draft judicial orders, official charges, or any other document which is
 1328 required to be drafted by an attorney;

1329 (7) Shall perform all other functions designated by this chapter or by order of the court
 1330 pursuant thereto. Any of the functions specified in this Code section may be performed
 1331 in another state if authorized by the court located in this state and permitted by the laws
 1332 of the other state; and

1333 (8) Other laws to the contrary notwithstanding, no county juvenile probation officer or
 1334 DJJ staff serving as a probation officer shall be liable for the acts of a child not detained
 1335 or taken into custody when, in the judgment of such officer, such detention or custody is
 1336 not warranted.

1337 (b) Notwithstanding subsection (a) of this Code section, DJJ, as the employer, shall
 1338 maintain sole authority over the duties and responsibilities of all DJJ staff members serving
 1339 as probation officers.

1340 15-11-67.

1341 (a) A juvenile court intake officer:

1342 (1) Shall receive and examine complaints and charges of delinquency, dependency, or
 1343 that a child is in need of services for the purpose of considering the commencement of
 1344 proceedings under this chapter;

1345 (2) Shall make appropriate referrals to other private or public agencies of the community
 1346 if such assistance appears to be needed or desirable;

1347 (3) Shall compile on a regular basis the case files or a report on those cases that were
 1348 informally adjusted for review by the judge;

1349 (4) May not conduct accusatory proceedings against a child or draft judicial orders,
 1350 official charges, or any other document which is required to be drafted by an attorney;

1351 (5) Shall perform all other functions designated by this chapter or by order of the court
 1352 pursuant thereto; and

1353 (6) Except as provided in Article I, Section II, Paragraph IX(d) of the Constitution, no
 1354 county juvenile court intake officer, or DJJ staff member serving as a juvenile court
 1355 intake officer shall be liable for the acts of a child not detained or taken into custody
 1356 when, in the judgment of such officer, such detention or custody is not warranted.

1357 (b) Notwithstanding subsection (a) of this Code section, DJJ, as the employer, shall
 1358 maintain sole authority over the duties and responsibilities of all DJJ staff members serving
 1359 as juvenile court intake officers.

1360 15-11-68.

1361 (a) The probation and intake services of the juvenile court of each county may be
 1362 transferred to and become a part of the state-wide juvenile and intake services and be fully
 1363 funded through DJJ. The probation and intake officers of juvenile courts of those counties
 1364 whose probation and intake services are transferred pursuant to this Code section shall
 1365 become DJJ employees on the date of such transfer and on and after that date such
 1366 employees shall be subject to the salary schedules and other DJJ personnel policies, except
 1367 that the salaries of such employees shall not be reduced as a result of becoming DJJ
 1368 employees.

1369 (b) The probation and intake services of the juvenile court of a county may be transferred
 1370 to DJJ by local Act of the General Assembly which approves such transfer.

1371 (c) Persons who were probation and intake officers of the juvenile court of a county on
 1372 June 30, 1996, but who were transferred as probation and intake officers to and became a
 1373 part of the state-wide juvenile and intake services system fully funded through DJJ before
 1374 January 1, 1999, shall be covered employees in the classified service of the State Personnel
 1375 Administration.

1376 ARTICLE 3

1377 Part 1

1378 15-11-100.

1379 The purpose of this article is:

1380 (1) To assist and protect children whose physical or mental health and welfare is
 1381 substantially at risk of harm from abuse, neglect, or exploitation and who may be further
 1382 threatened by the conduct of others by providing for the resolution of dependency
 1383 proceedings in juvenile court;

1384 (2) To ensure that dependency proceedings are conducted expeditiously to avoid delays
 1385 in permanency plans for children;

1386 (3) To provide the greatest protection as promptly as possible for children; and

1387 (4) To ensure that the health, safety, and best interests of the child be the paramount
1388 concern in all dependency proceedings.

1389 15-11-101.

1390 (a) If necessary, the investigator of a report of child abuse and neglect may apply to the
1391 court for certain medical examinations and evaluations of a child or other children in the
1392 household.

1393 (b) Upon a showing of probable cause in an affidavit executed by the applicant, the court
1394 may order a physical examination and evaluation of a child or other children in the
1395 household by a physician. Such order may be granted ex parte.

1396 (c) Upon a showing of probable cause in an affidavit executed by the applicant and after
1397 a hearing, the court may order a psychological or psychiatric examination and evaluation
1398 of a child or other children in the household by a psychologist, psychiatrist, or other
1399 licensed mental health professional.

1400 (d) Upon a showing of probable cause in an affidavit executed by the applicant and after
1401 a hearing, the court may order a forensic examination and evaluation of a child or other
1402 children in the household by a psychologist, psychiatrist, or other licensed mental health
1403 professional.

1404 (e) Upon a showing of probable cause in an affidavit executed by the applicant and after
1405 a hearing, the court may order a physical, psychological, or psychiatric examination of a
1406 child's parent, guardian, or legal custodian.

1407 15-11-102.

1408 (a) The preliminary protective hearing shall be held promptly and no later than 72 hours
1409 after a child is placed in foster care, provided that, if the 72 hour time frame expires on a
1410 weekend or legal holiday, such hearing shall be held on the next day which is not a
1411 weekend or legal holiday.

1412 (b) If a child was not taken into protective custody or is released from foster care at the
1413 preliminary protective hearing, the following time frames apply:

1414 (1) The petition for dependency shall be filed within 30 days of the preliminary
1415 protective hearing;

1416 (2) Summons shall be served at least 72 hours before the adjudication hearing;

1417 (3) The adjudication hearing shall be held no later than 60 days after the filing of the
1418 petition for dependency; and

1419 (4) If the dispositional hearing is not held in conjunction with the adjudication hearing,
1420 it shall be held and completed within 30 days after the conclusion of the adjudication
1421 hearing.

1422 (c) If a child is not released from foster care at the preliminary protective hearing, the
1423 following time frames apply:

1424 (1) The petition for dependency shall be filed within five days of the preliminary
1425 protective hearing;

1426 (2) Summons shall be served at least 72 hours before the adjudication hearing;

1427 (3) The adjudication hearing shall be held no later than ten days after the filing of the
1428 petition;

1429 (4) DFCS shall submit to the court its written report within 30 days of the date a child
1430 who is placed in the custody of DFCS is removed from the home and at each subsequent
1431 review of the disposition order. If the DFCS report does not contain a plan for
1432 reunification services, the nonreunification hearing shall be held no later than 30 days
1433 from the time the report is filed; and

1434 (5) If the dispositional hearing is not held in conjunction with the adjudication hearing,
1435 it shall be held and completed within 30 days after the conclusion of the adjudication
1436 hearing.

1437 (d) An initial periodic review hearing shall be held within 75 days following a child's
1438 removal from his or her home. An additional periodic review shall be held within four
1439 months following such initial review.

1440 (e) Permanency plan hearings shall be held no later than 30 days after DFCS has submitted
1441 a written report to the court which does not provide a plan for reunification services or:

1442 (1) For children under seven years of age at the time a petition for dependency is filed,
1443 no later than nine months after the child is considered to have entered foster care,
1444 whichever comes first. Thereafter a permanency plan hearing shall be held every six
1445 months while the child continues in DFCS custody or more frequently as deemed
1446 necessary by the court until the court determines that the child's permanency plan and
1447 goal have been achieved; and

1448 (2) For children seven years of age and older at the time a petition is filed, no later than
1449 12 months after the child is considered to have entered foster care, whichever comes first.
1450 Thereafter a permanency plan hearing shall be held every six months while the child
1451 continues in DFCS custody or more frequently as deemed necessary by the court until the
1452 court determines that the child's permanency plan and goal have been achieved.

1453 (f) A supplemental order of the court adopting a child's permanency plan shall be entered
1454 within 30 days after the court has determined that reunification efforts need not be made
1455 by DFCS.

1456 15-11-103.

1457 (a) The child and any other party to a proceeding under this article shall have the right to
1458 a qualified and independent attorney at all stages of the proceedings under this article.

1459 (b) The court shall appoint an attorney for a child alleged to be dependent. The
1460 appointment shall be made as soon as practicable to ensure adequate representation of such
1461 child and, in any event, before the first court hearing that may substantially affect the
1462 interests of such child.

1463 (c) A child's attorney owes to the child the duties imposed by the law of this state in an
1464 attorney-client relationship.

1465 (d) Before an attorney may be appointed to represent a child, he or she shall have received
1466 training appropriate to the role that is administered or approved by the Office of the Child
1467 Advocate for the Protection of Children; provided, however, that such office shall exempt
1468 from the training requirement any attorney who has practiced as an attorney or guardian
1469 ad litem in juvenile court dependency proceedings for three or more years and, when such
1470 determination is made by the court, has demonstrated a proficiency in child representation.
1471 Preappointment training shall be satisfied within an attorney's existing continuing legal
1472 education obligations and shall not require the attorney to complete additional training
1473 hours in addition to the hours currently required by the State Bar of Georgia.

1474 (e) If an attorney has been appointed to represent a child in a prior proceeding under this
1475 chapter, the court, when possible, shall appoint the same attorney to represent the child in
1476 any subsequent proceeding.

1477 (f) An attorney appointed to represent a child in a dependency proceeding shall continue
1478 the representation in any subsequent appeals unless excused by the court.

1479 (g) Neither a child nor a representative of a child may waive a child's right to an attorney
1480 in a dependency proceeding.

1481 (h) A party other than a child shall be informed of his or her right to an attorney prior to
1482 any hearing. A party other than a child shall be given an opportunity to:

1483 (1) Obtain and employ an attorney of such party's own choice;

1484 (2) Obtain a court appointed attorney if the court determines that such party is an
1485 indigent person; or

1486 (3) Waive the right to an attorney.

1487 15-11-104.

1488 (a) The court shall appoint a guardian ad litem for a child alleged to be dependent.

1489 (b) A child's attorney may serve as the child's guardian ad litem unless or until there is
1490 conflict of interest between the attorney's duty to the child as the child's attorney and the
1491 attorney's considered opinion of the child's best interests as guardian ad litem.

1492 (c) A party to the proceeding, the employee or representative of a party to the proceeding,
1493 or any other individual with a conflict of interest shall not be appointed as guardian ad
1494 litem.

1495 (d) A court shall appoint a CASA to act as guardian ad litem whenever possible, and a
1496 CASA may be appointed in addition to an attorney who is serving as a guardian ad litem.

1497 (e) A lay guardian shall not engage in activities which could reasonably be construed as
1498 the practice of law.

1499 (f) Before the appointment as a guardian ad litem, such person shall have received training
1500 appropriate to the role as guardian ad litem which is administered or approved by the
1501 Office of the Child Advocate for the Protection of Children. For attorneys, preappointment
1502 guardian ad litem training shall be satisfied within the attorney's existing continuing legal
1503 education obligations and shall not require the attorney to complete additional training
1504 hours in addition to the hours currently required by the State Bar of Georgia.

1505 (g) Any volunteer guardian ad litem authorized and acting in good faith, in the absence of
1506 fraud or malice and in accordance with the duties required by this Code section, shall have
1507 immunity from any liability, civil or criminal, that might otherwise be incurred or imposed
1508 as a result of taking or failing to take any action pursuant to this Code section.

1509 (h) The court may remove a guardian ad litem from a case upon finding that the guardian
1510 ad litem acted in a manner contrary to a child's best interests, has not appropriately
1511 participated in the case, or if the court otherwise deems continued service as inappropriate
1512 or unnecessary.

1513 (i) A guardian ad litem shall not engage in ex parte contact with the court except as
1514 otherwise provided by law.

1515 (j) The court, the child, or any other party may compel a guardian ad litem for a child to
1516 attend a trial or hearing relating to the child and to testify, if appropriate, as to the proper
1517 disposition of a proceeding.

1518 (k) The court shall ensure that parties have the ability to challenge recommendations made
1519 by the guardian ad litem or the factual basis for the recommendations in accordance with
1520 the rules of evidence applicable to the specific proceeding.

1521 (l) A guardian ad litem's report shall not be admissible into evidence prior to the
1522 disposition hearing except in accordance with the rules of evidence applicable to the
1523 specific proceeding.

1524 (m) A guardian ad litem who is not also serving as attorney for a child may be called as
1525 a witness for the purpose of cross-examination regarding the guardian ad litem's report
1526 even if the guardian ad litem is not identified as a witness by a party.

1527 15-11-105.

1528 (a) A guardian ad litem shall advocate for a child's best interests in the proceeding for
1529 which the guardian ad litem has been appointed.

1530 (b) In determining the child's best interests, a guardian ad litem shall consider and evaluate
1531 all of the factors affecting the best interests of the child in the context of a child's age and
1532 developmental needs. Such factors shall include:

1533 (1) The physical safety and welfare of the child, including food, shelter, health, and
1534 clothing;

1535 (2) The mental and physical health of all individuals involved;

1536 (3) Evidence of domestic violence in any current, past, or considered home for the child;

1537 (4) A child's background and ties, including familial, cultural, and religious;

1538 (5) A child's sense of attachments, including a child's sense of security, a child's sense
1539 of familiarity, and continuity of affection for the child;

1540 (6) The least disruptive placement alternative for a child;

1541 (7) A child's wishes and long-term goals;

1542 (8) A child's community ties, including church, school, and friends;

1543 (9) A child's need for permanence which includes the child's need for stability and
1544 continuity of relationships with a parent, siblings, and other relatives;

1545 (10) The uniqueness of every family and child;

1546 (11) The risks attendant to entering and being in substitute care;

1547 (12) The preferences of the persons available to care for the child; and

1548 (13) Any other factors considered by the guardian ad litem to be relevant and proper to
1549 his or her determination.

1550 (c) Unless a child's circumstances render the following duties and responsibilities
1551 unreasonable, a guardian ad litem shall at a minimum:

1552 (1) Maintain regular and sufficient in-person contact with the child and, in a manner
1553 appropriate to the child's developmental level, meet with and interview the child prior to
1554 custody hearings, adjudication hearings, disposition hearings, judicial reviews, and any
1555 other hearings scheduled in accordance with the provisions of this chapter;

1556 (2) In a manner appropriate to the child's developmental level, ascertain the child's needs,
1557 circumstances, and views;

1558 (3) Conduct an independent assessment to determine the facts and circumstances
1559 surrounding the case;

1560 (4) Consult with the child's attorney, if appointed separately, regarding the issues in the
1561 proceeding;

1562 (5) Communicate with health care, mental health care, and other professionals involved
1563 with the child's case;

- 1564 (6) Review case study and educational, medical, psychological, and other relevant
1565 reports relating to the child and the respondents;
- 1566 (7) Review all court related documents;
- 1567 (8) Attend all court hearings and other proceedings to advocate for the child's best
1568 interests;
- 1569 (9) Advocate for timely court hearings to obtain permanency for the child;
- 1570 (10) Protect the cultural needs of the child;
- 1571 (11) Contact the child prior to any proposed change in the child's placement;
- 1572 (12) Contact the child after changes in the child's placement;
- 1573 (13) Request a judicial citizen review panel or judicial review of the case;
- 1574 (14) Attend citizen panel review hearings concerning the child and if unable to attend the
1575 hearings, forward to the panel a letter setting forth the child's status during the period
1576 since the last citizen panel review and include an assessment of the DFCS permanency
1577 and treatment plans;
- 1578 (15) Provide written reports to the court and the parties on the child's best interests which
1579 shall include, but not be limited to, recommendations regarding placement of the child,
1580 updates on the child's adjustment to placement, DFCS's and respondent's compliance with
1581 prior court orders and treatment plans, the child's degree of participation during
1582 visitations, and any other recommendations based on the best interests of the child;
- 1583 (16) When appropriate, encourage settlement and the use of any alternative forms of
1584 dispute resolution and participate in such processes to the extent permitted; and
- 1585 (17) Monitor compliance with the case plan and all court orders.
- 1586 (d)(1) Except as provided in Article 12 of this chapter, a guardian ad litem shall receive
1587 notices, pleadings, or other documents required to be provided to or served upon a party
1588 and shall be notified of all court hearings, judicial reviews, judicial citizen review panels,
1589 and other significant changes of circumstances of the child's case to the same extent and
1590 in the same manner as the parties to the case are notified of such matters.
- 1591 (2) A guardian ad litem shall be notified of the formulation of any case plan of the child's
1592 case and may be given the opportunity to be heard by the court about such plans.
- 1593 (e) Upon presentation of an order appointing a guardian ad litem, such guardian ad litem
1594 shall have access to all records and information relevant to a child's case when such records
1595 and information are not otherwise protected from disclosure pursuant to Code Section
1596 19-7-5. Such records and information shall not include records and information provided
1597 under Article 12 of this chapter or provided under Chapter 4A of Title 49.
- 1598 (f) All records and information acquired or reviewed by a guardian ad litem during the
1599 course of his or her appointment shall be deemed confidential and shall not be disclosed
1600 except as ordered by the court.

1601 (g) Except as provided in Code Section 49-5-41, regarding access to records, any guardian
 1602 ad litem who discloses confidential information obtained during the course of his or her
 1603 appointment, in violation of law, shall be guilty of a misdemeanor. A guardian ad litem
 1604 shall maintain all information and records regarding mental health, developmental
 1605 disability as defined in Code Section 37-1-1, and substance abuse according to the
 1606 confidentiality requirements contained in Code Section 37-3-166, 37-4-125, or 37-7-166,
 1607 as applicable.

1608 (h) In the event of a change of venue, the original guardian ad litem shall, as soon as
 1609 possible, communicate with the appointed guardian ad litem in the new venue and shall
 1610 forward all pertinent information to the new guardian ad litem.

1611 15-11-106.

1612 (a)(1) Before executing duties as a CASA, and upon completion of all the requirements
 1613 of an affiliate court appointed special advocate program, a CASA shall be sworn in by
 1614 a judge of the juvenile court in the court or circuit in which he or she wishes to serve. A
 1615 CASA shall not be assigned a case prior to being sworn in by a juvenile court judge as
 1616 set forth in this paragraph.

1617 (2) If a juvenile court judge determines that a child involved in a dependency proceeding
 1618 needs a CASA, the judge shall have the authority to appoint a CASA, and in such
 1619 circumstance shall sign an order appointing a CASA at the earliest possible stage of the
 1620 proceedings. Such order shall impose on a CASA all the duties, rights, and
 1621 responsibilities set forth in this Code section and Code Sections 15-11-104 and
 1622 15-11-105.

1623 (b) The role of a CASA in juvenile court dependency proceedings shall be to advocate for
 1624 the best interests of the child.

1625 (c) In addition to the reasons stated in subsection (h) of Code Section 15-11-104, the court
 1626 may discharge a CASA upon finding that the CASA has acted in a manner contrary to the
 1627 mission and purpose of the affiliate court appointed special advocate program.

1628 15-11-107.

1629 (a) A parent, guardian, or legal custodian's reliance on prayer or other religious
 1630 nonmedical means for healing in lieu of medical care, in the exercise of religious beliefs,
 1631 shall not be the sole basis for considering his or her child to be a dependent child; provided,
 1632 however, that the religious rights of a parent, guardian, or legal custodian shall not limit the
 1633 access of a child to medical care in a life-threatening situation or when the condition will
 1634 result in serious disability.

1635 (b) In order to make a determination as to whether a child is in a life-threatening situation
 1636 or that the child's condition will result in serious disability, the court may order a medical
 1637 evaluation of the child.

1638 (c) If the court determines, on the basis of any relevant evidence before the court,
 1639 including the court ordered medical evaluation and the affidavit of the attending physician,
 1640 that a child is in a life-threatening situation or that a child's condition will result in serious
 1641 disability, the court may order that medical treatment be provided for a child.

1642 (d) A child whose parent, guardian, or legal custodian inhibits or interferes with the
 1643 provision of medical treatment in accordance with a court order shall be considered to be
 1644 dependent and the court may find the parent, guardian, or legal custodian in contempt and
 1645 enter any order authorized by and in accordance with the provisions of Code Section
 1646 15-11-31.

1647 15-11-108.

1648 (a) The court shall give to all parties written notice of the date, time, place, and purpose
 1649 of the following postadjudication hearings or reviews:

1650 (1) Nonreunification hearings;

1651 (2) Disposition hearings;

1652 (3) Periodic review hearings;

1653 (4) Periodic reviews by judicial citizen review panel;

1654 (5) Permanency plan hearings;

1655 (6) Termination of parental rights hearings; and

1656 (7) Termination of parental rights review hearings.

1657 (b) Issuance and service of summons, when appropriate, shall comply with the
 1658 requirements of Code Sections 15-11-160 and 15-11-161.

1659 (c) Unless otherwise provided in this chapter, written notice shall be delivered to the
 1660 recipient at least 72 hours before the hearing or review by United States mail, e-mail, or
 1661 hand delivery.

1662 15-11-109.

1663 (a) In advance of each hearing or review, DFCS shall give written notice of the date, time,
 1664 place, and purpose of the review or hearing to the caregiver of the child, the foster parent
 1665 of the child, any preadoptive parent, or any relative providing care for the child including
 1666 the right to be heard. The written notice shall be delivered to the recipient at least 72 hours
 1667 before the review or hearing, except in the case of preliminary protective hearings or
 1668 emergency hearings when such notice is not possible, by United States mail, e-mail, or
 1669 hand delivery.

1670 (b) Notice of a hearing or review shall not be construed to require a legal custodian, foster
1671 parent, preadoptive parent, or relative caring for the child to be made a party to the hearing
1672 or review solely on the basis of such notice and opportunity to be heard.

1673 15-11-110.

1674 (a) Upon request of an attorney for the parent, guardian, legal custodian, child, or
1675 petitioner, the court may continue any hearing under this article beyond the time limit
1676 within which the hearing is otherwise required to be held; provided, however, that no
1677 continuance shall be granted that is contrary to the interests of the child. In considering a
1678 child's interests, the court shall give substantial weight to a child's need for prompt
1679 resolution of his or her custody status, the need to provide a child with a stable
1680 environment, and the damage to a child of prolonged temporary placements.

1681 (b) Continuances shall be granted only upon a showing of good cause and only for that
1682 period of time shown to be necessary by the evidence presented at the hearing on the
1683 motion. Whenever any continuance is granted, the facts proved which require the
1684 continuance shall be entered in the court record.

1685 (c) A stipulation between attorneys or the convenience of the parties shall not constitute
1686 good cause. Except as otherwise provided by judicial rules governing attorney conflict
1687 resolution, a pending criminal prosecution or family law matter shall not constitute good
1688 cause. The need for discovery shall not constitute good cause.

1689 (d) In any case in which a parent, guardian, legal custodian, or child is represented by an
1690 attorney and no objection is made to an order continuing any such hearing beyond the time
1691 limit, the absence of such an objection shall be deemed a consent to the continuance;
1692 provided, however, that even with consent, the court shall decide whether to grant the
1693 continuance in accordance with subsection (a) of this Code section.

1694 15-11-111.

1695 (a) At any hearing held with respect to a child, the court in its discretion, and based upon
1696 the evidence, may enter an order:

1697 (1) Accepting or rejecting any DFCS report;

1698 (2) Ordering an additional evaluation; or

1699 (3) Undertaking such other review as it deems necessary and appropriate to determine
1700 the disposition that is in the child's best interests.

1701 (b) The court's order:

1702 (1) May incorporate all or part of the DFCS report; and

1703 (2) Shall include findings of fact which reflect the court's consideration of the oral and
1704 written testimony offered by all parties, as well as nonparties, who are required to be

1705 provided with notice and a right to be heard in any hearing to be held with respect to the
1706 child, and DFCS.

1707 15-11-112.

1708 (a) When a child is removed from his or her home the court shall order reasonable
1709 visitation that is consistent with the age and developmental needs of the child if the court
1710 finds that it is in the child's best interests. The court's order shall specify the frequency,
1711 duration, and terms of visitation including whether or not visitation shall be supervised or
1712 unsupervised.

1713 (b) There shall be a presumption that visitation shall be unsupervised unless the court finds
1714 that unsupervised visitation is not in the child's best interests.

1715 (c) Within 30 days of the court finding that there is a lack of substantial progress towards
1716 completion of a case plan, the court shall review the terms of visitation and determine
1717 whether the terms continue to be appropriate for the child or whether the terms need to be
1718 modified.

1719 15-11-113.

1720 When a child is alleged to be dependent, the date the child is considered to have entered
1721 foster care shall be the date of the first judicial finding that a child has been subjected to
1722 child abuse or neglect or the date that is 60 days after the date on which a child is removed
1723 from his or her home, whichever is earlier.

1724 Part 2

1725 15-11-125.

1726 (a) A proceeding under this article may be commenced:

1727 (1) In the county in which a child legally resides; or

1728 (2) In the county in which a child is present when the proceeding is commenced if the
1729 child is present without a parent, guardian, or legal custodian or the acts underlying the
1730 dependency allegation are alleged to have occurred in that county.

1731 (b) For the convenience of the parties, the court may transfer the proceeding to the county
1732 in which a child legally resides. If the proceeding is transferred, certified copies of all legal
1733 and social documents and records pertaining to the proceeding on file with the clerk of
1734 court shall accompany the transfer.

Part 3

15-11-130.

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

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

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

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

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

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

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

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

1771 15-11-131.

1772 (a) Notwithstanding Code Section 15-11-133, a physician, licensed to practice medicine
1773 in this state who is treating a child may take or retain temporary protective custody of the
1774 child, without a court order and without the consent of a parent, guardian, or legal
1775 custodian, provided that:

1776 (1) The physician has reasonable cause to believe that the child is in a circumstance or
1777 condition that presents an imminent danger to the child's life or health as a result of
1778 suspected abuse or neglect; or

1779 (2) There is reasonable cause to believe that the child has been abused or neglected and
1780 there is not sufficient time for a court order to be obtained for temporary custody of the
1781 child before the child may be removed from the presence of the physician.

1782 (b) A physician holding a child in temporary protective custody shall:

1783 (1) Make reasonable and diligent efforts to inform the parents, guardian, or legal
1784 custodian of the child of the whereabouts of the child;

1785 (2) As soon as possible, make a report of the suspected abuse or neglect which caused
1786 him or her to take temporary custody of the child and inform DFCS that the child has
1787 been held in temporary custody; and

1788 (3) Not later than 24 hours after the child is held in temporary custody:

1789 (A) Contact a juvenile court intake officer, and inform such intake officer that the child
1790 is in imminent danger to his or her life or health as a result of suspected abuse or
1791 neglect; or

1792 (B) Contact a law enforcement officer who shall take the child and promptly bring the
1793 child before a juvenile court intake officer.

1794 (c) A child who meets the requirements for inpatient admission shall be retained in the
1795 hospital or institution until such time as the child is medically ready for discharge. Upon
1796 notification by the hospital or institution to DFCS that a child who is not eligible for
1797 inpatient admission or who is medically ready for discharge has been taken into custody
1798 by a physician and the child has been placed in DFCS custody, DFCS shall take physical
1799 custody of the child within six hours of being notified.

1800 (d) If the juvenile court intake officer determines that the child is to be placed in foster
1801 care and the court orders that the child be placed in DFCS custody, then:

1802 (1) If the child remains in the physical care of the physician, DFCS shall take physical
1803 possession of the child within six hours of being notified by the physician, unless the
1804 child meets the criteria for admission to a hospital or other medical institution or facility;

1805 or

1806 (2) If the child has been brought before the court by a law enforcement officer, DFCS
1807 shall promptly take physical possession of the child.

1808 (e) If the juvenile court intake officer determines that the child should not be placed in
 1809 foster care, the child shall be released.

1810 (f) If the child is placed in foster care, then the court shall notify the child's parents,
 1811 guardian, or legal custodian, the physician, and DFCS of the preliminary protective hearing
 1812 which is to be held within 72 hours.

1813 (g) If after the preliminary protective hearing the child is not released, DFCS shall file a
 1814 petition alleging dependency in accordance with this article, provided that there is a
 1815 continued belief that the child's life or health is in danger as a result of suspected abuse or
 1816 neglect.

1817 (h) Any hospital or physician authorized and acting in good faith and in accordance with
 1818 acceptable medical practice in the treatment of a child under this Code section shall have
 1819 immunity from any liability, civil or criminal, that might otherwise be incurred or imposed
 1820 as a result of taking or failing to take any action pursuant to this Code section. This Code
 1821 section shall not be construed as imposing any additional duty not already otherwise
 1822 imposed by law.

1823 15-11-132.

1824 (a) The facts supporting the issuance of an order of removal may be relayed orally,
 1825 including telephonically, to the judge or a designated juvenile court intake officer, and the
 1826 order directing that a child be taken into custody may be issued orally or electronically.

1827 (b) When a child is taken into custody under exceptional circumstances, an affidavit or
 1828 sworn complaint containing the information previously relayed orally, including
 1829 telephonically, shall be filed with the clerk of the court the next business day, and a written
 1830 order shall be issued if not previously issued. The written order shall include the court's
 1831 findings of fact supporting the necessity for the child's removal in order to safeguard the
 1832 child's welfare and shall designate the child's legal custodian.

1833 (c) The affidavit or sworn complaint filed after the child has been placed shall indicate
 1834 whether the child was released to the child's parent, guardian, or legal custodian or remains
 1835 removed.

1836 (d) DFCS shall promptly notify the parent, guardian, or legal custodian of the nature of the
 1837 allegations forming the basis for taking the child into custody and, if the child is not
 1838 released, of the time and place of the preliminary protective hearing.

1839 15-11-133.

1840 (a) A child may be removed from his or her home, without the consent of the child's
 1841 parents, guardian, or legal custodian:

1842 (1) Pursuant to an order of the court under this article; or

1843 (2) By a law enforcement officer or duly authorized officer of the court if the child is in
 1844 imminent danger of abuse or neglect if he or she remains in the home.

1845 (b) Upon removing a child from his or her home, the law enforcement officer or duly
 1846 authorized officer of the court shall:

1847 (1) Immediately deliver the child to a medical facility if the child is believed to suffer
 1848 from a serious physical condition or illness which requires prompt treatment, and, upon
 1849 delivery, shall promptly contact DFCS;

1850 (2) Bring the child immediately before the juvenile court or promptly contact a juvenile
 1851 court intake officer; and

1852 (3) Promptly give notice to the court and the child's parents, guardian, or legal custodian
 1853 that the child is in protective custody, together with a statement of the reasons for taking
 1854 the child into protective custody.

1855 (c) The removal of child from his or her home by a law enforcement officer shall not be
 1856 deemed an arrest.

1857 (d) A law enforcement officer removing a child from his or her home has all the privileges
 1858 and immunities of a law enforcement officer making an arrest.

1859 (e) A law enforcement officer shall promptly contact a juvenile court intake officer for
 1860 issuance of a court order once such officer has taken a child into protective custody and
 1861 delivered the child to a medical facility.

1862 (f) A juvenile court intake officer shall immediately determine if the child should be
 1863 released, remain in protective custody, or be brought before the court upon being contacted
 1864 by a law enforcement officer, duly authorized officer of the court, or DFCS that a child has
 1865 been taken into protective custody.

1866 15-11-134.

1867 (a) Any order authorizing the removal of a child from his or her home shall be based on
 1868 a finding by the court that continuation in the home would be contrary to the child's
 1869 welfare.

1870 (b) Such findings shall be made on an individualized case-by-case basis and shall be
 1871 documented in the court's written order.

1872 15-11-135.

1873 (a) A child taken into custody shall not be placed in foster care prior to the hearing on the
 1874 petition unless:

1875 (1) Foster care is required to protect the child;

1876 (2) The child has no parent, guardian, or legal custodian or other person able to provide
 1877 supervision and care and return him or her to the court when required; or

1878 (3) An order for the child's foster care has been made by the court.

1879 (b) No child alleged or adjudicated to be dependent shall be detained in any jail, adult
 1880 lockup, or adult detention facility, nor shall a child be detained in a regional youth
 1881 detention center or youth development center unless the child is also alleged or adjudicated
 1882 to be delinquent, and the court determines that the requirements for detention under Article
 1883 7 of this chapter are met.

1884 (c) A child alleged to be dependent may be placed in foster care only in:

1885 (1) A licensed or approved foster home or a home approved by the court which may be
 1886 a public or private home or the home of the noncustodial parent or of a relative;

1887 (2) A facility operated by a licensed child welfare agency; or

1888 (3) A licensed shelter care facility approved by the court.

1889 (d) The actual physical placement of a child pursuant to this Code section shall require the
 1890 approval of the judge of the juvenile court or his or her designee.

1891 (e) In any case in which a child is taken into protective custody of DFCS, the child shall
 1892 be placed together with any siblings who are also in protective custody, to the extent that
 1893 it is practical and appropriate, or DFCS shall include a statement in its report and case plan
 1894 of continuing efforts to place the siblings together or why such efforts are not appropriate.
 1895 If siblings are not placed together, DFCS shall provide for frequent visitation or other
 1896 ongoing interaction between the siblings, unless DFCS documents that such frequent
 1897 visitation or other ongoing interaction would be contrary to the safety or well-being of any
 1898 of the siblings.

1899 Part 4

1900 15-11-145.

1901 (a) If a child alleged to be dependent is removed from his or her home and is not returned
 1902 home, the preliminary protective hearing shall be held promptly and not later than 72 hours
 1903 after the child is placed in foster care; provided, however, that if the 72 hour time frame
 1904 expires on a weekend or legal holiday, the hearing shall be held on the next day which is
 1905 not a weekend or legal holiday.

1906 (b) Reasonable oral or written notice of the preliminary protective hearing, stating the
 1907 time, place, and purpose of the hearing, shall be given to the child and, if such person can
 1908 be found, to the child's parent, guardian, or legal custodian.

1909 (c) If a parent, guardian, or legal custodian has not been notified of the preliminary
 1910 protective hearing and did not appear or waive appearance at such hearing and thereafter
 1911 files an affidavit showing such facts, the court shall rehear the matter without unnecessary

1912 delay and shall order the child's release unless it appears from such hearing that the child's
1913 foster care is warranted or required.

1914 (d) The following persons shall have the right to participate in the preliminary protective
1915 hearing:

1916 (1) The child's parent, guardian, or legal custodian, unless such person cannot be located
1917 or fails to appear in response to the notice;

1918 (2) The child's attorney and guardian ad litem if a guardian ad litem has been appointed;

1919 (3) The child, unless the court finds, after considering evidence of harm to the child that
1920 will result from the child's presence at the proceeding, that being present is not in the
1921 child's best interests;

1922 (4) The parent's attorney if an attorney has been retained or appointed;

1923 (5) The assigned DFCS caseworker; and

1924 (6) The attorney for DFCS.

1925 (e) The court may allow the following parties to be present at the preliminary protective
1926 hearing, if the court finds it is in the best interests of the child:

1927 (1) Any relative or other person who has demonstrated an ongoing commitment to the
1928 child with whom the child might be placed;

1929 (2) DFCS employees involved in the case;

1930 (3) An advocate as requested by the parent, guardian, or legal custodian; and

1931 (4) Other persons who have knowledge of or an interest in the welfare of the child.

1932 (f) At the commencement of the preliminary protective hearing, the court shall inform the
1933 parties of:

1934 (1) The contents of the complaint in terms understandable to the child and parent,
1935 guardian, or legal custodian;

1936 (2) The nature of the proceedings in terms understandable to the child and parent,
1937 guardian, or legal custodian;

1938 (3) Their due process rights including their right to an attorney and to an appointed
1939 attorney if they are indigent persons, the right to call witnesses and to cross-examine all
1940 witnesses, the right to present evidence, and the right to a trial by the court on the
1941 allegations in the complaint or petition.

1942 (g) If the child is not released at the preliminary protective hearing, a petition for
1943 dependency shall be made and presented to the court within five days of such hearing.

1944 15-11-146.

1945 (a) At the preliminary protective hearing, the court shall determine:

1946 (1) Whether there is probable cause to believe the child is dependent; and

1947 (2) Whether protective custody of the child is necessary to prevent abuse or neglect
1948 pending the hearing on the dependency petition.

1949 (b) The court:

1950 (1) On finding that the complainant has not proved either of the required elements
1951 prescribed in subsection (a) of this Code section, shall dismiss the case and shall return
1952 the child to the child's parent, guardian, or legal custodian;

1953 (2) On finding that the complainant has not met the burden of proving that protective
1954 custody is necessary, shall return the child to the child's parent, guardian, or legal
1955 custodian pending the hearing on the dependency petition; or

1956 (3) On finding that the complainant has met the burden prescribed in subsection (a) of
1957 this Code section, may place the child in the temporary custody of DFCS pending the
1958 hearing on the dependency petition.

1959 (c) A court's order removing a child from the child's home shall be based upon a finding
1960 that:

1961 (1) Continuation in the home would be contrary to the child's welfare; and

1962 (2) Removal is in the child's best interests.

1963 (d) The court shall make written findings as to whether DFCS has made reasonable efforts
1964 to prevent or eliminate the need for removal of the child from the home and to make it
1965 possible for the child to safely return home. When the court finds that no services were
1966 provided but that reasonable services would not have eliminated the need for protective
1967 custody, the court shall consider DFCS to have made reasonable efforts to prevent or
1968 eliminate the need for protective custody. The court shall include in the written findings
1969 a brief description of what preventive and reunification efforts were made by DFCS.

1970 (e) In determining whether a child shall be removed or continued out of the home, the
1971 court shall consider whether the provision of reasonable services can prevent or eliminate
1972 the need to separate the family. The court shall make a written finding in every order of
1973 removal that describes why it is in the best interests of the child that the child be removed
1974 from the home or continued in foster care.

1975 (f) To aid the court in making the required written findings, DFCS shall present evidence
1976 to the court outlining the reasonable efforts made to prevent taking the child into protective
1977 custody and to provide services to make it possible for the child to safely return home and
1978 why protective custody is in the best interests of the child.

1979

Part 5

1980

15-11-150.

1981

A DFCS employee, a law enforcement officer, or any person who has actual knowledge

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of the abuse, neglect, or abandonment of a child or is informed of the abuse, neglect, or

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abandonment of a child that he or she believes to be truthful may make a petition alleging

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dependency.

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15-11-151.

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(a) If a child was removed from his or her home, the petition alleging dependency shall be

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filed within five days of the preliminary protective hearing.

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(b) If the child was not removed from his or her home or if the child was removed from

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his or her home but was released from protective custody at the preliminary protective

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hearing, the petition alleging dependency shall be filed within 30 days of the preliminary

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protective hearing.

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(c) Upon a showing of good cause and notice to all parties, the court may grant a requested

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extension of time for filing a petition alleging dependency in accordance with the best

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interests of the child. The court shall issue a written order reciting the facts justifying the

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extension.

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(d) If a petition alleging dependency is not filed within the required time frame, the

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complaint shall be dismissed without prejudice.

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15-11-152.

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A petition alleging dependency shall be verified and may be on information and belief and

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shall set forth plainly and with particularity:

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(1) The facts which bring the child within the jurisdiction of the court, with a statement

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that it is in the best interests of the child and the public that the proceeding be brought;

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(2) The name, date of birth, and residence address of the child on whose behalf the

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petition is brought;

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(3) The name and residence address of the parent, guardian, or legal custodian of the

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child; or, if neither the child's parent nor the child's guardian nor the child's legal

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custodian resides or can be found within the state or if such place of residence address is

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unknown, the name of any known adult relative residing within the county or, if there is

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none, the known adult relative residing nearest to the location of the court;

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(4) Whether the child is in protective custody and, if so, the place of his or her foster care

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and the time the child was taken into protective custody; and

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(5) Whether any of the matters required by this Code section are unknown.

2013 15-11-153.

2014 (a) The petitioner may amend the petition alleging dependency at any time:

2015 (1) To cure defects of form; and

2016 (2) Prior to the adjudication hearing, to include new allegations of fact or requests for
2017 adjudication.

2018 (b) When the petition is amended after the initial service to include new allegations of fact
2019 or requests for adjudication, the amended petition shall be served on the parties and
2020 provided to the attorneys of record.

2021 (c) The court shall grant the parties such additional time to prepare as may be required to
2022 ensure a full and fair hearing; provided, however, that when a child is in protective custody
2023 or in detention, the adjudication hearing shall not be delayed more than ten days beyond
2024 the time originally fixed for the hearing.

2025 Part 6

2026 15-11-160.

2027 (a) The court shall direct the issuance of a summons to the child if the child is 14 years of
2028 age or older, the child's parent, guardian, or legal custodian, the child's attorney, the child's
2029 guardian ad litem, if any, and any other persons who appear to the court to be proper or
2030 necessary parties to the proceeding, requiring them to appear before the court at the time
2031 fixed to answer the allegations of the petition alleging dependency. A copy of the petition
2032 alleging dependency shall accompany the summons unless the summons is served by
2033 publication, in which case the published summons shall indicate the general nature of the
2034 allegations and where a copy of the petition alleging dependency can be obtained.

2035 (b) The summons shall state that a party is entitled to an attorney in the proceedings and
2036 that the court will appoint an attorney if the party is an indigent person.

2037 (c) The court may endorse upon the summons an order directing the parent, guardian, or
2038 legal custodian of the child to appear personally at the hearing and directing the person
2039 having the physical custody or control of the child to bring the child to the hearing.

2040 (d) A party other than the child may waive service of summons by written stipulation or
2041 by voluntary appearance at the hearing.

2042 15-11-161.

2043 (a) If a party to be served with a summons is within this state and can be found, the
2044 summons shall be served upon him or her personally as soon as possible and at least 72
2045 hours before the adjudication hearing.

2046 (b) If a party to be served is within this state and cannot be found but his or her address is
2047 known or can be ascertained with reasonable diligence, the summons shall be served upon
2048 such party at least five days before the adjudication hearing by mailing him or her a copy
2049 by registered or certified mail or statutory overnight delivery, return receipt requested.

2050 (c) If a party to be served is outside this state but his or her address is known or can be
2051 ascertained with reasonable diligence, service of the summons shall be made at least five
2052 days before the adjudication hearing either by delivering a copy to such party personally
2053 or by mailing a copy to him or her by registered or certified mail or statutory overnight
2054 delivery, return receipt requested.

2055 (d) If, after justifiable effort, a party to be served with a summons cannot be found and
2056 such party's address cannot be ascertained, whether he or she is within or outside this state,
2057 the court may order service of the summons upon him or her by publication. The
2058 adjudication hearing shall not be earlier than five days after the date of the last publication.

2059 (e)(1) Service by publication shall be made once a week for four consecutive weeks in
2060 the official organ of the county where the petition alleging dependency has been filed.
2061 Service shall be deemed complete upon the date of the last publication.

2062 (2) When served by publication, the notice shall contain the names of the parties, except
2063 that the anonymity of the child shall be preserved by the use of appropriate initials, and
2064 the date the petition alleging dependency was filed. The notice shall indicate the general
2065 nature of the allegations and where a copy of the petition alleging dependency can be
2066 obtained and require the party to be served by publication to appear before the court at
2067 the time fixed to answer the allegations of the petition alleging dependency.

2068 (3) Within 15 days after the filing of the order of service by publication, the clerk of
2069 court shall mail a copy of the notice, a copy of the order of service by publication, and
2070 a copy of the petition alleging dependency to the last known address of the party being
2071 served by publication.

2072 (f) Service of the summons may be made by any suitable person under the direction of the
2073 court.

2074 (g) The court may authorize the payment from county funds of the costs of service and of
2075 necessary travel expenses incurred by persons summoned or otherwise required to appear
2076 at the hearing.

2077 15-11-162.

2078 (a) In the event a parent, guardian, or legal custodian of the child willfully fails to appear
2079 personally at a hearing after being ordered to so appear or the parent, guardian, or legal
2080 custodian of the child willfully fails to bring the child to a hearing after being so directed,

2081 the court may issue an order against the person, directing the person to appear before the
 2082 court to show cause why he or she should not be held in contempt of court.

2083 (b) If the parent, guardian, or legal custodian fails to appear in response to an order to
 2084 show cause, the court may issue a bench warrant directing that the parent, guardian, or
 2085 legal custodian be brought before the court without delay to show cause why he or she
 2086 should not be held in contempt and the court may enter any order authorized by and in
 2087 accordance with the provisions of Code Section 15-11-31.

2088 15-11-163.

2089 (a) If service of summons upon a party is made by publication, the court may conduct a
 2090 provisional hearing upon the allegations of the petition alleging dependency and enter an
 2091 interlocutory order of disposition if:

2092 (1) The petition alleges dependency of the child;

2093 (2) The summons served upon any party:

2094 (A) States that prior to the final hearing on such petition a provisional hearing will be
 2095 held at a specified time and place;

2096 (B) Requires the party who is served other than by publication to appear and answer
 2097 the allegations of the petition alleging dependency at the provisional hearing;

2098 (C) States further that findings of fact and orders of disposition made pursuant to the
 2099 provisional hearing will become final at the final hearing unless the party served by
 2100 publication appears at the final hearing; and

2101 (D) Otherwise conforms to the requirements of Code Section 15-11-160; and

2102 (3) The child is personally before the court at the provisional hearing.

2103 (b) Findings of fact and orders of disposition shall have only interlocutory effect pending
 2104 final hearing on the petition alleging dependency.

2105 (c) If the party served by publication fails to appear at the final hearing on the petition
 2106 alleging dependency, the findings of fact and interlocutory orders made shall become final
 2107 without further evidence. If the party appears at the final hearing, the findings and orders
 2108 shall be vacated and disregarded and the hearing shall proceed upon the allegations of such
 2109 petition without regard to this Code section.

2110 Part 7

2111 15-11-170.

2112 (a) In all cases under this article, any party shall, upon written request to the party having
 2113 actual custody, control, or possession of the material to be produced, have full access to the
 2114 following for inspection, copying, or photographing:

- 2115 (1) The names and telephone numbers of each witness likely to be called to testify at the
2116 hearing by another party;
- 2117 (2) A copy of any formal written statement made by the child who is alleged to be
2118 dependent or any witness that relates to the subject matter concerning the testimony of
2119 the witness that a party intends to call as a witness at the hearing;
- 2120 (3) Except as otherwise provided in subsection (b) of this Code section, any scientific or
2121 other report which is intended to be introduced at any hearing or that pertains to physical
2122 evidence which is intended to be introduced;
- 2123 (4) Any drug screen concerning the child who is alleged to be dependent or his or her
2124 parent, guardian, or legal custodian;
- 2125 (5) Any case plan concerning the child who is alleged to be dependent or his or her
2126 parent, guardian, or legal custodian;
- 2127 (6) Any visitation schedule related to the child who is alleged to be dependent;
- 2128 (7) Photographs and any physical evidence which are intended to be introduced at any
2129 hearing;
- 2130 (8) Copies of the police incident report regarding an occurrence which forms part or all
2131 of the basis of the petition; and
- 2132 (9) Any other relevant evidence not requiring consent or a court order under subsection
2133 (b) of this Code section.
- 2134 (b) Upon presentation of a court order or written consent from the appropriate person or
2135 persons permitting access to the party having actual custody, control, or possession of the
2136 material to be produced, any party shall have access to the following for inspection,
2137 copying, or photographing:
- 2138 (1) Any psychological, developmental, physical, mental or emotional health, or other
2139 assessments of the child who is alleged to be dependent or the family, parent, guardian,
2140 or legal custodian of such child;
- 2141 (2) Any school record concerning the child who is alleged to be dependent;
- 2142 (3) Any medical record concerning the child who is alleged to be dependent;
- 2143 (4) Transcriptions, recordings, and summaries of any oral statement of the child who is
2144 alleged to be dependent or of any witness, except child abuse reports that are confidential
2145 pursuant to Code Section 19-7-5 and work product of counsel;
- 2146 (5) Any family team meeting report or multidisciplinary team meeting report concerning
2147 the child who is alleged to be dependent or his or her parent, guardian, or legal custodian;
- 2148 (6) Supplemental police reports, if any, regarding an occurrence which forms part of all
2149 of the basis of the petition; and
- 2150 (7) Immigration records concerning the child who is alleged to be dependent.

2151 (c) If a party requests disclosure of information pursuant to subsection (a) or (b) of this
2152 Code section, it shall be the duty of such party to promptly make the following available
2153 for inspection, copying, or photographing to every other party:

2154 (1) The names and last known addresses and telephone numbers of each witness to the
2155 occurrence which forms the basis of the party's defense or claim;

2156 (2) Any scientific or other report which is intended to be introduced at the hearing or that
2157 pertains to physical evidence which is intended to be introduced;

2158 (3) Photographs and any physical evidence which are intended to be introduced at the
2159 hearing; and

2160 (4) A copy of any written statement made by any witness that relates to the subject
2161 matter concerning the testimony of the witness that the party intends to call as a witness.

2162 (d) A request for discovery or reciprocal discovery shall be complied with promptly and
2163 not later than five days after the request is received or 72 hours prior to any hearing except
2164 when later compliance is made necessary by the timing of the request. If the request for
2165 discovery is made fewer than 48 hours prior to an adjudicatory hearing, the discovery
2166 response shall be produced in a timely manner. If, subsequent to providing a discovery
2167 response in compliance with this Code section, the existence of additional evidence is
2168 found, it shall be promptly provided to the party making the discovery request.

2169 (e) If a request for discovery or consent for release is refused, application may be made to
2170 the court for a written order granting discovery. Motions for discovery shall certify that
2171 a request for discovery or consent was made and was unsuccessful despite good faith
2172 efforts made by the requesting party. An order granting discovery shall require reciprocal
2173 discovery. Notwithstanding the provisions of subsection (a) or (b) of this Code section, the
2174 court may deny, in whole or in part, or otherwise limit or set conditions concerning the
2175 discovery response upon a sufficient showing by a person or entity to whom a request for
2176 discovery is made that disclosure of the information would:

2177 (1) Jeopardize the safety of a party, witness, or confidential informant;

2178 (2) Create a substantial threat of physical or economic harm to a witness or other person;

2179 (3) Endanger the existence of physical evidence;

2180 (4) Disclose privileged information; or

2181 (5) Impede the criminal prosecution of a minor who is being prosecuted as an adult or
2182 the prosecution of an adult charged with an offense arising from the same transaction or
2183 occurrence.

2184 (f) No deposition shall be taken of a child unless the court orders the deposition, under
2185 such conditions as the court may order, on the ground that the deposition would further the
2186 purposes of this part.

2187 (g) If at any time during the course of the proceedings it is brought to the attention of the
 2188 court that a person or entity has failed to comply with an order issued pursuant to this Code
 2189 section, the court may grant a continuance, prohibit the party from introducing in evidence
 2190 the information not disclosed, or enter such other order as the court deems just under the
 2191 circumstances.

2192 (h) Nothing contained in this Code section shall prohibit the court from ordering the
 2193 disclosure of any information that the court deems necessary for proper adjudication.

2194 (i) Any material or information furnished to a party pursuant to this part shall remain in
 2195 the exclusive custody of the party and shall only be used during the pendency of the case
 2196 and shall be subject to such other terms and conditions as the court may provide.

2197 Part 8

2198 15-11-180.

2199 The petitioner shall have the burden of proving the allegations of a dependency petition by
 2200 clear and convincing evidence.

2201 15-11-181.

2202 (a) The court shall fix a time for the adjudication hearing. If the child is in foster care, the
 2203 hearing shall be scheduled for no later than ten days after the filing of the petition alleging
 2204 dependency. If the child is not in foster care, the adjudication hearing shall be held no later
 2205 than 60 days after the filing of the petition alleging dependency. If adjudication is not
 2206 completed within 60 days from the date the child was taken into protective custody, the
 2207 petition alleging dependency may be dismissed without prejudice.

2208 (b) The following persons shall have the right to participate in the adjudication hearing:

2209 (1) The child's parent, guardian, or legal custodian, unless such person cannot be located
 2210 or fails to appear in response to the notice;

2211 (2) The child's attorney and guardian ad litem, if a guardian ad litem has been appointed;

2212 (3) The child, unless the court finds, after considering evidence of harm to the child that
 2213 will result from the child's presence at the proceeding, that being present is not in the
 2214 child's best interests;

2215 (4) The attorneys for the parent, guardian, or legal custodian if attorneys have been
 2216 retained or appointed;

2217 (5) The assigned DFCS caseworker; and

2218 (6) The attorney for DFCS.

2219 (c) If the court finds it is in the best interests of the child, the court may allow the
 2220 following to be present at the adjudication hearing:

2221 (1) Any relative or other person who has demonstrated an ongoing commitment to the
 2222 child with whom the child might be placed;

2223 (2) DFCS employees involved with the case;

2224 (3) An advocate as requested by the parent, guardian, or legal custodian; and

2225 (4) Other persons who have knowledge of or an interest in the welfare of the child.

2226 (d) Except as provided in this subsection, the adjudication hearing shall be conducted in
 2227 accordance with Title 24. Testimony or other evidence relevant to the dependency of a
 2228 child or the cause of such condition may not be excluded on any ground of privilege,
 2229 except in the case of:

2230 (1) Communications between a party and his or her attorney; and

2231 (2) Confessions or communications between a priest, rabbi, or duly ordained minister or
 2232 similar functionary and his or her confidential communicant.

2233 (e) After hearing the evidence, the court shall make and file specific written findings as
 2234 to whether the child is a dependent child.

2235 (f) If the court finds that the child is not a dependent child, it shall dismiss the petition
 2236 alleging dependency and order the child discharged from foster care or other restriction
 2237 previously ordered.

2238 (g) If the court finds that the child is dependent, the court shall proceed immediately or at
 2239 a postponed hearing to make a proper disposition of the case.

2240 (h) If the court finds that a child is dependent, the court shall also make and file a finding
 2241 whether such dependency is the result of substance abuse by a parent, guardian, or legal
 2242 custodian.

2243 (i) If the disposition hearing is held on the same day as the adjudication hearing, the court
 2244 shall schedule the dates and times for the first periodic review hearing and for the
 2245 permanency plan hearing.

2246 Part 9

2247 15-11-190.

2248 If the allegations of the petition alleging dependency are admitted or after an adjudication
 2249 hearing the court has found the child to be dependent, the court may direct that a written
 2250 social study and report be made by DFCS.

2251 15-11-191.

2252 Each social study shall include, but shall not be limited to, a factual discussion of each of
 2253 the following subjects:

- 2254 (1) What plan, if any, for the return of the child to his or her parent and for achieving
 2255 legal permanency for the child if efforts to reunify fail, is recommended to the court;
 2256 (2) Whether the best interests of the child will be served by granting reasonable visitation
 2257 rights to his or her other relatives, in order to maintain and strengthen the child's family
 2258 relationships;
 2259 (3) Whether the child has siblings under the court's jurisdiction, and, if so:
 2260 (A) The nature of the relationship between the child and his or her sibling;
 2261 (B) Whether the siblings were raised together in the same home and whether the
 2262 siblings have shared significant common experiences or have existing close and strong
 2263 bonds;
 2264 (C) Whether the child expresses a desire to visit or live with his or her sibling and
 2265 whether ongoing contact is in the child's best interests;
 2266 (D) The appropriateness of developing or maintaining the sibling relationships;
 2267 (E) If the siblings are not placed together in the same home, why the siblings are not
 2268 placed together and what efforts are being made to place the siblings together or why
 2269 those efforts are not appropriate;
 2270 (F) If the siblings are not placed together, the frequency and nature of the visits
 2271 between siblings; and
 2272 (G) The impact of the sibling relationship on the child's placement and planning for
 2273 legal permanence;
 2274 (4) The appropriateness of any relative placement; and
 2275 (5) Whether the caregiver desires and is willing to provide legal permanency for the
 2276 child if reunification is unsuccessful.

2277 Part 10

2278 15-11-200.

- 2279 (a) Within 30 days of the date a child who is placed in DFCS custody is removed from the
 2280 home and at each subsequent review of the disposition order, DFCS shall submit a written
 2281 report to the court which shall either:
 2282 (1) Include a case plan for a reunification of the family; or
 2283 (2) Include a statement of the factual basis for determining that a plan for reunification
 2284 is not appropriate.
 2285 (b) The report submitted by DFCS shall become a discrete part of the case record in a
 2286 format determined by DFCS and shall be made available to the child if the child is 14 years
 2287 of age or older, the child's attorney, the child's guardian ad litem, if any, and the parent,
 2288 guardian, or legal custodian of the child. The contents of the report shall be determined at

2289 a meeting to be held by DFCS in consultation with the parent, guardian, or legal custodian
2290 and child, when appropriate. The parent, guardian, or legal custodian, the child if the child
2291 is 14 years of age or older, the child's attorney, and the child's guardian ad litem, if any,
2292 shall be given written notice of the meeting at least five days in advance of such meeting
2293 and shall be advised that the report will be submitted to the court for consideration as an
2294 order of the court. The report submitted to the court shall also contain any dissenting
2295 recommendations of the judicial citizen review panel, if applicable, and any
2296 recommendations of the parent, guardian, or legal custodian, if such are available.

2297 (c) If the court adopts a report that contains a case plan for reunification services, it shall
2298 be in effect until modification by the court. The case plan shall address each reason
2299 requiring removal and shall, at a minimum, comply with the requirements of Code Section
2300 15-11-201.

2301 (d) If the submitted report contains a proposed case plan for reunification services:

2302 (1) DFCS shall provide the caregiver, the foster parent, and any preadoptive parent or
2303 relative providing care for the child with a copy of those portions of the court approved
2304 case plan that involve the permanency goal and the services to be provided to the child;

2305 (2) A copy of the report and case plan shall be delivered to the parent, guardian, or legal
2306 custodian by United States mail, e-mail, or hand delivery at the same time the report and
2307 case plan are transmitted to the court, along with written notice that the report will be
2308 considered by the court without a hearing unless, within five days from the date the copy
2309 of the report and case plan were delivered, the parent, guardian, or legal custodian
2310 requests a hearing before the court to review the report and case plan; and

2311 (3) If no hearing is requested, the court shall enter a disposition order or supplemental
2312 order incorporating all elements of the case plan for reunification services which the court
2313 finds essential to reunification, specifying what shall be accomplished by all parties
2314 before reunification of the family can be achieved.

2315 (e) When a recommendation is made that reunification services are not appropriate and
2316 should not be allowed, the report submitted by DFCS shall address each reason requiring
2317 removal and shall contain at least the following:

2318 (1) The purpose for which the child was placed in foster care, including a statement of
2319 the reasons why the child cannot be adequately and safely protected at home and the
2320 harm which may occur if the child remains in the home and a description of the services
2321 offered and the services provided to prevent removal of the child from the home;

2322 (2) A clear statement describing all of the reasons supporting a finding that reunification
2323 of a child with the child's parent will be detrimental to the child and that reunification
2324 services therefore need not be provided, including specific findings as to whether any of
2325 the grounds for terminating parental rights exist; and

2326 (3) The statements, provisions, and requirements found in paragraphs (11) and (12) of
2327 subsection (b) of Code Section 15-11-201.

2328 15-11-201.

2329 (a) The case plan shall be designed to achieve placement in the most appropriate, least
2330 restrictive, and most family-like setting available and in close proximity to the parent's
2331 home, consistent with the best interests and special needs of the child, and which considers
2332 the placement's proximity to the school in which the child is enrolled at the time of
2333 placement.

2334 (b) The case plan shall be developed by DFCS and the child's parent, guardian, or legal
2335 custodian and, when appropriate, the child. The case plan shall include, but shall not be
2336 limited to, all of the following:

2337 (1) A description of the circumstances that resulted in the child being placed under the
2338 jurisdiction of the court and in foster care;

2339 (2) An assessment of the child's and family's strengths and needs and the type of
2340 placement best equipped to meet those needs;

2341 (3) A description of the type of home or institution in which the child is to be placed,
2342 including a discussion of the safety and appropriateness of the placement;

2343 (4) Specific time-limited goals and related activities designed to enable the safe return
2344 of the child to his or her home, or, in the event that return to his or her home is not
2345 possible, activities designed to result in permanent placement or emancipation;

2346 (5) Assignment of specific responsibility for accomplishing the planned activities;

2347 (6) The projected date of completion of the case plan objectives;

2348 (7) The date time-limited services will be terminated;

2349 (8) A schedule of visits between the child and his or her siblings and other appropriate
2350 family members and an explanation if no visits are scheduled;

2351 (9) When placement is made in a foster family home, group home, or other child care
2352 institution that is either a substantial distance from the home of the child's parent,
2353 guardian, or legal custodian or out-of-state, the case plan shall specify the reasons why
2354 the placement is the most appropriate and is in the best interests of the child;

2355 (10) When an out-of-state group home placement is recommended or made, the case plan
2356 shall comply with Code Section 39-4-4, the Interstate Compact on the Placement of
2357 Children. In addition, documentation of the recommendation of the multidisciplinary
2358 team and the rationale for such particular placement shall be included. The case plan
2359 shall also address what in-state services or facilities were used or considered and why
2360 they were not recommended;

2361 (11) If applicable, a statement that reasonable efforts have been made and a requirement
2362 that reasonable efforts shall be made for so long as the child remains in the custody of the
2363 department:

2364 (A) To place siblings removed from their home in the same foster care, kinship care,
2365 guardianship, or adoptive placement, unless DFCS documents that such a joint
2366 placement would be contrary to the safety or well-being of any of the siblings; and

2367 (B) In the case of siblings removed from their home who are not so jointly placed, for
2368 frequent visitation or other ongoing interaction between the siblings, unless DFCS
2369 documents that such frequent visitation or other ongoing interaction would be contrary
2370 to the safety or well-being of any of the siblings;

2371 (12) Provisions ensuring the educational stability of the child while in foster care,
2372 including:

2373 (A) An assurance that the placement of the child in foster care takes into account the
2374 appropriateness of the current educational setting and the proximity to the school in
2375 which the child is enrolled at the time of placement;

2376 (B) An assurance that the state agency has coordinated with appropriate local
2377 educational agencies to ensure that the child remains in the school in which the child
2378 is enrolled at the time of placement; or

2379 (C) If remaining in such school is not in the best interests of the child, an assurance by
2380 DFCS that DFCS and the local educational agencies have cooperated to assure the
2381 immediate and appropriate enrollment in a new school, with all of the educational
2382 records of the child provided to such new school;

2383 (13) An account of health and education information about the child including school
2384 records, immunizations, known medical problems, any known medications the child may
2385 be taking, names and addresses of the child's health and educational providers; the child's
2386 grade level performance; assurances that the child's placement in foster care takes into
2387 account proximity to the school in which the child was enrolled at the time of placement;
2388 and other relevant health and educational information;

2389 (14) A recommendation for a permanency plan for the child. If, after considering
2390 reunification, adoptive placement, or permanent guardianship, DFCS recommends
2391 placement in another planned permanent living arrangement, the case plan shall include
2392 documentation of a compelling reason or reasons why termination of parental rights is
2393 not in the child's best interests. For purposes of this paragraph, a 'compelling reason' shall
2394 have the same meaning as in paragraph (2) of subsection (b) of Code Section 15-11-233;

2395 (15) A statement that the parent, guardian, or legal custodian and the child have had an
2396 opportunity to participate in the development of the case plan, to review the case plan,

2397 to sign the case plan, and to receive a copy of the plan, or an explanation about why he
 2398 or she was not able to participate or sign the case plan;

2399 (16) A requirement that the DFCS case manager and staff and, as appropriate, other
 2400 representatives of the child provide the child with assistance and support in developing
 2401 a transition plan that is personalized at the direction of the child; includes specific options
 2402 on housing, health insurance, education, local opportunities for mentors and continuing
 2403 support services, and work force supports and employment services; and is as detailed as
 2404 the child may elect in the 90 day period immediately prior to the date on which the child
 2405 will attain 18 years of age;

2406 (17) For a child in out-of-home care who is 14 years of age or older, a written description
 2407 of the programs and services which will help the child prepare for the transition from
 2408 foster care to independent living; and

2409 (18) The identity of the person within DFCS or other agency who is directly responsible
 2410 for ensuring that the case plan is implemented.

2411 15-11-202.

2412 (a) Except as provided in subsection (a) of Code Section 15-11-203, reasonable efforts
 2413 shall be made to preserve or reunify families;

2414 (1) Prior to the placement of a child in DFCS custody to prevent the need for removing
 2415 the child from the child's home; or

2416 (2) To eliminate the need for removal and make it possible for a child to return safely to
 2417 the child's home at the earliest possible time.

2418 (b) In determining the type of reasonable efforts to be made with respect to a child and in
 2419 making such reasonable efforts, the child's health and safety shall be the paramount
 2420 concern.

2421 (c) Reasonable efforts are made upon the exercise of due diligence by DFCS to use
 2422 appropriate services to meet the needs of the child and the child's family. Services may
 2423 include those provided by DFCS and other services available in the community.

2424 (d) The court shall be required to review the appropriateness of DFCS's reasonable efforts
 2425 at each stage of the proceedings.

2426 (e)(1) At the preliminary protective hearing, DFCS has the burden of demonstrating that:

2427 (A) It has made reasonable efforts to prevent placement of a child in foster care;

2428 (B) There are no appropriate services or efforts which could allow the child to safely
 2429 remain in the home given the particular circumstances of the child and family at the
 2430 time of the child's removal and so the absence of such efforts was justifiable; or

2431 (C) Reasonable efforts to prevent placement and to reunify the child with the child's
2432 family are not required because of the existence of one or more of the circumstances
2433 enumerated in subsection (a) of Code Section 15-11-203.

2434 (2) At the adjudication hearing, DFCS has the burden of demonstrating that:

2435 (A) It has made reasonable efforts to eliminate the need for removal of the child from
2436 the child's home and to reunify the child with the child's family at the earliest possible
2437 time; or

2438 (B) Reasonable efforts to prevent placement and to reunify the child with the child's
2439 family are not required because of the existence of one or more of the circumstances
2440 enumerated in subsection (a) of Code Section 15-11-203.

2441 (3) At each other hearing, DFCS has the burden of demonstrating that:

2442 (A) It has made reasonable efforts to eliminate the need for removal of the child from
2443 the child's home and to reunify the child with the child's family at the earliest possible
2444 time; or

2445 (B) It has made reasonable efforts to finalize an alternative permanent home for the
2446 child.

2447 (f) When determining whether reasonable efforts have been made, the court shall consider
2448 whether services to the child and family were:

2449 (1) Relevant to the safety and protection of the child;

2450 (2) Adequate to meet the needs of the child and family;

2451 (3) Culturally and linguistically appropriate;

2452 (4) Available and accessible;

2453 (5) Consistent and timely; and

2454 (6) Realistic under the circumstances.

2455 (g) A finding that reasonable efforts have not been made shall not preclude the entry of an
2456 order authorizing the child's placement when the court finds that placement is necessary
2457 for the protection of the child.

2458 (h) When efforts to prevent the need for the child's placement were precluded by an
2459 immediate threat of harm to the child, the court may make a finding that reasonable efforts
2460 were made if it finds that the placement of the child in the absence of such efforts was
2461 justifiable.

2462 (i) Reasonable efforts to place a child for adoption or with a guardian or legal custodian
2463 may be made concurrently with reasonable efforts to reunify. When DFCS decides to
2464 concurrently make reasonable efforts for both reunification and permanent placement away
2465 from the parent, guardian, or legal custodian, DFCS shall disclose its decision and both
2466 plans to all parties and obtain approval from the court. When DFCS proceeds on both
2467 plans, the court's review of reasonable efforts shall include efforts under both plans.

2468 (j) An order placing or continuing the placement of a child in DFCS custody shall contain,
2469 but shall not be limited to, written findings of facts stating:

2470 (1) That the child's continuation in or return to the child's own home would be contrary
2471 to the child's welfare;

2472 (2) Whether reasonable efforts have been made to prevent or eliminate the need for
2473 placement of the child, unless the court has determined that such efforts are not required
2474 or shall cease; and

2475 (3) Whether reasonable efforts should continue to be made to prevent or eliminate the
2476 need for placement, unless the court has previously determined that such efforts are not
2477 required or shall cease.

2478 15-11-203.

2479 (a) The court may direct that reasonable efforts to eliminate the need for placement of the
2480 child shall not be required or shall cease if the court determines and makes written findings
2481 of fact that:

2482 (1) The parent has subjected the child to aggravated circumstances;

2483 (2) The parent has been convicted of the murder of another child of the parent;

2484 (3) The parent has been convicted of the voluntary manslaughter of another child of the
2485 parent;

2486 (4) The parent has been convicted of aiding or abetting, attempting, conspiring, or
2487 soliciting to commit murder or voluntary manslaughter of another child of the parent;

2488 (5) The parent has been convicted of committing a felony assault that results in serious
2489 bodily injury to the child or another child of the parent;

2490 (6) The parent has been convicted of rape, sodomy, aggravated sodomy, child
2491 molestation, aggravated child molestation, incest, sexual battery, or aggravated sexual
2492 battery of the child or another child of the parent;

2493 (7) The parent is required to register as a sex offender and that preservation of the
2494 parent-child relationship is not in the child's best interests; or

2495 (8) The parental rights of the parent to a sibling have been terminated involuntarily and
2496 the circumstances leading to the termination of parental rights to that sibling have not
2497 been resolved.

2498 (b) If the court determines that one or more of the circumstances enumerated in
2499 subsection (a) of this Code section exist or DFCS has submitted a written report to the
2500 court which does not contain a plan for reunification services then:

2501 (1) A permanency plan hearing shall be held for the child within 30 days; and

2502 (2) Reasonable efforts shall be made to place the child in a timely manner in accordance
 2503 with the permanency plan and to complete whatever steps are necessary to finalize the
 2504 permanent placement of the child.

2505 15-11-204.

2506 (a) If the DFCS report does not contain a plan for reunification services, the court shall
 2507 hold a nonreunification hearing to review the report and the determination that a plan for
 2508 reunification services is not appropriate.

2509 (b) The nonreunification hearing shall be held no later than 30 days from the time the
 2510 DFCS report is filed. Notice of the nonreunification hearing shall be provided, by
 2511 summons, to the child if the child is 14 years of age or older, the child's parent, guardian,
 2512 or legal custodian, the child's attorney, the child's guardian ad litem, if any, and specified
 2513 nonparties entitled to notice.

2514 (c) At the nonreunification hearing:

2515 (1) DFCS shall notify the court whether and when it intends to proceed with termination
 2516 of parental rights; and

2517 (2) The court shall also hold a permanency plan hearing, at which the court shall
 2518 consider in-state and out-of-state permanent placement options for the child, and shall
 2519 incorporate a permanency plan for the child in its order.

2520 (d) DFCS shall have the burden of demonstrating by clear and convincing evidence that
 2521 a reunification plan is not appropriate considering the health and safety of the child and the
 2522 child's need for permanence. There shall be a presumption that reunification is detrimental
 2523 to the child and reunification services should not be provided if the court finds by clear and
 2524 convincing evidence that:

2525 (1) The parent has unjustifiably failed to comply with a previously ordered plan designed
 2526 to reunite the family;

2527 (2) A child has been removed from the home on at least two previous occasions and
 2528 reunification services were made available on those occasions;

2529 (3) A ground for terminating parental rights exists; or

2530 (4) Any of the circumstances set out in subsection (a) of Code Section 15-11-203 exist,
 2531 making it unnecessary to provide reasonable efforts to reunify.

2532 (e) If the court has entered an order finding that reasonable efforts to reunify a child with
 2533 his or her family are not required but the court finds further that referral for termination of
 2534 parental rights and adoption is not in the best interests of the child, the court may, upon
 2535 proper petition, place the child in the custody of a permanent guardian pursuant to the
 2536 provisions of this article.

Part 11

2537
2538 15-11-210.

2539 (a) If not held in conjunction with the adjudication hearing, the disposition hearing shall
2540 be held and completed within 30 days after the conclusion of the adjudication hearing.

2541 (b) The court may consider any evidence, including hearsay evidence, that the court finds
2542 to be relevant, reliable, and necessary to determine the needs of the child and the most
2543 appropriate disposition.

2544 (c) Before determining the appropriate disposition, the court shall receive in evidence:

2545 (1) The social study report, if applicable, made by DFCS and the child's proposed written
2546 case plan. The social study report and case plan shall be filed with the court not less than
2547 48 hours before the disposition hearing;

2548 (2) Any study or evaluation made by a guardian ad litem appointed by the court;

2549 (3) Any psychological, medical, developmental, or educational study or evaluation of the
2550 child; and

2551 (4) Other relevant and material evidence as may be offered, including, but not limited
2552 to, the willingness of the caregiver to provide legal permanency for the child if
2553 reunification is unsuccessful.

2554 (d) Prior to the disposition hearing, and upon request, the parties and their attorneys shall
2555 be afforded an opportunity to examine any written reports received by the court.

2556 (e)(1) Portions of written reports received by the court which are not relied on by the
2557 court in reaching its decision, which if revealed would be prejudicial to the interests of
2558 the child or any party to the proceeding, may be withheld in the court's discretion.
2559 Confidential sources of information need not be disclosed.

2560 (2) Parties and their attorneys shall be given the opportunity to controvert written reports
2561 received by the court and to cross-examine individuals making such reports.

2562 (f) At the conclusion of the disposition hearing, the court shall set the time and date for the
2563 first periodic review hearing and the permanency plan hearing.

2564 15-11-211.

2565 (a) Before final disposition, a reasonably diligent search for a parent or relative of the child
2566 or other persons who have demonstrated an ongoing commitment to the child shall be
2567 conducted by DFCS.

2568 (b) All adult relatives of the child identified in the search required by subsection (a) of this
2569 Code section, subject to exceptions due to family or domestic violence, shall be provided
2570 with notice:

2571 (1) Specifying that the child has been or is being removed from parental custody;

2572 (2) Explaining the options the relative has to participate in the care and placement of the
 2573 child and any options that may be lost by failing to respond to the notice;

2574 (3) Describing the process for becoming an approved foster family home and the
 2575 additional services and supports available for children placed in approved foster homes;
 2576 and

2577 (4) Describing any financial assistance for which the relative may be eligible.

2578 (c) The search required by subsection (a) of this Code section and the notification required
 2579 by subsection (b) of this Code section shall be completed, documented in writing, and filed
 2580 with the court within 30 days from the date on which the child was removed from the
 2581 home.

2582 (d) After the completion of the search required by subsection (a) of this Code section,
 2583 DFCS shall have a continuing duty to search for relatives or other persons who have
 2584 demonstrated an ongoing commitment to the child and with whom it may be appropriate
 2585 to place the child until such relatives or persons are found or until the child is placed for
 2586 adoption unless DFCS is excused from such search by the court.

2587 15-11-212.

2588 (a) The court may make any of the following orders of disposition or a combination of
 2589 those best suited to the protection and physical, emotional, mental, and moral welfare of
 2590 the child:

2591 (1) Permit the child to remain with his or her parent, guardian, or legal custodian subject
 2592 to conditions and limitations as the court prescribes, including supervision as directed by
 2593 the court for the protection of the child;

2594 (2) Grant or transfer temporary legal custody to any of these persons or entities:

2595 (A) Any individual, including a biological parent, who, after study by the probation
 2596 officer or other person or agency designated by the court, is found by the court to be
 2597 qualified to receive and care for the child;

2598 (B) An agency or other private organization licensed or otherwise authorized by law
 2599 to receive and provide care for the child;

2600 (C) Any public agency authorized by law to receive and provide care for the child;
 2601 provided, however, that for the purpose of this Code section, the term 'public agency'
 2602 shall not include DJJ; or

2603 (D) An individual in another state with or without supervision by an appropriate officer
 2604 pursuant to the requirements of the Code Section 39-4-4, the Interstate Compact on the
 2605 Placement of Children;

2606 (3) Transfer jurisdiction over the child in accordance with the requirements of Code
 2607 Section 39-4-4, the Interstate Compact on the Placement of Children;

2608 (4) Order the child and such child's parent, guardian, or legal custodian to participate in
2609 counseling or in counsel and advice as determined by the court. Such counseling and
2610 counsel and advice may be provided by the court, court personnel, probation officers,
2611 professional counselors or social workers, psychologists, physicians, qualified volunteers,
2612 or appropriate public, private, or volunteer agencies as directed by the court and shall be
2613 designed to assist in deterring future conditions of dependency or other conduct or
2614 conditions which would be harmful to the child or society;

2615 (5) Order the parent, guardian, or legal custodian of the child to participate in a court
2616 approved educational or counseling program designed to contribute to the ability of the
2617 parent, guardian, or legal custodian to provide proper parental care and supervision of the
2618 child, including, but not limited to, parenting classes;

2619 (6) Order DFCS to implement and the child's parent, guardian, or legal custodian to
2620 cooperate with any plan approved by the court; or

2621 (7) Order temporary child support for a child to be paid by that person or those persons
2622 determined to be legally obligated to support the child. In determining such temporary
2623 child support, the court shall apply the child support guidelines provided in Code Section
2624 19-6-15 and the implementation and any review of the order shall be held as provided in
2625 Code Section 19-6-15. Where there is an existing order of a superior court or other court
2626 of competent jurisdiction, the court may order the child support obligor in the existing
2627 order to make payments to the child's caretaker on a temporary basis but shall not
2628 otherwise modify the terms of the existing order. A copy of the juvenile court's order
2629 shall be filed in the clerk's office of the court that entered the existing order. Temporary
2630 child support orders entered pursuant to this paragraph shall be enforceable by the court's
2631 contempt powers so long as the court is entitled to exercise jurisdiction over the
2632 dependency case.

2633 (b) The transfer of temporary legal custody may be subject to conditions and limitations
2634 the court may prescribe. Such conditions and limitations shall include a provision that the
2635 court shall approve or direct the return of the physical custody of the child to the child's
2636 parent, guardian, or legal custodian either upon the occurrence of specified circumstances
2637 or at the direction of the court. The return of physical custody of the child to the child's
2638 parent, guardian, or legal custodian may be made subject to conditions and limitations the
2639 court may prescribe including, but not limited to, supervision for the protection of the child.

2640 (c) A child found to be dependent shall not be committed to or confined in an institution
2641 or other facility designed or operated for the benefit of delinquent children unless the child
2642 is also found to be delinquent and the child's detention is warranted under the requirements
2643 of Article 7 of this chapter.

2644 (d) After transferring temporary legal custody of a child to DFCS, the court may at any
2645 time conduct sua sponte a judicial review of the current placement plan being provided to
2646 the child. After its review, the court may order DFCS to comply with the current
2647 placement plan, order DFCS to devise a new placement plan, or make any other order
2648 relative to placement or custody outside DFCS as the court finds to be in the best interests
2649 of the child. Placement or a change of custody by the court outside DFCS shall relieve
2650 DFCS of further responsibility for the child except for any provision of services ordered
2651 by the court to ensure the continuation of reunification services to the family when
2652 appropriate.

2653 (e) A court shall not be required to make an order of disposition regarding a child who is
2654 discharged from a facility in which the child was hospitalized or habilitated pursuant to
2655 Chapter 3, 4, or 7 of Title 37 unless the child is to be discharged into the physical custody
2656 of any person who had such custody when the court made its most recent finding that the
2657 child was dependent.

2658 (f) If a child is found to be a dependent child and the dependency is found to have been the
2659 result of substance abuse by a parent, guardian, or legal custodian and the court orders
2660 transfer of temporary legal custody of the child, the court shall be authorized to further
2661 order that legal custody of the child may not be transferred back to the child's parent,
2662 guardian, or legal custodian unless the parent, guardian, or legal custodian undergoes
2663 substance abuse treatment and random substance abuse screenings and those screenings
2664 remain negative for a period of no less than six consecutive months.

2665 (g) If the court finds that DFCS preventive or reunification efforts have not been
2666 reasonable but that further efforts could not permit the child to safely remain at home, the
2667 court may nevertheless authorize or continue the removal of the child.

2668 (h) When the case plan requires a concurrent permanency plan, the court shall review the
2669 reasonable efforts of DFCS to recruit, identify, and make a placement in a home in which
2670 a relative, foster parent, or other person who has demonstrated an ongoing commitment to
2671 the child has agreed to provide a legally permanent home for the child in the event
2672 reunification efforts are not successful.

2673 15-11-213.

2674 Any order of disposition shall contain written findings of fact to support the disposition and
2675 case plan ordered. Before making an order of disposition, the court shall consider the
2676 following:

2677 (1) Why the best interests and safety of the child are served by the disposition and case
2678 plan ordered including but not limited to:

- 2679 (A) The interaction and interrelationship of the child with his or her parent, siblings,
 2680 and any other person who may significantly affect the child's best interests;
 2681 (B) The child's adjustment to his or her home, school, and community;
 2682 (C) The mental and physical health of all individuals involved;
 2683 (D) The wishes of the child as to the child's placement;
 2684 (E) The wishes of the child's parent, guardian, or legal custodian as to the child's
 2685 custody;
 2686 (F) Whether there exists a relative of the child or other individual who, after study by
 2687 DFCS, is found to be qualified to receive and care for the child; and
 2688 (G) The ability of the parent, guardian, or legal custodian to care for the child in the
 2689 home so that no harm will result to the child;
 2690 (2) The availability of services recommended in the case plan;
 2691 (3) What alternative dispositions or services under the case plan were considered by the
 2692 court and why such dispositions or services were not appropriate in the instant case;
 2693 (4) The appropriateness of the particular placement made or to be made by the placing
 2694 agency; and
 2695 (5) Whether reasonable efforts were made to prevent or eliminate the necessity of the
 2696 child's removal and to reunify the family after removal unless reasonable efforts were not
 2697 required. The court's findings should include a brief description of what preventive and
 2698 reunification efforts were made and why further efforts could not have prevented or
 2699 eliminated the necessity of removal.

2700 15-11-214.

- 2701 (a) An order of disposition in a dependency proceeding shall continue in force until the
 2702 purposes of the order have been accomplished.
 2703 (b) The court may terminate an order of disposition of a child adjudicated as dependent on
 2704 or without an application of a party, if it appears to the court that the purposes of the order
 2705 have been accomplished.
 2706 (c) Unless a child remains in DFCS care or continues to receive services from DFCS, as
 2707 allowed by Article 5 of this chapter, when a child adjudicated as dependent reaches 18
 2708 years of age, all orders affecting him or her then in force terminate and he or she shall be
 2709 discharged from further obligation or control.

2710 15-11-215.

- 2711 (a) Not less than five days in advance of any placement change, DFCS shall notify the
 2712 court, a child who is 14 years of age or older, the child's parent, guardian, or legal
 2713 custodian, the person or agency with physical custody of the child, the child's attorney, the

2714 child's guardian ad litem, if any, and any other attorney of record of such change in the
2715 location of the child's placement while the child is in DFCS custody.

2716 (b) If the child's health or welfare may be endangered by any delay in changing the child's
2717 placement, the court and all attorneys of record shall be notified of such placement change
2718 within 24 hours of such change.

2719 (c) A child who is 14 years of age or older, the child's parent, guardian, or legal custodian,
2720 the person or agency with physical custody of the child, the child's attorney or guardian ad
2721 litem, if any, and any attorney of record may request a hearing with regard to the child's
2722 case plan or the permanency plan in order for the court to consider the change in the
2723 location of the child's placement and any changes to the case plan or permanency plan
2724 resulting from the child's change in placement location. The hearing shall be held within
2725 five days of receiving notice of a change in the location of the child's placement and prior
2726 to any such placement change, unless the child's health or welfare may be endangered by
2727 any delay in changing the child's placement.

2728 (d) At the hearing to consider the child's case plan and permanency plan, the court shall
2729 consider the case plan and permanency plan recommendations made by DFCS, including
2730 a recommendation as to the location of the placement of the child, and shall make findings
2731 of fact upon which the court relied in determining to reject or accept the case plan or
2732 permanency plan and the recommendations made by DFCS, including the location of the
2733 child's placement.

2734 (e) If the court rejects DFCS recommendations, the court shall demonstrate that DFCS
2735 recommendations were considered and explain why it did not follow such
2736 recommendations. If the court rejects the DFCS case plan and permanency plan
2737 recommendations, including the change in the location of the placement of the child, the
2738 court may order DFCS to devise a new case plan and permanency plan recommendation,
2739 including a new recommendation as to the location of the child within the resources of the
2740 department, or make any other order relative to placement or custody outside the
2741 department as the court finds to be in the best interests of the child and consistent with the
2742 policy that children in DFCS custody should have stable placements.

2743 (f) Placement or a change of legal custody by the court outside DFCS shall relieve DFCS
2744 of further responsibility for the child except for any provision of services ordered by the
2745 court to ensure the continuation of reunification services to the family when appropriate.

2746 15-11-216.

2747 (a) All cases of children in DFCS custody shall be initially reviewed within 75 days
2748 following the child's removal from his or her home and shall be conducted by the court.
2749 An additional periodic review shall be held within four months following the initial review

2750 and shall be conducted by the court or by judicial citizen review panels established by the
2751 court, as the court directs, meeting such standards and using such procedures as are
2752 established by court rule by the Supreme Court of Georgia, with the advice and consent of
2753 the Council of Juvenile Court Judges. The court shall have the discretion to schedule any
2754 subsequent review hearings as necessary.

2755 (b) At any periodic review hearing, the paramount concern shall be the health and safety
2756 of the child.

2757 (c) At the initial 75 day periodic review, the court shall approve the completion of the
2758 relative search, schedule the subsequent four-month review to be conducted by the court
2759 or a citizen judicial review panel, and shall determine:

2760 (1) Whether the child continues to be a dependent child;

2761 (2) Whether the existing case plan is still the best case plan for the child and the child's
2762 family and whether any changes need to be made to the case plan including whether a
2763 concurrent case plan for nonreunification is appropriate;

2764 (3) The extent of compliance with the case plan by all participants;

2765 (4) The appropriateness of any recommended changes to the child's placement;

2766 (5) Whether appropriate progress is being made on the permanency plan;

2767 (6) Whether all legally required services are being provided to the child, the foster
2768 parents if there are foster parents, and the child's parent, guardian, or legal custodian;

2769 (7) Whether visitation is appropriate and, if so, approve and establish a reasonable
2770 visitation schedule consistent with the age and developmental needs of the child;

2771 (8) Whether, for a child who is 14 years of age or older, the services needed to assist the
2772 child to make a transition from foster care to independent living are being provided; and

2773 (9) Whether reasonable efforts continue to be made to prevent or eliminate the necessity
2774 of the child's removal and to reunify the family after removal, unless reasonable efforts
2775 were not required.

2776 (d) If at any review subsequent to the initial 75 day review the court finds that there is a
2777 lack of substantial progress towards completion of the case plan, the court shall order
2778 DFCS to develop a case plan for nonreunification or a concurrent case plan contemplating
2779 nonreunification.

2780 (e) At the time of each review of a child in DFCS custody, DFCS shall notify the court
2781 whether and when it intends to proceed with the termination of parental rights.

2782 15-11-217.

2783 (a) In the event the periodic review of a case is conducted by a judicial citizen review
2784 panel, the panel shall transmit its report and that of DFCS, including its findings and

2785 recommendations together with DFCS proposed revised plan for reunification or other
2786 permanency plan, if necessary, to the court and the parent within five days after the review.

2787 (b) DFCS shall provide the caregiver of the child, the foster parents of the child if there
2788 are foster parents, and any preadoptive parents or relatives providing care for the child with
2789 a copy of those portions of the report of the judicial citizen review panel that involve the
2790 recommended permanency goal and the recommended services to be provided to the child.

2791 (c) Any party may request a hearing on the proposed revised plan in writing within five
2792 days after receiving a copy of the plan.

2793 (d) If no hearing is requested or scheduled by the court on its own motion, the court shall
2794 review the proposed revised plan and enter a supplemental order incorporating the revised
2795 plan as part of its disposition in the case. In the event that a hearing is held, the court shall,
2796 after hearing evidence, enter a supplemental order incorporating all elements that the court
2797 finds essential in the proposed revised plan.

2798 (e) Notwithstanding subsections (c) and (d) of this Code section, if the judicial citizen
2799 review panel finds that there is a lack of substantial progress towards completion of the
2800 case plan, the court shall schedule a hearing within 30 days of such finding to determine
2801 whether a case plan for nonreunification is appropriate.

2802 (f) If the judicial citizen review panel determines that the parent has unjustifiably failed
2803 to comply with the ordered plan designed to reunite the family and that such failure is
2804 significant enough to warrant consideration of termination of parental rights, the panel may
2805 make a recommendation to DFCS and the child's attorney that a petition for termination
2806 of parental rights should be prepared.

2807 15-11-218.

2808 (a) At the conclusion of a periodic review hearing, or upon review of a report by a judicial
2809 citizen review panel, the court shall issue written findings of fact that include:

2810 (1) Why the child continues to be a dependent child;

2811 (2) Whether the existing case plan is still the best case plan for the child and the child's
2812 family and whether any changes need to be made to the case plan including whether a
2813 concurrent case plan for nonreunification is appropriate;

2814 (3) The extent of compliance with the case plan by all participants;

2815 (4) The basis for any changes to the child's placement;

2816 (5) Whether visitation is or continues to be appropriate;

2817 (6) A description of progress being made on the permanency plan;

2818 (7) Whether all legally required services are being provided to the child, the foster
2819 parents if there are foster parents, and the child's parent, guardian, or legal custodian;

2820 (8) Whether, for a child who is 14 years of age or older, the services needed to assist the
 2821 child to make a transition from foster care to independent living are being provided; and
 2822 (9) Whether reasonable efforts continue to be made to prevent or eliminate the necessity
 2823 of the child's removal and to reunify the family after removal, unless reasonable efforts
 2824 were not required.

2825 (b) At the conclusion of a periodic review hearing, or upon review of a report by a judicial
 2826 citizen review panel, the court shall order one of the following dispositions:

2827 (1) Return the child to the home of his or her parent, guardian, or legal custodian with
 2828 or without court imposed conditions;

2829 (2) Allow the child to continue in the current custodial placement because the current
 2830 placement is appropriate for the child's needs;

2831 (3) Allow the child to continue in the current custodial placement although the current
 2832 placement is no longer appropriate for the child's needs and direct DFCS to devise
 2833 another plan which shall:

2834 (A) Be submitted within ten days for court approval;

2835 (B) Be furnished to all parties after court approval of the revised plan; and

2836 (C) Be provided to the caregiver of the child, the foster parents of the child if there are
 2837 foster parents, and any preadoptive parents or relative providing care for the child with
 2838 a copy of those portions of the court approved revised plan that involve the permanency
 2839 goal and the services to be provided to the child; or

2840 (4) Make additional orders regarding the treatment plan or placement of the child to
 2841 protect the child's best interests if the court determines DFCS has failed in implementing
 2842 any material provision of the case plan or abused its discretion in the placement or
 2843 proposed placement of the child.

2844 Part 12

2845 15-11-230.

2846 (a) The court shall hold a permanency plan hearing to determine the future permanent legal
 2847 status of each child in DFCS custody.

2848 (b) The permanency plan hearing, which considers in-state and out-of-state placement
 2849 options for the child, shall be held:

2850 (1) No later than 30 days after DFCS has submitted a written report to the court which
 2851 does not contain a plan for reunification services;

2852 (2) For children under seven years of age at the time a petition is filed, no later than nine
 2853 months after the child has entered foster care;

2854 (3) For children seven years of age and older at the time a petition is filed, no later than
 2855 12 months after the child has entered foster care; or

2856 (4) For a child in a sibling group whose members were removed from the home at the
 2857 same time and in which one member of the sibling group was under seven years of age
 2858 at the time a petition for dependency was filed, the permanency plan hearing shall be held
 2859 no later than nine months after the child has entered foster care.

2860 (c) After the initial permanency plan hearing has occurred, a permanency plan hearing
 2861 shall be held not less frequently than every six months during the time the child continues
 2862 in DFCS custody or more frequently as deemed necessary by the court until the court
 2863 determines that the child's permanency plan and goal have been achieved.

2864 (d) The child, the child's parent, guardian, or legal custodian, the child's attorney, the
 2865 child's guardian ad litem, if any, the foster parents of the child if there are foster parents,
 2866 any preadoptive parent or relatives providing care for the child, and other parties shall be
 2867 given written notice of a permanency plan hearing at least five days in advance of such
 2868 hearing and shall be advised that the permanency plan recommended by DFCS will be
 2869 submitted to the court for consideration as the order of the court.

2870 (e) The court shall consult with the child, in an age-appropriate manner, regarding the
 2871 proposed permanency plan for the child.

2872 15-11-231.

2873 At least five days prior to the permanency plan hearing, DFCS shall submit for the court's
 2874 consideration a report recommending a permanency plan for the child. The report shall
 2875 include documentation of the steps to be taken by DFCS to finalize the permanent
 2876 placement for the child and shall include, but shall not be limited to:

2877 (1) The name, address, and telephone number of the child's parent, guardian, or legal
 2878 custodian;

2879 (2) The date on which the child was removed from his or her home and the date on
 2880 which the child was placed in foster care;

2881 (3) The location and type of home or facility in which the child is currently held or
 2882 placed and the location and type of home or facility in which the child will be placed;

2883 (4) The basis for the decision to hold the child in protective custody or to place the child
 2884 outside of his or her home;

2885 (5) A statement as to the availability of a safe and appropriate placement with a fit and
 2886 willing relative of the child or other person who has demonstrated an ongoing
 2887 commitment to the child or a statement as to why placement with the relative or other
 2888 person is not safe or appropriate;

2889 (6) If as a result of the placement the child has been or will be transferred from the
2890 school in which the child is or most recently was enrolled, documentation that a
2891 placement that would maintain the child in that school is unavailable, inappropriate, or
2892 that the child's transfer to another school would be in the child's best interests;

2893 (7) A plan for ensuring the safety and appropriateness of the placement and a description
2894 of the services provided to meet the needs of the child and family, including a discussion
2895 of services that have been investigated and considered and are not available or likely to
2896 become available within a reasonable time to meet the needs of the child or, if available,
2897 why such services are not safe or appropriate;

2898 (8) The goal of the permanency plan which shall include:

2899 (A) Whether and, if applicable, when the child shall be returned to the child's parent;

2900 (B) Whether and, if applicable, when the child shall be referred for termination of
2901 parental rights and adoption;

2902 (C) Whether and, if applicable, when the child shall be placed with a permanent
2903 guardian; or

2904 (D) In the case in which DFCS has documented a compelling reason that none of the
2905 foregoing options would be in the best interests of the child, whether, and if applicable,
2906 when the child shall be placed in another planned permanent living arrangement;

2907 (9) If the child is 14 years of age or older, a description of the programs and services that
2908 are or will be provided to assist the child in preparing for the transition from foster care
2909 to independent living. The description shall include all of the following:

2910 (A) The anticipated age at which the child will be discharged from foster care;

2911 (B) The anticipated amount of time available in which to prepare the child for the
2912 transition from foster care to independent living;

2913 (C) The anticipated location and living situation of the child on discharge from foster
2914 care;

2915 (D) A description of the assessment processes, tools, and methods that have been or
2916 will be used to determine the programs and services that are or will be provided to
2917 assist the child in preparing for the transition from foster care to independent living; and

2918 (E) The rationale for each program or service that is or will be provided to assist the
2919 child in preparing for the transition from foster care to independent living, the time
2920 frames for delivering such programs or services, and the intended outcome of such
2921 programs or services; and

2922 (10) When the recommended permanency plan is referral for termination of parental
2923 rights and adoption or placement in another home, a description of specific recruitment
2924 efforts such as the use of state, regional, and national adoption exchanges, including

2925 electronic exchange systems, to facilitate orderly and timely in-state and interstate
2926 placements.

2927 15-11-232.

2928 (a) At the permanency plan hearing, the court shall make written findings of fact that
2929 include the following:

2930 (1) Whether DFCS has made reasonable efforts to finalize the permanency plan which
2931 is in effect at the time of the hearing;

2932 (2) The continuing necessity for and the safety and appropriateness of the placement;

2933 (3) Compliance with the permanency plan by DFCS and any other service providers, the
2934 child's parent, and the child's guardian or legal custodian, if any;

2935 (4) Efforts to involve appropriate service providers in addition to DFCS staff in planning
2936 to meet the special needs of the child and the child's parent, guardian, or legal custodian;

2937 (5) Efforts to eliminate the causes for the child's placement outside of his or her home
2938 and toward returning the child safely to his or her home or obtaining a permanent
2939 placement for the child;

2940 (6) The date by which it is likely that the child will be returned to his or her home, placed
2941 for adoption, or placed with a permanent guardian or in some other alternative permanent
2942 placement;

2943 (7) Whether, in the case of child placed out-of-state, the out-of-state placement continues
2944 to be appropriate and in the best interests of the child; and

2945 (8) In the case of a child who is 14 years of age or older, the services needed to assist the
2946 child to make a transition from foster care to independent living.

2947 (b) The permanency plan incorporated in the court's order shall include:

2948 (1) Whether and, if applicable, when the child shall be returned to the child's parent;

2949 (2) Whether and, if applicable, when the child shall be referred for termination of
2950 parental rights and adoption;

2951 (3) Whether and, if applicable, when the child shall be placed with a permanent
2952 guardian; or

2953 (4) Whether there is a safe and appropriate placement with a fit and willing relative of
2954 the child or other person who has demonstrated an ongoing commitment to the child or
2955 a statement as to why placement with the relative or other person is not safe or
2956 appropriate.

2957 (c) If the court finds that there is a compelling reason that it would not be in the child's best
2958 interests to be returned to the parent, referred for termination of parental rights and
2959 adoption, or placed with a permanent guardian, then the court's order shall document the

2960 compelling reason and provide that the child should be placed in another planned
 2961 permanent living arrangement as defined in the court's order.

2962 (d) A supplemental order of the court adopting the permanency plan including all
 2963 requirements of the permanency plan as provided in Code Section 15-11-231 shall be
 2964 entered following the permanency hearing and in no case later than 30 days after the court
 2965 has determined that reunification efforts shall not be made by DFCS. The supplemental
 2966 order shall include a requirement that the DFCS case manager and staff and, as appropriate,
 2967 other representatives of the child provide the child with assistance and support in
 2968 developing a transition plan that is personalized at the direction of the child; includes
 2969 specific options on housing, health insurance, education, local opportunities for mentors
 2970 and continuing support services, and work force supports and employment services; and
 2971 is as detailed as the child may elect in the 90 day period immediately prior to the date on
 2972 which the child will attain 18 years of age.

2973 15-11-233.

2974 (a) Except as provided in subsection (b) of this Code section, DFCS shall file a petition to
 2975 terminate the parental rights of the child's parent or, if such a petition has been filed by
 2976 another party, seek to be joined as a party to the petition, and, concurrently, to identify,
 2977 recruit, process, and approve a qualified family for an adoption if:

2978 (1) A child has been in foster care under the responsibility of DFCS for 15 of the most
 2979 recent 22 months;

2980 (2) The court has made a determination that the parent has subjected the child to
 2981 aggravated circumstances;

2982 (3) The court has made a determination that the child is an abandoned infant; or

2983 (4) The court has made a determination that the parent has been convicted of:

2984 (A) The murder of another child of the parent;

2985 (B) Voluntary manslaughter of another child of the parent;

2986 (C) Voluntary manslaughter of the other parent of the child;

2987 (D) Aiding or abetting, attempting, conspiring, or soliciting to commit murder or
 2988 voluntary manslaughter of another child of the parent;

2989 (E) Aiding or abetting, attempting, conspiring, or soliciting to commit murder or
 2990 voluntary manslaughter of the other parent of the child; or

2991 (F) Committing felony assault that has resulted in serious bodily injury to the child or
 2992 to another child of the parent.

2993 (b) Termination of parental rights may not be in the best interests of the child when:

2994 (1) The child is being cared for by a relative;

2995 (2) The case plan documents a compelling reason for determining that filing such a
2996 petition would not be in the best interests of the child. Such compelling reasons may
2997 include, but shall not be limited to:

2998 (A) The parent is successfully participating in services that will make it possible for
2999 the child to safely return home;

3000 (B) Another permanency plan is better suited to meet the health and safety needs of the
3001 child. Documentation that another permanent plan is better suited to meet the health
3002 and safety needs of the child may include documentation that:

3003 (i) The child is 14 years of age or older and objects to termination of parental rights.
3004 Prior to accepting a child's objection, the court shall personally question the child in
3005 chambers to determine whether the objection is the voluntary and knowing choice of
3006 the child;

3007 (ii) The child is 16 years of age or older and specifically requests that emancipation
3008 be established as his or her permanent plan;

3009 (iii) The parent and the child have a significant bond, but the parent is unable to care
3010 for the child because of an emotional or physical disability, and the child's caregiver
3011 has committed to raising the child to the age of majority and facilitating visitation
3012 with the disabled parent; or

3013 (iv) The child is in a residential treatment facility that provides services specifically
3014 designed to address the child's treatment needs, and the court determines that the
3015 child's needs could not be served by a less restrictive placement;

3016 (C) The child is living with a relative who is unable or unwilling to adopt the child, but
3017 who is willing and capable of providing the child with a stable and permanent home
3018 environment, and the removal of the child from the physical custody of his or her
3019 relative would be detrimental to the child's emotional well-being;

3020 (D) The court or judicial citizen review panel, in a prior hearing or review, determined
3021 that while the case plan was to reunify the family, DFCS did not make reasonable
3022 efforts; or

3023 (E) The child is an unaccompanied refugee or there are international legal obligations
3024 or foreign policy reasons that would preclude terminating parental rights; or

3025 (3) DFCS has not provided to the family of the child services deemed necessary for the
3026 safe return of the child to the child's home, consistent with the specific time frames for
3027 the accomplishment of the case plan goals.

3028 (c) The recommendation by DFCS that termination of parental rights is not in the best
3029 interests of the child shall be based on the present family circumstances of the child and
3030 shall not preclude a different recommendation at a later date if the child's family
3031 circumstances change.

Part 13

3032
3033 15-11-240.

3034 (a) In addition to the jurisdiction to appoint guardians pursuant to Code Section 15-11-13,
3035 the juvenile court shall be vested with jurisdiction to appoint a permanent guardian for a
3036 child whose custody is a subject of controversy before the court as a result of an
3037 adjudication that the child is dependent in accordance with this article. Prior to the entry
3038 of such an order, the court shall:

3039 (1) Find that reasonable efforts to reunify the child with his or her parents would be
3040 detrimental to the child or find that the living parents of the child have consented to the
3041 permanent guardianship;

3042 (2) Find that termination of parental rights and adoption is not in the best interests of the
3043 child;

3044 (3) Find that the proposed permanent guardian can provide a safe and permanent home
3045 for the child;

3046 (4) Find that the appointment of a permanent guardian for the child is in the best interests
3047 of the child and that the individual chosen as the child's permanent guardian is the
3048 individual most appropriate to be the child's permanent guardian taking into consideration
3049 the best interests of the child; and

3050 (5) If the child is 14 years of age or older, find that the appointment of a permanent
3051 guardian for the child is in the best interests of the child and that the individual chosen
3052 by such child as the child's permanent guardian is the individual most appropriate to be
3053 the child's permanent guardian taking into consideration the best interests of the child.

3054 (b) The court may enter an order of support on behalf of the child against the parents of
3055 the child in accordance with paragraph (7) of subsection (a) of Code Section 15-11-212.

3056 15-11-241.

3057 The petition for the appointment of a permanent guardian pursuant to this part shall set
3058 forth:

3059 (1) The facts upon which the court's jurisdiction is based;

3060 (2) The name and date of birth of the child;

3061 (3) The name, address, and county of domicile of the petitioner and the petitioner's
3062 relationship to the child, if any, and, if different from the petitioner, the name, address,
3063 and county of domicile of the individual nominated by the petitioner to serve as guardian
3064 and that individual's relationship to the child, if any;

3065 (4) A statement that:

3066 (A) Reasonable efforts to reunify the child with his or her parents would be detrimental
 3067 to the child;

3068 (B) Termination of parental rights and adoption is not in the best interests of the child;

3069 (C) The proposed guardian can provide a safe and permanent home for the child;

3070 (D) The appointment of a permanent guardian for the child is in the best interests of
 3071 the child and that the individual chosen as the child's guardian is the individual most
 3072 appropriate to be the child's permanent guardian taking into consideration the best
 3073 interests of the child; and

3074 (E) If the child is 14 years of age or older, that the appointment of a permanent
 3075 guardian for the child is in the best interests of the child and that the individual chosen
 3076 by such child as the child's permanent guardian is the most appropriate individual to be
 3077 the child's permanent guardian taking into consideration the best interests of the child;

3078 (5) Whether the child was born out of wedlock and, if so, the name and address of the
 3079 biological father, if known;

3080 (6) Whether, to the petitioner's knowledge, there exists any notarized or witnessed
 3081 document made by a parent of the child that deals with the guardianship of the child and
 3082 the name and address of any designee named in the document;

3083 (7) In addition to the petitioner and the nominated guardian and, if the parent has not
 3084 consented to the permanent guardianship, the names and addresses of the following
 3085 relatives of the child whose whereabouts are known:

3086 (A) The adult siblings of the child; provided, however, that not more than three adult
 3087 siblings need to be listed;

3088 (B) If there is no adult sibling of the child, the grandparents of the child; provided,
 3089 however, that not more than three grandparents need to be listed; or

3090 (C) If there is no grandparent of the child, any three of the nearest adult relatives of the
 3091 child determined according to Code Section 53-2-1;

3092 (8) Whether a temporary guardian has been appointed for the child or a petition for the
 3093 appointment of a temporary guardian has been filed or is being filed; and

3094 (9) The reason for any omission in the petition for appointment of a permanent guardian
 3095 for the child in the event full particulars are lacking.

3096 15-11-242.

3097 (a) Permanent guardianship orders entered pursuant to Code Section 15-11-240 shall:

3098 (1) Remain in effect until the child reaches the age of 18 or becomes emancipated;

3099 (2) Not be subject to review by the court except as provided in Code Section 15-11-244;

3100 and

3101 (3) Establish a reasonable visitation schedule which allows the child to maintain
3102 meaningful contact with his or her parents through personal visits, telephone calls, letters,
3103 or other forms of communication or specifically include any restriction on a parent's right
3104 to visitation.

3105 (b) A permanent guardian shall have the rights and duties of a permanent guardian as
3106 provided in Code Sections 29-2-21, 29-2-22, and 29-2-23 and shall take the oath required
3107 of a guardian as provided in Code Section 29-2-24.

3108 15-11-243.

3109 (a) Notice of a guardianship petition pursuant to this part shall be given in accordance with
3110 subsection (c) of Code Section 29-2-17 except that, if the parents have consented to the
3111 guardianship, notice of the petition shall not be required to be given to:

3112 (1) The adult siblings of the child;

3113 (2) The grandparents of the child; or

3114 (3) The nearest adult relatives of the child as determined in accordance with Code
3115 Section 53-2-1.

3116 (b) The hearing shall be conducted in accordance with Code Section 29-2-18, to determine
3117 the best interests of the child, and in reaching its determination the court shall consider
3118 Code Section 15-11-240.

3119 15-11-244.

3120 (a) The court shall retain jurisdiction over a guardianship action under this part for the sole
3121 purpose of entering an order following the filing of a petition to modify, vacate, or revoke
3122 the guardianship and appoint a new guardian.

3123 (b) The superior courts shall have concurrent jurisdiction for enforcement or modification
3124 of any child support or visitation order entered pursuant to Code Section 15-11-240.

3125 (c) The guardianship shall be modified, vacated, or revoked based upon a finding, by clear
3126 and convincing evidence, that there has been a material change in the circumstances of the
3127 child or the guardian and that such modification, vacation, or revocation of the
3128 guardianship order and the appointment of a new guardian is in the best interests of the
3129 child. Appointment of a new guardian shall be subject to the provisions of Code Sections
3130 15-11-240 and 15-11-241.

ARTICLE 4

Part 1

15-11-260.

(a) The purpose of this article is:

(1) To protect a child whose parent is unwilling or unable to provide safety and care adequate to meet his or her physical, emotional, and mental health needs by providing a judicial process for the termination of all parental rights and responsibilities;

(2) To eliminate the need for a child to wait unreasonable periods of time for his or her parent to correct the conditions which prevent a return to the family;

(3) To ensure that the continuing needs of a child for proper physical, mental, and emotional growth and development are the decisive considerations in all proceedings;

(4) To ensure that the constitutional rights of all parties are recognized and enforced in all proceedings conducted pursuant to this article while ensuring that the fundamental needs of a child are not subjugated to the interests of others; and

(5) To encourage stability in the life of a child who has been adjudicated dependent and has been removed from his or her home by ensuring that all proceedings are conducted expeditiously to avoid delays in resolving the status of the parent and in achieving permanency for a child.

(b) Nothing in this article shall be construed as affecting the rights of a parent other than the parent who is the subject of the proceedings.

15-11-261.

(a) An order terminating the parental rights of a parent shall be without limit as to duration and shall divest the parent and the child of all legal rights, powers, privileges, immunities, duties, and obligations with respect to each other, except:

(1) The right of the child to receive child support from his or her parent until a final order of adoption is entered;

(2) The right of the child to inherit from and through his or her parent. The right of inheritance of the child shall be terminated only by a final order of adoption;

(3) The right of the child to benefits due to him or her from any third person, agency, state, or the United States based on the child's status as a child of his or her parent. This right shall be terminated only by a final order of adoption; and

(4) The right of the child to pursue any civil action against his or her parent.

(b) When an order terminating the parent and child relationship has been issued, the parent whose right has been terminated shall not thereafter be entitled to notice of proceedings for

3165 the adoption of the child by another, nor has the parent any right to object to the adoption
3166 or otherwise to participate in such proceedings.

3167 (c) The relationship between the child and his or her siblings shall not be severed until that
3168 relationship is terminated by final order of adoption.

3169 (d) A relative whose relationship to the child is derived through the parent whose parental
3170 rights are terminated shall be considered to be a relative of the child for purposes of
3171 placement of, and permanency plan for, the child until such relationship is terminated by
3172 final order of adoption.

3173 15-11-262.

3174 (a) The child and any other party to a proceeding under this article shall have the right to
3175 a qualified and independent attorney at all stages of the proceedings under this article.

3176 (b) The court shall appoint an attorney for the child in a termination of parental rights
3177 proceeding. The appointment shall be made as soon as practicable to ensure adequate
3178 representation of the child and, in any event, before the first court hearing that may
3179 substantially affect the interests of the child.

3180 (c) A child's attorney owes to the child the duties imposed by the law of this state in an
3181 attorney-client relationship.

3182 (d) The court shall appoint a guardian ad litem for the child in a termination proceeding:

3183 (1) At the request of the child's attorney; or

3184 (2) Upon the court's own motion if it determines that a guardian ad litem is necessary to
3185 assist the court in determining the best interests of the child.

3186 (e) The role of a guardian ad litem in a termination of parental rights proceeding shall be
3187 the same role as provided for in all dependency proceedings under Article 3 of this chapter.

3188 (f) A person appointed as a child's attorney shall have received training that is
3189 administered or approved by the Office of the Child Advocate for the Protection of
3190 Children prior to being appointed. Such preappointment training shall be satisfied within
3191 an attorney's existing continuing legal education obligations and shall not require the
3192 attorney to complete additional training hours in addition to those currently required by the
3193 State Bar of Georgia.

3194 (g) If an attorney has been appointed to represent a child in a prior proceeding under this
3195 chapter, the court, when possible, shall appoint the same attorney to represent the child in
3196 any subsequent proceeding.

3197 (h) An attorney appointed to represent a child in a termination proceeding shall continue
3198 the representation in any subsequent appeals unless excused by the court.

3199 (i) Neither the child nor a representative of the child may waive the right to an attorney in
3200 a termination proceeding.

3201 (j) A party other than a child shall be informed of his or her right to an attorney prior to
 3202 the adjudication hearing and prior to any other hearing at which a party could be subjected
 3203 to the loss of residual parental rights. A party other than a child shall be given an
 3204 opportunity to:

3205 (1) Obtain and employ an attorney of the party's own choice;

3206 (2) To obtain a court appointed attorney if the court determines that the party is an
 3207 indigent person; or

3208 (3) Waive the right to an attorney.

3209 15-11-263.

3210 (a) Upon motion of any party or the court, the court may require a physical or mental
 3211 evaluation of any parent, stepparent, guardian, legal custodian, or child.

3212 (b) The cost of any ordered evaluation shall be paid by the moving party unless
 3213 apportioned by the court, in its discretion, to any other party or parties.

3214 15-11-264.

3215 (a) In all cases under this article, any party shall, upon written request to the party having
 3216 actual custody, control, or possession of the material to be produced, have full access to the
 3217 following for inspection, copying, or photographing:

3218 (1) The names and telephone numbers of each witness likely to be called to testify at the
 3219 hearing by another party;

3220 (2) A copy of any formal written statement made by the child who is alleged to be
 3221 dependent or any witness that relates to the subject matter concerning the testimony of
 3222 the witness that a party intends to call as a witness at the hearing;

3223 (3) Except as otherwise provided in subsection (b) of this Code section, any scientific or
 3224 other report which is intended to be introduced at any hearing or that pertains to physical
 3225 evidence which is intended to be introduced;

3226 (4) Any drug screen concerning the child who is alleged to be dependent or his or her
 3227 parent, guardian, or legal custodian;

3228 (5) Any case plan concerning the child who is alleged to be dependent or his or her
 3229 parent, guardian, or legal custodian;

3230 (6) Any visitation schedule related to the child who is alleged to be dependent;

3231 (7) Photographs and any physical evidence which are intended to be introduced at any
 3232 hearing;

3233 (8) Copies of the police incident report regarding an occurrence which forms part or all
 3234 of the basis of the petition; and

3235 (9) Any other relevant evidence not requiring consent or a court order under subsection
 3236 (b) of this Code section.

3237 (b) Upon presentation of a court order or written consent from the appropriate person or
 3238 persons permitting access to the party having actual custody, control, or possession of the
 3239 material to be produced, any party shall have access to the following for inspection,
 3240 copying, or photographing:

3241 (1) Any psychological, developmental, physical, mental or emotional health, or other
 3242 assessments of the child who is alleged to be dependent or the family, parent, guardian,
 3243 or legal custodian of such child;

3244 (2) Any school record concerning the child who alleged to be dependent;

3245 (3) Any medical record concerning the child who is alleged to be dependent;

3246 (4) Transcriptions, recordings, and summaries of any oral statement of the child who is
 3247 alleged to be dependent or of any witness, except child abuse reports that are confidential
 3248 pursuant to Code Section 19-7-5 and work product of counsel;

3249 (5) Any family team meeting report or multidisciplinary team meeting report concerning
 3250 the child who is alleged to be dependent or his or her parent, guardian, or legal custodian;

3251 (6) Supplemental police reports, if any, regarding an occurrence which forms part of all
 3252 of the basis of the petition; and

3253 (7) Immigration records concerning the child who is alleged to be dependent.

3254 (c) If a party requests disclosure of information pursuant to subsection (a) or (b) of this
 3255 Code section, it shall be the duty of such party to promptly make the following available
 3256 for inspection, copying, or photographing to every other party:

3257 (1) The names and last known addresses and telephone numbers of each witness to the
 3258 occurrence which forms the basis of the party's defense or claim;

3259 (2) Any scientific or other report which is intended to be introduced at the hearing or that
 3260 pertains to physical evidence which is intended to be introduced;

3261 (3) Photographs and any physical evidence which are intended to be introduced at the
 3262 hearing; and

3263 (4) A copy of any written statement made by any witness that relates to the subject
 3264 matter concerning the testimony of the witness that the party intends to call as a witness.

3265 (d) A request for discovery or reciprocal discovery shall be complied with promptly and
 3266 not later than five days after the request is received or 72 hours prior to any hearing except
 3267 when later compliance is made necessary by the timing of the request. If the request for
 3268 discovery is made fewer than 48 hours prior to an adjudicatory hearing, the discovery
 3269 response shall be produced in a timely manner. If, subsequent to providing a discovery
 3270 response in compliance with this Code section, the existence of additional evidence is
 3271 found, it shall be promptly provided to the party making the discovery request.

3272 (e) If a request for discovery or consent for release is refused, application may be made to
3273 the court for a written order granting discovery. Motions for discovery shall certify that
3274 a request for discovery or consent was made and was unsuccessful despite good faith
3275 efforts made by the requesting party. An order granting discovery shall require reciprocal
3276 discovery. Notwithstanding the provisions of subsection (a) or (b) of this Code section, the
3277 court may deny, in whole or in part, or otherwise limit or set conditions concerning the
3278 discovery response upon a sufficient showing by a person or entity to whom a request for
3279 discovery is made that disclosure of the information would:

3280 (1) Jeopardize the safety of a party, witness, or confidential informant;

3281 (2) Create a substantial threat of physical or economic harm to a witness or other person;

3282 (3) Endanger the existence of physical evidence;

3283 (4) Disclose privileged information; or

3284 (5) Impede the criminal prosecution of a minor who is being prosecuted as an adult or
3285 the prosecution of an adult charged with an offense arising from the same transaction or
3286 occurrence.

3287 (f) No deposition shall be taken of a child unless the court orders the deposition, under
3288 such conditions as the court may order, on the ground that the deposition would further the
3289 purposes of this part.

3290 (g) If at any time during the course of the proceedings it is brought to the attention of the
3291 court that a person or entity has failed to comply with an order issued pursuant to this Code
3292 section, the court may grant a continuance, prohibit the party from introducing in evidence
3293 the information not disclosed, or enter such other order as the court deems just under the
3294 circumstances.

3295 (h) Nothing contained in this Code section shall prohibit the court from ordering the
3296 disclosure of any information that the court deems necessary for proper adjudication.

3297 (i) Any material or information furnished to a party pursuant to this Code section shall
3298 remain in the exclusive custody of the party and shall only be used during the pendency of
3299 the case and shall be subject to such other terms and conditions as the court may provide.

3300 15-11-265.

3301 Once a petition to terminate parental rights has been filed, the parent shall thereafter be
3302 without authority to execute an act of surrender or otherwise to affect the custody of the
3303 child except the parent may:

3304 (1) Execute an act of surrender in favor of DFCS; and

3305 (2) Consent to a judgment terminating his or her parental rights.

3306

Part 2

3307

15-11-270.

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(a) A proceeding under this article shall be commenced in the county that has jurisdiction over the related dependency proceedings.

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

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Part 3

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15-11-280.

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(a) A petition to terminate parental rights and all subsequent court documents in such proceeding shall be entitled 'In the interest of _____, a child.', except upon appeal, in which event the anonymity of the child shall be preserved by use of appropriate initials. The petition shall be in writing.

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(b) The petition to terminate parental rights shall be made, verified, and endorsed by the court as provided in Article 3 of this chapter for a petition alleging dependency.

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(c) The petition to terminate parental rights shall:

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(1) State clearly that an order for termination of parental rights is requested and that the effect of the order will be as stated in Code Section 15-11-260;

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(2) State the statutory ground, as provided in Code Section 15-11-310, on which the petition is based; and

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(3) Set forth plainly and with particularity:

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

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(B) The name, age, date of birth, and residence address of the child on whose behalf the petition is brought;

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

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(D) Whether the child is in protective custody and, if so, the place of his or her foster care and the time the child was taken into protective custody; and

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3340 (E) Whether any of the matters required by this paragraph are unknown.

3341 (d) When a petition seeks termination of the rights of a biological father who is not the
3342 legal father and who has not surrendered his rights to the child, the petition shall include
3343 a certificate from the putative father registry disclosing the name, address, and social
3344 security number of any registrant acknowledging paternity of the child or indicating the
3345 possibility of paternity of a child of the child's mother for a period beginning no later than
3346 two years immediately preceding the child's date of birth. The certificate shall document
3347 a search of the registry on or after the date of the filing of the petition and shall include a
3348 statement that the registry is current as to filings of registrants as of the date of the petition
3349 or as of a date later than the date of the petition to terminate parental rights.

3350 (e) A copy of a voluntary surrender or written consent, if any, previously executed by the
3351 parent shall be attached to the petition to terminate parental rights.

3352 15-11-281.

3353 (a) The court shall direct the issuance of a summons to the child's mother, legal father or
3354 biological father, guardian, legal custodian, the child's attorney, the child's guardian ad
3355 litem, if any, and any other persons who appear to the court to be proper or necessary
3356 parties to the proceeding, requiring them to appear before the court at the time fixed to
3357 answer the allegations of the petition to terminate parental rights. A copy of such petition
3358 shall accompany the summons unless the summons is served by publication, in which case
3359 the published summons shall indicate the general nature of the allegations and where a
3360 copy of such petition can be obtained.

3361 (b) The court shall direct notice and a copy of the petition be provided to the child if the
3362 child is 14 years of age or older.

3363 (c) The summons shall include the notice of effect of a termination judgment as set forth
3364 in Code Section 15-11-284 and shall state that a party is entitled to an attorney in the
3365 proceedings and that the court will appoint an attorney if the party is an indigent person.

3366 (d) The court may endorse upon the summons an order directing the parent, guardian, or
3367 legal custodian of the child to appear personally at the hearing or directing the person
3368 having the physical custody or control of the child to bring the child to the hearing.

3369 (e) A party other than the child may waive service of summons by written stipulation or
3370 by voluntary appearance at the hearing.

3371 15-11-282.

3372 (a) If a party to be served with a summons is within this state and can be found, the
3373 summons shall be served upon him or her personally as soon as possible and at least 30
3374 days before the termination of parental rights hearing.

3375 (b) If a party to be served is within this state and cannot be found but his or her address is
3376 known or can be ascertained with reasonable diligence, the summons shall be served upon
3377 such party at least 30 days before the termination of parental rights hearing by mailing him
3378 or her a copy by registered or certified mail or statutory overnight delivery, return receipt
3379 requested.

3380 (c) If a party to be served is outside this state but his or her address is known or can be
3381 ascertained with reasonable diligence, service of the summons shall be made at least 30
3382 days before the termination of parental rights hearing either by delivering a copy to such
3383 party personally or by mailing a copy to him or her by registered or certified mail or
3384 statutory overnight delivery, return receipt request.

3385 (d) If, after justifiable effort, a party to be served with a summons cannot be found and
3386 such party's address cannot be ascertained, whether he or she is within or outside this state,
3387 the court may order service of the summons upon him or her by publication. The
3388 termination of parental rights hearing shall not be earlier than 31 days after the date of the
3389 last publication.

3390 (e)(1) Service by publication shall be made once a week for four consecutive weeks in
3391 the official organ of the county where the petition to terminate parental rights has been
3392 filed. Service shall be deemed complete upon the date of the last publication.

3393 (2) When served by publication, the notice shall contain the names of the parties, except
3394 that the anonymity of the child shall be preserved by the use of appropriate initials, and
3395 the date the petition to terminate parental rights was filed. The notice shall indicate the
3396 general nature of the allegations and where a copy of the petition to terminate parental
3397 rights can be obtained and require the party to be served by publication to appear before
3398 the court at the time fixed to answer the allegations of the petition to terminate parental
3399 rights.

3400 (3) A free copy of the petition to terminate parental rights shall be available to the parent
3401 from the court during business hours or, upon request, shall be mailed to the parent.

3402 (4) Within 15 days after the filing of the order of service by publication, the clerk of
3403 court shall mail a copy of the notice, a copy of the order of service by publication, and
3404 a copy of the petition to terminate parental rights to the absent parent's last known
3405 address.

3406 (f) Service of the summons may be made by any suitable person under the direction of the
3407 court.

3408 (g) The court may authorize the payment from county funds of the costs of service and of
3409 necessary travel expenses incurred by persons summoned or otherwise required to appear
3410 at the hearing.

3411 15-11-283.

3412 (a) Unless he has surrendered all parental rights to the child, a summons shall be served
3413 on:

3414 (1) A biological father who is the legal father of the child;

3415 (2) A biological father whose paternity has been previously established in a judicial
3416 proceeding to which the father was a party;

3417 (3) A biological father whose identity is known to the petitioner or the petitioner's
3418 attorney;

3419 (4) A biological father who is a registrant on the putative father registry and has
3420 acknowledged paternity of the child;

3421 (5) A biological father who is a registrant on the putative father registry who has
3422 indicated possible paternity of a child born to the child's mother during a period
3423 beginning two years immediately preceding the child's date of birth; or

3424 (6) A biological father who, if the court finds from the evidence including but not limited
3425 to the affidavit of the child's mother, has performed any of the following acts:

3426 (A) Lived with the child;

3427 (B) Contributed to the child's support;

3428 (C) Made any attempt to legitimate the child; or

3429 (D) Provided support or medical care for the mother either during her pregnancy or
3430 during her hospitalization for the birth of the child.

3431 (b) Notice shall be given to a biological father by the following methods:

3432 (1) If a biological father is within this state and can be found, the summons shall be
3433 served upon him personally as soon as possible and least 30 days before the termination
3434 of parental rights hearing;

3435 (2) If a biological father is outside this state but his address is known or can be
3436 ascertained with reasonable diligence, service of summons shall be made at least 30 days
3437 before the termination of parental rights hearing either by delivering a copy to him
3438 personally or by mailing a copy to him by registered or certified mail or statutory
3439 overnight delivery, return receipt requested; or

3440 (3) If, after justifiable effort, a biological father to be served with summons cannot be
3441 found and his address cannot be ascertained, whether he is within or outside this state, the
3442 court may order service of summons upon him by publication. The termination of
3443 parental rights hearing shall not be earlier than 31 days after the date of the last
3444 publication. Service by publication shall be as follows:

3445 (A) Service by publication shall be made once a week for four consecutive weeks in
3446 the official organ of the county where the petition to terminate parental rights has been

3447 filed and of the county of the biological father's last known address. Service shall be
3448 deemed complete upon the date of the last publication;

3449 (B) When served by publication, the notice shall contain the names of the parties,
3450 except that the anonymity of the child shall be preserved by the use of appropriate
3451 initials, and the date the petition to terminate parental rights was filed. The notice shall
3452 indicate the general nature of the allegations and where a copy of the petition to
3453 terminate parental rights can be obtained and require the biological father to appear
3454 before the court at the time fixed to answer the allegations of the petition to terminate
3455 parental rights;

3456 (C) A free copy of the petition to terminate parental rights shall be available to the
3457 biological father from the court during business hours or, upon request, shall be mailed
3458 to the biological father; and

3459 (D) Within 15 days after the filing of the order of service by publication, the clerk of
3460 court shall mail a copy of the notice, a copy of the order of service by publication, and
3461 a copy of the petition to terminate parental rights to the biological father's last known
3462 address.

3463 (c) The notice shall advise the biological father who is not the legal father that he may lose
3464 all rights to the child and will not be entitled to object to the termination of his rights to the
3465 child unless, within 30 days of receipt of notice, he files:

3466 (1) A petition to legitimate the child; and

3467 (2) Notice of the filing of the petition to legitimate with the court in which the
3468 termination of parental rights proceeding is pending.

3469 (d) If the identity of the biological father is not known to the petitioner or the petitioner's
3470 attorney and the biological father would not be entitled to notice in accordance with
3471 subsection (a) of this Code section, then it shall be rebuttably presumed that he is not
3472 entitled to notice of the proceedings. The court shall be authorized to require the mother
3473 to execute an affidavit supporting the presumption or show cause before the court if she
3474 refuses. Absent evidence rebutting the presumption, no further inquiry or notice shall be
3475 required by the court, and the court may enter an order terminating the rights of the father.

3476 (e) The court may enter an order terminating all the parental rights of a biological father,
3477 including any right to object thereafter to such proceedings:

3478 (1) Who fails to file a timely petition to legitimate the child and notice in accordance
3479 with subsection (c) of this Code section;

3480 (2) Whose petition to legitimate is subsequently dismissed for failure to prosecute; or

3481 (3) Whose petition to legitimate does not result in a court order finding that he is the
3482 legal father of the child.

3483 15-11-284.

3484 The notice required to be given to the mother, the biological father, and legal father of the
 3485 child shall state:

3486 'NOTICE OF EFFECT OF TERMINATION JUDGMENT

3487 Georgia law provides that you can permanently lose your rights as a parent. A petition
 3488 to terminate parental rights has been filed requesting the court to terminate your parental
 3489 rights to your child. A copy of the petition to terminate parental rights is attached to this
 3490 notice. A court hearing of your case has been scheduled for the _____ day of
 3491 _____ , at the _____ Court of _____ County.

3492 If you fail to appear, the court can terminate your rights in your absence.

3493 If the court at the trial finds that the facts set out in the petition to terminate parental
 3494 rights are true and that termination of your rights will serve the best interests of your
 3495 child, the court can enter a judgment ending your rights to your child.

3496 If the judgment terminates your parental rights, you will no longer have any rights to your
 3497 child. This means that you will not have the right to visit, contact, or have custody of
 3498 your child or make any decisions affecting your child or your child's earnings or property.

3499 Your child will be legally freed to be adopted by someone else.

3500 Even if your parental rights are terminated:

3501 (1) You will still be responsible for providing financial support (child support payments)
 3502 for the child's care unless and until the child is adopted;

3503 (2) The child can still inherit from you unless and until the child is adopted; and

3504 (3) The child can still receive benefits based on his or her status as your child unless and
 3505 until the child is adopted.

3506 This is a very serious matter. You should contact an attorney immediately so that you
 3507 can be prepared for the court hearing. You have the right to hire an attorney and to have
 3508 him or her represent you. If you cannot afford to hire an attorney, the court will appoint
 3509 an attorney if the court finds that you are an indigent person. Whether or not you decide
 3510 to hire an attorney, you have the right to attend the hearing of your case, to call witnesses
 3511 on your behalf, and to question those witnesses brought against you.

3512 If you have any questions concerning this notice, you may call the telephone number of
 3513 the clerk's office which is _____.'

3514 15-11-285.

3515 (a) If any person named in and properly served with summons shall without reasonable
 3516 cause fail to appear or, when directed in the summons, to bring the child before the court,
 3517 then the court may issue a rule nisi against the person, directing the person to appear before
 3518 the court to show cause why he or she should not be held in contempt of court.

3519 (b) If the summons cannot be served or if the person to whom the summons is directed
 3520 fails to obey it, the court may issue an order to take the child into protective custody.

3521 Part 4

3522 15-11-300.

3523 (a) In advance of each hearing to terminate parental rights, DFCS shall give written notice
 3524 of the date, time, place, and purpose of the hearing to the caregiver of the child, the foster
 3525 parents of the child if there are foster parents, any preadoptive parent, or any relative
 3526 providing care for the child, including the right to be heard. The written notice shall be
 3527 delivered to the recipient at least 72 hours before the review or hearing by United States
 3528 mail, e-mail, or hand delivery.

3529 (b) This Code section shall not be construed to require a caregiver, foster parent,
 3530 preadoptive parent, or relative caring for the child to be made a party to the hearing solely
 3531 on the basis of such notice and right to be heard.

3532 15-11-301.

3533 (a) If no just cause has been shown for delay, all hearings contemplated by this article shall
 3534 be conducted within 90 days of the date a petition to terminate parental rights is filed.

3535 (b) If no just cause for delay has been shown by written finding of fact by the court, an
 3536 order of disposition shall be issued by the juvenile court no later than 30 days after the
 3537 conclusion of the hearing on the petition to terminate parental rights.

3538 (c) All hearings contemplated by this article shall be recorded by stenographic notes or by
 3539 electronic, mechanical, or other appropriate means capable of accurately capturing a full
 3540 and complete record of all words spoken during the hearings. If no just cause for delay has
 3541 been shown, the court reporter shall provide a transcript of the hearings no later than 30
 3542 days after a notice of appeal is filed.

3543 (d) This Code section shall not affect the right to request a rehearing or the right to appeal
 3544 the juvenile court's order.

3545 (e) Failure to comply with the time requirements of this Code section shall not be grounds
 3546 to invalidate an otherwise proper order terminating parental rights unless the court
 3547 determines that such delay resulted in substantial prejudice to a party.

3548 15-11-302.

3549 The record of the testimony of the parties adduced in any proceeding under this article shall
 3550 not be admissible in any civil, criminal, or any other cause or proceedings in any court
 3551 against a person named as respondent for any purpose whatsoever, except in subsequent

3552 dependency or termination proceedings involving the same child or dependency or
 3553 termination proceedings involving the same respondent.

3554 15-11-303.

3555 In all proceedings under this article, the standard of proof to be adduced to terminate
 3556 parental rights shall be by clear and convincing evidence.

3557 Part 5

3558 15-11-310.

3559 (a) In considering the termination of parental rights, the court shall first determine whether
 3560 one of the following statutory grounds for termination of parental rights has been met:

3561 (1) The parent has given written consent to termination which has been acknowledged
 3562 by the court or has voluntarily surrendered the child for adoption;

3563 (2) The parent has subjected the child to aggravated circumstances;

3564 (3) The parent has wantonly and willfully failed to comply for a period of 12 months or
 3565 longer with a decree to support the child that has been entered by a court of competent
 3566 jurisdiction of this or any other state;

3567 (4) The child is abandoned by the parent; or

3568 (5) The child is dependent due to lack of proper parental care or control by the parent,
 3569 reasonable efforts to remedy the circumstances have been unsuccessful or were not
 3570 required, such cause of dependency is likely to continue or will not likely be remedied,
 3571 and the continued dependency will cause or is likely to cause serious physical, mental,
 3572 emotional, or moral harm to the child.

3573 (b) If any of the statutory grounds for termination has been met, the court shall then
 3574 consider whether termination is in the child's best interests after considering the following
 3575 factors:

3576 (1) The child's sense of attachments, including the child's sense of security, the child's
 3577 sense of familiarity, and continuity of affection for the child;

3578 (2) The child's wishes and long-term goals;

3579 (3) The child's need for permanence which includes the child's need for stability and
 3580 continuity of relationships with a parent, siblings, and other relatives; and

3581 (4) Any other factors, including the factors set forth in Code Section 15-11-26,
 3582 considered by the court to be relevant and proper to its determination.

3583 (c) If the court determines that the parent has subjected the child to aggravated
 3584 circumstances because the parent has committed the murder of the other parent of the child,

3585 the court shall presume that termination of parental rights is in the best interests of the
3586 child.

3587 15-11-311.

3588 (a) In determining whether the child is without proper parental care and control, the court
3589 shall consider, without being limited to, the following:

3590 (1) A medically verified deficiency of the parent's physical, mental, or emotional health
3591 of such duration or nature as to render the parent unable to provide adequately for the
3592 child;

3593 (2) Excessive use of or history of chronic unrehabilitated substance abuse with the effect
3594 of rendering the parent incapable of providing adequately for the physical, mental,
3595 emotional, or moral condition and needs of the child;

3596 (3) A felony conviction and imprisonment of the parent for an offense which has a
3597 demonstrably negative effect on the quality of the parent-child relationship including, but
3598 not limited to, any of the following:

3599 (A) Murder of another child of the parent;

3600 (B) Voluntary manslaughter of another child of the parent;

3601 (C) Voluntary manslaughter of the other parent of the child;

3602 (D) Aiding or abetting, attempting, conspiring, or soliciting to commit murder or
3603 voluntary manslaughter of another child of the parent;

3604 (E) Aiding or abetting, attempting, conspiring, or soliciting to commit murder or
3605 voluntary manslaughter of the other parent of the child; or

3606 (F) Committing a felony assault that results in serious bodily injury to the child or
3607 another child of the parent;

3608 (4) Egregious conduct or evidence of past egregious conduct of a physically,
3609 emotionally, or sexually cruel or abusive nature by the parent toward the child or toward
3610 another child of the parent;

3611 (5) Physical, mental, or emotional neglect of the child or evidence of past physical,
3612 mental, or emotional neglect by the parent of the child or another child of the parent; and

3613 (6) Serious bodily injury or death of a sibling of a child under circumstances which
3614 constitute substantial evidence that such injury or death resulted from parental neglect or
3615 abuse.

3616 (b) In determining whether the child who is not in the custody and care of a parent is
3617 without proper parental care and control, the court shall also consider, without being
3618 limited to, whether the parent, without justifiable cause, has failed significantly for a period
3619 of six months prior to the date of the termination hearing:

3620 (1) To develop and maintain a parental bond with the child in a meaningful, supportive
 3621 manner;

3622 (2) To provide for the care and support of the child as required by law or judicial decree;
 3623 and

3624 (3) To comply with a court ordered plan designed to reunite the child with the parent.

3625 (c) A parent's reliance on prayer or other religious nonmedical means for healing in lieu
 3626 of medical care, in the exercise of religious beliefs, shall not be the sole basis for
 3627 determining the parent to be unwilling or unable to provide safety and care adequate to
 3628 meet the child's physical, emotional, and mental health needs as provided in paragraph (1)
 3629 of subsection (a) of this Code section or as depriving the child of proper parental care or
 3630 control for purposes of this Code section and Code Section 15-11-310.

3631 Part 6

3632 15-11-320.

3633 (a) When the court finds that any ground set out in Code Section 15-11-310 is proved by
 3634 clear and convincing evidence and that termination of parental rights is in the child's best
 3635 interests, it shall order the termination of the parent's rights.

3636 (b) The court's order shall:

3637 (1) Contain written findings on which the order is based, including the factual basis for
 3638 a determination that grounds for termination of parental rights exist and that termination
 3639 is in the best interests of the child;

3640 (2) Be conclusive and binding on all parties from the date of entry;

3641 (3) Grant custody of the child in accordance with Code Section 15-11-321; and

3642 (4) Inform the parent of his or her right to use the services of the Georgia Adoption
 3643 Reunion Registry although failure to include such information shall not affect the validity
 3644 of the judgment.

3645 (c) If the court does not order the termination of parental rights but the court finds that
 3646 there is clear and convincing evidence that the child is dependent, the court may enter a
 3647 disposition order in accordance with the provisions of Article 3 of this chapter.

3648 (d) The court shall transmit a copy of every final order terminating the parental rights of
 3649 a parent to the Office of Adoptions of the department within 15 days of the filing of such
 3650 order.

3651 15-11-321.

3652 (a) Upon entering of an order terminating the parental rights of a parent, a placement may
 3653 be made only if the court finds that such placement is in the best interests of the child and

3654 in accordance with the child's court approved permanency plan created pursuant to Code
 3655 Sections 15-11-231 and 15-11-232. In determining which placement is in the child's best
 3656 interests, the court shall enter findings of fact reflecting its consideration of the following:

3657 (1) The child's need for a placement that offers the greatest degree of legal permanence
 3658 and security;

3659 (2) The least disruptive placement for the child;

3660 (3) The child's sense of attachment and need for continuity of relationships;

3661 (4) The value of biological and familial connections; and

3662 (5) Any other factors the court deems relevant to its determination.

3663 (b) A guardian or legal custodian shall submit to the jurisdiction of the court for purposes
 3664 of placement.

3665 (c) A placement effected under the provisions of this Code section shall be conditioned
 3666 upon the person who is given custody or who is granted an adoption of the child agreeing
 3667 to abide by the terms and conditions of the order of the court.

3668 (d) In addition to its rights as a legal custodian, the department has the authority to consent
 3669 to the adoption of the child.

3670 15-11-322.

3671 (a) If a petition seeking the adoption of the child is not filed within six months after the
 3672 date of the disposition order, the court shall then, and at least every six months thereafter
 3673 as long as the child remains unadopted, review the circumstances of the child to determine
 3674 what efforts have been made to assure that the child will be adopted. The court shall:

3675 (1) Make written findings regarding whether reasonable efforts have been made to move
 3676 the child to permanency;

3677 (2) Evaluate whether, in light of any change in circumstances, the permanency plan for
 3678 the child remains appropriate; and

3679 (3) Enter such orders as it deems necessary to further adoption or if appropriate, other
 3680 permanency options, including, but not limited to, another placement.

3681 (b) In those cases in which the child was placed with a guardian of the child's person,
 3682 within 60 days after such appointment and within 60 days after each anniversary date of
 3683 such appointment, the guardian shall file with the court a personal status report of the child
 3684 which shall include:

3685 (1) A description of the child's general condition, changes since the last report, and the
 3686 child's needs;

3687 (2) All addresses of the child during the reporting period and the living arrangements of
 3688 the child for all addresses; and

3689 (3) Recommendations for any modification of the guardianship order.

3690 15-11-323.

3691 (a) A child who has not been adopted after the passage of at least three years from the date
3692 the court terminated parental rights or the parent voluntarily surrendered parental rights to
3693 DFCS and for whom the court has determined that adoption is no longer the permanent
3694 plan may petition the court to reinstate parental rights pursuant to the modification of
3695 orders procedure prescribed by Code Section 15-11-32. The child may file the petition to
3696 reinstate parental rights prior to the expiration of such three-year period if the department
3697 or licensed child-placing agency that is responsible for the custody and supervision of the
3698 child and the child stipulate that the child is no longer likely to be adopted. A child 14
3699 years of age or older shall sign the petition in the absence of a showing of good cause as
3700 to why the child could not do so.

3701 (b) If it appears that the best interests of the child may be promoted by reinstatement of
3702 parental rights, the court shall order that a hearing be held and shall cause notice to be
3703 served by United States mail to DFCS, the child's attorney of record, guardian ad litem, if
3704 any, foster parents, if any, and the child's former parent whose parental rights were
3705 terminated. The parent and foster parents, if any, shall have a right to be heard at the
3706 hearing to reinstate parental rights but shall not be parties at such hearing, and such hearing
3707 may be conducted in their absence. The child's motion shall be dismissed if the parent
3708 cannot be located or if the parent objects to the reinstatement.

3709 (c) The court shall grant the petition if it finds by clear and convincing evidence that the
3710 child is no longer likely to be adopted and that reinstatement of parental rights is in the
3711 child's best interests. In determining whether reinstatement is in the child's best interests
3712 the court shall consider, but shall not be limited to, the following:

3713 (1) Whether the parent whose rights are to be reinstated is a fit parent and has remedied
3714 his or her deficits as provided in the record of the prior termination proceedings and prior
3715 termination order;

3716 (2) The age and maturity of the child and the ability of the child to express his or her
3717 preference;

3718 (3) Whether the reinstatement of parental rights will present a risk to the child's health,
3719 welfare, or safety; and

3720 (4) Other material changes in circumstances, if any, that may have occurred which
3721 warrant the granting of the petition.

3722 (d) If the court grants the petition to reinstate parental rights, a review hearing will be
3723 scheduled within six months. During such period, the court may order that the child be
3724 immediately placed in the custody of the parent or, if the court determines that a transition
3725 period is necessary and the child is in DFCS custody at the time of the order, order DFCS
3726 to provide transition services to the family as appropriate.

3727 (e) An order granted under this Code section reinstates the parental rights to the child.
 3728 Such reinstatement shall be a recognition that the situation of the parent and child has
 3729 changed since the time of the termination of parental rights and reunification is now
 3730 appropriate.

3731 (f) This Code section is intended to be retroactive and applied to any child who is under
 3732 the jurisdiction of the court at the time of the hearing regardless of the date parental rights
 3733 were terminated.

3734 ARTICLE 5

3735 15-11-350.

3736 The purpose of this article is:

3737 (1) To enable children who have come into the care of the state due to abuse or neglect
 3738 to enjoy as much normalcy as possible, by facilitating their participation in activities and
 3739 opportunities appropriate to their ages and goals;

3740 (2) To prepare children who experience foster care to become independent and
 3741 self-sufficient adults;

3742 (3) To assist children in foster care in planning for their future, including postsecondary
 3743 education and the workplace; and

3744 (4) To provide support to older children who are leaving the state's care to ensure that
 3745 their basic health, education, and safety needs are met as they transition to adulthood.

3746 15-11-351.

3747 As used in this article, the term:

3748 (1) 'Independent life skills assessment' means an assessment of a child upon reaching 16
 3749 years of age to determine the specific life skills services that are most appropriate for
 3750 such child.

3751 (2) 'Independent living assessment' means a comprehensive assessment conducted during
 3752 the month following a child's seventeenth birthday to determine such child's skills and
 3753 abilities to live independently and become self-sufficient.

3754 (3) 'Life skills services' includes, but shall not be limited to, independent living skills
 3755 training, including training to develop banking and budgeting skills, interviewing skills,
 3756 parenting skills, educational support, employment training, basic legal skills, and
 3757 counseling.

3758 (4) 'Preindependent living assessment' means an initial assessment of a child's strengths
 3759 and needs to determine the preindependent living services that are most appropriate for
 3760 such child.

3761 (5) 'Preindependent living services' includes, but shall not be limited to, life skills
3762 training, educational field trips, and mentoring.

3763 (6) 'Subsidized independent living services' means living arrangements that allow the
3764 child to live independently of the daily care and supervision of an adult in a setting that
3765 is not required to be licensed.

3766 (7) 'Young adult' means a person who has reached the age of 18 but is not yet 23 years
3767 of age.

3768 15-11-352.

3769 (a) DFCS shall administer a system of independent living transition services to enable
3770 adolescents and young adults in foster care and young adults who exit foster care at age 18
3771 to make the transition to self-sufficiency as adults.

3772 (b) The goals of independent living transition services shall be to assist adolescents and
3773 young adults in foster care and young adults who were formerly in foster care to obtain life
3774 skills and education for independent living and employment, to enjoy a quality of life
3775 appropriate for their age, and to assume personal responsibility for becoming self-sufficient
3776 adults.

3777 (c) In providing independent living services for children, DFCS shall balance the goals of
3778 normalcy and safety for a child and provide caregivers with as much flexibility as possible
3779 to enable such child to live as normal a life as possible and participate in age-appropriate
3780 extracurricular, enrichment, and social activities.

3781 (d) DFCS shall establish a continuum of services for eligible children in foster care and
3782 eligible young adults who were formerly in foster care which accomplish the goals for the
3783 system of independent living transition services.

3784 (e) For children in foster care, independent living transition services shall not be a
3785 permanency plan. Independent living transition services may occur concurrently with
3786 continued efforts to locate and achieve placement in adoptive families for adolescents in
3787 foster care or to achieve another court approved permanency plan.

3788 15-11-353.

3789 (a) DFCS shall provide independent living services to children who have reached 14 years
3790 of age but are not yet 18 years of age and who are in foster care. Children to be served
3791 shall meet the eligibility requirements set forth for specific services as provided in this
3792 article.

3793 (b) DFCS shall provide independent living services to young adults who were in foster
3794 care when they turned 18 years of age. Young adults to be served shall meet the eligibility
3795 requirements set forth for specific services in this article.

3796 (c) DFCS shall develop objective criteria for determining eligibility benefits and services
 3797 available under this article.

3798 15-11-354.

3799 (a) DFCS shall provide adolescents and young adults with opportunities to participate in
 3800 life skills activities in their foster families and communities which are reasonable and
 3801 appropriate for their respective ages and shall provide them with services to build such
 3802 skills and increase their ability to live independently and become self-sufficient. In
 3803 providing these services DFCS may:

3804 (1) Develop a list of age-appropriate activities and responsibilities to be offered to all
 3805 children involved in independent living transition services and their foster parents;

3806 (2) Provide training for staff and foster parents to address the issues of adolescents in
 3807 foster care in transitioning to adulthood, which shall include information on supporting
 3808 education and employment and providing opportunities to participate in appropriate daily
 3809 activities;

3810 (3) Develop procedures to maximize participation in age-appropriate activities of
 3811 children in foster care;

3812 (4) Provide opportunities for adolescents in foster care to interact with mentors; and

3813 (5) Develop and implement procedures for adolescents to directly access and manage the
 3814 personal allowance they receive from DFCS in order to learn responsibility and
 3815 participate in age-appropriate life skills activities.

3816 (b) Each child in foster care, his or her foster parents, and DFCS or the community based
 3817 provider shall set early achievement and career goals for the child's postsecondary
 3818 educational and work experience. DFCS and community based providers shall implement
 3819 a model to help ensure that children in foster care are ready for postsecondary education
 3820 and the workplace as follows:

3821 (1) A child in foster care entering the ninth grade, the child's foster parents, and DFCS
 3822 or a community based provider shall be active participants in choosing a postsecondary
 3823 goal based upon both the abilities and interests of the child. Such goal shall
 3824 accommodate the needs of the child served in exceptional education programs to the
 3825 extent appropriate for the child. A child in foster care, with the assistance of the child's
 3826 foster parents, and DFCS or a community based provider shall set a postsecondary goal
 3827 including, but not limited to:

3828 (A) Attending a four-year college or university, a community college plus university,
 3829 or a military academy;

3830 (B) Receiving a two-year postsecondary degree;

3831 (C) Attaining a postsecondary career and technical certificate or credential;

- 3832 (D) Beginning immediate employment after completion of a high school diploma or
 3833 its equivalent; or
- 3834 (E) Enlisting in the military;
- 3835 (2) In order to assist a child in achieving his or her chosen goal, DFCS or a community
 3836 based provider shall, with the participation of the child and foster parents, identify:
- 3837 (A) The core courses necessary to qualify for a chosen goal;
 3838 (B) Any elective courses which would provide additional help in reaching a chosen
 3839 goal;
- 3840 (C) The grade point requirement and any additional information necessary to achieve
 3841 a specific goal; and
- 3842 (D) A teacher, other school staff member, employee of DFCS or a community based
 3843 care provider, or community volunteer who would be willing to work with the child as
 3844 an academic advocate or mentor if foster parent involvement is insufficient or
 3845 unavailable;
- 3846 (3) In order to complement educational goals, DFCS and community based providers are
 3847 encouraged to form partnerships with the business community to support internships,
 3848 apprenticeships, or other work related opportunities; and
- 3849 (4) DFCS and community based providers shall ensure that a child and the child's foster
 3850 parents are made aware of the postsecondary goals available and shall assist in
 3851 identifying the coursework necessary to enable the child to reach the chosen goal.
- 3852 (c) A child in foster care and a young adult formerly in foster care shall be encouraged to
 3853 take part in learning opportunities that result from participation in community service
 3854 activities.
- 3855 (d) A child in foster care and a young adult formerly in foster care shall be provided with
 3856 the opportunity to change from one postsecondary goal to another, and each postsecondary
 3857 goal shall allow for changes in each individual's needs and preferences. Any change,
 3858 particularly a change that will result in additional time required to achieve a goal, shall be
 3859 made with the guidance and assistance of DFCS or a community based provider.
- 3860 15-11-355.
- 3861 DFCS shall provide transition to independence services to children in foster care who meet
 3862 prescribed conditions and are determined eligible by DFCS. DFCS may allow a child who
 3863 is between the ages of 18 and 21 years to remain in foster care. The service categories
 3864 available to children in foster care which facilitate successful transition into adulthood are:
- 3865 (1) Preindependent living services;
 3866 (2) Life skills services; and
 3867 (3) Subsidized independent living services.

3868 15-11-356.

3869 (a) A child who has reached 14 years of age but is not yet 16 years of age who is in foster
3870 care shall be eligible for preindependent living services. The specific services to be
3871 provided to a child shall be determined using a preindependent living assessment.

3872 (b) DFCS shall conduct an annual staffing for each child who has reached 14 years of age
3873 but is not yet 16 years of age to ensure that the preindependent living training and services
3874 to be provided as determined by the preindependent living assessment are being received
3875 and to evaluate the progress of the child in developing the needed independent living skills.

3876 (c) At the first annual staffing that occurs following a child's fourteenth birthday, and at
3877 each subsequent staffing, DFCS shall provide to each child detailed information on any
3878 grants, scholarships, and waivers that are available and should be sought by the child with
3879 assistance from DFCS.

3880 (d) Information related to both the preindependent living assessment and all staffings,
3881 which shall be reduced to writing and signed by the child, shall be included as a part of the
3882 written report required to be provided to the court at each periodic review hearing.

3883 15-11-357.

3884 (a) A child who has reached 16 years of age but is not yet 18 years of age who is in foster
3885 care shall be eligible for life skills services.

3886 (b) Children receiving such life skills services shall also be provided with information
3887 related to social security insurance benefits and public assistance. The specific services to
3888 be provided to a child shall be determined using an independent life skills assessment

3889 (c) DFCS shall conduct a staffing at least once every six months for each child who has
3890 reached 16 years of age but is not yet 18 years of age to ensure that the appropriate
3891 independent living training and services as determined by the independent life skills
3892 assessment are being received and to evaluate the progress of the child in developing the
3893 needed independent living skills.

3894 (d) DFCS shall provide to each child in foster care during the calendar month following
3895 the child's seventeenth birthday an independent living assessment to determine the child's
3896 skills and abilities to live independently and become self-sufficient. Based on the results
3897 of the independent living assessment, services and training shall be provided in order for
3898 the child to develop the necessary skills and abilities prior to the child's eighteenth birthday.

3899 (e) Information related to both the independent life skills assessment and all staffings,
3900 which shall be reduced to writing and signed by the child, shall be included as a part of the
3901 written report required to be provided to the court at each periodic review hearing.

3902 15-11-358.

3903 (a) A child who has reached 17 years of age but is not yet 21 years of age may be eligible
 3904 for subsidized independent living services if:

3905 (1) The child has been adjudicated dependent under Article 3 of this chapter; has been
 3906 placed in licensed out-of-home care for at least six months prior to entering subsidized
 3907 independent living; and has a permanency goal of independent living or long-term
 3908 licensed care; and

3909 (2) The child is able to demonstrate independent living skills, as determined by DFCS
 3910 using established procedures and assessments.

3911 (b) Independent living arrangements established for a child shall be part of an overall plan
 3912 leading to the total independence of the child from DFCS supervision. Such plan shall
 3913 include, but shall not be limited to:

3914 (1) A description of the skills of the child and a plan for learning additional identified
 3915 skills;

3916 (2) The behavior that the child has exhibited which indicates an ability to be responsible
 3917 and a plan for developing additional responsibilities, as appropriate;

3918 (3) A plan for future educational, vocational, and training skills;

3919 (4) Present financial and budgeting capabilities and a plan for improving resources and
 3920 ability;

3921 (5) A description of a proposed residence;

3922 (6) Documentation that the child understands the specific consequences of his or her
 3923 conduct in an independent living program;

3924 (7) Documentation of proposed services to be provided by DFCS and other agencies,
 3925 including the type of service and the nature and frequency of contact; and

3926 (8) A plan for maintaining or developing relationships with family, other adults, friends,
 3927 and the community, as appropriate.

3928 (c) Subsidy payments in an amount established by DFCS may be made directly to a child
 3929 under the direct supervision of a caseworker or other responsible adult approved by DFCS.

3930 15-11-359.

3931 DFCS shall provide or arrange for the following services to young adults formerly in foster
 3932 care who meet the prescribed conditions and are determined eligible by DFCS:

3933 (1) Aftercare support services which are available to such young adults in their efforts
 3934 to continue to develop the skills and abilities necessary for independent living; and

3935 (2) Transitional short-term services.

3936 15-11-360.

3937 (a) A young adult who left foster care at 18 years of age but who requests services prior
 3938 to reaching 23 years of age shall be eligible for aftercare support services.

3939 (b) Aftercare support services may include, but shall not be limited to:

3940 (1) Mentoring and tutoring;

3941 (2) Mental health services and substance abuse counseling;

3942 (3) Life skills classes, including, but not limited to, credit management, preventive health
 3943 activities, and basic legal skills;

3944 (4) Parenting classes;

3945 (5) Job skills training;

3946 (6) Counselor consultations; and

3947 (7) Temporary financial assistance.

3948 (c) The specific services to be provided under this Code section shall be determined by an
 3949 aftercare services assessment and may be provided by DFCS or through referrals in the
 3950 community. Temporary assistance provided to prevent homelessness shall be provided as
 3951 expeditiously as possible and within the limitations defined by DFCS.

3952 15-11-361.

3953 (a) In addition to any services provided through aftercare support, in DFCS's discretion,
 3954 a young adult formerly in foster care may receive other appropriate transitional services,
 3955 which may include financial, housing, counseling, employment, education, mental health,
 3956 disability, and other services, if the young adult demonstrates that the services are critical
 3957 to the young adult's own efforts to achieve self-sufficiency and to develop a personal
 3958 support system.

3959 (b) A young adult shall be eligible to apply for transitional support services if he or she
 3960 was a dependent child, was living in licensed foster care or in subsidized independent
 3961 living at the time of his or her eighteenth birthday, and had spent at least six months living
 3962 in foster care before his or her eighteenth birthday.

3963 (c) If at any time transitional support services are no longer critical to the young adult's
 3964 own efforts to achieve self-sufficiency and to develop a personal support system, the
 3965 provision of such services may be terminated.

3966 15-11-362.

3967 Payment of aftercare or transitional support funds shall be made directly to the recipient
 3968 unless the recipient requests in writing to the community based provider or DFCS that the
 3969 payments or a portion of the payments be made directly on the recipient's behalf to a third

3970 party in order to secure services such as housing, counseling, education, or employment
 3971 training as part of the young adult's own efforts to achieve self-sufficiency.

3972 15-11-363.

3973 (a) A judicial review of the independent living services being provided to a child shall be
 3974 held:

3975 (1) For a child who has reached 14 years of age but is not 18 years of age, during the
 3976 periodic review and permanency plan hearings under Article 3 of this chapter; or

3977 (2) For a young adult, at least annually.

3978 (b) In addition to the periodic review and permanency plan hearings under Article 3 of this
 3979 chapter, the court shall hold a hearing to review the status of the child within 90 days after
 3980 a child's seventeenth birthday. Such hearing may be held concurrently with a periodic
 3981 review or permanency plan hearing. If necessary, the court may review the status of the
 3982 child more frequently during the year prior to the child's eighteenth birthday.

3983 (c) At each periodic review, in addition to any information or report provided to the court,
 3984 the foster parent, legal custodian, guardian ad litem, if any, and the child shall be given the
 3985 opportunity to provide the court with any information relevant to the child's best interests
 3986 as it relates to independent living transition services. In addition to any information or
 3987 report provided to the court, DFCS shall include in its social study report written
 3988 verification that the child has been:

3989 (1) Provided with a current Medicaid card and has been provided all necessary
 3990 information concerning the Medicaid program sufficient to prepare the child to apply for
 3991 coverage upon reaching 18 years of age, if such application would be appropriate;

3992 (2) Provided with a certified copy of his or her birth certificate and, if the child does not
 3993 have a valid driver's license, a valid Georgia identification card;

3994 (3) Provided information relating to federal social security insurance benefits if the child
 3995 is eligible for such benefits. If the child has received such benefits and the benefits are
 3996 being held in trust for the child, a full accounting of such funds shall be provided and the
 3997 child shall be informed about how to access such funds;

3998 (4) Provided with information and training related to budgeting skills, interviewing
 3999 skills, parenting skills, and basic legal skills;

4000 (5) Provided with essential banking skills including an open bank account or
 4001 identification necessary to open an account;

4002 (6) Provided with information on public assistance and how to apply;

4003 (7) Provided a clear understanding of where he or she will be living on his or her
 4004 eighteenth birthday, how living expenses will be paid, and what educational program or
 4005 school he or she will be enrolled in; and

4006 (8) Encouraged to attend all judicial review hearings occurring after his or her
 4007 seventeenth birthday.

4008 (d) At the first judicial review hearing held subsequent to a child's seventeenth birthday,
 4009 DFCS shall provide the court with an updated case plan that includes specific information
 4010 related to independent living services that have been provided since the child's fourteenth
 4011 birthday or since the date the child came into foster care, whichever came later.

4012 (e) At the time of a periodic review hearing if, in the opinion of the court, DFCS has not
 4013 complied with its obligations as specified in the written case plan or in the provision of
 4014 independent living services, the court shall issue a show cause order. If cause is shown for
 4015 failure to comply, the court shall give DFCS 30 days within which to comply and, on
 4016 failure to comply with this or any subsequent order, DFCS may be held in contempt.

4017 15-11-364.

4018 The department shall promulgate regulations to administer this article and shall follow the
 4019 requirements of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The
 4020 department shall complete the development of all procedures, systems, assessments, and
 4021 other items required by this article by January 1, 2014.

4022 15-11-365.

4023 Nothing in this article shall be interpreted to limit a child's eligibility for postsecondary
 4024 tuition, ancillary fees, or living expenses under Code Section 20-3-660.

4025 ARTICLE 6

4026 Part 1

4027 15-11-380.

4028 The purpose of this article is:

4029 (1) To acknowledge that certain behaviors or conditions occurring within a family or
 4030 school environment indicate that a child is experiencing serious difficulties and is in need
 4031 of services and corrective action in order to protect the child from the irreversibility of
 4032 certain choices and to protect the integrity of the family;

4033 (2) To make other family members aware of their contributions to their family's
 4034 problems and to encourage family members to accept the responsibility to participate in
 4035 any program of care ordered by the court;

4036 (3) To provide a child with a program of treatment, care, guidance, counseling, structure,
 4037 supervision, and rehabilitation which the child needs to assist him or her in becoming a
 4038 responsible and productive member of society; and

4039 (4) To ensure the cooperation and coordination of all agencies having responsibility to
4040 supply services to any member of the family referred to the court.

4041 15-11-381.

4042 As used in this article, the term:

4043 (1) 'Comprehensive services plan' means an interagency treatment, habilitation, support,
4044 or supervision plan developed at an interagency meeting of state or local agency
4045 representatives, parties, and other interested persons following a court's finding that a
4046 child is incompetent to proceed. A comprehensive services plan shall be submitted to the
4047 court for approval as part of the disposition of the child's case.

4048 (2) 'Habilitation' means the process by which a child is helped to acquire and maintain
4049 those life skills which will enable him or her to cope more effectively with the demands
4050 of his or her own person and of his or her environment and to raise the level of his or her
4051 physical, mental, social, and vocational abilities.

4052 (3) 'Home detention' means court ordered confinement of a child with his or her parent,
4053 guardian, legal custodian, or in some other specified home for 24 hours a day unless
4054 otherwise prescribed by written court order, under which the child is permitted out of the
4055 residence only at such hours and in the company of persons specified in the court order
4056 establishing the home detention. Home detention shall be monitored by DJJ or court
4057 based probation.

4058 (4) 'Nonsecure facility' means a public or private facility which does not include
4059 construction fixtures such as locked rooms and buildings, fences, or other physical
4060 structures designed to physically restrict the movements and activities of a child in
4061 custody.

4062 (5) 'Plan manager' means a person who is under the supervision of the court and is
4063 appointed by the court to convene a meeting of all relevant parties for the purpose of
4064 developing a comprehensive services plan. A plan manager shall be responsible for
4065 collecting all previous histories of the child including, but not limited to, evaluations,
4066 assessments, treatment summaries, and school records.

4067 (6) 'Runaway' means a child who without just cause and without the consent of his or her
4068 parent, guardian, or legal custodian is absent from his or her home or place of abode for
4069 at least 24 hours.

4070 (7) 'Status offense' means an act prohibited by law which would not be an offense if
4071 committed by an adult.

4072 (8) 'Truant' means having ten or more days of unexcused absences from school in the
4073 current academic year.

4074 (9) 'Valid court order' means a court order issued by a judge to a child alleged or found
 4075 to have committed a status offense and:

4076 (A) Who was brought before the court and made subject to the order;

4077 (B) Whose future conduct is regulated by the order;

4078 (C) Who was given verbal and written warning of the consequences of violating the
 4079 order at the time the order was issued and whose attorney, parent, guardian, or legal
 4080 custodian was also provided with written notice of the consequences of violating the
 4081 order, and the notice is reflected in the court record; and

4082 (D) Who was afforded due process prior to the issuance of the order.

4083 Part 2

4084 15-11-390.

4085 (a) A complaint alleging a child is in need of services may be filed by a parent, guardian,
 4086 or legal custodian, DFCS, a school official, a law enforcement officer, a guardian ad litem,
 4087 or an attorney who has knowledge of the facts alleged or is informed and believes that such
 4088 facts are true.

4089 (b) The complaint shall set forth plainly and with particularity:

4090 (1) The name, date of birth, and residence address of the child on whose behalf the
 4091 complaint is being filed;

4092 (2) The names and residence addresses of the parent, guardian, or legal custodian, any
 4093 other family members, or any other individuals living within the child's home;

4094 (3) The name of any public institution or agency having the responsibility or ability to
 4095 supply services alleged to be needed by the child; and

4096 (4) Whether any of the matters required by this subsection are unknown.

4097 (c) When a school official is filing a complaint, information shall be included which shows
 4098 that:

4099 (1) The legally liable school district has sought to resolve the expressed problem through
 4100 available educational approaches; and

4101 (2) The school district has sought to engage the parent, guardian, or legal custodian in
 4102 solving the problem but such person has been unwilling or unable to do so, that the
 4103 problem remains, and that court intervention is needed.

4104 (d) When a school official is filing a complaint involving a child who is eligible or
 4105 suspected to be eligible for services under the federal Individuals with Disabilities
 4106 Education Act or Section 504 of the federal Rehabilitation Act of 1973, information shall
 4107 be included which demonstrates that the legally liable school district:

4108 (1) Has determined that the child is eligible or suspected to be eligible under the federal
4109 Individuals with Disabilities Education Act or Section 504 of the federal Rehabilitation
4110 Act of 1973; and
4111 (2) Has reviewed for appropriateness the child's current Individualized Education
4112 Program (IEP) and placement and has made modifications where appropriate.
4113 (e) The juvenile court intake officer shall be responsible for receiving complaints alleging
4114 that a child is in need of services.

4115 15-11-391.

4116 (a) Upon the filing of a complaint alleging that a child is in need of services, the juvenile
4117 court intake officer shall convene a multidisciplinary conference to be attended by the
4118 child, the child's parent, guardian, or legal custodian, DFCS, and any other agency or public
4119 institution having legal responsibility or discretionary authority to supply services to the
4120 family except in emergencies or when the court or the juvenile court intake officer
4121 determines it to be inappropriate or futile.

4122 (b) The juvenile court intake officer shall determine whether a mandatory conference is
4123 inappropriate or futile based on:

4124 (1) A screening of the child; and

4125 (2) If a parent, guardian, or legal custodian has filed the complaint, the nature of that
4126 parent, guardian, or legal custodian's participation in and compliance with previous
4127 mandatory conferences or informal family services plan agreements, if any.

4128 (c) Upon application to the court by the plan manager or upon the motion of any party or
4129 upon the court's own motion, the court shall issue an order for good cause to any person
4130 determined by the court to be a required participant in the mandatory multidisciplinary
4131 conference and who is required by federal or state law to protect the privacy of health
4132 information in his or her possession relating to the child alleged to be in need of services
4133 or to such child's primary caregiver. Such order shall require such person to comply with
4134 the convening of the multidisciplinary conference and to cooperate with the plan manager
4135 by disclosing relevant protected health information as ordered by the court. The relevant
4136 health information required to be disclosed by the court order shall be used only for the
4137 purposes of developing and implementing a comprehensive services plan that is reasonably
4138 related to the promotion of the care, guidance, counseling, structure, supervision, treatment,
4139 or rehabilitation of the child or the child's primary caregiver for the benefit of such child.
4140 For the purposes of this subsection, good cause shall exist when the protected health
4141 information being sought is reasonably related to the child alleged to be in need of services.

4142 15-11-392.

4143 (a) After the mandatory multidisciplinary conference, the child, the child's parent,
4144 guardian, or legal custodian, DFCS, and any other member of the conference may effect
4145 an informal family services plan agreement.

4146 (b) An informal family services plan agreement shall include:

4147 (1) The identification of the conduct of the child, the child's parent, guardian, or legal
4148 custodian, or any family member which is causing serious harm to the child and the
4149 services needed by that individual to mitigate or eliminate the problems within the
4150 family;

4151 (2) A description of the services which are needed for the child, the child's parent,
4152 guardian, or legal custodian, or other family members, the availability of such services
4153 within the community, and a plan for ensuring that any such services that are available
4154 will be secured and delivered;

4155 (3) A description of all expected action to be taken by the child, the child's parent,
4156 guardian, or legal custodian, or other family members;

4157 (4) The identification of DFCS caseworker assigned to the case and who is directly
4158 responsible for assuring that the informal family services plan agreement is implemented;
4159 and

4160 (5) An estimate of the time anticipated to be necessary in order to accomplish the goals
4161 set out in the informal family services plan agreement.

4162 (c) The informal family services plan agreement shall set forth in writing the terms and
4163 conditions agreed to by the parties as evidenced by their signature thereto.

4164 (d) The informal family services plan agreement shall demonstrate that the child and the
4165 child's parent, guardian, or legal custodian understand their right to an adjudication hearing
4166 on their need for services and shall also demonstrate that they consent to its terms with
4167 knowledge that consent is not obligatory and with knowledge of the effect of such
4168 agreement.

4169 (e) The duration of the informal family services plan agreement shall not exceed six
4170 months; however, the court may extend such agreement for one additional period not to
4171 exceed six months.

4172 Part 3

4173 15-11-400.

4174 DFCS shall be the lead agency and shall have the primary responsibility for the monitoring
4175 and management of child in need of services cases under this article.

4176 15-11-401.

4177 (a) The continued custody hearing for a child in need of services shall be held promptly
4178 and no later than:

4179 (1) Twenty-four hours after a child is taken into temporary custody if the child is being
4180 held in a secure juvenile detention facility; or

4181 (2) Seventy-two hours after the child is placed in foster care, provided that, if the 72 hour
4182 time frame expires on a weekend or legal holiday, the hearing shall be held on the next
4183 day which is not a weekend or legal holiday.

4184 (b) If a child was never taken into temporary custody or is released from temporary
4185 custody at the continued custody hearing, the following time frames apply:

4186 (1) The petition for a child in need of services shall be filed:

4187 (A) Within 30 days of the juvenile court intake officer's determination that a mandatory
4188 conference would be inappropriate or futile;

4189 (B) Within 30 days of the child's release from temporary custody if the court
4190 determines that the mandatory conference would be inappropriate or futile;

4191 (C) Within 30 days of a court determination that continuing participation in the
4192 informal family services plan procedure would be inappropriate or futile; or

4193 (D) Within 30 days of the conclusion of the period governed by the informal family
4194 services plan agreement if the child and family have not achieved the goals set out in
4195 such agreement and there are reasonable grounds to believe that the child is still in need
4196 of services. If no petition for a child in need of services is filed within the required time
4197 frame, the complaint may be dismissed without prejudice;

4198 (2) Summons shall be served at least 24 hours before the adjudication hearing;

4199 (3) The adjudication hearing shall be scheduled to be held no later than 60 days after the
4200 filing of the petition for a child in need of services; and

4201 (4) If not held in conjunction with the adjudication hearing, the disposition hearing shall
4202 be held and completed within 30 days after the conclusion of the adjudication hearing.

4203 (c) If a child is not released from temporary custody at the continued custody hearing, the
4204 following time frames apply:

4205 (1) The petition for a child in need of services shall be filed within five days of the
4206 continued custody hearing;

4207 (2) Summons shall be served at least 72 hours before the adjudication hearing;

4208 (3) The adjudication hearing shall be scheduled to be held no later than ten days after the
4209 filing of the petition for a child in need of services; and

4210 (4) If not held in conjunction with the adjudication hearing, the disposition hearing shall
4211 be held and completed within 30 days after the conclusion of the adjudication hearing.

4212 15-11-402.

4213 (a) A proceeding under this article may be commenced in the county in which the act
4214 complained of took place.

4215 (b) If a proceeding is commenced in the county in which the act complained of took place,
4216 the court shall transfer the case to the county in which the child legally resides for further
4217 proceedings.

4218 (c) When a proceeding is transferred, certified copies of all legal and social documents and
4219 records pertaining to the proceeding on file with the clerk of court shall accompany such
4220 transfer.

4221 15-11-403.

4222 (a) A child shall have the right to a qualified and independent attorney at all stages of
4223 proceedings under this article.

4224 (b) The court shall appoint an attorney for a child alleged to be a child in need of services.

4225 (c) The court shall appoint a guardian ad litem for a child alleged to be a child in need of
4226 services:

4227 (1) At the request of the child's attorney; or

4228 (2) Upon the court's own motion if it determines that a guardian ad litem is necessary to
4229 assist the court in determining the best interests of the child.

4230 (d) The role of a guardian ad litem in a proceeding for a child in need of services shall be
4231 the same role as provided for in all dependency proceedings under Article 3 of this chapter.

4232 (e) If an attorney or a guardian ad litem has previously been appointed for the child in a
4233 dependency or delinquency proceeding, the court, when possible, shall appoint the same
4234 attorney or guardian ad litem.

4235 (f) An attorney appointed to represent the child in a proceeding for a child in need of
4236 services shall continue the representation in any subsequent appeals unless excused by the
4237 court.

4238 (g) Neither the child nor a representative of the child may waive the right to an attorney
4239 in a proceeding for a child in need of services.

4240 (h) A child shall be informed of his or her right to an attorney at or prior to the first
4241 mandatory conference and prior to the first court proceeding for a child in need of services.

4242 A child shall be given an opportunity to:

4243 (1) Obtain and employ an attorney of the child's own choice; or

4244 (2) To obtain a court appointed attorney if the court determines that the child is an
4245 indigent person.

4246 15-11-404.

4247 A continuance shall be granted only upon a showing of good cause and only for that period
 4248 of time shown to be necessary by the moving party at the hearing on such motion.
 4249 Whenever any continuance is granted, the facts which require the continuance shall be
 4250 entered into the court record.

4251 15-11-405.

4252 If a child is alleged or found to be a child in need of services and is placed in foster care,
 4253 the child shall be required to have a case plan. In addition to the case plan requirements
 4254 of Code Section 15-11-201, a case plan shall include:

4255 (1) A description of the child's strengths and needs;

4256 (2) A description of specific parental strengths and needs;

4257 (3) A description of other personal, family, or environmental problems that may
 4258 contribute to the child's behaviors;

4259 (4) A description of the safety, physical, and mental health needs of the child;

4260 (5) Identification of the least restrictive placement to safeguard the child's best interests
 4261 and protect the community;

4262 (6) An assessment of the availability of community resources to address the child's and
 4263 family's needs;

4264 (7) An assessment of the availability of court diversion services; and

4265 (8) An assessment of the availability of other preventive measures.

4266 15-11-406.

4267 Any proceeding or other processes or actions alleging for the first time that a child is a
 4268 runaway shall be terminated or dismissed upon the request of the parent, guardian, or legal
 4269 custodian of the child.

4270 Part 4

4271 15-11-410.

4272 (a) A child may be taken into temporary custody under this article:

4273 (1) Pursuant to a court order; or

4274 (2) By a law enforcement officer when there are reasonable grounds to believe that a
 4275 child has run away from his or her parent, guardian, or legal custodian or the
 4276 circumstances are such as to endanger the child's health or welfare unless immediate
 4277 action is taken.

4278 (b) Before entering an order authorizing temporary custody, the court shall determine
 4279 whether continuation in the home is contrary to the child's welfare and whether there are
 4280 available services that would prevent the need for custody. The court shall make such
 4281 determination on a case-by-case basis and shall make written findings of fact referencing
 4282 any and all evidence relied upon in reaching its decision.

4283 (c) A person taking a child into temporary custody shall deliver the child, with all
 4284 reasonable speed and without first taking the child elsewhere, to a medical facility if the
 4285 child is believed to suffer from a serious physical condition or illness which requires
 4286 prompt treatment and, upon delivery, shall promptly contact a juvenile court intake officer.
 4287 Immediately upon being notified by the person taking a child into custody, the juvenile
 4288 court intake officer shall determine if such child should be released, remain in temporary
 4289 custody, or be brought before the court.

4290 15-11-411.

4291 (a) A person taking a child into temporary custody shall not exercise custody over the
 4292 child except for a period of 12 hours. A child taken into temporary custody may be placed
 4293 in a nonsecure facility for a child in need of services.

4294 (b) Counties and municipalities shall be authorized to establish nonsecure facilities where
 4295 a child who is suspected of being a child in need of services may be placed until the parent,
 4296 guardian, or legal custodian assumes custody of the child.

4297 (c) Immediately after a child is brought into a nonsecure facility, every effort shall be
 4298 made to contact the parents, guardian, or legal custodian of the child.

4299 (d) If a parent, guardian, or legal custodian has not assumed custody of the child in a
 4300 nonsecure facility at the end of the 12 hour period, the court shall be notified and shall
 4301 place the child in the least restrictive placement consistent with the child's needs for
 4302 protection or control in the custody of the child's parents, guardian, or legal custodian upon
 4303 such person's promise to bring the child before the court when requested by the court;
 4304 provided, however, that if such placement is not available, the child shall be placed in the
 4305 custody of DFCS which shall promptly arrange for foster care of the child.

4306 15-11-412.

4307 (a) A child may be held in a secure juvenile detention facility until a continued custody
 4308 hearing is held, provided that such child is not held in a secure detention facility for more
 4309 than 24 hours and any of the following apply:

4310 (1) It is alleged that the child is a runaway;

4311 (2) It is alleged that the child is habitually disobedient of the reasonable and lawful
 4312 commands of his or her parent, guardian, or legal custodian and is ungovernable; or

4313 (3) The child has previously failed to appear at a scheduled hearing.

4314 (b) A child placed in a secure detention facility pursuant to subsection (a) of this Code
 4315 section shall be appointed an attorney prior to the continued custody hearing.

4316 (c) In no case shall a child in custody be detained in a jail, adult lock-up, or other adult
 4317 detention facility.

4318 15-11-413.

4319 (a) If the child is being held in a secure juvenile detention facility, a continued custody
 4320 hearing shall be held within 24 hours. If such hearing is not held within the time specified,
 4321 the child shall be released from temporary detention in accordance with subsection (d) of
 4322 Code Section 15-11-411 and with authorization of the detaining authority.

4323 (b) If a child is not being held in a secure juvenile detention facility and has not been
 4324 released to the custody of the child's parent, guardian, or legal custodian, a hearing shall
 4325 be held promptly and not later than 72 hours after the child is placed in foster care,
 4326 provided that, if the 72 hour time frame expires on a weekend or legal holiday, the hearing
 4327 shall be held on the next day which is not a weekend or legal holiday.

4328 (c) At the commencement of the continued custody hearing, the court shall inform the
 4329 parties of:

4330 (1) The nature of the allegations;

4331 (2) The nature of the proceedings;

4332 (3) The possible consequences or dispositions that may apply to the child's case
 4333 following adjudication; and

4334 (4) Due process rights, including the right to an attorney and to an appointed attorney;
 4335 the privilege against self-incrimination; that the child may remain silent and that anything
 4336 said may be used against the child; the right to confront anyone who testifies against the
 4337 child and to cross-examine any persons who appear against the child; the right of the
 4338 child to testify and to compel other witnesses to attend and testify in his or her own
 4339 behalf; the right of the child to a speedy adjudication hearing; and the right to appeal and
 4340 be provided with a transcript for such purpose.

4341 15-11-414.

4342 (a) At the continued custody hearing, the court shall determine whether there is probable
 4343 cause to believe that the child has committed a status offense or is otherwise a child in need
 4344 of services and that continued custody is necessary.

4345 (b) If the court determines there is probable cause to believe that the child has committed
 4346 a status offense or is otherwise in need of services, the court may order that the child:

4347 (1) Be released to the custody of a parent, guardian, or legal custodian; or

4348 (2) Be placed in the least restrictive preadjudication placement consistent with the child's
 4349 need for protection and control as authorized by Code Section 15-11-411 and in
 4350 accordance with Code Section 15-11-415.

4351 (c) If the court determines there is probable cause to believe that the child has committed
 4352 a status offense or is otherwise in need of services, the court shall:

4353 (1) Refer the child and the child's family for a mandatory conference;

4354 (2) Order that a petition for a child in need of services be filed and set a date for an
 4355 adjudication hearing if the court determines that a mandatory conference would be
 4356 inappropriate or futile; or

4357 (3) When a child and his or her family are already participating in informal family
 4358 services plan procedures, order that a petition for a child in need of services be filed and
 4359 set a date for an adjudication hearing if the court determines that continuing participation
 4360 in the informal family services plan procedures would be inappropriate or futile.

4361 (d) Following the continued custody hearing, the court may detain a child in a secure
 4362 juvenile detention facility for up to 24 hours, excluding weekends and legal holidays, only
 4363 for the purpose of providing adequate time to arrange for an appropriate alternative
 4364 placement pending the adjudication hearing.

4365 (e) All orders shall contain written findings as to the form or conditions of release. If a
 4366 child cannot be returned to the custody of his or her parent, guardian, or legal custodian at
 4367 the hearing, the court shall state the facts upon which the continued custody is based. The
 4368 court shall make the following findings of fact referencing any and all evidence relied upon
 4369 to make its determinations:

4370 (1) Whether continuation in the home of the parent, guardian, or legal custodian is
 4371 contrary to the child's welfare; and

4372 (2) Whether reasonable efforts have been made to safely maintain the child in the home
 4373 of his or her parent, guardian, or legal custodian and to prevent or eliminate the need for
 4374 removal. Such finding shall be made at the continued custody hearing if possible but in
 4375 no case later than 60 days following the child's removal from the home.

4376 15-11-415.

4377 (a) Restraints on the freedom of a child prior to adjudication shall be imposed only when
 4378 there is probable cause to believe that the child committed the act of which he or she is
 4379 accused, there is clear and convincing evidence that the child's freedom should be
 4380 restrained, that no less restrictive alternatives will suffice, and:

4381 (1) The child's detention or care is required to reduce the likelihood that the child may
 4382 inflict serious bodily harm on others during the interim period;

4383 (2) The child's detention is necessary to secure the child's presence in court to protect the
 4384 jurisdiction and processes of the court; or

4385 (3) An order for the child's detention has been made by the court.

4386 (b) A child shall not be detained:

4387 (1) To punish, treat, or rehabilitate the child;

4388 (2) To allow a parent, guardian, or legal custodian to avoid his or her legal
 4389 responsibilities;

4390 (3) To satisfy demands by a victim, law enforcement, or the community;

4391 (4) To permit more convenient administrative access to the child;

4392 (5) To facilitate further interrogation or investigation; or

4393 (6) Due to a lack of a more appropriate facility.

4394 (c) Whenever a child cannot be unconditionally released, conditional or supervised release
 4395 that results in the least necessary interference with the liberty of the child shall be favored
 4396 over more intrusive alternatives.

4397 (d) Whenever the curtailment of a child's freedom is permitted, the exercise of authority
 4398 shall reflect the following values:

4399 (1) Respect for the privacy, dignity, and individuality of the child and his or her family;

4400 (2) Protection of the psychological and physical health of the child;

4401 (3) Tolerance of the diverse values and preferences among different groups and
 4402 individuals;

4403 (4) Assurance of equality of treatment by race, class, ethnicity, and sex;

4404 (5) Avoidance of regimentation and depersonalization of the child;

4405 (6) Avoidance of stigmatization of the child; and

4406 (7) Assurance that the child has been informed of his or her right to consult with an
 4407 attorney and that, if the child is an indigent person, an attorney will be provided.

4408 (e) Before entering an order authorizing detention, the court shall determine whether
 4409 continuation in the home is contrary to the child's welfare and whether there are available
 4410 services that would prevent or eliminate the need for detention. The court shall make such
 4411 determination on a case-by-case basis and shall make written findings of fact referencing
 4412 any and all evidence relied upon in reaching its decision.

4413 (f) If a child can remain in the custody of his or her parent, guardian, or legal custodian
 4414 through the provision of services to prevent the need for removal, the court shall order that
 4415 such services shall be provided.

4416 15-11-416.

4417 (a) A child alleged or found to have committed a status offense may be held in a secure
 4418 juvenile detention facility for more than 24 hours if:

4419 (1) The child is alleged to have violated a valid court order; and

4420 (2) At the continued custody hearing, the court finds that there is probable cause to
 4421 believe that the child violated the court order.

4422 (b) If there is probable cause to believe that the child violated a valid court order, the child
 4423 may be held in a secure juvenile detention facility until a violation hearing is held but in
 4424 no event shall a child's detention prior to a violation hearing exceed 72 hours, excluding
 4425 weekends and legal holidays.

4426 (c) At a violation hearing, the court may order that the child be placed in a secure juvenile
 4427 detention facility if the court:

4428 (1) Affirms that the requirements for a valid court order were met at the time the original
 4429 order finding the child to have committed a status offense was issued;

4430 (2) Finds that the child was afforded due process rights; and

4431 (3) Received and reviewed a written report prepared by DFCS that described the
 4432 behavior of the child and the circumstances under which the child was brought before the
 4433 court and made subject to such order; determined the reasons for the child's behavior; and
 4434 determined whether all dispositions other than secure confinement have been exhausted
 4435 or are clearly inappropriate.

4436 (d) A child in need of services who is alleged or found to have violated a valid court order
 4437 remains a child in need of services and shall not be considered a delinquent child by virtue
 4438 of such conduct.

4439 (e) If a child is to be held in secure detention under the valid court order exception, the
 4440 report prepared by DFCS in accordance with subsection (c) of this Code section shall be
 4441 provided to DJJ as the detention agency.

4442 Part 5

4443 15-11-420.

4444 All proceedings seeking an adjudication that a child is in need of services shall be initiated
 4445 by a petition filed by an attorney.

4446 15-11-421.

4447 (a) If a child is not released from temporary custody at the continued custody hearing, a
 4448 petition seeking an adjudication that a child is in need of services shall be filed within five
 4449 days of the continued custody hearing.

4450 (b) If the child was never taken into temporary custody or is released from temporary
 4451 custody at the continued custody hearing, the petition seeking an adjudication that a child
 4452 is in need of services shall be filed:

4453 (1) Within 30 days of the juvenile court intake officer's determination that a mandatory
 4454 conference would be inappropriate or futile;

4455 (2) Within 30 days of the child's release from temporary custody if the court determines
 4456 that the mandatory conference would be inappropriate or futile;

4457 (3) Within 30 days of a court determination that continuing participation in the informal
 4458 family services plan procedure would be inappropriate or futile; or

4459 (4) Within 30 days of the conclusion of the period governed by the informal family
 4460 services plan agreement if the child and family have not achieved the goals set out in such
 4461 agreement and there are reasonable grounds to believe that the child is still in need of
 4462 services.

4463 (c) Upon a showing of good cause and notice to all parties, the court may grant a requested
 4464 extension of time for filing a petition seeking an adjudication that a child is in need of
 4465 services in accordance with the best interests of the child. The court shall issue a written
 4466 order reciting the facts justifying the extension.

4467 (d) If no petition seeking an adjudication that a child is in need of services is filed within
 4468 the required time frame, the complaint may be dismissed without prejudice.

4469 15-11-422.

4470 (a) The petition seeking an adjudication that a child is in need of services shall be verified
 4471 and may be on information and belief. It shall set forth plainly and with particularity:

4472 (1) The facts which bring the child within the jurisdiction of the court, with a statement
 4473 that it is in the best interests of the child and the public that the proceeding be brought;

4474 (2) The name, date of birth, and residence address of the child on whose behalf such
 4475 petition is being brought;

4476 (3) The name and residence address of the parent, guardian, or legal custodian of the
 4477 child; or, if neither the child's parent nor the child's guardian nor the child's legal
 4478 custodian resides or can be found within the state or if such place of residence address is
 4479 unknown, the name of any known adult relative residing within the county or, if there is
 4480 none, the known adult relative residing nearest to the location of the court;

4481 (4) The name, age, and residence address of any other family member living within the
 4482 child's home;

4483 (5) Whether all available and appropriate attempts to encourage voluntary use of
 4484 community services by the family have been exhausted; and

4485 (6) Whether any of the matters required by this subsection are unknown.

4486 (b) If a petition seeking an adjudication that a child is in need of services is based on a
 4487 complaint filed by a school official, such petition shall be dismissed unless it includes
 4488 information which shows that:

4489 (1) The legally liable school district has sought to resolve the expressed problem through
 4490 available educational approaches; and

4491 (2) The school district has sought to engage the parent, guardian, or legal custodian in
 4492 solving the problem but any such individual has been unwilling or unable to do so; that
 4493 the problem remains; and that court intervention is needed.

4494 (c) If a petition seeking an adjudication that a child is in need of services is based on a
 4495 complaint filed by a school official involving a child who is eligible or suspected to be
 4496 eligible for services under the federal Individuals with Disabilities Education Act or
 4497 Section 504 of the federal Rehabilitation Act, such petition shall be dismissed unless it
 4498 includes information which demonstrates that the legally liable school district:

4499 (1) Has determined that the child is eligible or suspected to be eligible under the federal
 4500 Individuals with Disabilities Education Act or Section 504 of the federal Rehabilitation
 4501 Act; and

4502 (2) Has reviewed for appropriateness the child's current Individualized Education
 4503 Program (IEP) and placement and has made modifications where appropriate.

4504 15-11-423.

4505 (a) The court shall direct the issuance of a summons to the child, the child's parent,
 4506 guardian, or legal custodian, DFCS and any other public agencies or institutions providing
 4507 services, and any other persons who appear to the court to be proper or necessary parties
 4508 to the child in need of services proceeding requiring them to appear before the court at the
 4509 time fixed to answer the allegations of the petition seeking an adjudication that a child is
 4510 in need of services. A copy of such petition shall accompany the summons.

4511 (b) The summons shall state that a party is entitled to an attorney in the proceedings and
 4512 that the court will appoint an attorney if the party is an indigent person.

4513 (c) A party other than the child may waive service of summons by written stipulation or
 4514 by voluntary appearance at the hearing.

4515 15-11-424.

4516 (a) If a party to be served with a summons is within this state and can be found, the
 4517 summons shall be served upon him or her personally as soon as possible and at least 24
 4518 hours before the adjudication hearing.

4519 (b) If a party to be served is within this state and cannot be found but his or her address is
 4520 known or can be ascertained with reasonable diligence, the summons shall be served upon
 4521 such party at least five days before the adjudication hearing by mailing him or her a copy
 4522 by registered or certified mail or statutory overnight delivery, return receipt requested.

4523 (c) If a party to be served is outside this state but his or her address is known or can be
4524 ascertained with reasonable diligence, service of the summons shall be made at least five
4525 days before the adjudication hearing either by delivering a copy to such party personally
4526 or by mailing a copy to him or her by registered or certified mail or statutory overnight
4527 delivery, return receipt requested.

4528 (d) Service of the summons may be made by any suitable person under the direction of the
4529 court.

4530 (e) The court may authorize payment from county funds of the costs of service and of
4531 necessary travel expenses incurred by persons summoned or otherwise required to appear
4532 at the hearing on the petition seeking an adjudication that a child is in need of services.

4533 15-11-425.

4534 (a) In the event a parent, guardian, or legal custodian of the child willfully fails to appear
4535 personally at a hearing on the petition seeking an adjudication that a child is in need of
4536 services after being ordered to so appear or the parent, guardian, or legal custodian of the
4537 child willfully fails to bring the child to such hearing after being so directed, the court may
4538 issue a rule nisi against the person directing the person to appear before the court to show
4539 cause why he or she should not be held in contempt of court.

4540 (b) If the parent, guardian, or legal custodian fails to appear in response to an order to
4541 show cause, the court may issue a bench warrant directing that the parent, guardian, or
4542 legal custodian be brought before the court without delay to show cause why he or she
4543 should not be held in contempt and the court may enter any order authorized by the
4544 provisions of Code Section 15-11-31.

4545 (c) In the event an agency representative willfully fails to appear at a mandatory
4546 conference or a hearing on the petition seeking an adjudication that a child is in need of
4547 services after being ordered to so appear, the court may direct the appropriate agency
4548 representative to appear before the court to show cause why a contempt order should not
4549 issue.

4550 (d) If a child 16 years of age or older fails to appear at a hearing on the petition seeking
4551 an adjudication that a child is in need of services after being ordered to so appear, the court
4552 may issue a bench warrant requiring that the child be brought before the court without
4553 delay and the court may enter any order authorized by and in accordance with the
4554 provisions of Code Section 15-11-31.

4555 (e) If there is sworn testimony that a child 14 years of age but not yet 16 years of age
4556 willfully refuses to appear at a hearing on the petition seeking an adjudication that a child
4557 is in need of services after being ordered to so appear, the court may issue a bench warrant

4558 requiring that the child be brought before the court and the court may enter any order
4559 authorized by and in accordance with the provisions of Code Section 15-11-31.

4560 Part 6

4561 15-11-440.

4562 The petitioner has the burden of proving the allegations of a child in need of services
4563 petition beyond a reasonable doubt.

4564 15-11-441.

4565 (a) If a child is in continued custody but not in secure detention, the adjudication hearing
4566 shall be scheduled to be held no later than ten days after the filing of the petition seeking
4567 an adjudication that a child is in need of services. If the child is not in continued custody,
4568 the adjudication hearing shall be scheduled to be held no later than 60 days after the filing
4569 of such petition.

4570 (b) At the conclusion of the adjudication hearing, the court shall determine whether the
4571 child is a child in need of services.

4572 15-11-442.

4573 (a) If the court finds the child is in need of services, a final disposition hearing shall be
4574 held and completed within 30 days of the conclusion of the adjudication hearing.

4575 (b) The court shall order the least restrictive and most appropriate disposition. Such
4576 disposition may include:

4577 (1) Permitting the child to remain with the child's caregiver without limitations or
4578 conditions;

4579 (2) Permitting the child to remain with the child's caregiver subject to such limitations
4580 and conditions as the court may prescribe, including ordering the child, the family, or
4581 both to undergo physical examination or treatment, accept individual or family
4582 counseling, or submit to psychiatric examination or treatment or psychological
4583 examination or treatment as determined by the court;

4584 (3) Placing the child on probation on such terms and conditions as deemed in the best
4585 interests of the child and the public. An order granting probation to a child in need of
4586 services may be revoked on the ground that the terms and conditions of the probation
4587 have not been observed;

4588 (4) Requiring that the child perform community service in a manner prescribed by the
4589 court and under the supervision of an individual designated by the court;

4590 (5) Requiring that the child make restitution. A restitution order may remain in force and
 4591 effect simultaneously with another order of the court. Payment of funds shall be made
 4592 by the child or the child's family or employer directly to the clerk of the juvenile court
 4593 entering the order or another employee of that court designated by the judge, and such
 4594 court shall disburse such funds in the manner authorized in the order. While an order
 4595 requiring restitution is in effect, the court may transfer enforcement of its order to:

4596 (A) The juvenile court of the county of the child's residence and its probation staff, if
 4597 the child changes his or her place of residence; or

4598 (B) A superior court once the child reaches 18 years of age if the child thereafter comes
 4599 under the jurisdiction of the superior court;

4600 (6) Imposing a fine on a child who has committed an offense which, if committed by an
 4601 adult, would be a violation under the criminal laws of this state or has violated an
 4602 ordinance or bylaw of a county, city, town, or consolidated government. Such fine shall
 4603 not exceed the fine which may be imposed against an adult for the same offense;

4604 (7) Requiring the child to attend structured after-school or evening programs or other
 4605 court approved programs as well as requiring supervision of the child during the time of
 4606 the day in which the child most often used to perform the acts complained of in the
 4607 petition alleging that the child is in need of services;

4608 (8) Any order authorized for the disposition of a dependent child;

4609 (9) Assigning the child to the custody of a private or public institution or agency
 4610 including committing the child to DJJ. A child shall not be placed in a secure detention
 4611 facility designed and operated exclusively for delinquent children, nor shall such facility
 4612 accept the child, unless the child has violated a valid court order; or

4613 (10) Any combination of the dispositions set forth in paragraphs (1) through (9) of this
 4614 subsection as the court deems to be in the best interests of the child and the public.

4615 (c) The court may make orders relative to the support and maintenance of the child during
 4616 the period after the child's eighteenth birthday as permitted by law.

4617 (d) All disposition orders shall include written findings as to the basis for the disposition
 4618 and such conditions as the court imposes and a specific plan of the services to be provided.

4619 15-11-443.

4620 (a) An order of disposition shall be in effect for the shortest time necessary to accomplish
 4621 the purposes of the order and for not more than two years. A written disposition order shall
 4622 state the length of time the order is to be in effect. An order of extension may be made if:

4623 (1) A hearing is held prior to the expiration of the order upon motion of DFCS, DJJ, the
 4624 prosecuting attorney, or on the court's own motion;

4625 (2) Reasonable notice of the factual basis of the motion and of the hearing and
 4626 opportunity to be heard are given to the parties affected;

4627 (3) The court finds that the extension is necessary to accomplish the purposes of the
 4628 order extended; and

4629 (4) The extension does not exceed two years from the expiration of the prior order.

4630 (b) The court may terminate an order of disposition or an extension of such a disposition
 4631 order prior to its expiration, on its own motion or an application of a party, if it appears to
 4632 the court that the purposes of the order have been accomplished.

4633 (c) When a child reaches 18 years of age, all orders affecting him or her then in force shall
 4634 terminate and he or she shall be discharged from further obligation or control.

4635 15-11-444.

4636 (a) An order granting probation to a child found to be a child in need of services may be
 4637 revoked on the ground that the conditions of probation have been violated.

4638 (b) Any violation of a condition of probation may be reported to the prosecuting attorney
 4639 who may file a motion in court for revocation of probation. A motion for revocation of
 4640 probation shall contain specific factual allegations constituting each violation of a condition
 4641 of probation.

4642 (c) The motion shall be served upon the child, his or her attorney, and parent, guardian,
 4643 or legal custodian in accordance with the provisions of Code Section 15-11-424.

4644 (d) If a child is taken into custody because of the alleged violation of probation, the
 4645 provisions governing the detention of a child under this article shall apply.

4646 (e) A revocation hearing shall be scheduled to be held no later than 30 days after the filing
 4647 of a motion to revoke probation or, if the child has been detained as a result of the filing
 4648 of the motion for revocation, in accordance with Code Section 15-11-416.

4649 (f) If the court finds, beyond a reasonable doubt, that a child violated the terms and
 4650 conditions of probation, the court may:

4651 (1) Extend probation;

4652 (2) Impose additional conditions of probation;

4653 (3) Impose the secure probation sanctions program as defined in Code Section
 4654 15-11-471; or

4655 (4) Make any disposition that could have been made at the time probation was imposed.

4656 15-11-445.

4657 The court shall review the disposition of a child in need of services at least once within
 4658 three months after such disposition and at least every six months thereafter so long as the
 4659 order of disposition is in effect.

Part 7

4660 15-11-450.

4661 The periodic review hearing requirements under Article 3 of this chapter shall apply to
 4662 proceedings involving a child alleged or found to be a child in need of services and placed
 4663 in foster care.

4664 15-11-451.

4665 (a) The permanency plan requirements under Article 3 of this chapter shall apply to
 4666 proceedings involving a child alleged or found to be a child in need of services and placed
 4667 in foster care.

4668 (b) In addition to those compelling reasons set forth in Code Section 15-11-233, a
 4669 compelling reason for determining that filing a termination of parental rights petition is not
 4670 in the best interests of a child in need of services may include, but shall not be limited to:

4671 (1) The child needs continued out-of-home placement for an additional number of
 4672 months and the parent, guardian, or legal custodian has cooperated with referrals,
 4673 visitation, and family conferences as well as therapy;

4674 (2) The child is habitually truant and absconds from the home, the current placement
 4675 setting has an on-site school with therapeutic intervention and restricted leave policies,
 4676 and the child and parent are cooperative with services and referrals; or

4677 (3) The child is uncooperative with services or referrals.

Part 8

4678 15-11-460.

4679 (a) After determining, in accordance with the provisions of Article 8 of this chapter, that
 4680 a child who is alleged to be a child in need of services in a petition under this article or who
 4681 has been alleged to have committed a delinquent act is unrestorably incompetent to proceed
 4682 and the court makes a finding that the child is a child in need of services, the court shall
 4683 appoint a plan manager, if one has not already been appointed, to direct the development
 4684 of a comprehensive services plan for such child.

4685 (b) A comprehensive services plan shall be developed at a meeting of all relevant parties
 4686 convened by the plan manager. The plan manager shall request that the following persons
 4687 attend such meeting:

4688 (1) The parent, guardian, or legal custodian of the child;

4689 (2) The child's attorney;

4690 (3) The prosecuting attorney;

4693 (4) The child's guardian ad litem, if any;

4694 (5) Mental health or mental retardation representatives;

4695 (6) The child's caseworker;

4696 (7) A representative from the child's school; and

4697 (8) Any family member of the child who has shown an interest and involvement in the
4698 child's well-being.

4699 (c) The plan manager may request that other relevant persons attend the comprehensive
4700 services plan meeting including but not limited to the following:

4701 (1) A representative from the Department of Public Health;

4702 (2) A DFCS caseworker; and

4703 (3) Representatives of the public and private resources to be utilized in the plan.

4704 (d) The plan manager shall be responsible for collecting all previous histories of the child,
4705 including, but not limited to, previous evaluations, assessments, and school records and for
4706 making such histories available for consideration by the persons at the comprehensive
4707 services plan meeting.

4708 (e) Unless a time extension is granted by the court, the plan manager shall submit the
4709 comprehensive services plan to the court within 30 days of the entry of the court's
4710 disposition order for a child found to be unrestorably incompetent to proceed under Article
4711 8 of this chapter. The plan shall include the following:

4712 (1) An outline of the specific provisions for supervision of the child for protection of the
4713 community and the child;

4714 (2) An outline of a plan designed to provide treatment, habilitation, support, or
4715 supervision services in the least restrictive environment;

4716 (3) If the child's evaluation recommends treatment in a secure environment, certification
4717 by the plan manager that all other appropriate community based treatment options have
4718 been exhausted; and

4719 (4) Identification of all parties, including the child, agency representatives, and other
4720 persons responsible for each element of the plan.

4721 (f) The plan manager shall also be responsible for:

4722 (1) Convening a meeting of all parties and representatives of all agencies prior to the
4723 comprehensive services plan hearing and review hearings;

4724 (2) Identifying to the court any person who should provide testimony at the
4725 comprehensive services plan hearing; and

4726 (3) Monitoring the comprehensive services plan, presenting to the court amendments to
4727 the plan as needed, and presenting evidence to the court for the reapproval of the plan at
4728 subsequent review hearings.

4729 15-11-461.

4730 (a) The court shall hold a comprehensive services plan hearing within 30 days after the
4731 comprehensive services plan has been submitted to the court for the purpose of approving
4732 the plan. Thereafter, the court shall hold a comprehensive services plan hearing every six
4733 months for the purpose of reviewing the child's condition and approving the comprehensive
4734 services plan.

4735 (b) The persons required to be notified of the comprehensive services plan hearing and
4736 witnesses identified by the plan manager shall be given at least ten days' prior notice of the
4737 hearing and any subsequent hearing to review the child's condition and shall be afforded
4738 an opportunity to be heard at any such hearing. The victim, if any, of the child's alleged
4739 delinquent act shall also be provided with the same ten days' prior notice and shall be
4740 afforded an opportunity to be heard and to present a victim impact form to the court at the
4741 comprehensive services plan hearing. The judge shall make a determination regarding
4742 sequestration of witnesses in order to protect the privileges and confidentiality rights of the
4743 child.

4744 (c) At the comprehensive services plan hearing, the court shall enter an order incorporating
4745 a comprehensive services plan as part of the disposition of the comprehensive services plan
4746 hearing. At the time of the disposition, the child shall be placed in an appropriate treatment
4747 setting, as recommended by the examiner, unless the child has already been placed in an
4748 appropriate treatment setting pursuant to subsection (g) of Code Section 15-11-656.

4749 (d) If, during the comprehensive services plan hearing or any subsequent review hearing,
4750 the court determines that the child meets criteria for civil commitment, the child shall be
4751 committed to a secure treatment facility.

4752 (e) At any time, in the event of a change in circumstances regarding the child, the court on
4753 its own motion or on the motion of the attorney representing the child, any guardian ad
4754 litem for the child, the prosecuting attorney, or the plan manager may set a hearing for
4755 review of the comprehensive services plan and any proposed amendments to such plan.
4756 The court may issue an appropriate order incorporating an amended plan.

4757 (f) If a child is under a comprehensive services plan when he or she reaches the age of 18,
4758 the plan manager shall make a referral for appropriate adult services.

4759 ARTICLE 7

4760 Part 1

4761 15-11-470.

4762 The purpose of this article is:

4763 (1) Consistent with the protection of the public interest, to hold a child committing
 4764 delinquent acts accountable for his or her actions, taking into account the child's age,
 4765 education, mental and physical condition, background, and all other relevant factors but
 4766 to mitigate the adult consequences of criminal behavior;

4767 (2) To accord due process of law to each child who is accused of having committed a
 4768 delinquent act;

4769 (3) To provide for a child committing delinquent acts programs of supervision, care, and
 4770 rehabilitation which ensure balanced attention to the protection of the community, the
 4771 imposition of accountability, and the development of competencies to enable a child to
 4772 become a responsible and productive member of the community;

4773 (4) To promote a continuum of services for a child and his or her family from prevention
 4774 to aftercare, considering, whenever possible, prevention, diversion, and early
 4775 intervention, including an emphasis on community based alternatives;

4776 (5) To provide effective sanctions to acts of juvenile delinquency; and

4777 (6) To strengthen families and to successfully reintegrate children into homes and
 4778 communities.

4779 15-11-471.

4780 As used in this article, the term:

4781 (1) 'AIDS transmitting crime' means aggravated child molestation, aggravated sodomy,
 4782 child molestation, incest, prostitution, rape, sodomy, solicitation of sodomy, statutory
 4783 rape, or any offense involving a violation of Article 2 of Chapter 13 of Title 16 if such
 4784 offense involves heroin, cocaine, derivatives of either, or any other controlled substance
 4785 in Schedule I, II, III, IV, or V and that other substance is commonly intravenously
 4786 injected, as determined by the regulations of the department.

4787 (2) 'Arraignment' means the formal act of calling the child into court, informing him or
 4788 her of the allegations of the petition alleging delinquency, and the entry of a preliminary
 4789 statement, if any, indicating whether the child shall admit or deny the allegations of such
 4790 petition.

4791 (3) 'Behavioral health evaluation' means a court ordered evaluation completed by a
 4792 licensed psychologist or psychiatrist of a child alleged to have committed or adjudicated
 4793 of a delinquent act so as to provide the juvenile court with information and
 4794 recommendations relevant to the behavioral health status and mental health treatment
 4795 needs of the child.

4796 (4) 'Community rehabilitation center' means a rehabilitation and custodial center
 4797 established within a county for the purpose of assisting in the rehabilitation of delinquent
 4798 children and children in need of services in a neighborhood and family environment in

4799 cooperation with community educational, medical, and social agencies. Such center
 4800 shall:

4801 (A) Be located within any county having a juvenile court presided over by at least one
 4802 full-time judge exercising jurisdiction exclusively over juvenile matters; and

4803 (B) Be operated by a nonprofit corporation organized under Chapter 3 of Title 14, the
 4804 'Georgia Nonprofit Corporation Code,' and have a full-time chief executive officer. The
 4805 charter, bylaws, and method of selecting the board of directors and chief executive
 4806 officer of such nonprofit corporation shall be subject to the unanimous approval of the
 4807 chief judge of the judicial circuit in which the county is located, the judge or judges of
 4808 the juvenile court, the superintendent of the county school district, and the
 4809 commissioner of juvenile justice, which approval shall be in writing and shall be
 4810 appended to the charter and bylaws of the nonprofit organization. Any amendment of
 4811 the charter or bylaws of the nonprofit corporation shall be subject to the same written
 4812 approval as the original charter and bylaws.

4813 (5) 'Determined to be infected with HIV' means having a confirmed positive human
 4814 immunodeficiency virus ('HIV') test or having been clinically diagnosed as having AIDS.

4815 (6) 'Graduated sanctions' means:

4816 (A) Verbal and written warnings;

4817 (B) Increased restrictions and reporting requirements;

4818 (C) Community service;

4819 (D) Referral to treatment and counseling programs in the community;

4820 (E) Weekend programming;

4821 (F) Electronic monitoring, as such term is defined in Code Section 42-8-151;

4822 (G) Curfew;

4823 (H) An intensive supervision program; or

4824 (I) A home confinement program.

4825 (7) 'Hearing officer' means a DJJ employee or county juvenile probation office
 4826 employee, as applicable, who has been selected and appointed by DJJ or the county
 4827 juvenile probation office, as applicable, to hear cases alleging violations of probation for
 4828 administrative sanctioning. A hearing officer shall not be a probation officer who has
 4829 direct supervision over the child who is the subject of the hearing.

4830 (8) 'HIV test' means any antibody, antigen, viral particle, viral culture, or other test to
 4831 indicate the presence of HIV in the human body, which test has been approved for such
 4832 purposes by the regulations of the department.

4833 (9) 'Intensive supervision' means the monitoring of a child's activities on a more frequent
 4834 basis than regular aftercare supervision, pursuant to regulations of the commissioner of
 4835 juvenile justice.

4836 (10) 'Preadjudication custody' begins when a juvenile court intake officer authorizes the
4837 placement of a child in a regional youth detention center.

4838 (11) 'Probation management program' means a special condition of probation that
4839 includes graduated sanctions.

4840 (12) 'Secure probation sanctions program' means secure confinement of seven, 14, or 30
4841 days.

4842 15-11-472.

4843 (a) A detention hearing shall be held promptly and no later than:

4844 (1) Two business days after the child is placed in preadjudication custody if the child is
4845 taken into custody without an arrest warrant; or

4846 (2) Three business days after the child is placed in preadjudication custody if the child
4847 is taken into custody pursuant to an arrest warrant.

4848 (b) If a child is placed in preadjudication custody without an arrest warrant and the
4849 detention hearing cannot be held within 48 hours because the expiration of the 48 hours
4850 falls on a weekend or legal holiday, the court shall review the decision to detain a child and
4851 make a finding based on probable cause within 48 hours of the child being placed in
4852 preadjudication custody.

4853 (c) If a child is released from preadjudication custody at the detention hearing or was never
4854 taken into custody, the following time frames apply:

4855 (1) Any petition alleging delinquency shall be filed within 30 days of the filing of the
4856 complaint or within 30 days of the child's release from preadjudication custody;

4857 (2) Summons shall be served at least 72 hours before the adjudication hearing;

4858 (3) The arraignment hearing shall be scheduled no later than 30 days after the filing of
4859 the petition alleging delinquency;

4860 (4) The adjudication hearing shall be held no later than 60 days from the filing of the
4861 petition alleging delinquency; and

4862 (5) The disposition hearing shall be held within 30 days of the adjudication hearing
4863 unless the court makes written findings of fact explaining the delay.

4864 (d) If a child is not released from preadjudication custody at the detention hearing, the
4865 following time frames apply:

4866 (1) The petition alleging delinquency shall be filed within 72 hours of the detention
4867 hearing;

4868 (2) Summons shall be served at least 72 hours before the adjudication hearing;

4869 (3) The adjudication hearing shall be held no later than ten days after the filing of the
4870 petition alleging delinquency; and

4871 (4) The disposition hearing shall be held within 30 days of the adjudication hearing
4872 unless the court makes written findings of fact explaining the delay.

4873 15-11-473.

4874 (a) A prosecuting attorney shall conduct delinquency proceedings on behalf of the state.

4875 (b) Except as provided in Article 10 of this chapter, in any delinquency proceeding, the
4876 prosecuting attorney shall be entitled to complete access to all court files, probation files,
4877 hearing transcripts, delinquency reports, and any other juvenile court records. It shall be
4878 the duty of the clerk, probation officers of the juvenile court, and DJJ to assist the
4879 prosecuting attorney in obtaining any requested items.

4880 15-11-474.

4881 (a) The child and the state shall be parties at all stages of delinquency proceedings.

4882 (b) The child's parent, guardian, or legal custodian shall have the right to notice, the right
4883 to be present in the courtroom, and the opportunity to be heard at all stages of delinquency
4884 proceedings.

4885 (c) DJJ shall receive notice of the disposition hearing.

4886 15-11-475.

4887 (a) A child shall have the right to be represented by an attorney at all proceedings under
4888 this article.

4889 (b) A child's parent, guardian, or legal custodian shall not waive the child's right to be
4890 represented by an attorney.

4891 (c) A child may waive the right to an attorney only after consultation with an attorney.

4892 (d) Prior to the detention hearing, if any, the court shall appoint a qualified and competent
4893 attorney to represent the child unless an attorney has been retained and appears on behalf
4894 of the child. Nothing in this subsection shall prohibit a judge from releasing a child from
4895 detention prior to appointment of an attorney.

4896 (e) Upon a motion by an attorney for the child, together with written permission of the
4897 child, a judge shall issue an order providing that attorney with access to all dependency,
4898 school, hospital, physician, or other health or mental health care records relating to the
4899 child.

4900 15-11-476.

4901 (a) The court shall appoint a separate guardian ad litem whenever:

4902 (1) A child appears before the court without a parent, guardian, or legal custodian;

4903 (2) It appears to the court that the child's parent, guardian, or legal custodian is incapable
4904 or unwilling to make decisions in the best interests of the child with respect to
4905 proceedings under this article such that there may be a conflict of interest between the
4906 child and his or her parent, guardian, or legal custodian; or

4907 (3) The court finds that it is otherwise in the child's best interests to do so.

4908 (b) The role of a guardian ad litem in a delinquency proceeding shall be the same role as
4909 provided for in all dependency proceedings under Article 3 of this chapter.

4910 (c) Neither the child's attorney nor the child's parent, guardian, or legal custodian shall
4911 prohibit or impede access to the child by the guardian ad litem.

4912 15-11-477.

4913 At any time prior to the issuance of a final dispositional order, the court may order a
4914 behavioral health evaluation of the child which may be conducted by DBHDD or a private
4915 psychologist or psychiatrist. Statements made by the child during such evaluation shall
4916 only be admissible into evidence as provided in Code Section 15-11-479.

4917 15-11-478.

4918 A continuance shall be granted only upon a showing of good cause and only for that period
4919 of time shown to be necessary by the moving party at the hearing on the motion.
4920 Whenever any continuance is granted, the facts which require the continuance shall be
4921 entered into the court record.

4922 15-11-479.

4923 Voluntary statements made in the course of intake screening of a child or in the course of
4924 treatment, any evaluation, or any other related services shall be inadmissible in any
4925 adjudication hearing in which the child is the accused and shall not be considered by the
4926 court except such statement shall be admissible as rebuttal or impeachment evidence.

4927 15-11-480.

4928 (a) When a child enters a denial to the petition alleging delinquency, jeopardy attaches
4929 when the first witness is sworn at the adjudication hearing.

4930 (b) When a child enters an admission to the petition alleging delinquency, jeopardy
4931 attaches when the court accepts the admission.

4932 15-11-481.

4933 (a) When a child is adjudicated delinquent and is placed in foster care, DJJ shall develop
 4934 and complete the child's case plan. When the child is in DFCS custody, DJJ shall
 4935 cooperate with DFCS in developing and completing the child's case plan.

4936 (b) In addition to the case plan requirements of Code Section 15-11-201, the case plan for
 4937 a child in delinquency proceedings shall include:

4938 (1) A description of the child's strengths and needs;

4939 (2) A description of specific parental strengths and needs;

4940 (3) A description of other personal, family, or environmental problems that contribute
 4941 to the child's delinquent behaviors;

4942 (4) A description of the safety, physical, and mental health needs of the child;

4943 (5) Identification of the least restrictive placement to safeguard the child's best interests
 4944 and protect the community;

4945 (6) An assessment of the availability of community resources to address the child's and
 4946 family's needs;

4947 (7) An assessment of the availability of court diversion services; and

4948 (8) An assessment of the availability of other preventive measures.

4949 15-11-482.

4950 (a) In any delinquency proceeding in which a petition has been filed, the juvenile court
 4951 shall notify any victim of a delinquent child's alleged delinquent act that the victim may
 4952 submit a victim impact form as provided in Code Section 17-10-1.1 if:

4953 (1) The allegedly delinquent child, in conduct which would constitute a felony if
 4954 committed by an adult, caused physical, psychological, or economic injury to the victim;
 4955 or

4956 (2) The allegedly delinquent child, in conduct which would constitute a misdemeanor if
 4957 committed by an adult, caused serious physical injury or death to the victim.

4958 (b) The provisions of subsection (e) of Code Section 17-10-1.1 shall apply to the use and
 4959 disclosure of the victim impact form.

4960 (c) The victim may complete the victim impact form and submit such form to the juvenile
 4961 court. If the victim is unable to do so because of such victim's mental, emotional, or
 4962 physical incapacity, or because of such victim's age, the victim's attorney or a family
 4963 member may complete the victim impact form on behalf of the victim.

4964 (d) Prior to the imposition of a dispositional order for an allegedly delinquent child, the
 4965 juvenile court shall permit the victim to address the juvenile court and present any
 4966 information or opinions that concern the victim or the victim's family, including the impact
 4967 of the delinquent act on the victim, the harm caused by the allegedly delinquent child and

4968 the delinquent act, the need for restitution, or the terms of the disposition order. Such
4969 statement shall be given in the presence of the allegedly delinquent child and shall be
4970 subject to cross-examination. The prosecuting attorney and the allegedly delinquent child
4971 shall be afforded the opportunity to explain, support, or deny the victim's statement. It
4972 shall be the duty of the juvenile court to advise the victim of the right to address the court
4973 prior to the entry of a dispositional order for a delinquent child. The victim shall have the
4974 discretion to exercise the right to be present and be heard at the dispositional hearing. If
4975 the victim is voluntarily absent from the dispositional hearing, such absence shall constitute
4976 a waiver of the rights provided by this subsection.

4977 (e) Except as provided in subsection (d) of this Code section, no disposition of the child
4978 shall be invalidated because of failure to comply with the provisions of this Code section.
4979 This Code section shall not be construed to create any cause of action or any right of appeal
4980 on behalf of the victim, the state, or the accused; provided, however, that if the court
4981 intentionally fails to comply with this Code section, the victim may file a complaint with
4982 the Judicial Qualifications Commission.

4983 Part 2

4984 15-11-490.

4985 (a) A proceeding under this article may be commenced:

4986 (1) In the county in which the child legally resides; or

4987 (2) In any county in which the alleged delinquent acts occurred.

4988 (b) If the adjudicating court finds that a nonresident child has committed a delinquent act,
4989 the adjudicating court may retain jurisdiction over the disposition of the nonresident child
4990 or may transfer the proceeding to the county of the child's residence for disposition. Like
4991 transfer may be made if the residence of the child changes pending the proceeding.

4992 (c) If the adjudicating court retains jurisdiction, prior to making any order for disposition
4993 of the nonresident child, the adjudicating court shall communicate to the court of the
4994 county of the child's residence the fact that the child has been found to have committed a
4995 delinquent act. Such communication shall state the date upon which the adjudicating court
4996 plans to enter an order for disposition of the nonresident child and shall request any
4997 information or recommendations relevant to the disposition of the nonresident child. Any
4998 such recommendation shall be considered by but shall not be binding upon the adjudicating
4999 court in making its order for disposition.

5000 (d) When any case is transferred, certified copies of all documents and records pertaining
5001 to the case on file with the clerk of the court shall accompany the transfer order.

5002 Compliance with this subsection shall terminate jurisdiction in the transferring court and
5003 initiate jurisdiction in the receiving court.

5004 Part 3

5005 15-11-500.

5006 If it appears from a filed affidavit or from sworn testimony before the court that the
5007 conduct, condition, or surroundings of the child are endangering the child's health or
5008 welfare or those of others or that the child may abscond or be removed from the
5009 jurisdiction of the court or will not be brought before the court, notwithstanding the service
5010 of the summons, the court may endorse upon the summons an order that a law enforcement
5011 officer shall serve the summons and take the child into immediate custody and bring the
5012 child forthwith before the court.

5013 15-11-501.

5014 (a) A child may be taken into custody:

5015 (1) Pursuant to an order of the court under this article, including an order to a DJJ
5016 employee to apprehend:

5017 (A) A child who has escaped from an institution or facility operated by DJJ; or

5018 (B) A child who has been placed under supervision and who has violated its
5019 conditions;

5020 (2) Pursuant to the laws of arrest; or

5021 (3) By a law enforcement officer or duly authorized officer of the court if there are
5022 reasonable grounds to believe that the child has committed a delinquent act.

5023 (b) A law enforcement officer taking a child into custody shall promptly give notice
5024 together with a statement of the reasons for taking the child into custody to a parent,
5025 guardian, or legal custodian and to the court.

5026 (c) When a child who is taken into custody has committed an act which would constitute
5027 a felony if committed by an adult, the juvenile court, within 48 hours after it learns of the
5028 child having been taken into custody, shall notify the prosecuting attorney of the judicial
5029 circuit in which the juvenile proceedings are to be instituted.

5030 15-11-502.

5031 (a) A person taking a child into custody, with all reasonable speed and without first taking
5032 the child elsewhere, shall:

5033 (1) Immediately release the child, without bond, to the child's parent, guardian, or legal
5034 custodian upon such person's promise to bring the child before the court when requested
5035 by the court;

5036 (2) Immediately deliver the child to a medical facility if the child is believed to suffer
5037 from a serious physical condition or illness which requires prompt treatment and, upon
5038 delivery, shall promptly contact a juvenile court intake officer. Immediately upon being
5039 notified by the person taking a child into custody, the juvenile court intake officer shall
5040 determine if the child should be released, remain in protective custody, or be brought
5041 before the court; or

5042 (3) Bring the child immediately before the juvenile court or promptly contact a juvenile
5043 court intake officer. The court or juvenile court intake officer shall determine if the child
5044 should be released or detained. All determinations and court orders regarding detention
5045 shall comply with the requirements of this article and shall be based on an individual
5046 assessment of the child and the child's circumstances. Such assessment shall include
5047 completion and review of a detention assessment instrument developed by the Governor's
5048 Office for Children and Families in consultation with DJJ and the Council of Juvenile
5049 Court Judges.

5050 (b) Notwithstanding subsection (a) of this Code section, a law enforcement officer may
5051 detain a child for a reasonable period of time sufficient to conduct interrogations and
5052 perform routine law enforcement procedures including, but not limited to, fingerprinting,
5053 photographing, and the preparation of any necessary records.

5054 (c) Prior to a detention hearing, a child shall be placed in detention, if necessary, only in
5055 such places as are authorized by Code Section 15-11-504.

5056 15-11-503.

5057 (a) Restraints on the freedom of a child prior to adjudication shall be imposed only when
5058 there is probable cause to believe that the child committed the act of which he or she is
5059 accused, that there is clear and convincing evidence that the child's freedom should be
5060 restrained, that no less restrictive alternatives will suffice, and that:

5061 (1) The child's detention or care is required to reduce the likelihood that the child may
5062 inflict serious bodily harm on others during the interim period;

5063 (2) The child has a demonstrated pattern of theft or destruction of property such that
5064 detention is required to protect the property of others;

5065 (3) The child's detention is necessary to secure the child's presence in court to protect the
5066 jurisdiction and processes of the court; or

5067 (4) An order for the child's detention has been made by the court.

5068 (b) All children who are detained shall be informed of their right to bail as provided by
5069 Code Section 15-11-507.

5070 (c) A child shall not be detained:

5071 (1) To punish, treat, or rehabilitate the child;

5072 (2) To allow a parent to avoid his or her legal responsibilities;

5073 (3) To satisfy demands by a victim, law enforcement, or the community;

5074 (4) To permit more convenient administrative access to the child;

5075 (5) To facilitate further interrogation or investigation; or

5076 (6) Due to a lack of a more appropriate facility.

5077 (d) Whenever a child cannot be unconditionally released, conditional or supervised release
5078 that results in the least necessary interference with the liberty of the child shall be favored
5079 over more intrusive alternatives.

5080 (e) Whenever the curtailment of a child's freedom is permitted, the exercise of authority
5081 shall reflect the following values:

5082 (1) Respect for the privacy, dignity, and individuality of the child and his or her family;

5083 (2) Protection of the psychological and physical health of the child;

5084 (3) Tolerance of the diverse values and preferences among different groups and
5085 individuals;

5086 (4) Assurance of equality of treatment by race, class, ethnicity, and sex;

5087 (5) Avoidance of regimentation and depersonalization of the child;

5088 (6) Avoidance of stigmatization of the child; and

5089 (7) Assurance that the child has been informed of his or her right to consult with an
5090 attorney and that, if the child is an indigent person, an attorney will be provided.

5091 (f) Before entering an order authorizing detention, the court shall determine whether
5092 continuation in the home is contrary to the child's welfare and whether there are available
5093 services that would prevent or eliminate the need for detention. The court shall make that
5094 determination on a case-by-case basis and shall make written findings of fact referencing
5095 any and all evidence relied upon in reaching its decision.

5096 (g) If the child can remain in the custody of his or her parent, guardian, or legal custodian,
5097 through the provision of services to prevent the need for removal, the court shall order that
5098 such services shall be provided.

5099 15-11-504.

5100 (a) A child alleged to be delinquent may be detained only in:

5101 (1) A licensed foster home;

5102 (2) A home approved by the court which may be a public or private home;

5103 (3) The home of a noncustodial parent or of a relative;

5104 (4) A facility operated by a licensed child welfare agency; or

5105 (5) A detention home or center for delinquent children which is under the direction or
5106 supervision of the court or other public authority or of a private agency approved by the
5107 court.

5108 (b) Placement shall be made in the least restrictive facility available consistent with the
5109 best interests of the child.

5110 (c) A child 15 years of age or older and alleged to be delinquent may be held in a jail or
5111 other facility for the detention of adults for identification or processing procedures or while
5112 awaiting transportation only as long as necessary to complete such activities for up to six
5113 hours, or for up to 24 hours in nonmetropolitan areas, if all of the following apply:

5114 (1) The child is detained for the commission of a crime that would constitute a
5115 designated felony or a serious violent felony as defined in Code Section 17-10-6.1;

5116 (2) The child is awaiting a detention hearing;

5117 (3) The child's detention hearing is scheduled within 24 hours after being taken into
5118 custody, excluding weekends and legal holidays;

5119 (4) There is no existing acceptable alternative placement for the child; and

5120 (5) The jail or other facility for the detention of adults provides sight and sound
5121 separation for juveniles which includes:

5122 (A) Total separation between juveniles and adult facility spatial areas such that there
5123 is no verbal, visual, or physical contact and there could be no haphazard or accidental
5124 contact between juvenile and adult residents in the respective facilities;

5125 (B) Total separation in all juvenile and adult program activities within the facilities,
5126 including recreation, education, counseling, health care, dining, sleeping, and general
5127 living activities;

5128 (C) Continuous visual supervision of the child; and

5129 (D) Separate juvenile and adult staff, specifically direct care staff such as recreation,
5130 education, and counseling, although specialized services staff, such as cooks,
5131 bookkeepers, and medical professionals who are not normally in contact with detainees
5132 or whose infrequent contacts occur under conditions of separation of juvenile and
5133 adults, can serve both.

5134 (d) A child shall not be transported with adults who have been charged with or convicted
5135 of a crime. DJJ may transport a child with children who have been charged with or
5136 convicted of a crime in superior court.

5137 (e) The official in charge of a jail or other facility for the detention of adult offenders or
5138 persons charged with crime shall inform the court or the juvenile court intake officer
5139 immediately when a child, who appears to be under the age of 17 years, is received at such

5140 facility and shall deliver the child to the court upon request or transfer the child to the
 5141 facility designated by the juvenile court intake officer or the court.

5142 (f) All facilities shall maintain data on each child detained and such data shall be recorded
 5143 and retained by the facility for three years and shall be made available for inspection during
 5144 normal business hours by any court exercising juvenile court jurisdiction, by DJJ, and by
 5145 the Council of Juvenile Court Judges. The required data are:

- 5146 (1) Name;
 5147 (2) Date of birth;
 5148 (3) Sex;
 5149 (4) Race;
 5150 (5) Offense or offenses for which being detained;
 5151 (6) Date of and authority for confinement;
 5152 (7) Date of and authority for release or transfer; and
 5153 (8) Where transferred or to whom released.

5154 15-11-505.

5155 If a child is brought before the court or delivered to a detention or foster care facility
 5156 designated by the court, the juvenile court intake officer shall immediately make an
 5157 investigation and release the child unless it appears that the child's detention is warranted.

5158 15-11-506.

5159 (a) A detention hearing shall be held to determine whether preadjudication custody of a
 5160 child is required. If such hearing is not held within the time specified, the child shall be
 5161 released from detention or foster care.

5162 (b) If a child is detained and is not released from preadjudication custody, a detention
 5163 hearing shall be held promptly and not later than:

- 5164 (1) Two business days after the child is placed in preadjudication custody if the child is
 5165 taken into custody without an arrest warrant; or
 5166 (2) Three business days after the child is placed in preadjudication custody if the child
 5167 is taken into custody pursuant to an arrest warrant.

5168 (c) If the detention hearing cannot be held within two business days, in accordance with
 5169 paragraph (1) of subsection (b) of this Code section, because the date for the hearing falls
 5170 on a weekend or legal holiday, the court shall review the decision to detain a child and
 5171 make a finding based on probable cause within 48 hours of the child being placed in
 5172 preadjudication custody.

5173 (d) Reasonable oral or written notice of the detention hearing, stating the time, place, and
 5174 purpose of the hearing, shall be given to the child and to the child's parent, guardian, or

5175 legal custodian, if he or she can be found. In the event the child's parent, guardian, or legal
5176 custodian cannot be found, the court shall forthwith appoint a guardian ad litem for the
5177 child.

5178 (e) If the child alleged to be delinquent is not released from preadjudication custody and
5179 a parent, guardian, or legal custodian or guardian ad litem, if any, has not been notified of
5180 the hearing and did not appear or waive appearance at the hearing and thereafter files the
5181 affidavit showing such party was not notified of such hearing, the court shall rehear the
5182 matter without unnecessary delay and shall order the child's release unless it appears from
5183 the hearing that the child's detention or foster care is required.

5184 (f) At the commencement of the detention hearing, the court shall inform the child of:

5185 (1) The contents of the complaint or petition;

5186 (2) The nature of the proceedings;

5187 (3) The right to make an application for bail, as provided by Code Section 15-11-507 and
5188 Title 17;

5189 (4) The possible consequences or dispositions that may apply to the child's case
5190 following adjudication; and

5191 (5) Due process rights, including the right to an attorney and to an appointed attorney;
5192 the privilege against self-incrimination; that the child may remain silent and that anything
5193 said may be used against the child; the right to confront anyone who testifies against the
5194 child and to cross-examine any persons who appear against the child; the right of the
5195 child to testify and to compel other witnesses to attend and testify in his or her own
5196 behalf; the right of the child to a speedy adjudication hearing; and the right to appeal and
5197 be provided with a transcript for such purpose.

5198 (g) If the child can be returned to the custody of his or her parent, guardian, or legal
5199 custodian through the provision of services to eliminate the need for removal, the court
5200 shall release the child to the physical custody of the parent, guardian, or legal custodian and
5201 order that those services shall be provided.

5202 (h) If the child cannot be returned to the custody of the parent, guardian, or legal
5203 custodian, the court shall state the facts upon which the detention is based. The court shall
5204 make the following findings of fact referencing any and all evidence relied upon to make
5205 its determinations:

5206 (1) Whether continuation in the home of the parent, guardian, or legal custodian is
5207 contrary to the child's welfare; and

5208 (2) Whether reasonable efforts have been made to safely maintain the child in the home
5209 of his or her parent, guardian, or legal custodian and to prevent the need for removal.
5210 Such finding shall be made at the detention hearing if possible but in no case later than
5211 60 days following the child's removal from the home.

5212 (i) If the child cannot be returned to the custody of the parent, guardian, or legal custodian,
 5213 the probation officer shall provide referrals for services as soon as possible to enable the
 5214 child's parent, guardian, or legal custodian to obtain any assistance that may be needed to
 5215 effectively provide the care and control necessary for the child to return home.

5216 15-11-507.

5217 (a) All children alleged to be delinquent shall have the same right to bail as adults.

5218 (b) The judge shall admit to bail all children in the same manner and under the same
 5219 circumstances and procedures as are applicable to adults accused of the commission of
 5220 crimes, with the exception that applying for, holding a hearing on the application, and
 5221 granting bail for children alleged to have committed a delinquent offense may only occur:

5222 (1) At intake in accordance with Code Section 15-11-503; or

5223 (2) At the detention hearing in accordance with Code Section 15-11-506.

5224 (c) A court shall be authorized to release a child on bail if the court finds that the child:

5225 (1) Poses no significant risk of fleeing from the jurisdiction of the court or failing to
 5226 appear in court when required;

5227 (2) Poses no significant threat or danger to any person, to the community, or to any
 5228 property in the community;

5229 (3) Poses no significant risk of committing any felony pending trial; and

5230 (4) Poses no significant risk of intimidating witnesses or otherwise obstructing the
 5231 administration of justice.

5232 (d) If the child is accused of committing an offense that would be a serious violent felony,
 5233 as defined in Code Section 17-10-6.1, if committed by an adult and the child has previously
 5234 been adjudicated delinquent for committing an act that would be a serious violent felony
 5235 if committed by an adult, there shall be a rebuttable presumption that no condition or
 5236 combination of conditions will reasonably assure the appearance of the child as required
 5237 or assure the safety of any other person or the community.

5238 (e) Any person having legal custody or an adult blood relative or stepparent shall be
 5239 entitled to post bail but shall be required immediately to return the child to the individual
 5240 or entity having legal custody of the child.

5241 (f) For the purposes of this Code section, the term 'bail' shall include the releasing of a
 5242 person on such person's own recognizance.

5243 15-11-508.

5244 (a) As used in this Code section, the term:

5245 (1) 'Notice' shall have the same meaning as set forth in Code Section 17-17-3.

5246 (2) 'Victim' shall have the same meaning as set forth in Code Section 17-17-3.

5247 (3) 'Violent delinquent act' means the commission, attempt to commit, conspiracy to
 5248 commit, or solicitation of another to commit a delinquent act which if committed by an
 5249 adult would constitute:

5250 (A) A serious violent felony as defined by Code Section 17-10-6.1;

5251 (B) A designated felony act;

5252 (C) Stalking or aggravated stalking as provided by Article 7 of Chapter 5 of Title 16;

5253 or

5254 (D) Any attempt to commit, conspiracy to commit, or solicitation of another to commit
 5255 an offense enumerated in subparagraphs (A) through (C) of this paragraph.

5256 (b) If a child accused of a violent delinquent act is detained pending adjudication, the
 5257 juvenile court intake officer shall provide notice to the victim, whenever practicable, that
 5258 such child is to be released from detention not less than 24 hours prior to such child's
 5259 release from detention.

5260 (c) Not less than 48 hours prior to the release from detention of a child who has been
 5261 adjudicated to have committed a violent delinquent act, the juvenile court intake officer
 5262 shall, whenever practicable, provide notice to the victim of such pending release.

5263 (d) Notification need not be given unless the victim has expressed a desire for such
 5264 notification and has provided the juvenile court intake officer with a current address and
 5265 telephone number. It shall be the duty of the juvenile court intake officer to advise the
 5266 victim of his or her right to notification and of the requirement of the victim's providing a
 5267 primary and personal telephone number to which such notification shall be directed.

5268 Part 4

5269 15-11-510.

5270 (a) If a child has not been detained after the filing of a complaint, he or she shall be
 5271 promptly referred to intake or given a date for arraignment.

5272 (b) At intake, the court, the juvenile court intake officer, or other officer designated by the
 5273 court shall inform the child of:

5274 (1) The contents of the complaint;

5275 (2) The nature of the proceedings;

5276 (3) The possible consequences or dispositions that may apply to the child's case
 5277 following adjudication; and

5278 (4) Due process rights, including the right to an attorney and to an appointed attorney;
 5279 the privilege against self-incrimination; that the child may remain silent and that anything
 5280 said may be used against the child; the right to confront anyone who testifies against the
 5281 child and to cross-examine any persons who appear against the child; the right of the

5282 child to testify and to compel other witnesses to attend and testify in his or her own
 5283 behalf; the right of the child to a speedy adjudication hearing; and the right to appeal and
 5284 be provided with a transcript for such purpose.

5285 (c) A juvenile court intake officer may elect to pursue a case through informal adjustment
 5286 or other nonadjudicatory procedure in accordance with the provisions of Code Section
 5287 15-11-515.

5288 (d) If a case is to be prosecuted further and handled other than by informal adjustment or
 5289 other nonadjudicatory procedure, a referral shall be made to the prosecuting attorney and
 5290 a petition for delinquency shall be filed within 30 days of the filing of a complaint.

5291 15-11-511.

5292 (a) At arraignment, the court shall inform the child of:

5293 (1) The contents of the petition for delinquency;

5294 (2) The nature of the proceedings;

5295 (3) The possible consequences or dispositions that may apply to the child's case
 5296 following adjudication; and

5297 (4) Due process rights, including the right to an attorney and to an appointed attorney;
 5298 the privilege against self-incrimination; that the child may remain silent and that anything
 5299 said may be used against the child; the right to confront anyone who testifies against the
 5300 child and to cross-examine any persons who appear against the child; the right of the
 5301 child to testify and to compel other witnesses to attend and testify in his or her own
 5302 behalf; the right of the child to a speedy adjudication hearing; and the right to appeal and
 5303 be provided with a transcript for such purpose.

5304 (b) The court shall appoint a qualified and competent attorney to represent the child at
 5305 arraignment unless an attorney has been retained and appears on the child's behalf.

5306 Part 5

5307 15-11-515.

5308 (a) Before a petition for informal adjustment is filed, a probation officer or other officer
 5309 designated by the court, subject to the court's direction, may inform the parties of informal
 5310 adjustment if it appears that:

5311 (1) The admitted facts bring the case within the jurisdiction of the court;

5312 (2) Counsel and advice without an adjudication would be in the best interests of the
 5313 public and the child, taking into account at least the following factors:

5314 (A) The nature of the alleged offense;

5315 (B) The age and individual circumstances of the child;

5316 (C) The child's prior record, if any;

5317 (D) Recommendations for informal adjustment made by the complainant or the victim;
5318 and

5319 (E) Services to meet the child's needs and problems may be unavailable within the
5320 formal court system or may be provided more effectively by alternative community
5321 programs; and

5322 (3) The child and the child's parent, guardian, or legal custodian consent with knowledge
5323 that consent is not obligatory.

5324 (b) The giving of counsel and advice shall not extend beyond three months unless
5325 extended by the court for an additional period not to exceed three months and shall not
5326 authorize the detention of the child if not otherwise permitted by this article.

5327 (c) An incriminating statement made by a participant to the person giving counsel or
5328 advice and in the discussion or conferences incident thereto shall not be used against the
5329 declarant over objection in any hearing except in a hearing on disposition in a juvenile
5330 court proceeding or in a criminal proceeding upon conviction for the purpose of a
5331 presentence investigation.

5332 (d) If a child is alleged to have committed a felony, the case shall not be subject to
5333 informal adjustment, counsel, or advice without the prior consent of the district attorney
5334 or his or her authorized representative.

5335 Part 6

5336 15-11-520.

5337 A petition alleging delinquency shall be filed only by the prosecuting attorney.

5338 15-11-521.

5339 (a) If a child is in detention prior to adjudication, the petition alleging delinquency shall
5340 be filed not later than 72 hours after the detention hearing. If no petition alleging
5341 delinquency is filed within the applicable time, the child shall be released.

5342 (b) If the child is not in detention prior to adjudication, the petition alleging delinquency
5343 shall be filed within 30 days of the filing of the complaint alleging violation of a criminal
5344 law or within 30 days of the child's release pursuant to a determination that detention is not
5345 warranted.

5346 15-11-522.

5347 (a) The petition alleging delinquency shall be verified and may be on information and
5348 belief. It shall set forth plainly and with particularity:

5349 (1) The facts which bring the child within the jurisdiction of the court, with a statement
 5350 that it is in the best interests of the child and the public that the proceeding be brought and
 5351 that the child is in need of supervision, treatment, or rehabilitation, as the case may be;

5352 (2) The name, age, and residence address of the child on whose behalf such petition is
 5353 brought;

5354 (3) The name and residence address of the parent, guardian, or legal custodian of the
 5355 child; or, if neither the child's parent nor the child's guardian nor the child's legal
 5356 custodian resides or can be found within the state or if such place of residence address is
 5357 unknown, the name of any known adult relative residing within the county or, if there is
 5358 none, the known adult relative residing nearest to the location of the court;

5359 (4) If the child is in custody and, if so, the place of his or her detention and the time the
 5360 child was taken into custody; and

5361 (5) If the child is being charged with a designated felony act.

5362 (b) The petition alleging delinquency shall indicate if any of the matters required in this
 5363 Code section are unknown.

5364 15-11-523.

5365 (a) The prosecuting attorney may amend the petition alleging delinquency at any time
 5366 prior to the commencement of the adjudication hearing. However, if an amendment is
 5367 made, the child may request a continuance of the adjudication hearing. A continuance may
 5368 be granted by the court for such period as required in the interest of justice.

5369 (b) When a petition alleging delinquency is amended to include material changes to the
 5370 allegations or new charges of delinquency for adjudication, the petition shall be served in
 5371 accordance with Code Sections 15-11-530 and 15-11-531.

5372 (c) After jeopardy attaches, a petition alleging delinquency shall not be amended to include
 5373 new charges of delinquency.

5374 Part 7

5375 15-11-530.

5376 (a) The court shall direct the issuance of a summons to a child and the child's parent,
 5377 guardian, or legal custodian requiring them to appear before the court at the time fixed to
 5378 answer the allegations of the petition. A copy of the petition shall accompany the
 5379 summons.

5380 (b) The summons shall state that a party shall be entitled to have an attorney in the
 5381 proceedings and that the court will appoint an attorney if the party is an indigent person.

5382 15-11-531.

5383 (a) If a party to be served with a summons is within this state and can be found, the
5384 summons shall be served upon him or her personally as soon as possible and at least 24
5385 hours before the adjudication hearing.

5386 (b) If a party to be served is within this state and cannot be found but his or her address is
5387 known or can be ascertained with reasonable diligence, the summons shall be served upon
5388 such party at least five days before the adjudication hearing by mailing him or her a copy
5389 by registered or certified mail or statutory overnight delivery, return receipt requested.

5390 (c) If an individual to be served is outside this state but his or her address is known or can
5391 be ascertained with reasonable diligence, notice of the summons shall be made at least five
5392 days before the adjudication hearing either by delivering a copy to such party personally
5393 or by mailing a copy to him or her by registered or certified mail or statutory overnight
5394 delivery, return receipt requested.

5395 (d) Service of the summons may be made by any suitable person under the direction of the
5396 court.

5397 (e) The court may authorize payment from county funds of the costs of service and of
5398 necessary travel expenses incurred by persons summoned or otherwise required to appear
5399 at the hearing.

5400 15-11-532.

5401 (a) In the event a parent, guardian, or other legal custodian of a child willfully fails to
5402 appear personally at a hearing after being ordered to so appear or the parent, guardian, or
5403 other legal custodian of the child willfully fails to bring the child to a hearing after being
5404 so directed, the court may issue a rule nisi against the person directing the person to appear
5405 before the court to show cause why he or she should not be held in contempt of court.

5406 (b) If the parent, guardian, or legal custodian fails to appear in response to an order to
5407 show cause, the court may issue a bench warrant directing that the parent, guardian, or
5408 legal custodian be brought before the court without delay to show cause why he or she
5409 should not be held in contempt and the court may enter any order authorized by and in
5410 accordance with the provisions of Code Section 15-11-31.

5411 (c) If a child 16 years of age or older fails to appear at a hearing after being ordered to so
5412 appear, the court may issue a bench warrant requiring that the child be brought before the
5413 court without delay and the court may enter any order authorized by and in accordance with
5414 the provisions of Code Section 15-11-31.

5415 (d) If there is sworn testimony that a child 14 years of age but not yet 16 years of age
5416 willfully refuses to appear at a hearing after being ordered to so appear, the court may issue

5417 a bench warrant requiring that the child be brought before the court and the court may enter
 5418 any order authorized by and in accordance with the provisions of Code Section 15-11-31.

5419 Part 8

5420 15-11-540.

5421 A delinquency petition shall be dismissed by the court upon the motion of the prosecuting
 5422 attorney setting forth that there is not sufficient evidence to warrant further proceedings.

5423 15-11-541.

5424 (a) Except as limited by subsection (d) of Code Section 15-11-542, in all cases in which
 5425 a child is charged with having committed a delinquent act, the child shall, upon filing a
 5426 motion for discovery with the court and serving a copy of the motion to the prosecuting
 5427 attorney, have full access to the following for inspection, copying, or photographing:

5428 (1) A copy of the complaint;

5429 (2) A copy of the petition for delinquency;

5430 (3) The names and last known addresses and telephone numbers of each witness to the
 5431 occurrence which forms the basis of the charge;

5432 (4) A copy of any written statement made by the child or any witness that relates to the
 5433 testimony of a person whom the prosecuting attorney intends to call as a witness;

5434 (5) A copy of any written statement made by any alleged coparticipant which the
 5435 prosecuting attorney intends to use at a hearing;

5436 (6) Transcriptions, recordings, and summaries of any oral statement of the child or of any
 5437 witness, except attorney work product;

5438 (7) Any scientific or other report which is intended to be introduced at the hearing or that
 5439 pertains to physical evidence which is intended to be introduced;

5440 (8) Photographs and any physical evidence which are intended to be introduced at the
 5441 hearing; and

5442 (9) Copies of the police incident report and supplemental report, if any, regarding the
 5443 occurrence which forms the basis of the charge.

5444 (b) The prosecuting attorney shall disclose all evidence, known or that may become known
 5445 to him or her, favorable to the child and material either to guilt or punishment.

5446 (c) If the child requests disclosure of information pursuant to subsection (a) of this Code
 5447 section, it shall be the duty of the child to promptly make the following available for
 5448 inspection, copying, or photographing to the prosecuting attorney:

5449 (1) The names and last known addresses and telephone numbers of each witness to the
 5450 occurrence which forms the basis of the defense;

5451 (2) Any scientific or other report which is intended to be introduced at the hearing or that
5452 pertains to physical evidence which is intended to be introduced;

5453 (3) Photographs and any physical evidence which are intended to be introduced at the
5454 hearing; and

5455 (4) A copy of any written statement made by any witness that relates to the testimony of
5456 a person whom the child intends to call as a witness.

5457 (d) A request for discovery or reciprocal discovery shall be complied with promptly and
5458 not later than 48 hours prior to the adjudication hearing, except when later compliance is
5459 made necessary by the timing of the request. If the request for discovery is made fewer
5460 than 48 hours prior to the adjudication hearing, the discovery response shall be produced
5461 in a timely manner.

5462 (e) Any material or information furnished to the child pursuant to a discovery request shall
5463 remain in the exclusive custody of the child and shall only be used during the pendency of
5464 the case and shall be subject to such other terms and conditions as the court may provide.

5465 15-11-542.

5466 (a) If a request for discovery is refused, application may be made to the court for a written
5467 order granting discovery.

5468 (b) Motions to compel discovery shall certify that a request for discovery was made and
5469 was refused.

5470 (c) An order granting discovery shall require reciprocal discovery.

5471 (d) The court may deny, in whole or in part, or otherwise limit or set conditions concerning
5472 discovery upon sufficient showing by a person or entity to whom a request for discovery
5473 is made that disclosure of the information would:

5474 (1) Jeopardize the safety of a party, witness, or confidential informant;

5475 (2) Create a substantial threat of physical or economic harm to a witness or other person;

5476 (3) Endanger the existence of physical evidence;

5477 (4) Disclose privileged information; or

5478 (5) Impede the criminal prosecution of a child who is being prosecuted as an adult or the
5479 prosecution of an adult charged with an offense arising from the same transaction or
5480 occurrence.

5481 15-11-543.

5482 (a) Upon written request by the prosecuting attorney stating the time, date, and place at
5483 which the alleged delinquent act was committed, the child shall serve upon the prosecuting
5484 attorney a written notice of the child's intention to offer a defense of alibi.

5485 (b) The notice shall state the specific place or places at which the child claims to have been
5486 at the time of the alleged delinquent act and the names, addresses, dates of birth, and
5487 telephone numbers of the witnesses, if known to the child, upon whom the child intends
5488 to rely to establish the child's alibi, unless previously supplied.

5489 (c) A request for alibi evidence shall be complied with promptly and not later than 48
5490 hours prior to the adjudication hearing, except when later compliance is made necessary
5491 by the timing of the request. If the request for alibi evidence is made fewer than 48 hours
5492 prior to the adjudication hearing, the alibi evidence shall be produced in a timely manner.

5493 (d) If the defendant withdraws the notice of intention to rely upon an alibi defense, the
5494 notice and intention to rely upon an alibi defense shall not be admissible; provided,
5495 however, that the prosecuting attorney or entity prosecuting the case may offer any other
5496 evidence regarding alibi.

5497 (e) The prosecuting attorney shall serve upon the child a written notice stating the names,
5498 addresses, dates of birth, and telephone numbers of the witnesses, if known to the state,
5499 upon whom the state intends to rebut the child's evidence of alibi, unless previously
5500 supplied.

5501 15-11-544.

5502 If, subsequent to providing a discovery response, the existence of additional evidence is
5503 found, it shall be promptly provided to the state or child making the discovery request.

5504 15-11-545.

5505 Nothing contained in the provisions governing discovery procedure under this part shall
5506 prohibit the court from ordering the disclosure of any information that the court deems
5507 necessary and appropriate for proper adjudication.

5508 15-11-546.

5509 If at any time during the course of the proceedings it is brought to the attention of the court
5510 that a person or entity has failed to comply with a discovery request, the court may grant
5511 a continuance, prohibit the party from introducing in evidence the information not
5512 disclosed, or enter such other order as the court deems just under the circumstances.

5513 Part 9

5514 15-11-560.

5515 (a) Except as provided in subsection (b) of this Code section, the court shall have
5516 concurrent jurisdiction with the superior court over a child who is alleged to have

5517 committed a delinquent act which would be considered a crime if tried in a superior court
5518 and for which an adult may be punished by loss of life, imprisonment for life without
5519 possibility of parole, or confinement for life in a penal institution.

5520 (b) The superior court shall have exclusive original jurisdiction over the trial of any child
5521 13 to 17 years of age who is alleged to have committed any of the following offenses:

5522 (1) Murder;

5523 (2) Voluntary manslaughter;

5524 (3) Rape;

5525 (4) Aggravated sodomy;

5526 (5) Aggravated child molestation;

5527 (6) Aggravated sexual battery; or

5528 (7) Armed robbery if committed with a firearm.

5529 (c) The granting of bail or pretrial release of a child charged with an offense enumerated
5530 in subsection (b) of this Code section shall be governed by the provisions of Code Section
5531 17-6-1.

5532 (d) At any time before indictment, the district attorney may, after investigation and for
5533 cause, decline prosecution in the superior court of a child 13 to 17 years of age alleged to
5534 have committed an offense specified in subsection (b) of this Code section. Upon declining
5535 such prosecution in the superior court, the district attorney shall immediately cause a
5536 petition to be filed in the appropriate juvenile court for adjudication. Any case transferred
5537 by the district attorney to the juvenile court pursuant to this subsection shall be subject to
5538 the designated felony provisions of Code Section 15-11-602 and the transfer of the case
5539 from superior court to juvenile court shall constitute notice to the child that such case is
5540 subject to the designated felony provisions of Code Section 15-11-602.

5541 (e) After indictment, the superior court may after investigation and for extraordinary cause
5542 transfer any case involving a child 13 to 17 years of age alleged to have committed any
5543 offense enumerated in paragraph (2), (4), (5), or (6) of subsection (b) of this Code section.
5544 Any such transfer shall be appealable by the State of Georgia pursuant to Code Section
5545 5-7-1. Upon such a transfer by the superior court, jurisdiction shall vest in the juvenile
5546 court and jurisdiction of the superior court shall terminate. Any case transferred by the
5547 superior court to the juvenile court pursuant to this subsection shall be subject to the
5548 designated felony provisions of Code Section 15-11-602 and the transfer of the case from
5549 superior court to juvenile court shall constitute notice to the child that such case is subject
5550 to the designated felony provisions of Code Section 15-11-602.

5551 (f) The superior court may transfer any case involving a child 13 to 17 years of age alleged
5552 to have committed any offense enumerated in subsection (b) of this Code section and
5553 convicted of a lesser included offense not included in subsection (b) of this Code section

5554 to the juvenile court of the county of the child's residence for disposition. Upon such a
 5555 transfer by the superior court, jurisdiction shall vest in the juvenile court and jurisdiction
 5556 of the superior court shall terminate.

5557 (g) Within 30 days of any proceeding in which a child 13 to 17 years of age is convicted
 5558 of certain offenses over which the superior court has original jurisdiction as provided in
 5559 subsection (b) of this Code section or adjudicated delinquent on the basis of conduct which
 5560 if committed by an adult would constitute such offenses, the superior court shall provide
 5561 written notice to the school superintendent or his or her designee of the school in which
 5562 such child is enrolled or, if the information is known, of the school in which such child
 5563 plans to be enrolled at a future date. Such notice shall include the specific criminal offense
 5564 that such child committed. A local school system to which the child is assigned may
 5565 request further information from the court's file.

5566 15-11-561.

5567 (a) After a petition alleging delinquency has been filed but before the adjudication hearing,
 5568 on its own motion or on a motion by the prosecuting attorney, the court may convene a
 5569 hearing to determine whether to transfer the offense to the appropriate superior court for
 5570 criminal trial if the court determines that:

5571 (1) There is probable cause to believe that the child committed the alleged offense;

5572 (2) The child is not committable to an institution for the developmentally disabled or
 5573 mentally ill; and

5574 (3) The petition alleges that the child:

5575 (A) Was at least 15 years of age at the time of the commission of the offense and
 5576 committed an act which would be a felony if committed by an adult; or

5577 (B) Was 13 or 14 years of age and either committed an act for which the punishment
 5578 is loss of life or confinement for life in a penal institution or committed aggravated
 5579 battery resulting in serious bodily injury to a victim.

5580 (b) At least three days prior to the scheduled transfer hearing, written notice shall be given
 5581 to the child and the child's parent, guardian, or legal custodian. The notice shall contain
 5582 a statement that the purpose of the hearing is to determine whether the child is to be tried
 5583 in the juvenile court or transferred for trial as an adult in superior court. The child may
 5584 request and the court shall grant a continuance to prepare for the transfer hearing.

5585 (c) After consideration of a probation report and any other evidence the court deems
 5586 relevant, including any evidence offered by the child, the court may determine that because
 5587 of the seriousness of the offense or the child's prior record, the welfare of the community
 5588 requires that criminal proceedings against the child be instituted.

5589 (d) No child, either before or after reaching age 17 years of age shall be prosecuted in
5590 superior court for an offense committed before the child turned 17, unless the case has been
5591 transferred as provided in this part. In addition, no child shall be subject to criminal
5592 prosecution at any time for an offense arising out of a criminal transaction for which the
5593 juvenile court retained jurisdiction in its transfer order.

5594 15-11-562.

5595 (a) The criteria which the court shall consider in determining whether to transfer the child
5596 to superior court includes, but shall not be limited to:

5597 (1) The age of the child;

5598 (2) The seriousness of the alleged offense, especially if personal injury resulted;

5599 (3) Whether the protection of the community requires transfer of jurisdiction;

5600 (4) Whether the alleged offense involved violence or was committed in an aggressive or
5601 premeditated manner;

5602 (5) The culpability of the child including the child's level of planning and participation
5603 in the alleged offense;

5604 (6) Whether the alleged offense is a part of a repetitive pattern of offenses which
5605 indicates that the child may be beyond rehabilitation in the juvenile justice system;

5606 (7) The record and history of the child, including experience with the juvenile justice
5607 system, other courts, supervision, commitments to juvenile institutions, and other
5608 placements;

5609 (8) The sophistication and maturity of the child as determined by consideration of the
5610 child's home and environmental situation, emotional condition, and pattern of living;

5611 (9) The program and facilities available to the juvenile court in considering disposition;
5612 and

5613 (10) Whether or not the child can benefit from the treatment or rehabilitative programs
5614 available to the juvenile court.

5615 (b) The probation officer shall prepare a written report developing fully all available
5616 information relevant to the transfer criteria. The probation officer shall submit such report
5617 to the parties and the court as soon as practicable but not later than 24 hours before the
5618 scheduled hearing. The child and the prosecuting attorney shall have the right to review
5619 such report and cross-examine the individual making such report.

5620 (c) The court may order a transfer evaluation of the child's clinical status as it may impact
5621 the criteria in subsection (a) of this Code section. The transfer evaluation shall be
5622 completed by DBHDD or by a licensed psychologist or psychiatrist. If ordered to be
5623 performed by DBHDD, the transfer evaluation shall be completed by a DBHDD forensic
5624 evaluator. Statements made by the child in a transfer evaluation shall only be admissible

5625 into evidence in an adjudication hearing or in a criminal proceeding as provided by Code
5626 Sections 15-11-479 and 15-11-563.

5627 15-11-563.

5628 Statements made by the child at the transfer hearing shall not be admissible against the
5629 child over objection in the criminal proceedings if transfer is ordered except as
5630 impeachment or rebuttal evidence.

5631 15-11-564.

5632 (a) The decision of the court regarding transfer of the case shall only be an interlocutory
5633 judgment which either the child or the prosecuting attorney, or both, have the right to have
5634 reviewed by the Court of Appeals.

5635 (b) The pendency of an interlocutory appeal shall stay criminal proceedings in superior
5636 court. A child transferred for trial as an adult in superior court shall be detained only in
5637 those places authorized for the preadjudication detention of a child.

5638 15-11-565.

5639 (a) Prior to the entry of a judgment ordering a child's transfer or during the pendency of
5640 an appeal of a judgment ordering a child's transfer, the child shall be detained only in those
5641 places authorized for the preadjudication detention of a child.

5642 (b) After the entry of a judgment ordering transfer, a child shall be detained only in those
5643 places authorized for the detention of a child until the child reaches 17 years of age.

5644 15-11-566.

5645 (a) If the court decides to transfer the child for trial in superior court, it shall dismiss the
5646 juvenile court petition alleging delinquency, set forth the offense or offenses which are
5647 being transferred, and make the following findings of fact in its dismissal order:

5648 (1) That the court had jurisdiction of the cause and the parties;

5649 (2) That the child was represented by an attorney; and

5650 (3) That the hearing was held in the presence of the child and the child's attorney.

5651 (b) The dismissal order shall also recount the reasons underlying the decision to transfer
5652 jurisdiction.

5653 (c) A dismissal of the petition alleging delinquency terminates the jurisdiction of the
5654 juvenile court over the child as to those offenses which are transferred. If the petition
5655 alleging delinquency alleges multiple offenses that constitute a single criminal transaction,
5656 the court shall either retain or transfer all offenses relating to a single criminal transaction.

5657 (d) Once juvenile court jurisdiction is terminated, the superior court shall retain
 5658 jurisdiction even though, thereafter, the child pleads guilty to, or is convicted of, a lesser
 5659 included offense. The plea to, or conviction of, a lesser included offense shall not re-vest
 5660 juvenile jurisdiction over the child.

5661 (e) A copy of the petition alleging delinquency and order of dismissal shall be sent to the
 5662 district attorney of the judicial circuit in which the proceeding is taking place.

5663 (f) If the court decides not to transfer the child for trial in superior court, it shall set a date
 5664 for an adjudication hearing in juvenile court on the petition alleging delinquency.

5665 15-11-567.

5666 (a) Except in those cases in which the superior court has original jurisdiction or juvenile
 5667 court jurisdiction has been terminated and the child has been transferred to superior court,
 5668 if it appears to any court in a criminal proceeding or a quasi-criminal proceeding that the
 5669 accused is a child, the case shall forthwith be transferred to the juvenile court together with
 5670 a copy of the accusatory pleading and all other papers, documents, and transcripts of
 5671 testimony relating to the case.

5672 (b) The transferring court shall order that the child be taken forthwith to the juvenile court
 5673 or to a place of detention designated by the court or shall release him or her to the custody
 5674 of his or her parent, guardian, legal custodian, or other person legally responsible for him
 5675 or her to be brought before the juvenile court at a time designated by that court. The
 5676 accusatory pleading may not serve in lieu of a petition alleging delinquency in the juvenile
 5677 court.

5678 Part 10

5679 15-11-580.

5680 (a) At the commencement of the adjudication hearing, the court shall address the child, in
 5681 language understandable to the child, and determine whether the child is capable of
 5682 understanding statements about his or her rights under this chapter.

5683 (b) If a child is capable, the court shall inquire how the child responds to the allegations
 5684 of the delinquency petition. The child may:

5685 (1) Deny the allegations of such petition, in which case the court shall proceed to hear
 5686 evidence on such petition; or

5687 (2) Admit the allegations of such petition, in which case the court shall further inquire
 5688 to determine whether there is a factual basis for adjudication. If so, the court may then
 5689 adjudge the child to have committed a delinquent act.

5690 (c) If the child stands mute, refuses to answer, or answers evasively, the court shall enter
5691 a denial of the allegations.

5692 15-11-581.

5693 The state shall have the burden of proving the allegations of a delinquency petition beyond
5694 a reasonable doubt.

5695 15-11-582.

5696 (a) The court shall fix a time for the adjudication hearing. If the child is in detention, the
5697 hearing shall be scheduled to be held no later than ten days after the filing of the
5698 delinquency petition. If the child is not in detention, the hearing shall be scheduled to be
5699 held no later than 60 days after the filing of such petition.

5700 (b) Adjudication hearings shall be conducted:

5701 (1) By the court without a jury;

5702 (2) In accordance with Title 24 and Title 17; and

5703 (3) In language understandable to the child and participants, to the fullest extent
5704 practicable.

5705 (c) The court shall determine if the allegations of the petition alleging delinquency are
5706 admitted or denied in accordance with the provisions of Code Section 15-11-580.

5707 (d) After hearing all of the evidence, the court shall make and record its findings on
5708 whether the delinquent acts ascribed to the child were committed by the child. If the court
5709 finds that the allegations of delinquency have not been established, it shall dismiss the
5710 delinquency petition and order the child released from any detention or legal custody
5711 imposed in connection with the proceedings.

5712 (e) The court shall make a finding that the child has committed a delinquent act based on
5713 a valid admission made in open court of the allegations of the delinquency petition or on
5714 the basis of proof beyond a reasonable doubt. If the court finds that the child has
5715 committed a delinquent act, the court may proceed immediately or at a postponed hearing
5716 to make disposition of the case.

5717 Part 11

5718 15-11-590.

5719 (a) After an adjudication that the child has committed a delinquent act, the court may
5720 direct that a written predisposition investigation report be prepared by the probation officer
5721 or other person designated by the court.

5722 (b) The predisposition investigation report shall contain information about the child's
5723 characteristics, family, environment, and the circumstances affecting the child's behavior
5724 as may be helpful in determining the need for treatment or rehabilitation and a proper
5725 disposition of the case, including but not limited to:

5726 (1) A summary of the facts with respect to the conduct of the child that led to the
5727 adjudication;

5728 (2) The sophistication and maturity of the child;

5729 (3) A summary of the child's home environment, family relationships, and background;

5730 (4) A summary of the child's prior contacts with the juvenile court and law enforcement
5731 agencies, including the disposition following each contact and the reasons therefor;

5732 (5) A summary of the child's educational status, including, but not limited to, the child's
5733 strengths, abilities, and special educational needs. The report shall identify appropriate
5734 educational and vocational goals for the child. Examples of appropriate goals include:

5735 (A) Attainment of a high school diploma or its equivalent;

5736 (B) Successful completion of literacy courses;

5737 (C) Successful completion of vocational courses;

5738 (D) Successful attendance and completion of the child's current grade if enrolled in
5739 school; or

5740 (E) Enrollment in an apprenticeship or a similar program;

5741 (6) A summary of the results and recommendations of any significant physical and
5742 mental examinations;

5743 (7) The seriousness of the offense to the community;

5744 (8) The nature of the offense; and

5745 (9) Whether the offense was against persons or against property with greater weight
5746 being given to offenses against persons.

5747 (c) If the court has ordered a physical or mental examination to be conducted, the report
5748 shall include a copy of the results of the examination.

5749 (d) All information shall be presented in a concise and factual manner. The report shall
5750 indicate the sources of information in the report.

5751 (e) The original report and any other material to be disclosed shall be furnished to the
5752 court, and copies shall be furnished to the child's attorney and to the prosecuting attorney
5753 at least five days prior to the disposition hearing.

5754

Part 12

5755

15-11-600.

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

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

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

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

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

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

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

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

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

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

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15-11-601.

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(a) At the conclusion of the disposition hearing, if the child is determined to be in need of treatment or rehabilitation, the court shall enter the least restrictive disposition order appropriate in view of the seriousness of the delinquent act, the child's culpability as

5789 indicated by the circumstances of the particular case, the age of the child, the child's prior
5790 record, and the child's strengths and needs. The court may make any of the following
5791 orders of disposition, or combination of them, best suited to the child's treatment,
5792 rehabilitation, and welfare:

5793 (1) Any order authorized for the disposition of a dependent child other than placement
5794 in the temporary custody of DFCS unless the child is also found to be a dependent child;

5795 (2) An order requiring the child and the child's parent, guardian, or legal custodian to
5796 participate in counseling or in counsel and advice. Such counseling and counsel and
5797 advice may be provided by the court, court personnel, probation officers, professional
5798 counselors or social workers, psychologists, physicians, qualified volunteers, or
5799 appropriate public, private, or volunteer agencies and shall be designed to assist in
5800 detering future delinquent acts or other conduct or conditions which would be harmful
5801 to the child or society;

5802 (3) An order placing the child on probation under conditions and limitations the court
5803 prescribes and which may include the probation management program. The court may
5804 place a child on probation under the supervision of:

5805 (A) The probation officer of the court or the court of another state;

5806 (B) Any public agency authorized by law to receive and provide care for the child; or

5807 (C) Any community rehabilitation center if its chief executive officer has
5808 acknowledged in writing its willingness to accept the responsibility for the supervision
5809 of the child;

5810 (4) In any case in which a child who has not achieved a high school diploma or the
5811 equivalent is placed on probation, the court shall consider and may order as a condition
5812 of probation that the child pursue a course of study designed to lead to achieving a high
5813 school diploma or the equivalent;

5814 (5) An order requiring that the child perform community service in a manner prescribed
5815 by the court and under the supervision of an individual designated by the court;

5816 (6) An order requiring that the child make restitution. Such order may remain in force
5817 and effect simultaneously with another order of the court, including, but not limited to an
5818 order of commitment to DJJ. However, no order of restitution shall be enforced while
5819 the child is in placement at a youth development center unless the commissioner of
5820 juvenile justice certifies that a restitution program is available at such center. Payment
5821 of funds shall be made by the child or the child's family or employer directly to the clerk
5822 of the juvenile court entering the order or to another employee of such court designated
5823 by the judge, and that court shall disburse such funds in the manner authorized in the
5824 order. While an order requiring restitution is in effect, the court may transfer
5825 enforcement of its order to:

- 5826 (A) DJJ;
- 5827 (B) The juvenile court of the county of the child's residence and its probation staff, if
- 5828 the child changes his or her place of residence; or
- 5829 (C) The superior court once the child reaches 17 years of age if the child thereafter
- 5830 comes under the jurisdiction of such court;
- 5831 (7) An order requiring the child remit to the general fund of the county a sum not to
- 5832 exceed the maximum fine applicable to an adult for commission of any of the following
- 5833 offenses:
- 5834 (A) Any felony in the commission of which a motor vehicle is used;
- 5835 (B) Driving under the influence of alcohol or drugs;
- 5836 (C) Driving without proof of minimum required motor vehicle insurance;
- 5837 (D) Fraudulent or fictitious use of a driver's license;
- 5838 (E) Hit and run or leaving the scene of an accident;
- 5839 (F) Homicide by vehicle;
- 5840 (G) Manslaughter resulting from the operation of a motor vehicle;
- 5841 (H) Possession of controlled substances or marijuana;
- 5842 (I) Racing on highways or streets;
- 5843 (J) Using a motor vehicle in fleeing or attempting to elude an officer; or
- 5844 (K) Any violation of the provisions contained in Title 40 which is properly adjudicated
- 5845 as a delinquent act;
- 5846 (8) An order suspending the child's driver's license for a period not to exceed the date on
- 5847 which the child reaches 18 years of age or, in the case of a child who does not have a
- 5848 driver's license, an order prohibiting the issuance of a driver's license to the child for a
- 5849 period not to exceed the date on which the child reaches 18 years of age. The court shall
- 5850 retain the driver's license during such period of suspension and return it to the child at the
- 5851 end of such period. The court shall notify the Department of Driver Services of any
- 5852 actions taken pursuant to this paragraph;
- 5853 (9) An order placing the child in an institution, camp, or other facility for delinquent
- 5854 children operated under the direction of the court or other local public authority; or
- 5855 (10) An order committing the child to DJJ.
- 5856 (b)(1) This subsection shall apply to cases involving:
- 5857 (A) An offense that would be a felony if committed by an adult; or
- 5858 (B) An offense that would be a misdemeanor of a high and aggravated nature if
- 5859 committed by an adult and involving bodily injury or harm or substantial likelihood of
- 5860 bodily injury or harm.

5861 (2) In addition to any other treatment or rehabilitation, the court may order the child to
5862 serve up to a maximum of 30 days in a youth development center or, after assessment and
5863 with the court's approval, in a treatment program provided by DJJ or the juvenile court.

5864 (3) On and after July 1, 2013, the maximum number of days that the court may order a
5865 child to serve in a youth development center under this subsection shall be increased to
5866 60 days.

5867 (c) A child ordered to a youth development center under subsection (b) of this Code
5868 section and detained after the adjudication hearing in a secure facility pending placement
5869 in a youth development center shall be given credit for time served in the secured facility
5870 awaiting placement.

5871 (d) Notwithstanding the provisions of subsections (a) and (b) of this Code section, if a
5872 child is found to have committed the offense of driving under the influence, the court may
5873 make an order of disposition which, for purposes of the child's rehabilitation, imposes the
5874 same penalty, period of confinement, and period of community service which are
5875 applicable to an adult convicted of violating Code Section 40-6-391. The child shall serve
5876 any period of confinement in an institution, camp, or other facility for delinquent children
5877 operated under the direction of the court or other local public authority or, if no such
5878 facility is available, in a regional youth detention center. A previous finding that the child
5879 committed the offense of driving under the influence shall be deemed a previous conviction
5880 for purposes of this subsection. The court shall have the same authority and discretion
5881 regarding allowing service of confinement on weekends or during nonworking hours as is
5882 provided under subsection (a) of Code Section 17-10-3.1.

5883 (e) The child shall be given adequate information concerning the obligations and
5884 conditions imposed upon him or her by the disposition ordered by the court and the
5885 consequences of failure to meet such obligations and conditions. Such information shall
5886 be given in terms understandable to the child to enable the child to conform his or her
5887 conduct to the requirements of the disposition.

5888 15-11-602.

5889 (a) When a child is found to have committed a designated felony act, the order of
5890 disposition shall be made within 20 days of the conclusion of the disposition hearing. The
5891 court may make one of the following orders of disposition best suited to provide for the
5892 rehabilitation of the child and the protection of the community:

5893 (1) Any order authorized by Code Section 15-11-601 if the court finds that restrictive
5894 custody is not required; or

5895 (2) An order placing the child in restrictive custody.

5896 (b) Every order shall include a finding, based on a preponderance of the evidence, of
5897 whether the child requires restrictive custody. In determining whether restrictive custody
5898 is required, the court shall consider and make specific written findings of fact as to each
5899 of the following factors:

5900 (1) The age and maturity of the child;

5901 (2) The needs and best interests of the child;

5902 (3) The record and background of the child including but not limited to information
5903 disclosed in the probation investigation, diagnostic assessment, school records, and
5904 dependency records;

5905 (4) The nature and circumstances of the offense, including whether any injury involved
5906 was inflicted by the child or another participant, the culpability of the child or another
5907 participant in planning and carrying out of the offense, and the existence of any
5908 aggravating or mitigating factors;

5909 (5) The need for protection of the community; and

5910 (6) The age and physical condition of the victim.

5911 (c) A restrictive custody order may provide that:

5912 (1) The child be placed in DJJ custody for an initial period of up to five years;

5913 (2) The child be confined in a youth development center for a period set by the order, not
5914 to be less than six months nor to exceed 60 months. All time spent in secure detention
5915 subsequent to the date of the disposition hearing and prior to placement in a youth
5916 development center shall be counted toward the period set by the order;

5917 (3) After a period of confinement set by the court, the child may be placed under
5918 intensive supervision not to exceed 12 months; and

5919 (4) If the child is confined in a youth development center, the child may not be released
5920 or transferred to a nonsecure facility unless by court order pursuant to Code Section
5921 15-11-32. Such child may not be released from intensive supervision unless by court
5922 order and with the written approval of the commissioner of juvenile justice or a
5923 designated deputy. All home visits shall be carefully arranged and monitored while a
5924 child is confined in a youth development center.

5925 (d) During the child's placement order or any extension of the restrictive custody order:

5926 (1) While in a youth development center, the child shall be permitted to participate in all
5927 youth development center services and programs and shall be eligible to receive special
5928 medical and treatment services, regardless of the time of confinement in the youth
5929 development center. A child may be eligible to participate in programs sponsored by the
5930 youth development center including community work programs and sheltered workshops
5931 under the general supervision of a youth development center staff outside of the youth
5932 development center. In cooperation and coordination with the department, the child shall

5933 be allowed to participate in state sponsored programs for evaluation and services under
5934 the Division of Rehabilitation Services of the Department of Labor and DBHDD;

5935 (2)(A) A child adjudicated to have committed a designated felony act shall not be
5936 discharged from restrictive custody prior to the period of time provided in the court's
5937 order unless a motion therefor is granted by the court. After a court order denying a
5938 motion to discharge a child from restrictive custody, a subsequent such motion shall not
5939 be filed until at least six months have elapsed. Notwithstanding Code Section
5940 15-11-32, DJJ or any party may file a motion with the court seeking the child's release
5941 from restrictive custody, an order modifying the court's order requiring restrictive
5942 custody, or termination of an order of disposition for a child committed for a designated
5943 felony act.

5944 (B) All motions filed under this paragraph shall be accompanied by a written
5945 recommendation for release, modification, or termination from the child's DJJ
5946 counselor or placement supervisor, filed in the court that committed the child to DJJ,
5947 and served on the prosecuting attorney for such jurisdiction.

5948 (C) At least 14 days prior to the date of the hearing on the motion, the moving party
5949 shall serve a copy of the motion, by first-class mail, upon the victim of the designated
5950 felony act, if any, at the victim's last known address, the child's attorney, if any, the
5951 child's parents or guardian, and the law enforcement agency that investigated the
5952 designated felony act. In addition to the parties to the motion, the prosecuting attorney
5953 and the victim, if any, shall have a right to be heard and to present evidence to the court
5954 relative to any motion filed pursuant to this paragraph.

5955 (D) A court hearing a motion filed under this paragraph shall determine the disposition
5956 of the child based upon a preponderance of the evidence. In determining whether a
5957 motion for release from custody, modification of a restrictive custody order, or
5958 termination of an order of disposition should be granted or denied due to changed
5959 circumstances, the court shall be required to find that the child has been rehabilitated
5960 and shall consider and make specific findings of fact as to each of the following factors:

5961 (i) The needs and best interests of the child;

5962 (ii) The record and background of the child, including the disciplinary history of the
5963 child during the period of restrictive custody and subsequent offense history;

5964 (iii) The academic progress of the child during the period of restrictive custody,
5965 including, if the child is receiving services under the federal Individuals with
5966 Disabilities Education Act, a review of the child's Individualized Education Program
5967 (IEP) and the child's progress toward IEP goals;

5968 (iv) The victim's impact statement submitted for purposes of a hearing conducted
5969 pursuant to this paragraph;

5970 (v) The safety risk to the community if the child is released; and

5971 (vi) The child's acknowledgment to the court and victim, if any, of his or her conduct
 5972 being the cause of harm to others; and

5973 (3) Unless otherwise specified in the order, DJJ shall report in writing to the court not
 5974 less than once every six months during the placement on the status, adjustment, and
 5975 progress of the child.

5976 (e) The period of placement in a youth development center may be extended on motion by
 5977 DJJ, after a disposition hearing, for two additional periods not to exceed 12 months each,
 5978 provided that no placement or extension of custody may continue beyond the child's
 5979 twenty-first birthday.

5980 (f) The court shall identify the school last attended by the child and the school which the
 5981 child intends to attend and shall transmit a copy of the adjudication to the principals of both
 5982 schools within 15 days of the adjudication. Such information shall be subject to
 5983 notification, distribution, and requirements as provided in Code Section 20-2-671.

5984 15-11-603.

5985 (a) As part of any order of disposition regarding a child adjudged to have committed a
 5986 delinquent act constituting an AIDS transmitting crime, the court may in its discretion and
 5987 after conferring with the director of the health district, order that the child submit to an HIV
 5988 test within 45 days following the adjudication of delinquency. The court shall mail DJJ a
 5989 copy of the order within three days following its issuance.

5990 (b) Within 30 days following receipt of the copy of the order, DJJ shall arrange for the
 5991 HIV test for the child.

5992 (c) Any child placed in the custody and control of DJJ shall be HIV tested in accordance
 5993 with DJJ's policies and procedures.

5994 (d) If a child is determined to be infected with HIV, that determination and the name of
 5995 the child shall be deemed to be AIDS confidential information and shall only be reported
 5996 to:

5997 (1) DJJ or the Department of Corrections, as the case may be, and the Department of
 5998 Public Health, which may disclose the name of the child if necessary to provide
 5999 counseling and which shall provide counseling to each victim of the AIDS transmitting
 6000 crime or to any parent, guardian, or legal custodian of any victim who is a minor or
 6001 incompetent person, if DJJ or the Department of Corrections believes the crime posed a
 6002 reasonable risk of transmitting HIV to the victim. Counseling shall include providing the
 6003 person with information and explanations medically appropriate for such person which
 6004 may include all or part of the following: accurate information regarding AIDS and HIV;
 6005 an explanation of behaviors that reduce the risk of transmitting AIDS and HIV; an

explanation of the confidentiality of information relating to AIDS diagnoses and HIV tests; an explanation of information regarding both social and medical implications of HIV tests; and disclosure of commonly recognized treatment or treatments for AIDS and HIV;

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

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

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

(B) That child is reasonably believed to be sexually predatory either during or prior to detention; or

(C) The commissioner of juvenile justice reasonably determines that other circumstances or conditions exist which indicate that separate confinement would be warranted.

15-11-604.

(a) A child found to have committed a delinquent act shall be given credit for each day spent in secure confinement awaiting adjudication and for each day spent in secure confinement, in connection with and resulting from a court order entered in the proceedings for which the disposition was imposed, and in any institution or facility for treatment or examination of a physical or mental disability. Such credit shall be applied toward the child's disposition.

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

15-11-605.

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

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

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

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

6041 (c)(1) DJJ in jurisdictions where DJJ is authorized to provide probation supervision, or
 6042 the county juvenile probation office in jurisdictions where probation supervision is
 6043 provided directly by the county, as applicable, shall be authorized to establish rules and
 6044 regulations for graduated sanctions as an alternative to judicial modifications or
 6045 revocations for probationers who violate the terms and conditions of a probation
 6046 management program.

6047 (2) DJJ or the county juvenile probation office, as applicable, shall not sanction
 6048 probationers for violations of conditions of probation if the court has expressed an
 6049 intention in a written order that such violations be heard by the court.

6050 (d) DJJ or the county juvenile probation office, as applicable, shall impose only those
 6051 restrictions equal to or less restrictive than the maximum sanction established by the court.

6052 (e) The secure probation sanctions program shall be established by DJJ. Exclusion of a
 6053 child from a secure probation sanctions program otherwise authorized by this Code section
 6054 to enter such program shall be mutually agreed upon by the Council of Juvenile Court
 6055 Judges and DJJ. The secure probation sanctions program shall be available to the juvenile
 6056 courts to the extent that each secure facility has capacity for such offenders within its
 6057 facilities. Prior to reaching full capacity, DJJ shall inform the various juvenile courts of
 6058 its capacity constraints.

6059 (f)(1) When requesting the secure probation sanctions program, probation officers
 6060 supervising a child under a probation management program shall provide an affidavit to
 6061 the court specifying:

6062 (A) The elements of the child's probation program;

6063 (B) The child's failures to respond to graduated sanctions in the community; and

6064 (C) The child's number of violations and the nature of each violation.

6065 (2) If a probation officer fails to document the violations and specify how the child has
 6066 failed to complete a probation management program, such child shall be ineligible to
 6067 enter the secure probation sanctions program.

6068 (3) A child may enter the secure probation sanctions program if ordered by the court and:

6069 (A) The probation officer has complied with the provisions of paragraph (1) of this
 6070 subsection and the criteria set by the department for entrance into such program and the
 6071 child has had three or more violations of probation; or

6072 (B) A child in a probation management program and his or her parent or guardian, or
 6073 a child in such program and his or her attorney, admit to three or more violations of
 6074 such program and sign a waiver accepting the sanction proposed by the probation
 6075 officer.

6076 (4) Each new violation of a condition of a probated sentence may result in a child being
 6077 sentenced to the secure probation sanctions program; provided, however, that if a child

6078 is sentenced to the secure probation sanctions program and completes all program
 6079 components in the seven, 14, and 30 day programs, such child shall be ineligible to attend
 6080 the secure probation sanctions program for a future violation of a condition of the same
 6081 probated sentence.

6082 (g)(1) When a violation of a condition of probation occurs, a child may have an
 6083 administrative hearing conducted by a hearing officer. If the hearing officer determines
 6084 by a preponderance of the evidence that such child violated the conditions of probation,
 6085 the probation officer shall be authorized to impose graduated sanctions. A child's failure
 6086 to comply with a sanction imposed under this paragraph shall constitute another violation
 6087 of probation.

6088 (2) The hearing officer's decision shall be final unless such child files, within five days
 6089 of the service of such decision, a written demand with the hearing officer for review of
 6090 such decision. Such demand shall not stay the sanction decision. The hearing officer
 6091 shall issue a response to such demand within five days of receiving such demand.

6092 (3) If the hearing officer insists on the sanction, such decision shall be final unless the
 6093 child files an appeal in the court that originally adjudicated the child. Such appeal shall
 6094 be filed within ten days of the date of the decision of the hearing officer.

6095 (4) The appeal shall first be reviewed by the court upon the record. At the court's
 6096 discretion, a de novo hearing may be held on the decision. The filing of the appeal shall
 6097 not stay the sanction decision.

6098 (5) Where the court does not act on the appeal within 15 days of the date of the filing of
 6099 the appeal, the sanction decision shall be affirmed by operation of law.

6100 15-11-606.

6101 An order of disposition or adjudication shall not be a conviction of a crime and shall not
 6102 impose any civil disability ordinarily resulting from a conviction nor operate to disqualify
 6103 the child in any civil service application or appointment.

6104 15-11-607.

6105 (a) Except as otherwise provided in Code Section 15-11-602, an order of disposition
 6106 committing a child adjudicated delinquent to DJJ shall continue in force for two years or
 6107 until the child is sooner discharged by DJJ. The court which made the order may extend
 6108 its duration for a period not to exceed two years subject to like discharge, if:

6109 (1) A hearing is held upon DJJ's motion prior to the expiration of the order;

6110 (2) Reasonable notice of the factual basis of the motion and of the hearing and an
 6111 opportunity to be heard are given to the child and the parent, guardian, or legal custodian;
 6112 and

- 6113 (3) The court finds that the extension is necessary for the treatment or rehabilitation of
6114 the child.
- 6115 (b) Any other order of disposition except an order of restitution as allowed by paragraph
6116 (6) or (7) of subsection (a) of Code Section 15-11-601 shall continue in force for not more
6117 than two years. An order of extension may be made if:
- 6118 (1) A hearing is held prior to the expiration of the order upon motion of DJJ, the
6119 prosecuting attorney, or on the court's own motion;
- 6120 (2) Reasonable notice of the factual basis of the motion and of the hearing and
6121 opportunity to be heard are given to the parties affected;
- 6122 (3) The court finds that the extension is necessary to accomplish the purposes of the
6123 order extended; and
- 6124 (4) The extension does not exceed two years from the expiration of the prior order.
- 6125 (c) The court may terminate an order of disposition or an extension of such a disposition
6126 order prior to its expiration, on its own motion or an application of a party, if it appears to
6127 the court that the purposes of the order have been accomplished.
- 6128 (d) When a child reaches 21 years of age, all orders affecting him or her then in force
6129 terminate and he or she is discharged from further obligation or control.
- 6130 15-11-608.
- 6131 (a) An order granting probation to a child found to be delinquent may be revoked on the
6132 ground that the conditions of probation have been violated.
- 6133 (b) Any violation of a condition of probation may be reported to the prosecuting attorney
6134 who may file a motion in the court for revocation of probation. A motion for revocation
6135 of probation shall contain specific factual allegations constituting each violation of a
6136 condition of probation.
- 6137 (c) The motion for revocation of probation shall be served upon the child, his or her
6138 attorney, and his or her parent, guardian, or legal custodian in accordance with the
6139 provisions of Code Section 15-11-531.
- 6140 (d) If a child is taken into custody because of an alleged violation of probation, the
6141 provisions governing the detention of a child shall apply.
- 6142 (e) A revocation hearing shall be scheduled to be held no later than 30 days after the filing
6143 of such motion or, if the child has been detained as a result of the filing of such motion for
6144 revocation, no later than ten days after the filing of the motion.
- 6145 (f) If the court finds, beyond a reasonable doubt, that the child violated the terms and
6146 conditions of probation, the court may:
- 6147 (1) Extend probation;
- 6148 (2) Impose additional conditions of probation;

6149 (3) Make any disposition that could have been made at the time probation was imposed;

6150 or

6151 (4) Upon finding that graduated alternative sanctions have failed, order the child to serve
6152 up to a maximum of 60 days in a youth development center or, after assessment and with
6153 the court's approval, in a treatment program provided by DJJ or the juvenile court.

6154 (g) In the case of a designated felony, if the court finds that the child violated the terms
6155 and conditions of probation, the court shall reconsider and make specific findings of fact
6156 as to each of the factors in subsection (b) of Code Section 15-11-602 to determine whether
6157 restrictive custody is required.

6158 (h) In the case of a designated felony, if the court finds, beyond a reasonable doubt, that
6159 the child violated the terms and conditions of probation and that the order granting
6160 probation to the child shall be revoked, the child shall be given credit for time served on
6161 probation.

6162 Part 13

6163 15-11-620.

6164 (a) When a child is alleged to be both delinquent and dependent, the date the child is
6165 considered to have entered foster care shall be the date of the first judicial finding that the
6166 child has been subjected to child abuse or neglect or the date that is 60 days after the date
6167 on which the child is removed from his or her home, whichever is earlier.

6168 (b) If a child alleged or adjudicated to be delinquent is first placed in a noneligible
6169 placement but is later placed in foster care within 60 days of the child's removal from the
6170 home, then the date of entry into foster care shall be 60 days from the date of removal.

6171 (c) If a child is detained in a facility operated primarily for the detention of a child
6172 determined to be delinquent pending placement in foster care and remains detained for
6173 more than 60 days, then the date of entry into foster care shall be the date the child is
6174 placed in foster care.

6175 15-11-621.

6176 The periodic review hearing requirements under Code Sections 15-11-216, 15-11-217, and
6177 15-11-218 shall apply to proceedings involving a child alleged or adjudicated to be
6178 delinquent and placed in foster care.

6179 15-11-622.

6180 (a) The permanency plan requirements under Code Sections 15-11-230, 15-11-231, and
6181 15-11-232 shall apply to proceedings involving a child alleged or adjudicated to be
6182 delinquent and placed in foster care.

6183 (b) In addition to the compelling reasons set forth in Code Section 15-11-233 under
6184 Article 3 of this chapter, a compelling reason for determining that filing a termination of
6185 parental rights petition is not in the best interests of a child alleged or adjudicated to be
6186 delinquent may include but shall not be limited to:

6187 (1) The child's developmental needs require continued out-of-home placement for an
6188 additional number of months, and the parent, guardian, or legal custodian has cooperated
6189 with referrals, visitation, and family conferences, as well as therapy;

6190 (2) The child is uncooperative with services or referrals; and

6191 (3) The length of the delinquency disposition affects the permanency plan.

6192 Part 14

6193 15-11-630.

6194 (a) A juvenile traffic offense consists of a violation by a child of:

6195 (1) A law or local ordinance governing the operation of a moving motor vehicle upon the
6196 streets or highways of this state or upon the waterways within or adjoining this state; or

6197 (2) Any other motor vehicle traffic law or local ordinance if the child is taken into
6198 custody and detained for its violation or is transferred to the juvenile court by the court
6199 hearing the charge.

6200 (b) The following offenses shall be acts of delinquency and shall not be handled as
6201 juvenile traffic offenses: aggressive driving, reckless driving, a four-point speeding offense,
6202 homicide by vehicle, manslaughter resulting from the operation of a vehicle, any felony in
6203 the commission of which a motor vehicle is used, racing on highways and streets, using a
6204 motor vehicle in fleeing or attempting to elude an officer, fraudulent or fictitious use of a
6205 driver's license, hit and run or leaving the scene of an accident, driving under the influence
6206 of alcohol or drugs, and any offense committed by an unlicensed driver under 16 years of
6207 age.

6208 (c) A juvenile traffic offense shall not be an act of delinquency unless the case is
6209 transferred to the delinquency calendar.

6210 (d) The summons, notice to appear, or other designation of a citation accusing a child of
6211 committing a juvenile traffic offense constitutes the commencement of the proceedings in
6212 the court of the county in which the alleged violation occurred and serves in place of a
6213 summons and petition under this article. These cases shall be filed and heard separately

6214 from other proceedings of the court. If the child is taken into custody on the charge, Code
6215 Sections 15-11-503 and 15-11-505 shall apply. If the child is, or after commencement of
6216 the proceedings becomes, a resident of another county of this state, the court in the county
6217 where the alleged traffic offense occurred may retain jurisdiction over the entire case.

6218 (e) The court shall fix a time for a hearing and shall give reasonable notice thereof to the
6219 child and, if his or her address is known, to the parent, guardian, or legal custodian. If the
6220 accusation made in the summons, notice to appear, or other designation of a citation is
6221 denied, a hearing shall be held at which the parties shall have the right to subpoena
6222 witnesses, present evidence, cross-examine witnesses, and appear by their attorney. The
6223 hearing shall be open to the public.

6224 (f) If the court finds on the admission of the child or upon the evidence that the child
6225 committed the offense charged, it may make one or more of the following orders:

6226 (1) Reprimand, counsel, or warn the child and the child's parent, guardian, or legal
6227 custodian; provided, however, that this disposition order shall not be available for any act
6228 of delinquency;

6229 (2) As a matter of probation or if the child is committed to the custody of the state, order
6230 the Department of Driver Services to suspend the child's privilege to drive under stated
6231 conditions and limitations for a period not to exceed 12 months;

6232 (3) Require the child to attend a traffic school approved by the Department of Driver
6233 Services or a substance abuse clinic or program approved by either DBHDD or the
6234 Council of Juvenile Court Judges for a reasonable period of time;

6235 (4) Assess a fine and order the child to remit to the general fund of the county a sum not
6236 exceeding the maximum applicable to an adult for a like offense. The fine shall be
6237 subject to all additions and penalties as specified under this title and Title 47;

6238 (5) Require the child to participate in a program of community service as specified by
6239 the court;

6240 (6) Impose any sanction authorized by Code Section 15-11-442 or 15-11-601; or

6241 (7) Place the child on probation subject to the conditions and limitations imposed by
6242 Title 40 governing probation granted to adults for like offenses, but such probation shall
6243 be supervised by the court.

6244 (g) In lieu of the preceding orders, if the evidence warrants, the court may transfer the case
6245 to the delinquency calendar of the court and direct the filing and service of a summons and
6246 delinquency petition.

6247 (h) Upon finding that the child has committed a juvenile traffic offense or an act of
6248 delinquency which would be a violation of Title 40 if committed by an adult, the court shall
6249 forward, within ten days, a report of the final adjudication and disposition of the charge to
6250 the Department of Driver Services; provided, however, that this procedure shall not be

applicable to those cases which have been dismissed or in which the child and the child's parent, guardian, or legal custodian have been reprimanded, counseled, or warned by the court. The Department of Driver Services shall record the adjudication and disposition of the offense on the child's permanent record, and such adjudication and disposition shall be deemed a conviction for the purpose of suspending or revoking the individual's driver's license. Such record shall also be available to law enforcement agencies and courts as are the permanent traffic records of adults.

ARTICLE 8

15-11-650.

The purpose of this article is to:

- (1) Set forth procedures for a determination of whether a child is incompetent to proceed; and
- (2) Provide a mechanism for the development and implementation of competency remediation services, when appropriate, including treatment, habilitation, support, or supervision services.

15-11-651.

As used in this article, the term:

- (1) 'Competency remediation services' means outpatient interventions directed only at facilitating the attainment of competence to proceed for a child found to be incompetent to proceed. Such term may include mental health treatment to reduce interfering symptoms, specialized psychoeducational programming, or a combination of these interventions.
- (2) 'Comprehensive services plan' shall have the same meaning as set forth in Code Section 15-11-381.
- (3) 'Developmental disability' shall have the same meaning as set forth in Code Section 37-1-1.
- (4) 'Incompetent to proceed' means lacking sufficient present ability to understand the nature and object of the proceedings, to comprehend his or her own situation in relation to the proceedings, and to assist his or her attorney in the preparation and presentation of his or her case in all adjudication, disposition, or transfer hearings. The child's age or immaturity may be used as the basis for determining a child's competency.
- (5) 'Mental competency proceedings' means hearings conducted to determine whether a child is incompetent to proceed in adjudication, a disposition hearing, or a transfer proceeding.

6285 (6) 'Plan manager' shall have the same meaning as set forth in Code Section 15-11-381.

6286 (7) 'Treatment facility' means a facility that receives patients for psychiatric treatment
6287 as provided in Code Sections 37-3-80 through 37-3-84 and shall not include a secure
6288 detention facility.

6289 15-11-652.

6290 (a) If at any time after the filing of a petition alleging delinquency or that the child is a
6291 child in need of services the court has reason to believe that the child named in the petition
6292 may be incompetent to proceed, the court on its own motion or on the motion of the
6293 attorney representing the child, any guardian ad litem for the child, the child's parent,
6294 guardian, or legal custodian, or the prosecuting attorney shall stay all proceedings relating
6295 to such petition and, unless the court accepts a stipulation by the parties as to the child's
6296 incompetency, shall order a competency evaluation of and report on the child's mental
6297 condition.

6298 (b) When a delinquency petition is filed alleging a child under the age of 13 has committed
6299 a serious violent felony, as defined in Code Section 17-10-6.1, the court shall stay all
6300 delinquency proceedings relating to such petition and, unless the court accepts a stipulation
6301 by the parties as to the child's incompetency, shall order a competency evaluation and
6302 report concerning the child's mental condition.

6303 (c) Any motion, notice of hearing, order, or other pleading relating to a child's
6304 incompetency to proceed shall be served upon the child, the child's attorney, the child's
6305 guardian ad litem, if any, the child's parent, guardian, or legal custodian and the
6306 prosecuting attorney.

6307 (d) Prior to the administration of any evaluation, the court shall appoint an attorney to
6308 represent a child if the child is not yet represented by an attorney.

6309 (e) All time limits set forth in Articles 6 and 7 of this chapter for adjudication and
6310 disposition of a delinquency or child in need of services proceeding shall be tolled during
6311 the evaluation, adjudication, and disposition phases of the mental competency proceeding
6312 and during provision of competency remediation services.

6313 15-11-653.

6314 (a) The court ordered evaluation and report shall be conducted by an examiner who shall
6315 consider whether a child is incompetent to proceed. The court shall provide the examiner
6316 with any law enforcement or court records necessary for understanding the petition alleging
6317 delinquency. The attorney for the child and the prosecuting attorney shall provide the
6318 examiner with any records from any other available sources that are deemed necessary for
6319 the competency evaluation.

6320 (b) The competency evaluation shall be performed on an outpatient basis; provided,
6321 however, that if the child is in an out of home placement, the evaluation shall be performed
6322 at the child's location.

6323 (c) An examiner who conducts the evaluation shall submit a written report to the court
6324 within 30 days from receipt of the court order for evaluation. The court may, in its
6325 discretion, grant the examiner an extension in filing such report. The report shall contain
6326 the following:

6327 (1) The specific reason for the evaluation, as provided by the court or the party
6328 requesting the evaluation;

6329 (2) The evaluation procedures used, including any psychometric instruments
6330 administered, any records reviewed, and the identity of any persons interviewed;

6331 (3) Any available pertinent background information;

6332 (4) The results of a mental status exam, including the diagnosis if any and description
6333 of any psychiatric symptoms, cognitive deficiency, or both;

6334 (5) A description of the child's abilities and deficits in the following mental competency
6335 functions:

6336 (A) The ability to understand and appreciate the nature and object of the proceedings;

6337 (B) The ability to comprehend his or her situation in relation to the proceedings; and

6338 (C) The ability to assist his or her attorney in the preparation and presentation of his
6339 or her case;

6340 (6) An opinion regarding the potential significance of the child's mental competency,
6341 strengths, and deficits;

6342 (7) An opinion regarding whether or not the child should be considered incompetent to
6343 proceed; and

6344 (8) A specific statement explaining the reasoning supporting the examiner's final
6345 determination.

6346 (d) If, in the opinion of the examiner, the child should be considered incompetent to
6347 proceed, the report shall also include the following:

6348 (1) An opinion as to whether the primary cause of incompetency to proceed is
6349 immaturity, mental illness, developmental disability, or combination of mental illness and
6350 developmental disability;

6351 (2) An opinion as to whether there is a substantial probability that the child will attain
6352 the mental competency necessary to participate in adjudication, a disposition hearing, or
6353 a transfer hearing in the foreseeable future;

6354 (3) If the examiner believes that the child will attain mental competency,
6355 recommendations for the general level and type of competency remediation services
6356 necessary for significant deficits;

6357 (4) A recommendation as to the appropriate treatment or services;

6358 (5) When appropriate, recommendations for modifications of court procedure which may
6359 help compensate for mental competency weaknesses; and

6360 (6) Any relevant medication history.

6361 (e) If the examiner determines that the child is currently competent because of ongoing
6362 treatment with medication or other services, the report shall address the necessity of
6363 continuing such treatment and shall include a description of any limitation such treatment
6364 may have on competency.

6365 (f) Copies of the written evaluation report shall be provided by the court to the attorney
6366 representing the child, the prosecuting attorney or a member of his or her staff, and any
6367 guardian ad litem for the child no later than five days after receipt of the report by the
6368 court.

6369 (g) Upon a showing of good cause by any party or upon the court's own motion, the court
6370 may order additional evaluations by other licensed psychologists or psychiatrists. In no
6371 event shall more than one evaluation be conducted by an examiner employed by DBHDD.

6372 15-11-654.

6373 (a) If at any time following a finding that a child is incompetent to proceed, the court
6374 determines that the child is a resident of a county of this state other than the county in
6375 which the court sits, the court may transfer the proceeding to the county of the child's
6376 residence.

6377 (b) When any case is transferred, certified copies of all legal, social history, health, or
6378 mental health records pertaining to the case on file with the clerk of the court shall
6379 accompany the transfer. Compliance with this subsection shall terminate jurisdiction in the
6380 transferring court and initiate jurisdiction in the receiving court.

6381 (c) If the child's competency is remediated, jurisdiction of the case may be returned to the
6382 transferring court for the adjudication hearing and any subsequent proceedings.

6383 15-11-655.

6384 (a) A hearing to determine if a child is incompetent to proceed shall be conducted within
6385 60 days after the initial court order for evaluation. The hearing may be continued by the
6386 court for good cause shown.

6387 (b) Written notice shall be given to all parties and the victim at least ten days prior to such
6388 hearing.

6389 (c) The burden of proving that the child is incompetent to proceed shall be on the child.
6390 The standard of proof necessary for proving mental competency shall be a preponderance
6391 of the evidence.

6392 (d) At the hearing to determine incompetency to proceed, the child's attorney and the
 6393 prosecuting attorney shall have the right to:

- 6394 (1) Present evidence;
 6395 (2) Call and examine witnesses;
 6396 (3) Cross-examine witnesses; and
 6397 (4) Present arguments.

6398 (e) The examiner appointed by the court shall be considered the court's witness and shall
 6399 be subject to cross-examination by both the child's attorney and the prosecuting attorney.

6400 (f) The court's findings of fact shall be based on any evaluations of the child's mental
 6401 condition conducted by licensed psychologists or psychiatrists appointed by the court, any
 6402 evaluations of the child's mental condition conducted by independent licensed
 6403 psychologists or psychiatrists hired by the parties, and any additional evidence presented.

6404 (g) If the court finds that the child is not incompetent to proceed, the proceedings which
 6405 have been suspended shall be resumed. The time limits under Article 6 or 7 of this chapter
 6406 for adjudication and disposition of the petition shall begin to run from the date of the order
 6407 finding the child mentally competent.

6408 (h) Copies of the court's findings shall be given to the parties within ten days following the
 6409 issuance of such findings.

6410 15-11-656.

6411 (a) If the court finds that the child is incompetent to proceed but the child's incompetence
 6412 may be remediated, the court may order competency remediation services for the child.

6413 (b) In determining whether to order competency remediation services, the court shall
 6414 consider:

- 6415 (1) Whether there is probable cause to believe the allegations in the petition are true;
 6416 (2) The nature of the incompetency;
 6417 (3) The child's age; and
 6418 (4) The nature of the act alleged to have been committed by the child, in particular
 6419 whether the act is a serious violent felony as such term is defined in Code Section
 6420 17-10-6.1.

6421 (c) If a child is determined to be incompetent to proceed, the court has ordered that
 6422 competency remediation services should be provided, and:

- 6423 (1) The child is alleged to have committed an act that would be a felony if committed by
 6424 an adult, the court may retain jurisdiction of the child for up to two years after the date
 6425 of the order of incompetency, with review hearings at least every six months to
 6426 redetermine competency or proceed as provided in subsection (f) of this Code section;
 6427 or

6428 (2) The child is alleged to be a child in need of services or to have committed an act that
 6429 would be a misdemeanor if committed by an adult, the court may retain jurisdiction of
 6430 the child for up to 120 days after the date of the order of incompetency or proceed as
 6431 provided in subsection (f) of this Code section.

6432 (d) All court orders determining incompetency shall include specific written findings by
 6433 the court as to the nature of the incompetency and the mandated outpatient competency
 6434 remediation services. If the child is in an out of home placement, the court shall specify
 6435 the type of competency remediation services to be performed at the child's location. A
 6436 child may be placed in a secure treatment facility or program, not to include DJJ facilities,
 6437 if the court makes a finding by clear and convincing evidence that:

6438 (1) The child is mentally ill or developmentally disabled and meets the requirements for
 6439 civil commitment pursuant to Chapters 3 and 4 of Title 37; and

6440 (2) All available less restrictive alternatives, including treatment in community
 6441 residential facilities or community settings which would offer an opportunity for
 6442 improvement of the child's condition, are inappropriate.

6443 (e) A child who is incompetent to proceed shall not be subject to transfer to superior court,
 6444 adjudication, disposition, or modification of disposition so long as the mental
 6445 incompetency exists.

6446 (f) If the court determines that a child is incompetent to proceed, the court may dismiss the
 6447 petition without prejudice.

6448 (g) If a child is detained in a secure detention facility and the court determines that the
 6449 child is incompetent to proceed, within five days of such determination the court shall issue
 6450 an order to immediately release the child to the appropriate parent, guardian, or legal
 6451 custodian.

6452 15-11-657.

6453 (a) All competency remediation service orders issued by the court shall contain:

6454 (1) The name of the competency remediation service program provider and the location
 6455 of the program;

6456 (2) A statement of the arrangements for the child's transportation to the program site;

6457 (3) The length of the competency remediation service program;

6458 (4) A statement of the arrangements for the child's transportation after the program ends;
 6459 and

6460 (5) A direction concerning the frequency of reports required by the court.

6461 (b) DBHDD or a licensed psychologist or psychiatrist shall file a written report with the
 6462 court:

6463 (1) Not later than six months after the date the court orders that competency remediation
 6464 be attempted but prior to the first review hearing;

6465 (2) Every six months after the first review hearing if the child remains incompetent to
 6466 proceed and under an order for remediation;

6467 (3) At any time DBHDD or a licensed psychologist or psychiatrist opines the child has
 6468 attained competency; or

6469 (4) At shorter intervals designated by the court in its competency remediation order.

6470 (c) DBHDD or the licensed psychologist or psychiatrist written report shall include, but
 6471 shall not be limited to:

6472 (1) Whether the child's competency can be remediated or whether the child is likely to
 6473 remain incompetent to proceed for the foreseeable future;

6474 (2) Whether additional time is needed to remediate the child's competency; and

6475 (3) If the child has attained competency, the effect, if any, of any limitations that are
 6476 imposed by any medication or other treatment used in the effort to remediate competency.

6477 15-11-658.

6478 (a) If the court initially finds that a child is unrestorably incompetent to proceed, the court
 6479 shall dismiss the petition, appoint a plan manager, and order that procedures for a
 6480 comprehensive services plan be initiated under Article 6 of this chapter. When appropriate,
 6481 the court may:

6482 (1) Order that the child be referred for civil commitment pursuant to Chapters 3 and 4
 6483 of Title 37. Such proceedings shall be instituted not less than 60 days prior to the
 6484 dismissal of the delinquency or child in need of services petition; or

6485 (2) Order that referral be made for appropriate adult services if the child has reached the
 6486 age of 18 years at the time of the competency determination.

6487 (b) If at any time after the child is ordered to undergo competency remediation services
 6488 DBHDD or a licensed psychologist or psychiatrist opines that the child is likely to remain
 6489 incompetent to proceed for the foreseeable future, DBHDD or the licensed psychologist
 6490 or psychiatrist shall submit a report to the court so stating.

6491 (c) Upon receipt of the report specified in subsection (b) of this Code section, the court
 6492 shall make a competency determination and shall dismiss the delinquency petition, appoint
 6493 a plan manager, and order that procedures for a comprehensive services plan be initiated
 6494 under Article 6 of this chapter. When appropriate, the court may:

6495 (1) Order that the child be referred for civil commitment pursuant to Chapters 3 and 4
 6496 of Title 37. Such proceedings shall be instituted not less than 60 days prior to the
 6497 dismissal of the delinquency or child in need of services petition; or

6498 (2) Order that referral be made for appropriate adult services if the child has reached the
 6499 age of 18 years at the time of the competency determination.

6500 15-11-659.

6501 If at any time after a child is found to be incompetent to proceed due to age, immaturity,
 6502 or for any reason other than mental illness or developmental disability and is ordered to
 6503 undergo competency remediation services and DBHDD determines that the child is likely
 6504 to remain incompetent to proceed for the foreseeable future, DBHDD shall submit a report
 6505 and its conclusions to the court. Upon receipt of such report, the court shall:

6506 (1) Make a competency determination;

6507 (2) Order that the petition be dismissed; and

6508 (3) Order that a plan manager be appointed and that the procedures for a comprehensive
 6509 services plan be initiated under Article 6 of this chapter.

6510 15-11-660.

6511 (a) The court shall hold a hearing to review a child's progress toward competency:

6512 (1) At least every six months;

6513 (2) At any time, on its own motion or on the motion of the prosecuting attorney, the
 6514 child's attorney, or the child's guardian ad litem, if any;

6515 (3) On receipt of a report submitted by DBHDD; or

6516 (4) Not less than three months before the child's eighteenth birthday.

6517 (b) If at a review hearing the court finds that the child has attained competency, the
 6518 suspended proceedings shall be resumed and the time limits as applicable under Article 6
 6519 or 7 of this chapter shall begin to run from the date of the order finding the child mentally
 6520 competent.

6521 (c) If at a review hearing held following the court's receipt of a DBHDD or licensed
 6522 psychologist or psychiatrist's report the court finds that the child's incompetency has not
 6523 been remediated but that the child has made substantial progress toward remediation, the
 6524 court may extend the competency remediation program period for an additional 60 days
 6525 if the court determines by clear and convincing evidence that further participation is likely
 6526 to lead to remediation of competency.

6527 (d) If at a review hearing the court finds that the child's competency is not remediated and
 6528 is not likely to be remediated within the time left before the child's eighteenth birthday, the
 6529 court shall dismiss the petition with prejudice if the child is alleged to be a child in need
 6530 of services or to have committed a delinquent act which would be a misdemeanor if
 6531 committed by an adult.

6532 (e) At each review hearing, the court shall also consider whether the petition alleging
 6533 delinquency or that a child is in need of services should be withdrawn, maintained, or
 6534 dismissed, without prejudice, upon grounds other than the child's being incompetent to
 6535 proceed. If the court dismisses the petition, the prosecuting attorney may seek to refile a
 6536 petition alleging a delinquent act which would be a felony if committed by an adult if the
 6537 child is later determined to be mentally competent. The prosecuting attorney may also seek
 6538 transfer to superior court if the child is later determined to be mentally competent and
 6539 otherwise meets all the requirements for transfer under Article 7 of this chapter.

6540 ARTICLE 9

6541 15-11-680.

6542 This article shall be known and may be cited as the 'Parental Notification Act.'

6543 15-11-681.

6544 As used in this article, the term:

6545 (1) 'Abortion' means the use or prescription of any instrument, medicine, drug, or any
 6546 other substance or device with the intent to terminate the pregnancy of a female known
 6547 to be pregnant. The term 'abortion' shall not include the use or prescription of any
 6548 instrument, medicine, drug, or any other substance or device employed solely to increase
 6549 the probability of a live birth, to preserve the life or health of the child after live birth, or
 6550 to remove a dead unborn child who died as a result of a spontaneous abortion. The term
 6551 'abortion' also shall not include the prescription or use of contraceptives.

6552 (2) 'Proper identification' means any document issued by a governmental agency
 6553 containing a description of the person, the person's photograph, or both, including, but
 6554 not limited to, a driver's license, an identification card authorized under Code Sections
 6555 40-5-100 through 40-5-104 or similar identification card issued by another state, a
 6556 military identification card, a passport, or an appropriate work authorization issued by the
 6557 United States Immigration and Customs Enforcement Division of the Department of
 6558 Homeland Security.

6559 (3) 'Unemancipated minor' means any person under the age of 18 who is not or has not
 6560 been married or who is under the care, custody, and control of such person's parent or
 6561 parents, guardian, or the juvenile court of competent jurisdiction.

6562 15-11-682.

6563 (a) No physician or other person shall perform an abortion upon an unemancipated minor
 6564 under the age of 18 years unless:

6565 (1)(A) The minor seeking an abortion shall be accompanied by a parent or guardian
6566 who shall show proper identification and state that the parent or guardian is the lawful
6567 parent or guardian of the minor and that the parent or guardian has been notified that
6568 an abortion is to be performed on the minor;

6569 (B) The physician or the physician's qualified agent gives at least 24 hours' actual
6570 notice, in person or by telephone, to a parent or guardian of the pending abortion and
6571 the name and address of the place where the abortion is to be performed; provided,
6572 however, that, if the person so notified indicates that he or she has been previously
6573 informed that the minor was seeking an abortion or if the person so notified has not
6574 been previously informed and he or she clearly expresses that he or she does not wish
6575 to consult with the minor, then in either event the abortion may proceed in accordance
6576 with Chapter 9A of Title 31; or

6577 (C) The physician or a physician's qualified agent gives written notice of the pending
6578 abortion and the address of the place where the abortion is to be performed, sent by
6579 registered or certified mail or statutory overnight delivery, return receipt requested with
6580 delivery confirmation, addressed to a parent or guardian at the usual place of abode of
6581 the parent or guardian. Unless proof of delivery is otherwise sooner established, such
6582 notice shall be deemed delivered 48 hours after mailing. The time of mailing shall be
6583 recorded by the physician or agent in the minor's file. The abortion may be performed
6584 24 hours after the delivery of the notice; provided, however, that, if the person so
6585 notified certifies in writing that he or she has been previously informed that the minor
6586 was seeking an abortion or if the person so notified has not been previously informed
6587 and he or she certifies in writing that he or she does not wish to consult with the minor,
6588 then in either event the abortion may proceed in accordance with Chapter 9A of Title
6589 31; and

6590 (2) The minor signs a consent form stating that she consents, freely and without
6591 coercion, to the abortion.

6592 (b) If the unemancipated minor or the physician or a physician's qualified agent, as the
6593 case may be, elects not to comply with any one of the requirements of subparagraph
6594 (a)(1)(A), (a)(1)(B), or (a)(1)(C) of this Code section, or if the parent or legal guardian of
6595 the minor cannot be located, the minor may petition, on the minor's own behalf or by next
6596 friend, any juvenile court in the state for a waiver of such requirement pursuant to the
6597 procedures provided for in Code Section 15-11-684. The juvenile court shall assist the
6598 minor or next friend in preparing the petition and notices required pursuant to this Code
6599 section. Venue shall be lawful in any county, notwithstanding Code Section 15-11-30.

6600 (c) No abortion shall be performed unless the requirements of subparagraph (a)(1)(A),
 6601 (a)(1)(B), or (a)(1)(C) of this Code section have been met or the minor has obtained a court
 6602 order waiving such requirements.

6603 15-11-683.

6604 Notwithstanding Code Sections 15-11-40, 15-11-150, 15-11-152, 15-11-160, 15-11-281,
 6605 15-11-424, and 15-11-531, the unemancipated minor or next friend shall be notified of the
 6606 date, time, and place of the hearing in such proceedings at the time of filing the petition.
 6607 The hearing shall be held within three days of the date of filing, excluding weekends and
 6608 legal holidays. The parent, guardian, or legal custodian of the unemancipated minor shall
 6609 not be served with the petition or with a summons or otherwise notified of the proceeding.
 6610 If a hearing is not held within the time prescribed in this Code section, the petition shall be
 6611 deemed granted.

6612 15-11-684.

6613 (a) An unemancipated minor may participate in proceedings in the court on such minor's
 6614 own behalf and the court shall advise such minor of the right to court appointed counsel
 6615 and shall provide such minor with such counsel upon request or if such minor is not already
 6616 adequately represented.

6617 (b) All court proceedings under this Code section shall be conducted in a manner to
 6618 preserve the complete anonymity of the parties and shall be given such precedence over
 6619 other pending matters as is necessary to ensure that a decision is reached by the court as
 6620 expeditiously as is possible under the circumstances of the case. In no event shall the
 6621 name, address, birth date, or social security number of such minor be disclosed.

6622 (c) The requirement of subparagraph (a)(1)(A), (a)(1)(B), or (a)(1)(C) of Code Section
 6623 15-11-682 shall be waived if the court finds either:

6624 (1) That the unemancipated minor is mature enough and well enough informed to make
 6625 the abortion decision in consultation with her physician, independently of the wishes of
 6626 such minor's parent or guardian; or

6627 (2) That the notice to a parent or, if the minor is subject to guardianship, the legal
 6628 guardian pursuant to Code Section 15-11-682 would not be in the best interests of the
 6629 minor.

6630 (d) A court that conducts proceedings under this Code section shall issue written and
 6631 specific factual findings and legal conclusions supporting its decision and shall order that
 6632 a record of the evidence be maintained. The juvenile court shall render its decision within
 6633 24 hours of the conclusion of the hearing and a certified copy of same shall be furnished
 6634 immediately to the minor. If the juvenile court fails to render its decision within 24 hours

6635 after the conclusion of the hearing, then the petition shall be deemed granted. All juvenile
6636 court records shall be sealed in a manner which will preserve anonymity.

6637 (e) An expedited appeal completely preserving the anonymity of the parties shall be
6638 available to any unemancipated minor to whom the court denies a waiver of notice. The
6639 appellate courts are authorized and requested to issue promptly such rules as are necessary
6640 to preserve anonymity and to ensure the expeditious disposition of procedures provided by
6641 this Code section. In no event shall the name, address, birth date, or social security number
6642 of such minor be disclosed during the expedited appeal or thereafter.

6643 (f) No filing fees shall be required of any unemancipated minor who uses the procedures
6644 provided by this Code section.

6645 15-11-685.

6646 The requirements and procedures of this article shall apply to all unemancipated minors
6647 within this state whether or not such persons are residents of this state.

6648 15-11-686.

6649 This article shall not apply when, in the best clinical judgment of the attending physician
6650 on the facts of the case before him or her, a medical emergency exists that so complicates
6651 the condition of the minor as to require an immediate abortion. A person who performs an
6652 abortion as a medical emergency under the provisions of this Code section shall certify in
6653 writing the medical indications on which this judgment was based when filing such reports
6654 as are required by law.

6655 15-11-687.

6656 Any physician or any person employed or connected with a physician, hospital, or health
6657 care facility performing abortions who acts in good faith shall be justified in relying on the
6658 representations of the unemancipated minor or of any other person providing the
6659 information required under this article. No physician or other person who furnishes
6660 professional services related to an act authorized or required by this article and who relies
6661 upon the information furnished pursuant to this article shall be held to have violated any
6662 criminal law or to be civilly liable for such reliance, provided that the physician or other
6663 person acted in good faith.

6664 15-11-688.

6665 Any person who violates the provisions of this article shall be guilty of a misdemeanor and
6666 any person who intentionally encourages another to provide false information pursuant to
6667 this article shall be guilty of a misdemeanor.

ARTICLE 10

6668
6669 15-11-700.

6670 (a) As used in this Code section, the term 'dependency proceeding' means a court
6671 proceeding stemming from a petition alleging that a child is a dependent child.

6672 (b) The general public shall be admitted to:

6673 (1) An adjudicatory hearing involving an allegation of a designated felony;

6674 (2) An adjudicatory hearing involving an allegation of delinquency brought in the
6675 interest of any child who has previously been adjudicated delinquent; provided, however,
6676 the court shall close any delinquency hearing on an allegation of sexual assault or any
6677 delinquency hearing at which any party expects to introduce substantial evidence related
6678 to matters of dependency;

6679 (3) Any child support hearing;

6680 (4) Any hearing in a legitimation action filed pursuant to Code Section 19-7-22;

6681 (5) At the court's discretion, any dispositional hearing involving any proceeding under
6682 this article; or

6683 (6) Any hearing in a dependency proceeding, except as otherwise provided in subsection
6684 (c) of this Code section.

6685 (c) The court may close the hearing in a dependency proceeding only upon making a
6686 finding upon the record and issuing a signed order as to the reason or reasons for closing
6687 all or part of a hearing in such proceeding and stating that:

6688 (A) The proceeding involves an allegation of an act which, if done by an adult, would
6689 constitute a sexual offense under Chapter 6 of Title 16; or

6690 (B) It is in the best interests of the child. In making such a determination, the court
6691 shall consider such factors as:

6692 (i) The age of the child;

6693 (ii) The nature of the allegations;

6694 (iii) The effect that an open court proceeding will have on the court's ability to reunite
6695 and rehabilitate the family unit; and

6696 (iv) Whether the closure is necessary to protect the privacy of a child, of a foster
6697 parent or other caretaker of a child, or of a victim of domestic violence.

6698 (d) The court may close a hearing or exclude a person from a hearing in any proceeding
6699 on its own motion, by motion of a party to the proceeding, or by motion of a child who is
6700 the subject of the proceeding or the child's attorney or guardian ad litem.

6701 (e) Only the parties, their counsel, witnesses, persons accompanying a party for his or her
6702 assistance, the victim, and any other persons as the court finds have a proper interest in the
6703 proceeding or in the work of the court may be admitted by the court to hearings from which

6704 the public is excluded; provided, however, that when the conduct alleged in the dependency
 6705 proceeding could give rise to a criminal or delinquent prosecution, attorneys for the
 6706 prosecution and the defense shall be admitted.

6707 (f) The court may refuse to admit a person to a hearing in any proceeding upon making a
 6708 finding upon the record and issuing a signed order that the person's presence at the hearing
 6709 would:

6710 (1) Be detrimental to the best interests of a child who is a party to the proceeding;

6711 (2) Impair the fact-finding process; or

6712 (3) Be otherwise contrary to the interest of justice.

6713 (g) The court may temporarily exclude any child from a termination of parental rights
 6714 hearing except while allegations of his or her delinquency or unruly conduct are being
 6715 heard.

6716 (h) Any request for installation and use of electronic recording, transmission, videotaping,
 6717 or motion picture or still photography of any judicial proceeding shall be made to the court
 6718 at least two days in advance of the hearing. The request shall be evaluated by the court
 6719 pursuant to the standards set forth in Code Section 15-1-10.1.

6720 (i) The judge may order the media not to release identifying information concerning any
 6721 child or family members or foster parent or other caretaker of a child involved in hearings
 6722 open to the public.

6723 (j) The general public shall be excluded from proceedings in juvenile court unless such
 6724 hearing has been specified as one in which the general public shall be admitted to pursuant
 6725 to this Code section.

6726 15-11-701.

6727 (a) Upon dismissal of a petition or complaint alleging delinquency or that a child is a child
 6728 in need of services or completion of the process in a case handled through informal
 6729 adjustment, mediation, or other nonadjudicatory procedure, the court shall order the sealing
 6730 of the files and records in the case.

6731 (b) On application of a person who has been adjudicated delinquent or a child in need of
 6732 services or on the court's own motion, and after a hearing, the court shall order the sealing
 6733 of the files and records in the proceeding if the court finds that:

6734 (1) Two years have elapsed since the final discharge of the person;

6735 (2) Since the final discharge of the person he or she has not been convicted of a felony
 6736 or of a misdemeanor involving moral turpitude or adjudicated a delinquent child or a
 6737 child in need of services and no proceeding seeking conviction or adjudication is pending
 6738 against the person; and

6739 (3) The person has been rehabilitated.

6740 (c) Reasonable notice of the hearing required by subsection (b) of this Code section shall
 6741 be given to:

6742 (1) The district attorney;

6743 (2) DJJ, when appropriate;

6744 (3) The authority granting the discharge if the final discharge was from an institution or
 6745 from parole; and

6746 (4) The law enforcement officers or department having custody of the files and records
 6747 if the files and records specified in Code Sections 15-11-702 and 15-11-708 are included
 6748 in the application or motion.

6749 (d) Upon the entry of the order the proceeding shall be treated as if it had never occurred.
 6750 All index references shall be deleted and the person, the court, the law enforcement
 6751 officers, and the departments shall properly reply that no record exists with respect to the
 6752 person upon inquiry in any matter. Copies of the order shall be sent to each agency or
 6753 designated official and shall also be sent to the deputy director of the Georgia Crime
 6754 Information Center. Inspection of the sealed files and records thereafter may be permitted
 6755 by an order of the court upon petition by the person who is the subject of the records and
 6756 otherwise only by those persons named in the order or to criminal justice officials upon
 6757 petition to the court for official judicial enforcement or criminal justice purposes.

6758 (e) The court may seal any record containing information identifying a victim of an act
 6759 which, if done by an adult, would constitute a sexual offense under Chapter 6 of Title 16.

6760 15-11-702.

6761 (a)(1) Every child charged with an offense which would be a felony if committed by an
 6762 adult, shall be fingerprinted and photographed upon being taken into custody.

6763 (2) Fingerprints and photographs of children shall be taken and filed separately from
 6764 those of adults by law enforcement officials to be used in investigating the commission
 6765 of crimes and to be made available as provided in this article and as may be directed by
 6766 the court.

6767 (b) Fingerprint files and photographs of children may be inspected by law enforcement
 6768 officers when necessary for criminal justice purposes and for the discharge of their official
 6769 duties. Other inspections may be authorized by the court in individual cases upon a
 6770 showing that it is necessary in the public interest.

6771 (c) If a child has been charged with an offense that if committed by an adult would be a
 6772 felony or if the case is transferred to another court for prosecution, the child's fingerprints,
 6773 personal identification data, and other pertinent information shall be forwarded to the
 6774 Georgia Crime Information Center of the Georgia Bureau of Investigation. The center
 6775 shall create a juvenile fingerprint file and enter the data into the computerized criminal

6776 history files. The Georgia Bureau of Investigation shall act as the official state repository
6777 for juvenile history data and shall be authorized to disseminate such data for the purposes
6778 specified in Code Section 15-11-708.

6779 (d) Upon application of a child, fingerprints and photographs of the child shall be removed
6780 from the file and destroyed if a petition alleging delinquency is not filed or the proceedings
6781 are dismissed after either such petition is filed or the case is transferred to the juvenile court
6782 or the child is adjudicated not to be a delinquent child. The court shall notify the deputy
6783 director of the Georgia Crime Information Center when fingerprints and photographs are
6784 destroyed, and the Georgia Bureau of Investigation shall treat such records in the same
6785 manner as expunged records pursuant to subsection (c) of Code Section 35-3-37.

6786 (e) Except as provided in subsection (a) of this Code section, without the consent of the
6787 judge, a child shall not be photographed after he or she is taken into custody unless the case
6788 is transferred to another court for prosecution.

6789 (f) Upon request, the judge or his or her designee shall release the name of any child with
6790 regard to whom a petition has been filed alleging the child committed a designated felony
6791 or alleging the child committed a delinquent act if the child has previously been
6792 adjudicated delinquent or if the child has previously been before the court on a delinquency
6793 charge and adjudication was withheld.

6794 15-11-703.

6795 Except as provided in subsection (d) of Code Section 24-6-609, the disposition of a child
6796 and evidence adduced in a hearing in the juvenile court may not be used against such child
6797 in any proceeding in any court other than for a proceeding for delinquency or a child in
6798 need of services, whether before or after reaching majority, except in the establishment of
6799 conditions of bail, plea negotiations, and sentencing in felony offenses; and, in such
6800 excepted cases, such records of dispositions and evidence shall be available to prosecuting
6801 attorneys and superior court judges and the accused and may be used in the same manner
6802 as adult records.

6803 15-11-704.

6804 (a) Except as provided in subsection (b) of this Code section and Code Sections 15-11-705
6805 and 15-11-706, all files and records of the court in a proceeding under this chapter shall be
6806 open to inspection only upon order of the court.

6807 (b) The general public shall be allowed to inspect court files and records for any
6808 proceeding that was open to the public pursuant to paragraphs (1) through (5) of subsection
6809 (b) of Code Section 15-11-700.

6810 (c) The judge may permit authorized representatives of recognized organizations
 6811 compiling statistics for proper purposes to inspect and make abstracts from official records
 6812 under whatever conditions upon their use and distribution the judge may deem proper and
 6813 may punish by contempt any violation of those conditions.

6814 (d) The judge shall permit authorized representatives of DJJ, the Governor's Office for
 6815 Children and Families, and the Council of Juvenile Court Judges to inspect and extract data
 6816 from any court files and records for the purpose of obtaining statistics on children and to
 6817 make copies pursuant to the order of the court.

6818 (e) Except as otherwise provided in Code Sections 15-11-701 and 15-11-703, the
 6819 complaint, petition, order of adjudication, and order of disposition in any delinquency case
 6820 shall be disclosed upon request of the prosecuting attorney or the accused for use
 6821 preliminarily to or in conjunction with a subsequent juvenile or criminal proceeding in a
 6822 court of record.

6823 15-11-705.

6824 (a) Notwithstanding other provisions of this article, the court records of proceedings under
 6825 Article 6 of this chapter shall be withheld from public inspection but shall be open to
 6826 inspection by the child, juvenile probation and parole officers, a parent, guardian, or legal
 6827 custodian, the child's attorney, and others entrusted with the supervision of the child.
 6828 Additional access to court records may be granted by court order.

6829 (b) It shall be unlawful for any person to disclose court records, or any part thereof, to
 6830 persons other than those entitled to access under subsection (a) of this Code section, except
 6831 by court order. Any person who knowingly violates this subsection shall be guilty of
 6832 contempt and the court may enter any order authorized by the provisions of Code Section
 6833 15-11-31.

6834 15-11-706.

6835 (a) When a decision is made to handle a case through informal adjustment, mediation, or
 6836 other nonadjudicatory procedure, the juvenile court intake officer shall file with the court
 6837 in the county in which the child legally resides all of the following information:

6838 (1) The child's name, address, and date of birth;

6839 (2) The act or offense for which the child was apprehended;

6840 (3) The diversion decision made;

6841 (4) The nature of the child's compliance with an informal adjustment agreement; and

6842 (5) If an informal adjustment agreement is revoked, the fact of and reasons for the
 6843 revocation.

6844 (b) Notwithstanding subsection (a) of Code Section 15-11-701, the court in the county in
 6845 which the child resides shall keep a separate record for that child which shall be open to
 6846 the court, the prosecuting attorney, or an officer designated by the court only for the
 6847 purpose of deciding whether to handle a subsequent case through informal adjustment,
 6848 mediation, or other nonadjudicatory procedure or for use in disposition of a subsequent
 6849 proceeding. Any person who knowingly violates this subsection shall be guilty of
 6850 contempt and the court may enter any order authorized by the provisions of Code Section
 6851 15-11-31.

6852 15-11-707.

6853 Within 30 days of any proceeding in which a child is adjudicated delinquent for a second
 6854 or subsequent time or is found to have committed a designated felony act, the court shall
 6855 provide written notice to the school superintendent of the school in which the child is
 6856 enrolled or his or her designee or, if the information is known, of the school in which such
 6857 child plans to be enrolled at a future date. Such notice shall include the specific delinquent
 6858 act or designated felony that the child committed.

6859 15-11-708.

6860 (a) Law enforcement records and files concerning a child shall be kept separate from the
 6861 records and files of arrests of adults.

6862 (b) Unless a charge of delinquency is transferred for criminal prosecution or the interest
 6863 of national security requires or the case is one in which the general public may not be
 6864 excluded from the hearings or the court otherwise orders in the best interests of the child,
 6865 the records and files shall not be open to public inspection nor shall their contents be
 6866 disclosed to the public.

6867 (c) Inspection of the records and files shall be permitted by:

6868 (1) A juvenile court having the child before it in any proceeding;

6869 (2) The attorney for a party to the proceedings, with the consent of the court;

6870 (3) The officers of public institutions or agencies to whom the child is committed;

6871 (4) Law enforcement officers of this state, the United States, or any other jurisdiction
 6872 when necessary for the discharge of their official duties;

6873 (5) A court in which the child is convicted of a criminal offense, for the purpose of a
 6874 presentence report or other disposition proceeding;

6875 (6) Officials of penal institutions and other penal facilities to which the child is
 6876 committed; or

6877 (7) A parole board in considering the child's parole or discharge or in exercising
 6878 supervision over the child.

6879 (d) The court shall allow authorized representatives of DJJ, the Governor's Office for
6880 Children and Families, and the Council of Juvenile Court Judges to inspect and copy law
6881 enforcement records for the purpose of obtaining statistics on children.

6882 (e) Access to fingerprint records submitted to the Georgia Bureau of Investigation shall
6883 be limited to the administration of criminal justice purposes as defined in Code Section
6884 15-11-2.

6885 15-11-709.

6886 (a) Subject to the earlier sealing of certain records pursuant to Code Section 15-11-701,
6887 the juvenile court shall make and keep records of all cases brought before it and shall
6888 preserve the records pertaining to a child in accordance with the common records retention
6889 schedules for courts approved by the State Records Committee pursuant to Code Section
6890 50-18-92.

6891 (b) Thereafter, the court may destroy such records, except that the records of cases in
6892 which a court terminates the parental rights of a parent and the records of cases involving
6893 a petition for legitimation of a child shall be preserved permanently.

6894 (c) The juvenile court shall make official minutes consisting of all petitions and orders
6895 filed in a case and any other pleadings, certificates, proofs of publication, summonses,
6896 warrants, and other writs which may be filed and shall make social records consisting of
6897 records of investigation and treatment and other confidential information.

6898 (d) Identification data shall be maintained and shall be disseminated to criminal justice
6899 officials for official judicial enforcement or criminal justice purposes as provided in Code
6900 Section 35-3-33.

6901 (e) Nothing in this chapter shall restrict or otherwise prohibit a juvenile court clerk from
6902 electing to store for computer retrieval any or all records, dockets, indexes, or files; nor
6903 shall a juvenile court clerk be prohibited from combining or consolidating any books,
6904 dockets, files, or indexes in connection with the filing for record of papers of the kind
6905 specified in this chapter or any other law, provided that any automated or computerized
6906 record-keeping method or system shall provide for the systematic and safe preservation and
6907 retrieval of all books, dockets, records, or indexes. When the clerk of a juvenile court
6908 elects to store for computer retrieval any or all records, the same data elements used in a
6909 manual system shall be used, and the same integrity and security shall be maintained.

6910 15-11-710.

6911 (a) As used in this Code section, the term 'governmental entity' shall mean the court,
6912 superior court, the DJJ, DBHDD, DFACS, county departments of family and children
6913 services, or public school, as such term is defined in Code Section 16-11-35.

6914 (b) Governmental entities and state, county, municipal, or consolidated government
 6915 departments, boards, or agencies shall exchange with each other all information not held
 6916 as confidential pursuant to federal law and relating to a child which may aid a
 6917 governmental entity in the assessment, treatment, intervention, or rehabilitation of a child,
 6918 notwithstanding Code Section 15-1-15, 15-11-40, 15-11-105, 15-11-170, 15-11-264,
 6919 15-11-541, 15-11-542, 15-11-603, 15-11-708, 15-11-709, 15-11-744, 20-2-751.2,
 6920 20-14-40, 24-12-10, 24-12-11, 24-12-20, 26-4-5, 26-4-80, 26-5-17, 31-5-5, 31-33-6,
 6921 37-1-53, 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,
 6922 49-5-45, 49-5-183, 49-5-184, 49-5-185, or 49-5-186, in order to serve the best interests of
 6923 the child. Information which is shared pursuant to this subsection shall not be utilized to
 6924 assist in the prosecution of the child in juvenile court or superior court or utilized to the
 6925 detriment of the child.

6926 (c) Information released pursuant to this Code section shall not change or rescind the
 6927 confidential nature of such information and such information shall not be subject to public
 6928 disclosure or inspection unless otherwise provided by law.

6929 ARTICLE 11

6930 15-11-720.

6931 (a) Emancipation may occur by operation of law or pursuant to a petition filed with the
 6932 court as provided in this article by a child who is at least 16 years of age.

6933 (b) An emancipation occurs by operation of law:

6934 (1) When a child is validly married;

6935 (2) When a child reaches the age of 18 years; or

6936 (3) During the period when the child is on active duty with the armed forces of the
 6937 United States.

6938 (c) An emancipation occurs by court order pursuant to a petition filed by a child with the
 6939 juvenile court.

6940 15-11-721.

6941 A child seeking emancipation shall file a petition for emancipation in the juvenile court in
 6942 the county where the child resides. The petition shall be signed and verified by the child,
 6943 and shall include:

6944 (1) The child's full name and birth date and the county and state where the child was
 6945 born;

6946 (2) A certified copy of the child's birth certificate;

6947 (3) The name and last known address of the child's parent, guardian, or legal custodian
 6948 and, if no parent, guardian, or legal custodian can be found, the name and address of the
 6949 child's nearest living relative residing within this state;

6950 (4) The child's present address and length of residency at that address;

6951 (5) A declaration by the child demonstrating the ability to manage his or her financial
 6952 affairs together with any information necessary to support the declaration;

6953 (6) A declaration by the child demonstrating the ability to manage his or her personal and
 6954 social affairs together with any information necessary to support the declaration; and

6955 (7) The names of individuals who have personal knowledge of the child's circumstances
 6956 and believe that under those circumstances emancipation is in the best interests of the
 6957 child. Such individuals may include any of the following:

6958 (A) A licensed physician or osteopath;

6959 (B) A registered professional nurse or licensed practical nurse;

6960 (C) A licensed psychologist;

6961 (D) A licensed professional counselor, social worker, or marriage and family therapist;

6962 (E) A school guidance counselor, school social worker, or school psychologist;

6963 (F) A school administrator, school principal, or school teacher;

6964 (G) A member of the clergy;

6965 (H) A law enforcement officer; or

6966 (I) An attorney.

6967 15-11-722.

6968 (a) Upon filing the petition, a copy of the petition for emancipation and a summons to
 6969 appear at the hearing shall be served on all persons named in the petition and upon any
 6970 individual who provided an affidavit for the emancipation.

6971 (b) A person served with a petition may file an answer in the juvenile court in which the
 6972 petition was filed within 30 days of being served.

6973 15-11-723.

6974 (a) After a petition for emancipation is filed, the court may:

6975 (1) Appoint a guardian ad litem to investigate the allegations of the petition and to file
 6976 a report with the court, including a recommendation as to whether it is in the best
 6977 interests of the child that the petition for emancipation be granted;

6978 (2) Appoint an attorney for the child; and

6979 (3) Appoint an attorney for the child's parent, guardian, or legal custodian if he or she is
 6980 an indigent person and if he or she opposes the petition.

6981 (b) After a petition for emancipation is filed, the court shall seek an affidavit from each
6982 person identified in the petition pursuant to paragraph (7) of Code Section 15-11-721 which
6983 describes why that person believes the child should be emancipated.

6984 15-11-724.

6985 A child who petitions the court for emancipation shall have the burden of showing that
6986 emancipation should be ordered by a preponderance of evidence.

6987 15-11-725.

6988 (a) The court shall issue an emancipation order if, after a hearing, it determines that
6989 emancipation is in the best interests of the child and the child has established:

6990 (1) That the child's parent, guardian, or legal custodian does not object to the petition;
6991 or, if a parent, guardian, or legal custodian objects to the petition, that the best interests
6992 of the child are served by allowing the emancipation to occur by court order;

6993 (2) That the child is a resident of this state;

6994 (3) That the child has demonstrated the ability to manage his or her financial affairs,
6995 including proof of employment or other means of support. 'Other means of support' shall
6996 not include general assistance or aid received from means-tested public assistance
6997 programs such as Temporary Assistance for Needy Families as provided in Article 9 of
6998 Chapter 4 of Title 49 or similar programs under Title IV-A of the federal Social Security
6999 Act;

7000 (4) That the child has the ability to manage his or her personal and social affairs,
7001 including, but not limited to, proof of housing; and

7002 (5) That the child understands his or her rights and responsibilities under this article as
7003 an emancipated child.

7004 (b) If the court issues an emancipation order, the court shall retain a copy of the order until
7005 the emancipated child becomes 25 years of age.

7006 (c) An emancipation obtained by fraud is voidable. Voiding an emancipation order shall
7007 not affect an obligation, responsibility, right, or interest that arose during the period of time
7008 the order was in effect.

7009 (d) The child or the child's parent, guardian, or legal custodian may appeal the court's grant
7010 or denial of an emancipation petition.

7011 15-11-726.

7012 (a) A child emancipated by court order may petition the juvenile court that issued the
7013 emancipation order to rescind such order.

7014 (b) A copy of the petition for rescission and a summons shall be served on the child's
 7015 parent, guardian, or legal custodian.

7016 (c) The court shall grant the petition and rescind the order of emancipation if it finds:

7017 (1) That the child is an indigent person and has no means of support;

7018 (2) That the child and the child's parent, guardian, or legal custodian agree that the order
 7019 should be rescinded; or

7020 (3) That there is a resumption of family relations inconsistent with the existing
 7021 emancipation order.

7022 (d) If a petition for rescission is granted, the court shall issue an order rescinding the
 7023 emancipation order and retain a copy of the order until the child becomes 25 years of age.

7024 (e) Rescission of an emancipation order shall not alter any contractual obligations or rights
 7025 or any property rights or interests that arose during the period of time that the emancipation
 7026 order was in effect.

7027 (f) The child or a parent, guardian, or legal custodian of the child may appeal the court's
 7028 grant or denial of a petition for rescission of an emancipation order. The appeal shall be
 7029 filed in the Court of Appeals.

7030 15-11-727.

7031 (a) A child emancipated by operation of law or by court order shall be considered to have
 7032 the rights and responsibilities of an adult, except for those specific constitutional and
 7033 statutory age requirements regarding voting, use of alcoholic beverages, and other health
 7034 and safety regulations relevant to the child because of his or her age. The rights of a child
 7035 to receive any transfer of property or money pursuant to 'The Georgia Transfers to Minors
 7036 Act' under Article 5 of Chapter 5 of Title 44; under the Uniform Transfers to Minors Act,
 7037 the Uniform Gift to Minors Act, or other substantially similar act of another state; or
 7038 pursuant to a trust agreement shall not be affected by a declaration of an emancipation
 7039 under this article.

7040 (b) A child shall be considered emancipated for the purposes of, but not limited to:

7041 (1) The right to enter into enforceable contracts, including apartment leases;

7042 (2) The right to sue or be sued in his or her own name;

7043 (3) The right to retain his or her own earnings;

7044 (4) The right to establish a separate domicile;

7045 (5) The right to act autonomously, and with the rights and responsibilities of an adult, in
 7046 all business relationships, including, but not limited to, property transactions and
 7047 obtaining accounts for utilities, except for those estate or property matters that the court
 7048 determines may require a conservator or guardian ad litem;

7049 (6) The right to earn a living, subject only to the health and safety regulations designed
 7050 to protect those under the age of 18 regardless of their legal status;

7051 (7) The right to authorize his or her own preventive health care, medical care, dental
 7052 care, and mental health care, without parental knowledge or liability;

7053 (8) The right to apply for a driver's license or other state licenses for which he or she
 7054 might be eligible;

7055 (9) The right to register for school;

7056 (10) The right to apply for medical assistance programs and for other welfare assistance,
 7057 if needed;

7058 (11) The right, if a parent, to make decisions and give authority in caring for his or her
 7059 own minor child; and

7060 (12) The right to make a will.

7061 (c) The parent, guardian, or legal custodian of a child emancipated by court order shall not
 7062 be liable for any debts incurred by the child during the period of emancipation.

7063 15-11-728.

7064 (a) The duty to provide support for a child shall continue until an emancipation order is
 7065 granted.

7066 (b) A child emancipated under this article shall not be considered a dependent child.

7067 (c) The provisions set forth in Code Section 19-3-2 regarding age limitations to contract
 7068 for marriage shall apply to a child who has become emancipated under this article.

7069 ARTICLE 12

7070 15-11-740.

7071 (a) This article shall be known and may be cited as the 'Georgia Child Advocate for the
 7072 Protection of Children Act.'

7073 (b) In keeping with this article's purpose of assisting, protecting, and restoring the security
 7074 of children whose well-being is threatened, it is the intent of the General Assembly that the
 7075 mission of protection of the children of this state should have the greatest legislative and
 7076 executive priority. Recognizing that the needs of children must be attended to in a timely
 7077 manner and that more aggressive action should be taken to protect children from abuse and
 7078 neglect, the General Assembly creates the Office of the Child Advocate for the Protection
 7079 of Children to provide independent oversight of persons, organizations, and agencies
 7080 responsible for providing services to or caring for children who are victims of child abuse
 7081 and neglect, or whose domestic situation requires intervention by the state. The Office of
 7082 the Child Advocate for the Protection of Children will provide children with an avenue

7083 through which to seek relief when their rights are violated by state officials and agents
7084 entrusted with their protection and care.

7085 15-11-741.

7086 As used in this article, the term:

7087 (1) 'Advocate' or 'child advocate' means the Child Advocate for the Protection of
7088 Children established under Code Section 15-11-742.

7089 (2) 'Agency' shall have the same meaning and application as provided for in paragraph
7090 (1) of subsection (a) of Code Section 50-14-1.

7091 (3) 'Child' or 'children' means an individual receiving protective services from DFCS, for
7092 whom DFCS has an open case file, or who has been, or whose siblings, parents, or other
7093 caretakers have been the subject of a report to DFCS within the previous five years.

7094 15-11-742.

7095 (a) There is created the Office of the Child Advocate for the Protection of Children. The
7096 Governor, by executive order, shall create a nominating committee which shall consider
7097 nominees for the position of the advocate and shall make a recommendation to the
7098 Governor. Such person shall have knowledge of the child welfare system, the juvenile
7099 justice system, and the legal system and shall be qualified by training and experience to
7100 perform the duties of the office as set forth in this article.

7101 (b) The advocate shall be appointed by the Governor from a list of at least three names
7102 submitted by the nominating committee for a term of three years and until his or her
7103 successor is appointed and qualified and may be reappointed. The salary of the advocate
7104 shall not be less than \$60,000.00 per year, shall be fixed by the Governor, and shall come
7105 from funds appropriated for the purposes of the advocate.

7106 (c) The Office of the Child Advocate for the Protection of Children shall be assigned to
7107 the Office of Planning and Budget for administrative purposes only, as described in Code
7108 Section 50-4-3.

7109 (d) The advocate may appoint such staff as may be deemed necessary to effectively fulfill
7110 the purposes of this article, within the limitations of the funds available for the purposes
7111 of the advocate. The duties of the staff may include the duties and powers of the advocate
7112 if performed under the direction of the advocate. The advocate and his or her staff shall
7113 receive such reimbursement for travel and other expenses as is normally allowed to state
7114 employees from funds appropriated for the purposes of the advocate.

7115 (e) The advocate shall have the authority to contract with experts in fields including but
7116 not limited to medicine, psychology, education, child development, juvenile justice, mental

7117 health, and child welfare, as needed to support the work of the advocate, utilizing funds
 7118 appropriated for the purposes of the advocate.

7119 (f) Notwithstanding any other provision of state law, the advocate shall act independently
 7120 of any state official, department, or agency in the performance of his or her duties.

7121 (g) The advocate or his or her designee shall be an ex officio member of the State-wide
 7122 Child Abuse Prevention Panel.

7123 15-11-743.

7124 The advocate shall perform the following duties:

7125 (1) Identify, receive, investigate, and seek the resolution or referral of complaints made
 7126 by or on behalf of children concerning any act, omission to act, practice, policy, or
 7127 procedure of an agency or any contractor or agent thereof that may adversely affect the
 7128 health, safety, or welfare of the children;

7129 (2) Refer complaints involving abused children to appropriate regulatory and law
 7130 enforcement agencies;

7131 (3) Coordinate and supervise the work of the Georgia Child Fatality Review Panel
 7132 created by Code Section 19-15-4 and provide such staffing and administrative support to
 7133 the panel as may be necessary to enable the panel to carry out its statutory duties;

7134 (4) Report the death of any child to the chairperson of the child fatality review
 7135 subcommittee of the county in which such child resided at the time of death, unless the
 7136 advocate has knowledge that such death has been reported by the county medical
 7137 examiner or coroner, pursuant to Code Section 19-15-3, and to provide such
 7138 subcommittee access to any records of the advocate relating to such child;

7139 (5) Provide periodic reports on the work of the Office of the Child Advocate for the
 7140 Protection of Children, including but not limited to an annual written report for the
 7141 Governor and the General Assembly and other persons, agencies, and organizations
 7142 deemed appropriate. Such reports shall include recommendations for changes in policies
 7143 and procedures to improve the health, safety, and welfare of children and shall be made
 7144 expeditiously in order to timely influence public policy;

7145 (6) Establish policies and procedures necessary for the Office of the Child Advocate for
 7146 the Protection of Children to accomplish the purposes of this article including without
 7147 limitation providing DFCS with a form of notice of availability of the Office of the Child
 7148 Advocate for the Protection of Children. Such notice shall be posted prominently, by
 7149 DFCS, in DFCS offices and in facilities receiving public moneys for the care and
 7150 placement of children and shall include information describing the Office of the Child
 7151 Advocate for the Protection of Children and procedures for contacting that office; and

7152 (7) Convene quarterly meetings with organizations, agencies, and individuals who work
7153 in the area of child protection to seek opportunities to collaborate and improve the status
7154 of children in Georgia.

7155 15-11-744.

7156 (a) The advocate shall have the following rights and powers:

7157 (1) To communicate privately, by mail or orally, with any child and with each child's
7158 parent, guardian, or legal custodian;

7159 (2) To have access to all records and files of DFCS concerning or relating to a child, and
7160 to have access, including the right to inspect, copy, and subpoena records held by clerks
7161 of the various courts, law enforcement agencies, service providers, including medical and
7162 mental health, and institutions, public or private, with whom a particular child has been
7163 either voluntarily or otherwise placed for care or from whom the child has received
7164 treatment within the state. To the extent any such information provides the names and
7165 addresses of individuals who are the subject of any confidential proceeding or statutory
7166 confidentiality provisions, such names and addresses or related information which has the
7167 effect of identifying such individuals shall not be released to the public without the
7168 consent of such individuals. The Office of the Child Advocate for the Protection of
7169 Children shall be bound by all confidentiality safeguards provided in Code Sections
7170 49-5-40 and 49-5-44. Anyone wishing to obtain records held by the Office of the Child
7171 Advocate shall petition the original agency of record where such records exist;

7172 (3) To enter and inspect any and all institutions, facilities, and residences, public and
7173 private, where a child has been placed by a court or DFCS and is currently residing.
7174 Upon entering such a place, the advocate shall notify the administrator or, in the absence
7175 of the administrator, the person in charge of the facility, before speaking to any children.
7176 After notifying the administrator or the person in charge of the facility, the advocate may
7177 communicate privately and confidentially with children in the facility, individually or in
7178 groups, or the advocate may inspect the physical plant. To the extent possible, entry and
7179 investigation provided by this Code section shall be conducted in a manner which will
7180 not significantly disrupt the provision of services to children;

7181 (4) To apply to the Governor to bring legal action in the nature of a writ of mandamus
7182 or application for injunction pursuant to Code Section 45-15-18 to require an agency to
7183 take or refrain from taking any action required or prohibited by law involving the
7184 protection of children;

7185 (5) To apply for and accept grants, gifts, and bequests of funds from other states, federal
7186 and interstate agencies, independent authorities, private firms, individuals, and

foundations for the purpose of carrying out the lawful responsibilities of the Office of the Child Advocate for the Protection of Children;

(6) When less formal means of resolution do not achieve appropriate results, to pursue remedies provided by this article on behalf of children for the purpose of effectively carrying out the provisions of this article; and

(7) To engage in programs of public education and legislative advocacy concerning the needs of children requiring the intervention, protection, and supervision of courts and state and county agencies.

(b)(1) Upon issuance by the advocate of a subpoena in accordance with this article for law enforcement investigative records concerning an ongoing investigation, the subpoenaed party may move a court with appropriate jurisdiction to quash said subpoena.

(2) The court shall order a hearing on the motion to quash within five days of the filing of the motion to quash, which hearing may be continued for good cause shown by any party or by the court on its own motion. Subject to any right to an open hearing in contempt proceedings, such hearing shall be closed to the extent necessary to prevent disclosure of the identity of a confidential source; disclosure of confidential investigative or prosecution material which would endanger the life or physical safety of any person or persons; or disclosure of the existence of confidential surveillance, investigation, or grand jury materials or testimony in an ongoing criminal investigation or prosecution. Records, motions, and orders relating to a motion to quash shall be kept sealed by the court to the extent and for the time necessary to prevent public disclosure of such matters, materials, evidence, or testimony.

(c) The court shall, at or before the time specified in the subpoena for compliance therewith, enter an order:

(1) Enforcing the subpoena as issued;

(2) Quashing or modifying the subpoena if it is unreasonable and oppressive; or

(3) Conditioning enforcement of the subpoena on the advocate maintaining confidential any evidence, testimony, or other information obtained from law enforcement or prosecution sources pursuant to the subpoena until the time the criminal investigation and prosecution are concluded. Unless otherwise ordered by the court, an investigation or prosecution shall be deemed to be concluded when the information becomes subject to public inspection pursuant to Code Section 50-18-72. The court shall include in its order written findings of fact and conclusions of law.

15-11-745.

(a) No person shall discriminate or retaliate in any manner against any child, parent, guardian, or legal custodian of a child, employee of a facility, agency, institution or other

type of provider, or any other person because of the making of a complaint or providing of information in good faith to the advocate or willfully interfere with the advocate in the performance of his or her official duties.

(b) Any person violating subsection (a) of this Code section shall be guilty of a misdemeanor.

15-11-746.

The advocate shall be authorized to request an investigation by the Georgia Bureau of Investigation of any complaint of criminal misconduct involving a child.

15-11-747.

(a) There is established a Child Advocate Advisory Committee. The advisory committee shall consist of:

(1) One representative of a not for profit children's agency appointed by the Governor;

(2) One representative of a for profit children's agency appointed by the Lieutenant Governor;

(3) One pediatrician appointed by the Speaker of the House of Representatives;

(4) One social worker with experience and knowledge of child protective services who is not employed by the state appointed by the Governor;

(5) One psychologist appointed by the Lieutenant Governor;

(6) One attorney appointed by the Speaker of the House of Representatives from the Children and the Courts Committee of the State Bar of Georgia; and

(7) One juvenile court judge appointed by the Chief Justice of the Supreme Court of Georgia.

Each member of the advisory committee shall serve a two-year term and until the appointment and qualification of such member's successor. Appointments to fill vacancies in such offices shall be filled in the same manner as the original appointment.

(b) The advisory committee shall meet a minimum of three times a year with the advocate and his or her staff to review and assess the following:

(1) Patterns of treatment and service for children;

(2) Policy implications; and

(3) Necessary systemic improvements.

The advisory committee shall also provide for an annual evaluation of the effectiveness of the Office of the Child Advocate for the Protection of Children."

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PART II
CHILDREN AND YOUTH SERVICES
SECTION 2-1.

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Article 1 of Chapter 5 of Title 49 of the Official Code of Georgia Annotated, relating to children and youth services, is amended by adding two new Code sections to read as follows:

"49-5-24.

(a) The department shall adopt a procedure by which a child or young adult as such terms are defined in Code Sections 15-11-2 and 15-11-351, respectively, formerly in foster care may appeal an eligibility determination or the failure of the Division of Family and Children Services of the department to provide aftercare or transitional support services, as set forth in Article 5 Chapter 11 of Title 15, or the termination of such services.

(b) The appeal procedure developed by the department shall be readily available to a child or a young adult formerly in foster care, shall provide timely decisions, and shall provide for an administrative appeal and judicial review of the administrative decision.

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49-5-25.

The department shall develop outcome and other performance measures for the independent living skills program, as set forth in Article 5 Chapter 11 of Title 15, in order to maintain oversight of such program."

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PART III
INDIGENT DEFENSE
SECTION 3-1.

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Chapter 12 of Title 17 of the Official Code of Georgia Annotated, relating to legal defense for indigents, is amended by revising subsection (b) of Code Section 17-12-4, relating to the authority of the council, as follows:

"(b) The council shall establish auditing procedures as may be required in connection with the handling of public funds. The state auditor shall be authorized and directed to make an annual audit of the transactions of the council and to make a complete report of the same to the General Assembly. The annual audit shall disclose all moneys received by the council and all expenditures made by the council by revenue source, including all programs and special projects itemized in the General Appropriations Act. The annual audit shall include an itemization by revenue source of encumbered and reserved money. Revenue sources shall include each county governing authority's expenditures which are made pursuant to Code Sections 17-12-31 and 17-12-32 and city or county expenditures which

7288 are made pursuant to subsection (c) or (d) of Code Section 17-12-23. The state auditor
 7289 shall also make an audit of the affairs of the council at any time when requested to do so
 7290 by a majority of the council or by the Governor or General Assembly."

7291 **SECTION 3-2.**

7292 Said chapter is further amended by revising Code Section 17-12-23, relating to cases in
 7293 which public defender representation is required, as follows:

7294 "17-12-23.

7295 (a) The circuit public defender shall provide representation in the following actions and
 7296 proceedings:

7297 (1) Any case prosecuted in a superior court under the laws of the State of Georgia in
 7298 which there is a possibility that a sentence of imprisonment or probation or a suspended
 7299 sentence of imprisonment may be adjudged;

7300 (2) A hearing on a revocation of probation in a superior court; and

7301 (3) ~~Any juvenile court case where the juvenile may face a disposition of confinement,~~
 7302 ~~commitment, or probation; and~~

7303 (4) Any direct appeal of any of the proceedings enumerated in ~~paragraphs (1) through~~
 7304 ~~(3)~~ paragraph (1) or (2) of this subsection.

7305 (b) In each of the actions and proceedings enumerated in subsection (a) of this Code
 7306 section or when a juvenile faces a disposition of confinement, commitment, or probation,
 7307 entitlement to the services of counsel begins not more than three business days after the
 7308 indigent person is taken into custody or service is made upon him or her of the charge,
 7309 petition, notice, or other initiating process and such person makes an application for
 7310 counsel to be appointed.

7311 (c) ~~Each circuit public defender shall establish a juvenile division within the circuit public~~
 7312 ~~defender office to specialize in the defense of juveniles.~~

7313 (d) A city or county may contract with the circuit public defender office for the provision
 7314 of criminal defense for indigent persons accused of violating city or county ordinances or
 7315 state laws. If a city or county does not contract with the circuit public defender office, the
 7316 city or county shall be subject to all applicable policies and standards adopted by the
 7317 council for representation of indigent persons in this state.

7318 (d) A county may contract with the circuit public defender office for the provision of
 7319 criminal defense for indigent persons facing a disposition of confinement, commitment, or
 7320 probation in a juvenile court and any direct appeal of such proceeding. If a county does not
 7321 contract with the circuit public defender office for the provision of services in juvenile
 7322 court, the county shall be subject to all applicable policies and standards adopted by the

7323 council for representation of indigent persons involved in proceedings in juvenile courts
 7324 of this state."

7325 **SECTION 3-3.**

7326 Said chapter is further amended by revising paragraph (1) of Code Section 17-12-50, relating
 7327 to definitions for recovery of attorney's fees and costs, as follows:

7328 "(1) 'Paid in part' means payment by a county or municipality for a part of the cost of the
 7329 provision of indigent defense services pursuant to a contract with a circuit public
 7330 defender office as set forth in subsection (c) or (d) of Code Section 17-12-23. The term
 7331 shall not include payment by a county or municipality for office space and other supplies
 7332 as set forth in Code Section 17-12-34."

7333 **SECTION 3-4.**

7334 Said chapter is further amended by repealing subsection (e) of Code Section 17-12-51,
 7335 relating to repayment of attorney's fees as a condition of probation, which reads as follows:

7336 "(e) This Code section shall not apply to a disposition involving a child pursuant to
 7337 Chapter 11 of Title 15, relating to juvenile proceedings."

7338 **SECTION 3-5.**

7339 Said chapter is further amended by repealing subsection (d) of Code Section 17-12-52,
 7340 relating to recovery of payment or reimbursement by a county or municipality, which reads
 7341 as follows:

7342 "(d) This Code section shall not apply to proceedings involving a child pursuant to Chapter
 7343 11 of Title 15, relating to juvenile proceedings."

7344 **PART IV**

7345 **CROSS REFERENCES**

7346 **SECTION 4-1.**

7347 Code Section 1-2-8 of the Official Code of Georgia Annotated, relating to rights of minors,
 7348 is revised as follows:

7349 "1-2-8.

7350 The law prescribes certain ages at which persons shall be considered of sufficient maturity
 7351 to discharge certain civil functions, to make contracts, and to dispose of property. Prior to
 7352 those ages they are minors and are, on account of that disability, unable to exercise these
 7353 rights as citizens unless such minor becomes emancipated by operation of law or pursuant
 7354 to Article 6 11 of Chapter 11 of Title 15."

7355

SECTION 4-2.

7356

Code Section 5-7-1 of the Official Code of Georgia Annotated, relating to orders, decisions, or judgments appealable by the state, is amended by revising paragraph (6) of subsection (a) as follows:

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"(6) From an order, decision, or judgment of a superior court transferring a case to the juvenile court pursuant to ~~subparagraph (b)(2)(B) of Code Section 15-11-28~~ 15-11-567;"

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SECTION 4-3.

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Code Section 13-3-20 of the Official Code of Georgia Annotated, relating to minors and contracts for property or valuable consideration and contracts for necessities, is revised as follows:

"13-3-20.

(a) Generally the contract of a minor is voidable. If in a contractual transaction a minor receives property or other valuable consideration and, after arrival at the age of 18, retains possession of such property or continues to enjoy the benefit of such other valuable consideration, the minor shall have thereby ratified or affirmed the contract and it shall be binding on him or her. Such contractual transaction shall also be binding upon any minor who becomes emancipated by operation of law or pursuant to Article ~~6~~ 11 of Chapter 11 of Title 15.

(b) The contract of a minor for necessities shall be binding on the minor as if the minor were 18 years of age except that the party furnishing them to the minor shall prove that the parent or guardian of such minor had failed or refused to supply sufficient necessities for the minor, that the minor was emancipated by operation of law, or the minor was emancipated pursuant to Article ~~6~~ 11 of Chapter 11 of Title 15."

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SECTION 4-4.

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Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by revising subsection (e) of Code Section 15-23-7, relating to collection of additional legal costs in civil actions for purposes of providing court-connected or court-referred alternative dispute resolution programs, as follows:

"(e) Juvenile court supervision fees collected pursuant to Code Section ~~15-11-71~~ 15-11-37 may be used for mediation services provided by court programs pursuant to this chapter."

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SECTION 4-5.

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Said title is further amended by revising Code Section 15-23-10, relating to the determination of need as prerequisite to establishment of program, as follows:

7388 "15-23-10.

7389 No alternative dispute resolution program shall be established for any court unless the
 7390 judge or a majority of the judges of such court determine that there is a need for such
 7391 program in that court. The funding mechanism set forth in this chapter shall be available
 7392 to any court, including the juvenile court, which, having determined that a court-annexed
 7393 or court-referred alternative dispute resolution program would make a positive contribution
 7394 to the ends of justice in that court, has developed a program meeting the standards of the
 7395 Georgia Supreme Court's Uniform Rule for Alternative Dispute Resolution Programs.
 7396 Pursuant to the standards set forth in the Georgia Supreme Court's Uniform Rule for
 7397 Alternative Dispute Resolutions Programs, the funding mechanism set forth in this chapter
 7398 shall be available to court programs in which cases are screened by the judge or by the
 7399 program director under the supervision of the judge on a case-by-case basis to determine
 7400 whether:

- 7401 (1) The case is appropriate for the process;
 7402 (2) The parties are able to compensate the neutral if compensation is required; and
 7403 (3) A need for emergency relief makes referral inappropriate until the request for relief
 7404 is heard by the court."

7405 **SECTION 4-6.**

7406 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is
 7407 amended by revising paragraphs (1) and (3) of subsection (a) of Code Section 16-5-45,
 7408 relating to interference with custody, as follows:

7409 "(1) 'Child' means any individual who is under the age of 17 years or any individual who
 7410 is under the age of 18 years who is alleged to be a ~~deprived dependent~~ child or ~~an unruly~~
 7411 ~~child~~ a child in need of services as such terms are defined in Code Section 15-11-2."

7412 "(3) 'Lawful custody' means that custody inherent in the natural parents, that custody
 7413 awarded by proper authority as provided in Code Section ~~15-11-45~~ 15-11-133, or that
 7414 custody awarded to a parent, guardian, or other person by a court of competent
 7415 jurisdiction."

7416 **SECTION 4-7.**

7417 Said title is further amended by revising paragraph (3) of subsection (a) of Code Section
 7418 16-10-52, relating to escape, as follows:

7419 "(3) Having been adjudicated of a delinquent ~~or unruly~~ act or a juvenile traffic offense,
 7420 or as a child in need of services subject to lawful custody or lawful confinement,
 7421 intentionally escapes from lawful custody or from any place of lawful confinement;"

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SECTION 4-8.

7423

Said title is further amended by revising paragraph (3) of subsection (c) of Code Section 16-11-101.1, relating to furnishing a pistol or revolver to a person under the age of 18 years, as follows:

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"(3) In addition to any other act which violates this subsection, a parent or legal guardian shall be deemed to have violated this subsection if such parent or legal guardian furnishes to or permits possession of a pistol or revolver by any minor who has been convicted of a forcible felony or forcible misdemeanor, as defined in Code Section 16-1-3, or who has been adjudicated delinquent under the provisions of Article 7 of Chapter 11 of Title 15 for an offense which would constitute a forcible felony or forcible misdemeanor, as defined in Code Section 16-1-3, if such minor were an adult."

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SECTION 4-9.

7434

Said title is further amended by revising subsection (b) of Code Section 16-11-127.1, relating to carrying weapons within school safety zones, at school functions, or on school property, as follows:

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"(b)(1) Except as otherwise provided in subsection (c) of this Code section, it shall be unlawful for any person to carry to or to possess or have under such person's control while within a school safety zone or at a school building, school function, or school property or on a bus or other transportation furnished by the school any weapon or explosive compound, other than fireworks the possession of which is regulated by Chapter 10 of Title 25.

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(2) Any license holder who violates this subsection shall be guilty of a misdemeanor. Any person who is not a license holder who violates this subsection shall be guilty of a felony and, upon conviction thereof, be punished by a fine of not more than \$10,000.00, by imprisonment for not less than two nor more than ten years, or both.

(3) Any person convicted of a violation of this subsection involving a dangerous weapon or machine gun, as such terms are defined in Code Section 16-11-121, shall be punished by a fine of not more than \$10,000.00 or by imprisonment for a period of not less than five nor more than ten years, or both.

(4) A child who violates this subsection may be subject to the provisions of Code Section ~~15-11-63~~ 15-11-601."

7453

SECTION 4-10.

7454

Said title is further amended by revising subsection (d) of Code Section 16-11-132, relating to possession of a pistol or revolver by a person under the age of 18 years, as follows:

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7456 "(d) Subsection (c) of this Code section shall not apply to any person under the age of 18
 7457 years who has been convicted of a forcible felony or forcible misdemeanor, as defined in
 7458 Code Section 16-1-3, or who has been adjudicated delinquent under the provisions of
 7459 Article ~~1~~ 7 of Chapter 11 of Title 15 for an offense which would constitute a forcible felony
 7460 or forcible misdemeanor, as defined in Code Section 16-1-3, if such person were an adult."

7461 **SECTION 4-11.**

7462 Said title is further amended by revising paragraph (3) of subsection (a) and subsections (b)
 7463 and (c) of Code Section 16-12-1, relating to contributing to the delinquency, unruliness, or
 7464 deprivation of a minor, as follows:

7465 "(3) 'Minor' means any individual who is under the age of 17 years who is alleged to have
 7466 committed a delinquent act or any individual under the age of 18 years ~~who is alleged to~~
 7467 ~~be a deprived child or an unruly child as such terms are defined in Code Section 15-11-2."~~

7468 "(b) A person commits the offense of contributing to the delinquency, ~~unruliness,~~ or
 7469 ~~deprivation~~ dependency of a minor or causing a child to be in need of services when such
 7470 person:

7471 (1) Knowingly and willfully encourages, causes, abets, connives, or aids a minor in
 7472 committing a delinquent act;

7473 (2) Knowingly and willfully encourages, causes, abets, connives, or aids a minor in
 7474 committing an act which would cause such minor to be ~~found to be an unruly~~ a child in
 7475 need of services as such term is defined in Code Section 15-11-2; provided, however, that
 7476 this paragraph shall not apply to a service provider that notifies the minor's parent,
 7477 guardian, or legal custodian of the minor's location and general state of ~~well-being~~
 7478 well-being as soon as possible but not later than 72 hours after the minor's acceptance of
 7479 services; provided, further, that such notification shall not be required if:

7480 (A) The service provider has reasonable cause to believe that the minor has been
 7481 abused or neglected and makes a child abuse report pursuant to Code Section 19-7-5;

7482 (B) The minor will not disclose the name of the minor's parent, guardian, or legal
 7483 custodian, and the Division of Family and Children Services within the Department of
 7484 Human Services is notified within 72 hours of the minor's acceptance of services; or

7485 (C) The minor's parent, guardian, or legal custodian cannot be reached, and the
 7486 Division of Family and Children Services within the Department of Human Services
 7487 is notified within 72 hours of the minor's acceptance of services;

7488 (3) Willfully commits an act or acts or willfully fails to act when such act or omission
 7489 would cause a minor to be found to be a ~~deprived~~ dependant child as such term is defined
 7490 in Code Section 15-11-2;

7491 (4) Knowingly and willfully hires, solicits, engages, contracts with, conspires with,
 7492 encourages, abets, or directs any minor to commit any felony which encompasses force
 7493 or violence as an element of the offense or delinquent act which would constitute a felony
 7494 which encompasses force or violence as an element of the offense if committed by an
 7495 adult;

7496 (5) Knowingly and willfully provides to a minor any weapon as defined in paragraph (2)
 7497 of subsection (a) of Code Section 16-11-127.1 or any weapon as defined in Code Section
 7498 16-11-121 to commit any felony which encompasses force or violence as an element of
 7499 the offense or delinquent act which would constitute a felony which encompasses force
 7500 or violence as an element of the offense if committed by an adult; or

7501 (6) Knowingly and willfully hires, solicits, engages, contracts with, conspires with,
 7502 encourages, abets, or directs any minor to commit any smash and grab burglary which
 7503 would constitute a felony if committed by an adult.

7504 (c) It shall not be a defense to the offense provided for in this Code section that the minor
 7505 has not been formally adjudged to have committed a delinquent act or has not been found
 7506 to be ~~unruly or deprived~~ dependent or a child in need of services."

7507 SECTION 4-12.

7508 Said title is further amended by revising subsections (c), (e), and (g) of Code Section
 7509 16-12-141.1, relating to disposal of aborted fetuses, as follows:

7510 "(c) Within 90 days after May 10, 2005, the Department of Human Resources (now known
 7511 as the Department of Public Health for these purposes) shall prepare a reporting form for
 7512 physicians which shall include:

7513 (1) The number of females whose parent or guardian was provided the notice required
 7514 in paragraph (1) of subsection (a) of Code Section ~~15-11-112~~ 15-11-682 by the physician
 7515 or such physician's agent; of that number, the number of notices provided personally
 7516 under subparagraphs (a)(1)(A) and (a)(1)(B) of Code Section ~~15-11-112~~ 15-11-682 and
 7517 the number of notices provided by mail under subparagraph (a)(1)(C) of Code Section
 7518 ~~15-11-112~~ 15-11-682; and, of each of those numbers, the number of females who, to the
 7519 best of the reporting physician's information and belief, went on to obtain the abortion;
 7520 (2) The number of females upon whom the physician performed an abortion without
 7521 providing to the parent or guardian of a minor the notice required by subsection (a) of
 7522 Code Section ~~15-11-112~~ 15-11-682; and of that number, the number of females for which
 7523 subsection (b) of Code Section ~~15-11-112~~ 15-11-682 and Code Section ~~15-11-116~~
 7524 15-11-686 were applicable;

7525 (3) The number of abortions performed upon a female by the physician after receiving
 7526 judicial authorization pursuant to subsection (b) of Code Section ~~15-11-112~~ 15-11-682
 7527 and Code Section ~~15-11-114~~ 15-11-684; and

7528 (4) The same information described in paragraphs (1), (2), and (3) of this subsection with
 7529 respect to females for whom a guardian or conservator has been appointed."

7530 "(e) By February 28 of each year following a calendar year in any part of which this
 7531 subsection was in effect, each physician who provided, or whose agent provided, the notice
 7532 described in subsection (a) of Code Section ~~15-11-112~~ 15-11-682 and any physician who
 7533 knowingly performed an abortion upon a female or upon a female for whom a guardian or
 7534 conservator had been appointed because of a finding of incompetency during the previous
 7535 calendar year shall submit to the Department of Public Health a copy of the form described
 7536 in subsection (c) of this Code section with the requested data entered accurately and
 7537 completely."

7538 "(g) By June 30 of each year, the Department of Public Health shall issue a public report
 7539 providing statistics for the previous calendar year compiled from all the reports covering
 7540 that year submitted in accordance with this Code section for each of the items listed in
 7541 subsection (c) of this Code section. The report shall also include statistics which shall be
 7542 obtained by the Administrative Office of the Courts giving the total number of petitions or
 7543 motions filed under subsection (b) of Code Section ~~15-11-112~~ 15-11-682 and, of that
 7544 number, the number in which the court appointed a guardian ad litem, the number in which
 7545 the court appointed counsel, the number in which the judge issued an order authorizing an
 7546 abortion without notification, the number in which the judge denied such an order, and, of
 7547 the last, the number of denials from which an appeal was filed, the number of such appeals
 7548 that resulted in the denials being affirmed, and the number of such appeals that resulted in
 7549 reversals of such denials. Each report shall also provide the statistics for all previous
 7550 calendar years for which such a public statistical report was required to be issued, adjusted
 7551 to reflect any additional information from late or corrected reports. The Department of
 7552 Public Health shall ensure that none of the information included in the public reports could
 7553 reasonably lead to the identification of any individual female or of any female for whom
 7554 a guardian or conservator has been appointed."

7555 SECTION 4-13.

7556 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is
 7557 amended by revising subsection (a) of Code Section 17-7-50.1, relating to time for
 7558 presentment of child's case to a grand jury, as follows:

7559 "(a) Any child who is charged with a crime that is within the jurisdiction of the superior
 7560 court, as provided in Code Section ~~15-11-28~~ 15-11-560 or ~~15-11-30.2~~ 15-11-561, who is

7561 detained shall within 180 days of the date of detention be entitled to have the charge
 7562 against him or her presented to the grand jury. The superior court shall, upon motion for
 7563 an extension of time and after a hearing and good cause shown, grant one extension to the
 7564 original 180 day period, not to exceed 90 additional days."

7565 **SECTION 4-14.**

7566 Said title is further amended by revising paragraph (1) of subsection (a) of Code Section
 7567 17-7-130, relating to proceedings upon a plea of mental incompetency to stand trial, as
 7568 follows:

7569 "(1) 'Child' means an accused person under the jurisdiction of the superior court pursuant
 7570 to Code Section ~~15-11-28~~ 15-11-560."

7571 **SECTION 4-15.**

7572 Said title is further amended by revising subsection (e) of Code Section 17-10-1, relating to
 7573 fixing of sentence, as follows:

7574 "(e) In any case involving a felony in which the defendant previously appeared before a
 7575 juvenile court, the records of the dispositions of the defendant as well as any evidence used
 7576 in any juvenile court hearing shall be available to the district attorney, the defendant, and
 7577 the superior court judge in determining sentencing as provided in Code Section ~~15-11-79.1~~
 7578 15-11-703."

7579 **SECTION 4-16.**

7580 Said title is further amended by revising Code Section 17-10-14, relating to committal of
 7581 person under 17 convicted of a felony, as follows:

7582 "17-10-14.

7583 (a) Notwithstanding any other provisions of this article and except as otherwise provided
 7584 in ~~subsections (b) and (c)~~ subsection (b) of this Code section, in any case where a person
 7585 under the age of 17 years is convicted of a felony and sentenced as an adult to life
 7586 imprisonment or to a certain term of imprisonment, such person shall be committed to the
 7587 Department of Juvenile Justice to serve such sentence in a detention center of such
 7588 department until such person is 17 years of age at which time such person shall be
 7589 transferred to the Department of Corrections to serve the remainder of the sentence. This
 7590 Code section shall apply to any person convicted on or after July 1, 1987, and to any person
 7591 convicted prior to such date who has not been committed to an institution operated by the
 7592 Department of Corrections.

7593 (b) If a child is transferred to superior court according to subsection (b) of Code Section
 7594 ~~15-11-30.2~~ 15-11-561 and convicted of aggravated assault as defined in Chapter 5 of Title

7595 16, the court may sentence such child to the Department of Corrections. Such child shall
 7596 be housed in a designated youth confinement unit until such person is 17 years of age, at
 7597 which time such person may be housed in any other unit designated by the Department of
 7598 Corrections.

7599 ~~(c) In any case where a child 13 to 17 years of age is convicted of a felony provided under~~
 7600 ~~subparagraph (b)(2)(A) of Code Section 15-11-28, such child shall be committed to the~~
 7601 ~~custody of the Department of Corrections and shall be housed in a designated youth~~
 7602 ~~confinement unit until such person is 17 years of age, at which time such person may be~~
 7603 ~~housed in any other unit designated by the Department of Corrections."~~

7604 **SECTION 4-17.**

7605 Said title is further amended by revising paragraph (5) of Code Section 17-14-2, relating to
 7606 definitions regarding restitution, as follows:

7607 "(5) 'Parent' means a person who is the legal mother as defined in ~~paragraph (10.2) of~~
 7608 Code Section 15-11-2, the legal father as defined in ~~paragraph (10.1) of~~ Code Section
 7609 15-11-2, or the legal guardian. Such term shall not include a foster parent."

7610 **SECTION 4-18.**

7611 Said title is further amended by revising subsection (d) of Code Section 17-15-13, relating
 7612 to debt to state created, as follows:

7613 "(d) When a child is adjudicated delinquent in a juvenile court proceeding involving a
 7614 crime upon which a claim under this chapter can be made, the juvenile court in its
 7615 discretion may order that the child pay the debt to the state as an adult would have to pay
 7616 had an adult committed the crime. Any assessments so ordered may be made a condition
 7617 of probation as provided in ~~paragraph (2) of subsection (a) of Code Section 15-11-66~~
 7618 15-11-601."

7619 **SECTION 4-19.**

7620 Said title is further amended by revising subsection (c) of Code Section 17-16-2, relating to
 7621 applicability of rules of discovery, as follows:

7622 "(c) This article shall be deemed to have been automatically invoked, without the written
 7623 notice provided for in subsection (a) of this Code section, when a defendant has sought
 7624 discovery pursuant to Chapter 11 of Title 9, the 'Georgia Civil Practice Act,' pursuant to
 7625 ~~Code Section 15-11-75~~ Part 8 of Article 7 of Chapter 11 of Title 15, or pursuant to the
 7626 Uniform Rules for the Juvenile Courts of Georgia where such discovery material is the
 7627 same as the discovery material that may be provided under this article when a written
 7628 notice is filed pursuant to subsection (a) of this Code section."

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SECTION 4-20.

7630

Said title is further amended by revising subsection (d) of Code Section 19-7-22, relating to petition for legitimation of a child, as follows:

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"(d) A legitimation petition may be filed, pursuant to ~~paragraph (2) of subsection (e) of~~ Code Section ~~15-11-28~~ 15-11-11, in the juvenile court of the county in which a ~~deprivation~~ dependency proceeding regarding the child is pending."

7635

SECTION 4-21.

7636

Said title is further amended by revising paragraph (4) of subsection (a) of Code Section 19-8-10, relating to when surrender or termination of parental rights not required, as follows:

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"(4) Parent has failed to exercise proper parental care or control due to misconduct or inability, as set out in paragraph ~~(2)~~, (3), ~~or (4)~~, or (5) of subsection ~~(b)~~ (a) of Code Section ~~15-11-94~~ 15-11-310,"

7641

SECTION 4-22.

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Said title is further amended by revising subparagraph (a)(3)(D) of Code Section 19-8-11, relating to petitioning superior court to terminate parental rights, as follows:

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"(D) Parent has failed to exercise proper parental care or control due to misconduct or inability, as set out in paragraph ~~(2)~~, (3), ~~or (4)~~, or (5) of subsection ~~(b)~~ (a) of Code Section ~~15-11-94~~ 15-11-310,"

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SECTION 4-23.

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Said title is further amended by revising subsection (g) of Code Section 19-8-13, relating to petition for adoption, as follows:

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"(g) Notwithstanding the provisions of Code Sections 19-8-5 and 19-8-7 and this Code section which require obtaining and attaching a written voluntary surrender and acknowledgment thereof and affidavits of the legal mother and a representative of the petitioner, where the adoption is sought under subsection (a) of Code Section 19-8-5 or 19-8-7 following the termination of parental rights and the placement of the child by the juvenile court pursuant to ~~paragraph (1) of subsection (a) of Code Section 15-11-103~~ 15-11-321, obtaining and attaching to the petition a certified copy of the order terminating parental rights of the parent shall take the place of obtaining and attaching those otherwise required surrenders, acknowledgments, and affidavits."

7659

SECTION 4-24.

7660

Said title is further amended by revising Code Section 19-10A-4, relating to no criminal prosecution for leaving a child in the custody of a medical facility, as follows:

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7662 "19-10A-4.

7663 A mother shall not be prosecuted for ~~the crimes of cruelty to a child, violating~~ Code
 7664 Section 16-5-70; ~~contributing to the delinquency, unruliness, or deprivation of a child,~~
 7665 ~~Code Section 16-12-1; or abandonment of a dependent child, or Code Section 19-10-1;~~
 7666 because of the act of leaving her newborn child in the physical custody of an employee,
 7667 agent, or member of the staff of a medical facility who is on duty, whether there in a paid
 7668 or volunteer position, provided that the newborn child is no more than one week old and
 7669 the mother shows proof of her identity, if available, to the person with whom the newborn
 7670 is left and provides her name and address."

7671 **SECTION 4-25.**

7672 Said title is further amended by revising Code Section 19-10A-6, relating to reimbursement
 7673 of medical costs, as follows:

7674 "19-10A-6.

7675 A medical facility which accepts for inpatient admission a child left pursuant to Code
 7676 Section 19-10A-4 shall be reimbursed by the Department of Human Services for all
 7677 reasonable medical and other reasonable costs associated with the child prior to the child
 7678 being placed in the care of the department. A medical facility shall notify the Department
 7679 of Human Services at such time as the child is left and at the time the child is medically
 7680 ready for discharge. Upon notification that the child is medically ready for discharge, the
 7681 Department of Human Services shall take physical custody of the child within six hours.
 7682 The Department of Human Services upon taking physical custody shall promptly bring the
 7683 child before the juvenile court as required by Code Section ~~15-11-47~~ 15-11-145."

7684 **SECTION 4-26.**

7685 Said title is further amended by revising Code Section 19-13-20, relating to definitions
 7686 regarding family violence shelters, as follows:

7687 "(5) 'Family violence shelter' means a facility approved by the department for the purpose
 7688 of receiving, on a temporary basis, persons who are subject to family violence. Family
 7689 violence shelters are distinguished from shelters operated for detention or placement of
 7690 children only, as provided in subsection (a) of Code Section ~~15-11-48~~ 15-11-504 and
 7691 subsection (c) of Code Section 15-11-135."

7692 **SECTION 4-27.**

7693 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by
 7694 revising paragraph (3) of Code Section 20-1A-30, relating to definitions for background
 7695 checks, as follows:

7696 "(3) 'Crime' means any felony; a violation of Code Section 16-5-23, ~~relating to simple~~
 7697 ~~battery~~, when the victim is a minor; a violation of Code Section 16-12-1, ~~relating to~~
 7698 ~~contributing to the delinquency of a minor~~; a violation of Chapter 6 of Title 16, ~~relating~~
 7699 ~~to sexual offenses~~; a violation of Code Section 16-4-1, ~~relating to criminal attempt~~ when
 7700 the crime attempted is any of the crimes specified by this paragraph; or any other offenses
 7701 committed in another jurisdiction which, if committed in this state, would be one of the
 7702 enumerated crimes listed in this paragraph."

7703 **SECTION 4-28.**

7704 Said title is further amended by revising subsection (b) of Code Section 20-2-670, relating
 7705 to requirements for transferring students beyond sixth grade, as follows:

7706 "(b) In lieu of complying with the provision of subsection (a) of this Code section, a
 7707 transferring student may be admitted on a conditional basis if he or she and his or her
 7708 parent or legal guardian executes a document providing the name and address of the school
 7709 last attended and authorizing the release of all academic and disciplinary records to the
 7710 school administration. The parent or guardian shall be notified of the transfer of such
 7711 records and shall, upon written request made within ten days of such notice, be entitled to
 7712 receive a copy of such records. Within five days of the receipt of a copy of such records,
 7713 the parent or guardian may make a written request for and shall be entitled to a hearing
 7714 before the principal of the school or his or her designee which is the custodian of such
 7715 records for the purpose of challenging the content of the records. The student or his or her
 7716 parent or legal guardian shall also disclose on the same document as the release whether
 7717 the child has ever been adjudicated guilty of the commission of a designated felony act as
 7718 defined in Code Section ~~15-11-63~~ 15-11-2 and, if so, the date of such adjudication, the
 7719 offense committed, the jurisdiction in which such adjudication was made, and the sentence
 7720 imposed. Any form document to authorize the release of records which is provided by a
 7721 school to a transferring student or such student's parent or legal guardian shall include a list
 7722 of designated felony acts. The student or his or her parent or legal guardian shall also
 7723 disclose on the document whether the student is currently serving a suspension or expulsion
 7724 from another school, the reason for such discipline, and the term of such discipline. If a
 7725 student so conditionally admitted is found to be ineligible for enrollment pursuant to the
 7726 provisions of Code Section 20-2-751.2, or is subsequently found to be so ineligible, he or
 7727 she shall be dismissed from enrollment until such time as he or she becomes so eligible."

7728 **SECTION 4-29.**

7729 Said title is further amended by revising Code Section 20-2-671, relating to transfer students
 7730 who have committed felony acts, as follows:

7731 "20-2-671.

7732 If any school administrator determines from the information obtained pursuant to Code
 7733 Section ~~15-11-63~~ 15-11-602 or 20-2-670 or from any other source that a student has
 7734 committed a designated felony act, such administrator shall so inform all teachers to whom
 7735 the student is assigned that they may review the information in the student's file provided
 7736 pursuant to subsection (b) of Code Section 20-2-670 received from other schools or from
 7737 the juvenile courts. Such information shall be kept confidential."

7738 **SECTION 4-30.**

7739 Said title is further amended by revising paragraph (14) of subsection (c) and subsection (g)
 7740 of Code Section 20-2-690.2, relating to establishment of student attendance protocol
 7741 committee, membership and protocol, summary of penalties for failure to comply, and
 7742 reporting, as follows:

7743 "(14) The court approved community based risk reduction program established by the
 7744 juvenile court in accordance with Code Section ~~15-11-10~~ 15-11-38, if such a program has
 7745 been established."

7746 "(g) The committee shall write the summary of possible consequences and penalties for
 7747 failing to comply with compulsory attendance under Code Section 20-2-690.1 for children
 7748 and their parents, guardians, or other persons who have control or charge of children for
 7749 distribution by schools in accordance with Code Section 20-2-690.1. The summary of
 7750 possible consequences for children shall include possible dispositions for ~~unruly~~ children
 7751 in need of services and possible denial or suspension of a driver's license for a child in
 7752 accordance with Code Section 40-5-22."

7753 **SECTION 4-31.**

7754 Said title is further amended by revising Code Section 20-2-699, relating to the disposition
 7755 of children taken into custody, as follows:

7756 "20-2-699.

7757 Any person assuming temporary custody of a child pursuant to Code Section 20-2-698
 7758 shall immediately deliver the child either to the parent, guardian, or other person having
 7759 control or charge of the child or to the school from which the child is absent, or if the child
 7760 is found to have been adjudged a delinquent or ~~unruly~~ in need of services, ~~he~~ the person
 7761 shall cause the child to be brought before the probation officer of the county having
 7762 jurisdiction over such child."

SECTION 4-32.

Said title is further amended by revising subsection (d) of Code Section 20-2-751.2, relating to students subject to disciplinary orders of other school systems, as follows:

"(d) If any school administrator determines from the information obtained pursuant to this Code section or from Code Section ~~15-11-28~~ or ~~15-11-80~~ 15-11-599, 15-11-602, or 15-11-707 that a student has been convicted of or has been adjudicated to have committed an offense which is a designated felony act under Code Section ~~15-11-63~~ 15-11-2, such administrator shall so inform all teachers to whom the student is assigned and other school personnel to whom the student is assigned. Such teachers and other certificated professional personnel as the administrator deems appropriate may review the information in the student's file provided pursuant to this Code section that has been received from other schools or from the juvenile courts or superior courts. Such information shall be kept confidential."

SECTION 4-33.

Said title is further amended by revising Code Section 20-2-766.1, relating to proceeding against parents for failure to cooperate in educational programs, as follows:

"20-2-766.1.

The local board of education may, by petition to the juvenile court, proceed against a parent or guardian as provided in this Code section. If the court finds that the parent or guardian has willfully and unreasonably failed to attend a conference requested by a principal pursuant to Code Section 20-2-765 or 20-2-766, the court may order the parent or guardian to attend such a conference, order the parent or guardian to participate in such programs or such treatment as the court deems appropriate to improve the student's behavior, or both. After notice and opportunity for hearing, the court may impose a fine, not to exceed \$500.00, on a parent or guardian who willfully disobeys an order of the court entered under this Code section. The court may use its contempt and other powers specified in Code Section ~~15-11-5~~ 15-11-31 to enforce any order entered under this Code section."

SECTION 4-34.

Said title is further amended by revising subsection (a) of Code Section 20-2-768, relating to expulsion or suspension of students for felonies, as follows:

"(a) Each local board of education is authorized to refuse to readmit or enroll any student who has been suspended or expelled for being convicted of, being adjudicated to have committed, being indicted for, or having information filed for the commission of any felony or any delinquent act under Code Section ~~15-11-28~~ Sections 15-11-602 and 15-11-707 which would be a felony if committed by an adult. If refused readmission or

7798 enrollment, the student or the student's parent or legal guardian has the right to request a
7799 hearing pursuant to the procedures provided for in Code Section 20-2-754."

7800 **SECTION 4-35.**

7801 Said title is further amended by revising subparagraph (B) of paragraph (1) of Code Section
7802 20-3-660, relating to program of grants for foster children created, as follows:

7803 "(B) The student is currently committed to the Division of Family and Children
7804 Services within the Department of Human Services under Code Section ~~15-11-55~~
7805 15-11-212 and placed in a family foster home or is placed in accordance with
7806 subparagraph (a)(2)(C) of Code Section ~~15-11-2~~ 15-11-212;"

7807 **SECTION 4-36.**

7808 Title 24 of the Official Code of Georgia Annotated, relating to evidence, is amended by
7809 revising subsection (b) of Code Section 24-6-603, relating to oath or affirmation, as follows:

7810 "(b) Notwithstanding the provisions of subsection (a) of this Code section, in all
7811 proceedings involving ~~deprivation~~ dependency as defined by Code Section 15-11-2 and in
7812 all criminal proceedings in which a child was a victim of or witness to any crime, the child
7813 shall be competent to testify, and the child's credibility shall be determined as provided in
7814 this chapter."

7815 **SECTION 4-37.**

7816 Said title is further amended by revising subsection (q) of Code Section 24-12-21, relating
7817 to disclosure of AIDS confidential information, as follows:

7818 "(q) A public safety agency or prosecuting attorney may obtain the results from an HIV
7819 test to which the person named in the request has submitted under Code Section ~~15-11-66.1~~
7820 15-11-603, 17-10-15, 42-5-52.1, or 42-9-42.1, notwithstanding that the results may be
7821 contained in a sealed record."

7822 **SECTION 4-38.**

7823 Code Section 31-22-9.2 of the Official Code of Georgia Annotated, relating to HIV tests and
7824 reports of positive results, is amended by revising subsection (c) as follows:

7825 "(c) Unless exempted under this Code section, each health care provider who orders an
7826 HIV test for any person shall do so only after counseling the person to be tested. Unless
7827 exempted under this subsection, the person to be tested shall have the opportunity to refuse
7828 the test. The provisions of this subsection shall not be required if the person is required to
7829 submit to an HIV test pursuant to Code Section ~~15-11-66.1~~ 15-11-603, 17-10-15,
7830 31-17-4.2, 31-17A-3, 42-5-52.1, or 42-9-42.1. The provisions of this subsection shall not

7831 be required if the person is a minor or incompetent and the parent or guardian thereof
 7832 permits the test after compliance with this subsection. The provisions of this subsection
 7833 shall not be required if the person is unconscious, temporarily incompetent, or comatose
 7834 and the next of kin permits the test after compliance with this subsection. The provisions
 7835 of this subsection shall not apply to emergency or life-threatening situations. The
 7836 provisions of this subsection shall not apply if the physician ordering the test is of the
 7837 opinion that the person to be tested is in such a medical or emotional state that disclosure
 7838 of the test would be injurious to the person's health. The provisions of this subsection shall
 7839 only be required prior to drawing the body fluids required for the HIV test and shall not be
 7840 required for each test performed upon that fluid sample."

7841 **SECTION 4-39.**

7842 Title 35 of the Official Code of Georgia Annotated, relating to law enforcement officers and
 7843 agencies, is amended by revising subsection (c) of Code Section 35-3-33, relating to powers
 7844 and duties of the Georgia Crime Information Center, as follows:

7845 "(c) The provisions of this article notwithstanding, information and records of children
 7846 shall only be inspected and disclosed as provided in Code Sections ~~15-11-82~~ 15-11-702 and
 7847 ~~15-11-83~~ 15-11-708. Such records and information shall be sealed or destroyed according
 7848 to the procedures outlined in Code Sections ~~15-11-79.2~~ 15-11-701 and ~~15-11-81~~
 7849 15-11-709."

7850 **SECTION 4-40.**

7851 Said title is further amended by revising subparagraph (B) of paragraph (7) of Code Section
 7852 35-8-2, relating to definitions regarding peace officers, as follows:

7853 "(B) The Office of Permits and Enforcement of the Department of Transportation, the
 7854 Department of Juvenile Justice and its institutions and facilities for the purpose of
 7855 personnel who are authorized to exercise the power of arrest and who are employed or
 7856 appointed by said department or institutions, and the office or section in the Department
 7857 of Juvenile Justice in which persons are assigned who have been designated by the
 7858 commissioner to investigate and apprehend ~~unruly and~~ delinquent children and any
 7859 child with a pending juvenile court case alleging the child to be in need of services;
 7860 and"

7861 **SECTION 4-41.**

7862 Code Section 36-32-10 of the Official Code of Georgia Annotated, relating to jurisdiction
 7863 in cases of furnishing alcoholic beverages, is amended by revising subsection (e) as follows:

7864 "(e) Nothing in this Code section shall affect the original and exclusive jurisdiction of the
7865 juvenile court as set forth in Code Section ~~15-11-28~~ 15-11-10."

7866 **SECTION 4-42.**

7867 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is
7868 amended by revising subsection (g) of Code Section 40-5-75, relating to suspension of
7869 licenses by operation of law, as follows:

7870 "(g) Notwithstanding the provisions of Code Section ~~15-11-72~~ 15-11-606 and except as
7871 provided in subsection (c) of this Code section, an adjudication of a minor child as a
7872 delinquent child ~~or an unruly child~~ for any offense listed in subsection (a) of this Code
7873 section shall be deemed a conviction for purposes of this Code section."

7874 **SECTION 4-43.**

7875 Said title is further amended by revising subsection (l) of Code Section 40-6-391, relating
7876 to driving under the influence of alcohol, drugs, or other intoxicating substances, as follows:

7877 "(l) A person who violates this Code section while transporting in a motor vehicle a child
7878 under the age of 14 years is guilty of the separate offense of endangering a child by driving
7879 under the influence of alcohol or drugs. The offense of endangering a child by driving
7880 under the influence of alcohol or drugs shall not be merged with the offense of driving
7881 under the influence of alcohol or drugs for the purposes of prosecution and sentencing. An
7882 offender who is convicted of a violation of this subsection shall be punished in accordance
7883 with the provisions of subsection (d) of Code Section 16-12-1, ~~relating to the offense of~~
7884 ~~contributing to the delinquency, unruliness, or deprivation of a child.~~"

7885 **SECTION 4-44.**

7886 Code Section 44-5-41 of the Official Code of Georgia Annotated, relating to voidance and
7887 ratification of conveyance to or by a minor, is revised as follows:

7888 "44-5-41.

7889 A deed, security deed, bill of sale to secure debt, or any other conveyance of property or
7890 interest in property to or by a minor is voidable unless such minor has become emancipated
7891 by operation of law or pursuant to Article ~~6~~ 11 of Chapter 11 of Title 15. If a minor has
7892 conveyed property or an interest in property, the minor may void the conveyance upon
7893 arrival at the age of 18; and, if the minor makes another conveyance at that time, it will
7894 void the first conveyance without reentry or repossession. If property or an interest in
7895 property has been conveyed to a minor and, after arrival at the age of 18, the minor retains
7896 the possession or benefit of the property or interest in property, the minor shall have
7897 thereby ratified or affirmed the conveyance."

7898

SECTION 4-45.

7899

Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees, is amended by revising paragraph (7) of Code Section 45-9-81, relating to definitions regarding certain indemnification, as follows:

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"(7) 'Law enforcement officer' means any agent or officer of this state, a political subdivision or municipality of this state, or an authority of this state or a political subdivision of this state who, as a full-time or part-time employee, is vested either expressly by law or by virtue of public employment or service with authority to enforce the criminal or traffic laws with the power of arrest and whose duties include the preservation of public order, the protection of life and property, or the prevention, detection, or investigation of crime. Such term also includes the employees designated by the commissioner of juvenile justice ~~of the Department of Juvenile Justice~~ pursuant to paragraph (2) of subsection (i) of Code Section 49-4A-8, which employees have the duty to investigate and apprehend delinquent ~~and unruly~~ children and any child with a pending juvenile court case alleging the child to be in need of services who ~~have~~ has escaped from a facility under the jurisdiction of the Department of Juvenile Justice or who ~~have~~ has broken the conditions of supervision. Such term also includes members of the Georgia National Guard, the composition of which is set forth in Code Section 38-2-3, who have been called into active state service by the Governor."

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SECTION 4-46.

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Said title is further amended by revising paragraph (7) of Code Section 45-9-101, relating to definitions regarding certain compensation, as follows:

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"(7) 'Law enforcement officer' means any agent or officer of this state, or a political subdivision or municipality thereof, who, as a full-time or part-time employee, is vested either expressly by law or by virtue of public employment or service with authority to enforce the criminal or traffic laws and whose duties include the preservation of public order, the protection of life and property, or the prevention, detection, or investigation of crime. Such term also includes the employees designated by the commissioner of juvenile justice ~~of the Department of Juvenile Justice~~ pursuant to paragraph (2) of subsection (i) of Code Section 49-4A-8, which employees have the duty to investigate and apprehend delinquent ~~and unruly~~ children and any child with a pending juvenile court case alleging the child to be in need of services who ~~have~~ has escaped from a facility under the jurisdiction of the Department of Juvenile Justice or who ~~have~~ has broken the conditions of supervision. Such term also includes members of the Georgia National Guard, the composition of which is set forth in Code Section 38-2-3, who have been called into active state service by the Governor."

SECTION 4-47.

Said title is further amended by revising subsection (a) of Code Section 45-20-1, relating to purposes and principles of personnel administration, as follows:

"(a) It is the purpose of this article to establish in the state a system of personnel administration which will attract, select, and retain the best employees based on merit, free from coercive political influences, with incentives in the form of equal opportunities for all; which will provide technically competent and loyal personnel to render impartial service to the public at all times and to render such service according to the dictates of ethics and morality; and which will remove unnecessary and inefficient employees. It is specifically the intent of the General Assembly to promote this purpose by allowing agencies greater flexibility in personnel management so as to promote the overall effectiveness and efficiency of state government. To this end, and in accordance with Code Sections 45-20-2 and 45-20-6, all positions filled after July 1, 1996, shall be included in the unclassified service of the State Personnel Administration, except as provided in Code Section ~~15-11-24.3~~ 15-11-68. It is also specifically the intent of the General Assembly that employees in the classified service prior to July 1, 1996, shall continue to be employees in the classified service so long as they remain in classified positions or as otherwise provided by law. It is further specifically the intent of the General Assembly that state government operate within a framework of consistent core personnel policies and practices across all state agencies and entities and that the state's most valued resource, its employees, be managed in a manner to promote work force productivity and sound business practices."

SECTION 4-48.

Said title is further amended by revising subsection (a) of Code Section 45-20-6, relating to composition of classified and unclassified service, as follows:

"(a) The classified service as defined by Code Section 45-20-2 shall consist of only those employees who were in the classified service on June 30, 1996, and who have remained in a classified position without a break in service since that date. Any officer or employee who occupies a classified position under the State Personnel Administration prior to July 1, 1996, or as provided in Code Section ~~15-11-24.3~~ 15-11-68 shall remain in the classified service so long as such officer or employee shall remain in a classified position or as otherwise provided by law. Employees in the classified service shall have, upon completing a working test period, appeal rights as provided in Code Sections 45-20-8 and 45-20-9."

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SECTION 4-49.

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Title 49 of the Official Code of Georgia Annotated, relating to social services, is amended by revising paragraph (3) of Code Section 49-4A-1, relating to definitions regarding the Department of Juvenile Justice, as follows:

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"(3) '~~Delinquent or unruly~~ child or youth or a child in need of services' means any person so adjudged under Article ~~± 6 or 7~~ of Chapter 11 of Title 15."

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SECTION 4-50.

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Said title is further amended by revising subsection (b) of Code Section 49-4A-2, relating to the creation of the Board of Juvenile Justice, as follows:

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"(b) The board shall provide leadership in developing programs to successfully rehabilitate ~~juvenile delinquents and unruly~~ children adjudicated delinquent or in need of services committed to the state's custody and to provide technical assistance to private and public entities for prevention programs for children at risk."

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SECTION 4-51.

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Said title is further amended by revising Code Section 49-4A-4, relating to purpose of chapter, as follows:

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"49-4A-4.

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It is the purpose of this chapter to establish the department as the agency to administer, supervise, and manage juvenile detention facilities. Except for the purposes of administration, supervision, and management as provided in this chapter, juvenile detention facilities shall continue to be detention care facilities for delinquent ~~and unruly~~ children and youth and children in need of services who have violated a valid court order for the purposes of Article ~~± 6 or 7~~ of Chapter 11 of Title 15, ~~relating to juvenile courts and juvenile proceedings.~~"

7991

SECTION 4-52.

7992

Said title is further amended by revising paragraphs (1) and (2) of subsection (a) and the introductory language of subsection (b) of Code Section 49-4A-7, relating to powers and duties of the department, as follows:

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"(1) Accept for detention in a youth development center or other juvenile detention facility any child who is committed to the department under Article ~~± 7~~ of Chapter 11 of Title 15;

(2) Provide probation and parole and other court services for children and youth pursuant to a request from a court under Article ~~± 7~~ of Chapter 11 of Title 15;"

8000 "(b) When given legal custody over a child or youth for detention in a youth development
8001 center or other facility under court order under Article † 7 of Chapter 11 of Title 15, the
8002 department shall have:"

8003 **SECTION 4-53.**

8004 Said title is further amended by revising Code Section 49-4A-8, relating to commitment of
8005 delinquent or unruly children, as follows:

8006 "49-4A-8.

8007 (a) When any child or youth is adjudged to be in a state of delinquency ~~or unruliness~~ or
8008 a child in need of services who has violated a valid court order under Article † 6 or 7 of
8009 Chapter 11 of Title 15 and the court does not release such child or youth unconditionally
8010 or place him or her on probation or in a suitable public or private institution or agency, the
8011 court may commit ~~him~~ such child to the department as provided in said Article † 6 or 7 of
8012 Chapter 11 of Title 15; provided, however, that no delinquent ~~or unruly~~ child or youth or
8013 child in need of services who has violated a valid court order shall be committed to the
8014 department until the department certifies to the Governor that it has facilities available and
8015 personnel ready to assume responsibility for delinquent ~~or unruly~~ children and youths and
8016 children in need of services who have violated a valid court order.

8017 (b) When the court commits a delinquent ~~or unruly~~ child or a child in need of services who
8018 has violated a valid court order to the department, it may order the child conveyed
8019 forthwith to any facility designated by the department or direct that the child be left at
8020 liberty until otherwise ordered by the department under such conditions as will ensure his
8021 or her availability and submission to any orders of the department. If such delinquent ~~or~~
8022 ~~unruly~~ child or child in need of services who has violated a valid court order is ordered
8023 conveyed to the department, the court shall assign an officer or other suitable person to
8024 convey such child to any facility designated by the department, provided that the person
8025 assigned to convey a girl must be a female. The cost of conveying such child committed
8026 to the department to the facility designated by the department shall be paid by the county
8027 from which such child is committed, provided that no compensation shall be allowed
8028 beyond the actual and necessary expenses of the party conveying and the child conveyed.

8029 (c) When a court commits a delinquent ~~or unruly~~ child or a child in need of services who
8030 has violated a valid court order to the department, the court shall at once forward to the
8031 department a certified copy of the order of commitment and the court, the probation officer,
8032 the prosecuting and police authorities, the school authorities, and other public officials shall
8033 make available to the department all pertinent information in their possession with respect
8034 to the case. Such reports shall, if the department so requests, be made upon forms
8035 furnished by the department or according to an outline provided by the department.

8036 (d)(1) When a delinquent ~~or unruly~~ child or a child in need of services who has violated
 8037 a valid court order has been committed to the department, the department shall, under
 8038 rules and regulations established by the board, forthwith examine and study the child and
 8039 investigate all pertinent circumstances of his or her life and behavior. The department
 8040 shall make periodic reexaminations of all ~~delinquent or unruly~~ such children within its
 8041 control, except those on release under supervision of the department. Such
 8042 reexaminations may be made as frequently as the department considers desirable and
 8043 shall be made with respect to every child at intervals not exceeding one year. Failure of
 8044 the department to examine a ~~delinquent or unruly child~~ such a child committed to it or to
 8045 reexamine him or her within one year of a previous examination shall not of itself entitle
 8046 the child to discharge from control of the department but shall entitle the child to petition
 8047 the committing court for an order of discharge; and the court shall discharge him or her
 8048 unless the department, upon due notice, satisfies the court of the necessity of further
 8049 control.

8050 (2) The department shall keep written records of all examinations and reexaminations,
 8051 of conclusions based thereon, and of all orders concerning the disposition or treatment
 8052 of every delinquent ~~or unruly~~ child and every child in need of services who has violated
 8053 a valid court order subject to its control. Records as may be maintained by the
 8054 department with respect to a delinquent ~~or unruly~~ child or a child in need of services who
 8055 has violated a valid court order committed to the department shall not be public records
 8056 but shall be privileged records and may be disclosed by direction of the commissioner
 8057 pursuant to federal law in regard to disseminating juvenile criminal history records only
 8058 to those persons having a legitimate interest therein; provided, however, that the
 8059 commissioner shall permit the Council of Juvenile Court Judges to inspect and copy such
 8060 records for the purposes of obtaining statistics on juveniles.

8061 (e) Except as provided by subsection (e.1) of this Code section and subsection ~~(b)~~ (c) of
 8062 Code Section ~~15-11-70~~ 15-11-602, when a delinquent ~~or unruly~~ child or a child in need of
 8063 services who has violated a valid court order has been committed to the department for
 8064 detention and a diagnostic study for the purpose of determining the most satisfactory plan
 8065 for the child's care and treatment has been completed, the department may:

8066 (1) Permit the child liberty under supervision and upon such conditions as the department
 8067 may believe conducive to acceptable behavior;

8068 (2) Order the child's confinement under such conditions as the department may believe
 8069 best designed to serve the child's welfare and as may be in the best interest of the public;

8070 (3) Order reconfinement or renewed release as often as conditions indicate to be
 8071 desirable;

8072 (4) Revoke or modify any order of the department affecting the child, except an order
8073 of final discharge, as often as conditions indicate to be desirable; or

8074 (5) Discharge the child from control of the department pursuant to Code Section
8075 15-11-32 and subsection ~~(a)~~ (c) of Code Section ~~15-11-70~~ 15-11-607 when it is satisfied
8076 that such discharge will best serve the child's welfare and the protection of the public.

8077 (e.1)(1) When a child who has been adjudicated delinquent for the commission of a
8078 designated felony act as defined in Code Section ~~15-11-63~~ 15-11-2 is released from
8079 confinement or custody of the department, it shall be the responsibility of the department
8080 to provide notice to any person who was the victim of the child's delinquent acts that the
8081 child is being released from confinement or custody.

8082 (2) As long as a good faith attempt to comply with paragraph (1) of this subsection has
8083 been made, the department and employees of the department shall not be liable for
8084 damages incurred by reason of the department's failure to provide the notice required by
8085 paragraph (1) of this subsection.

8086 (3) When a child convicted of a felony offense in a superior court is released from
8087 confinement or custody of the department, the department shall provide written notice,
8088 including the delinquent or designated felony act committed, to the superintendent of the
8089 school system in which such child was enrolled or, if the information is known, the
8090 school in which such child was enrolled or plans to be enrolled.

8091 (4) As long as a good faith attempt to comply with paragraph (3) of this subsection has
8092 been made, the department and employees of the department shall not be liable for
8093 damages incurred by reason of the department's failure to provide notice required by
8094 paragraph (3) of this subsection.

8095 (f) As a means of correcting the socially harmful tendencies of a delinquent ~~or unruly~~ child
8096 or a child in need of services who has violated a valid court order committed to it, the
8097 department may:

8098 (1) Require participation by youth in moral, academic, vocational, physical, and
8099 correctional training and activities, and provide youth the opportunity for religious
8100 activities where practicable in the institutions under the control and supervision of the
8101 department;

8102 (2) Require such modes of life and conduct as may seem best adapted to fit and equip
8103 him or her for return to full liberty without danger to the public;

8104 (3) Provide such medical, psychiatric, or casework treatment as is necessary; or

8105 (4) Place him or her, if physically fit, in a park, maintenance camp, or forestry camp or
8106 on a ranch owned by the state or by the United States and require any child so housed to
8107 perform suitable conservation and maintenance work, provided that the children shall not

8108 be exploited and that the dominant purpose of such activities shall be to benefit and
8109 rehabilitate the children rather than to make the camps self-sustaining.

8110 (g) When funds are available, the department may:

8111 (1) Establish and operate places for detention and diagnosis of all delinquent ~~or unruly~~
8112 children or children in need of services who have violated a valid court order committed
8113 to it;

8114 (2) Establish and operate additional treatment and training facilities, including parks,
8115 forestry camps, maintenance camps, ranches, and group residences necessary to classify
8116 and handle juvenile delinquents of different ages and habits and different mental and
8117 physical conditions, according to their needs; and

8118 (3) Establish parole or aftercare supervision to aid children given conditional release to
8119 find homes and employment and otherwise to assist them to become reestablished in the
8120 community and to lead socially acceptable lives.

8121 (h) Whenever the department finds that any ~~delinquent or unruly~~ child committed to the
8122 department is mentally ill or ~~mentally retarded~~ developmentally disabled, the department
8123 shall have the power to return such ~~delinquent or unruly~~ child to the court of original
8124 jurisdiction for appropriate disposition by that court or may, if it so desires, request the
8125 court having jurisdiction in the county in which the youth development center or other
8126 facility is located to take such action as the condition of the child may require.

8127 (i)(1) A child who has been committed to the department ~~as a delinquent or unruly child~~
8128 for detention in a youth development center or who has been otherwise taken into custody
8129 and who has escaped therefrom or who has been placed under supervision and broken the
8130 conditions thereof may be taken into custody without a warrant by a sheriff, deputy
8131 sheriff, constable, police officer, probation officer, parole officer, or any other officer of
8132 this state authorized to serve criminal process, upon a written request made by an
8133 employee of the department having knowledge of the escape or of the violation of
8134 conditions of supervision. Before a child may be taken into custody for violation of the
8135 conditions of supervision, the written request mentioned above must be reviewed by the
8136 commissioner or his or her designee. If the commissioner or his or her designee finds
8137 that probable cause exists to believe that the child has violated his or her conditions of
8138 supervision, he or she may issue an order directing that the child be picked up and
8139 returned to custody.

8140 (2) The commissioner may designate as a peace officer who is authorized to exercise the
8141 power of arrest any employee of the department whose full-time duties include the
8142 preservation of public order, the protection of life and property, the detection of crime,
8143 or the supervision of delinquent ~~and unruly~~ children or children in need of services who
8144 have violated a valid court order in its institutions, facilities, or programs, or any

8145 employee who is a line supervisor of any such employee. The commissioner also may
 8146 designate as a peace officer who is authorized to exercise the power of arrest any
 8147 employee of a person or organization which contracts with the department pertaining to
 8148 the management, custody, care, and control of delinquent children or children in need of
 8149 services who have violated a valid court order retained by the person or organization, if
 8150 that employee's full-time duties include the preservation of public order, the protection
 8151 of life and property, the detection of crime, or the supervision of delinquent ~~and unruly~~
 8152 children or children in need of services who have violated a valid court order in the
 8153 department's institutions, facilities, or programs, or any employee who is a line supervisor
 8154 of such employee. The commissioner may designate one or more employees of the
 8155 department to investigate and apprehend delinquent ~~and unruly~~ children or children in
 8156 need of services who have violated a valid court order who have escaped from an
 8157 institution or facility or who have broken the conditions of supervision; provided,
 8158 however, that the employees so designated shall only be those with primary responsibility
 8159 for the security functions of youth development centers or whose primary duty consists
 8160 of the apprehension of youths who have escaped from such institutions or facilities or
 8161 who have broken the conditions of supervision. An employee of the department so
 8162 designated shall have the police power to investigate, to apprehend such children, and to
 8163 arrest any person physically interfering with the proper apprehension of such children.
 8164 An employee of the department so designated in the investigative section of the
 8165 department shall have the power to obtain a search warrant for the purpose of locating
 8166 and apprehending such children. Additionally, such employee, while on the grounds or
 8167 in the buildings of the department's institutions or facilities, shall have the same law
 8168 enforcement powers, including the power of arrest, as a law enforcement officer of the
 8169 local government with police jurisdiction over such institutions or facilities. Such
 8170 employee shall be authorized to carry weapons, upon written approval of the
 8171 commissioner, notwithstanding Code Sections 16-11-126 and 16-11-129. The
 8172 commissioner shall also be authorized to designate any person or organization with whom
 8173 the department contracts for services pertaining to the management, custody, care, and
 8174 control of delinquent ~~and unruly~~ children or children in need of services who have
 8175 violated a valid court order detained by the person or organization as a law enforcement
 8176 unit under paragraph (7) of Code Section 35-8-2. Any employee or person designated
 8177 under this subsection shall be considered to be a peace officer within the meaning of
 8178 Chapter 8 of Title 35 and must be certified under that chapter.

8179 (3) For the purposes of investigation of delinquent ~~or unruly~~ children or children in need
 8180 of services who have violated a valid court order who have escaped from institutions or
 8181 facilities of the department or of delinquent ~~or unruly~~ children or children in need of

8182 services who have violated a valid court order who are alleged to have broken the
 8183 conditions of supervision, the department is empowered and authorized to request and
 8184 receive from the Georgia Crime Information Center, established by Chapter 3 of Title 35,
 8185 any information in the files of the Georgia Crime Information Center which will aid in
 8186 the apprehension of such children.

8187 (4) An employee designated pursuant to paragraph (2) of this subsection may take a child
 8188 into custody without a warrant upon personal knowledge or written request of a person
 8189 having knowledge of the escape or violation of conditions of supervision, or a child may
 8190 be taken into custody pursuant to Code Section ~~15-11-45~~ 15-11-501. When taking a child
 8191 into custody pursuant to this paragraph, a designated employee of the department shall
 8192 have the power to use all force reasonably necessary to take the child into custody.

8193 (5) The child shall be kept in custody in a suitable place designated by the department
 8194 and there detained until such child may be returned to the custody of the department.

8195 (6) Such taking into custody shall not be termed an arrest; provided, however, that any
 8196 person taking a child into custody pursuant to this subsection shall have the same
 8197 immunity from civil and criminal liability as a peace officer making an arrest pursuant
 8198 to a valid warrant.

8199 (j) The department shall ensure that each delinquent ~~or unruly~~ child or child in need of
 8200 services who has violated a valid court order it releases under supervision or otherwise has
 8201 suitable clothing, transportation to his or her home or to the county in which a suitable
 8202 home or employment has been found for him or her, and such an amount of money as the
 8203 rules and regulations of the board may authorize. The expenditure for clothing and for
 8204 transportation and the payment of money to a delinquent ~~or unruly~~ child or a child in need
 8205 of services who has violated a valid court order released may be made from funds for
 8206 support and maintenance appropriated by the General Assembly to the department or to the
 8207 institution from which such child is released or from local funds.

8208 (k) Every child committed to the department as delinquent ~~or unruly~~, if not already
 8209 discharged, shall be discharged from custody of the department when he reaches his or her
 8210 twenty-first birthday.

8211 (l) Commitment of a delinquent ~~or unruly~~ child to the custody of the department shall not
 8212 operate to disqualify such child in any future examination, appointment, or application for
 8213 public service under the government either of the state or of any political subdivision
 8214 thereof.

8215 (m) A commitment to the department shall not be received in evidence or used in any way
 8216 in any proceedings in any court, except in subsequent proceedings for delinquency or
 8217 ~~unruliness~~ being in need of services involving the same child and except in imposing
 8218 sentence in any criminal proceeding against the same person.

8219 (n) The department shall conduct a continuing inquiry into the effectiveness of treatment
 8220 methods it employs in seeking the rehabilitation of maladjusted children. To this end, the
 8221 department shall maintain a statistical record of arrests and commitments of its wards
 8222 subsequent to their discharge from the jurisdiction and control of the department and shall
 8223 tabulate, analyze, and publish in print or electronically annually these data so that they may
 8224 be used to evaluate the relative merits of methods of treatment. The department shall
 8225 cooperate with courts and public and private agencies in the collection of statistics and
 8226 information regarding juvenile delinquency; arrests made; complaints, informations, and
 8227 petitions filed; the disposition made thereof; and other information useful in determining
 8228 the amount and causes of juvenile delinquency in this state. In order to facilitate the
 8229 collection of such information, the department shall be authorized to inspect and copy all
 8230 records of the court and law enforcement agencies pertaining to juveniles.

8231 (o) When a child who is committed to the department is under court order to make certain
 8232 restitution as a part of his or her treatment by the court, the requirement that the restitution
 8233 be paid in full shall not cease with the order of commitment. The provision of the order
 8234 requiring restitution shall remain in force and effect during the period of commitment and
 8235 the department is empowered to enforce said restitution requirement and to direct that
 8236 payment of funds or notification of service completed be made to the clerk of the juvenile
 8237 court or another employee of that court designated by the judge."

8238 **SECTION 4-54.**

8239 Said title is further amended by revising subsection (b) of Code Section 49-4A-9, relating to
 8240 sentence of youthful offenders, as follows:

8241 "(b) Any final order of judgment by the court in the case of any such child shall be subject
 8242 to such modification from time to time as the court may consider to be for the welfare of
 8243 such child. No commitment of any child to any institution or other custodial agency shall
 8244 deprive the court of jurisdiction to change the form of the commitment or transfer the
 8245 custody of the child to some other institution or agency on such conditions as the court may
 8246 see fit to impose, the duty being constant upon the court to give to all children subject to
 8247 its jurisdiction such oversight and control in the premises as will be conducive to the
 8248 welfare of the child and the best interests of the state; provided, however, that the release
 8249 or parole of any child committed to the department for detention in any of its institutions
 8250 under the terms of this chapter during the period of one year from the date of commitment
 8251 shall be had only with the concurrence and recommendation of the commissioner or the
 8252 commissioner's designated representative; provided, further, that upon releasing or paroling
 8253 any child adjudicated delinquent for the commission of a designated felony act as defined
 8254 in Code Section ~~15-11-63~~ 15-11-2 and committed to the department for detention in any

8255 of its institutions under the terms of this chapter, the department shall provide notice to any
 8256 person who was the victim of the child's delinquent acts that the child is being released or
 8257 paroled. As long as a good faith attempt to comply with the notice requirement of this
 8258 subsection has been made, the department and employees of the department shall not be
 8259 liable for damages incurred by reason of the department's failure to provide the notice
 8260 required by this subsection."

8261 **SECTION 4-55.**

8262 Said title is further amended by revising paragraphs (3), (5), (12), and (16) of Code Section
 8263 49-5-3, relating to definitions regarding services for children and youth, as follows:

8264 "(3) 'Child welfare and youth services' means duties and functions authorized or required
 8265 by this article to be provided by the department with respect to:

8266 (A) Establishment and enforcement of standards for social services and facilities for
 8267 children and youths which supplement or substitute for parental care and supervision
 8268 for the purpose of preventing or remedying or assisting in the solution of problems
 8269 which may result in neglect, abuse, exploitation, or delinquency of children and youths;

8270 (B) Protecting and caring for ~~deprived~~ dependent children and youths;

8271 (C) Protecting and promoting the welfare of children of working mothers;

8272 (D) Providing social services to children and youths and their parents and care for
 8273 children and youths born out of wedlock and their mothers;

8274 (E) Promotion of coordination and cooperation among organizations, agencies, and
 8275 citizen groups in community planning, organization, development, and implementation
 8276 of such services; and

8277 (F) Otherwise protecting and promoting the welfare of children and youths, including
 8278 the strengthening of their homes where possible or, where needed, the provision of
 8279 adequate care of children and youths away from their homes in foster family homes or
 8280 day-care or other child care facilities."

8281 "(5) '~~Deprived~~ Dependent child or youth' means any person so adjudged under Chapter
 8282 11 of Title 15."

8283 "(12) 'Legal custody' means a legal status created by court order embodying the
 8284 following rights and responsibilities:

8285 (A) The right to have the physical possession of the child;

8286 (B) The right and the duty to protect, train, and discipline the child;

8287 (C) The responsibility to provide the child with food, clothing, shelter, education, and
 8288 ordinary medical care; and

8289 (D) The right to determine where and with whom the child shall live,

8290 provided that these rights and responsibilities shall be exercised subject to the powers,
 8291 rights, duties, and responsibilities of the guardian of the person of the child and subject
 8292 to any residual parental rights and responsibilities. These rights shall be subject to
 8293 judicial oversight and review pursuant to Code Section ~~15-11-55~~ 15-11-212."

8294 "(16) 'Protective supervision' means a legal status created by court order following
 8295 adjudication in a ~~deprivation~~ dependency case, whereby a child's place of abode is not
 8296 changed but assistance directed at correcting the ~~deprivation~~ dependency is provided
 8297 through the court or an agency designated by the court."

8298 SECTION 4-56.

8299 Said title is further amended by revising paragraphs (1) and (2) of subsection (a) of Code
 8300 Section 49-5-8, relating to powers and duties of the department, as follows:

8301 "(1) Preventive services as follows:

8302 (A) Collecting and disseminating information about the problems of children and
 8303 youths and providing consultative assistance to groups, public and private, interested
 8304 in developing programs and services for the prevention, control, and treatment of
 8305 dependency, ~~deprivation~~, and delinquency among the children of this state; and

8306 (B) Research and demonstration projects designed to add to the store of information
 8307 about the social and emotional problems of children and youths and improve the
 8308 methods for dealing with these problems;

8309 (2) Child welfare services as follows:

8310 (A) Casework services for children and youths and for mothers bearing children out
 8311 of wedlock, whether living in their own homes or elsewhere, to help overcome
 8312 problems that result in dependency, ~~deprivation~~, or delinquency;

8313 (B) Protective services that will investigate complaints of ~~deprivation~~, abuse, or
 8314 abandonment of children and youths by parents, guardians, custodians, or persons
 8315 serving in loco parentis and, on the basis of the findings of such investigation, offer
 8316 social services to such parents, guardians, custodians, or persons serving in loco
 8317 parentis in relation to the problem or bring the situation to the attention of a law
 8318 enforcement agency, an appropriate court, or another community agency;

8319 (C) Supervising and providing required services and care involved in the interstate
 8320 placement of children;

8321 (D) Homemaker service, or payment of the cost of such service, when needed due to
 8322 the absence or incapacity of the mother;

8323 (E) Boarding care, or payment of maintenance costs, in foster family homes or in
 8324 group-care facilities for children and youths who cannot be adequately cared for in their
 8325 own homes;

- 8326 (F) Boarding care or payment of maintenance costs for mothers bearing children out
 8327 of wedlock prior to, during, and for a reasonable period after childbirth; and
 8328 (G) Day-care services for the care and protection of children whose parents are absent
 8329 from the home or unable for other reasons to provide parental supervision;"

8330 **SECTION 4-57.**

8331 Said title is further amended by revising subsection (e) of Code Section 49-5-41, relating to
 8332 persons and agencies permitted access to records, as follows:

8333 "(e) Notwithstanding any other provisions of law, with the exception of medical and
 8334 mental health records made confidential by other provisions of law, child abuse and
 8335 ~~deprivation~~ dependency records applicable to a child who at the time of his or her fatality
 8336 or near fatality was:

- 8337 (1) In the custody of a state department or agency or foster parent;
 8338 (2) A child as defined in paragraph (3) of Code Section ~~15-11-171~~ 15-11-741; or
 8339 (3) The subject of an investigation, report, referral, or complaint under Code Section
 8340 ~~15-11-173~~ 15-11-743

8341 shall not be confidential and shall be subject to Article 4 of Chapter 18 of Title 50, relating
 8342 to open records; provided, however, that any identifying information, including but not
 8343 limited to the child or caretaker's name, race, ethnicity, address, or telephone numbers and
 8344 any other information that is privileged or confidential, shall be redacted to preserve the
 8345 confidentiality of the child, other children in the household, and the child's parents,
 8346 guardians, custodians, or caretakers. Upon the release of documents pursuant to this
 8347 subsection, the department may comment publicly on the case."

8348 **SECTION 4-58.**

8349 Said title is further amended by revising paragraph (3) of Code Section 49-5-60, relating to
 8350 definitions for employee record checks for day-care centers, as follows:

8351 "(3) 'Crime' means any felony; a violation of Code Section 16-5-23, ~~relating to simple~~
 8352 ~~battery~~, when the victim is a minor; a violation of Code Section 16-12-1, ~~relating to~~
 8353 ~~contributing to the delinquency of a minor~~; a violation of Chapter 6 of Title 16, ~~relating~~
 8354 ~~to sexual offenses~~; excluding the offenses of bigamy or marrying a bigamist; a violation
 8355 of Code Section 16-4-1, ~~relating to criminal attempt~~ when the crime attempted is any of
 8356 the crimes specified by this paragraph; or any other offenses committed in another
 8357 jurisdiction which, if committed in this state, would be one of the enumerated crimes
 8358 listed in this paragraph."

SECTION 4-59.

Said title is further amended by revising paragraph (2) of Code Section 49-5-110, relating to definitions for record checks for persons supervising children, as follows:

"(2) 'Crime' means a violation of Code Section 16-5-23, ~~relating to simple battery~~, when the victim is a minor; a violation of Code Section 16-5-24, ~~relating to aggravated battery~~, when the victim is a minor; a violation of Code Section 16-5-70, ~~relating to cruelty to children~~; a violation of Code Section 16-12-1, ~~relating to contributing to the delinquency of a minor~~; a violation of Chapter 6 of Title 16, ~~relating to sexual offenses~~, excluding the offenses of bigamy or marrying a bigamist; a felony violation of Chapter 13 of Title 16; a violation of Code Section 16-5-1, ~~relating to murder and felony murder~~; a violation of Code Section 16-4-1, ~~relating to criminal attempt~~ as it concerns attempted murder; or any other offense committed in another jurisdiction which, if committed in this state, would be deemed to be one of the enumerated crimes listed in this paragraph."

SECTION 4-60.

Said title is further amended by revising paragraph (2) of Code Section 49-5-131, relating to definitions, as follows:

"(2) 'Child' means a person under the age of 17 years who is alleged to have committed a delinquent act or a person under the age of 18 years who is alleged to be deprived dependent or is alleged to be a status offender child in need of services as those terms are defined by Code Section 15-11-2."

SECTION 4-61.

Said title is further amended by revising paragraphs (15) and (18) of subsection (a) of Code Section 49-5-281, relating to bill of rights for foster parents, as follows:

"(15) The right to participate in the case planning and decision-making process with the Division of Family and Children Services regarding the child as provided in Code Section ~~15-11-58~~ 15-11-201;"

"(18) The right to be notified in advance, in writing, by the Division of Family and Children Services or the court of any hearing or review where the case plan or permanency of the child is an issue, including initial and periodic reviews held by the court in accordance with Code Section 15-11-216 or by the Judicial Citizen Review Panel in accordance with Code Section 15-11-217, hearings following revocation of the license of an agency which has permanent custody of a child in accordance with Code Section 31-2-6, and permanency plan hearings, ~~and motions to extend custody, in accordance with Code Section 15-11-58~~ in accordance with Code Section 15-11-230;"

SECTION 4-62.

Code Section 52-7-12 of the Official Code of Georgia Annotated, relating to operation of watercraft while under the influence of alcohol or drugs, is amended by revising subsection (l) as follows:

"(l) A person who violates this Code section while transporting in a moving vessel or personal watercraft or towing on water skis, an aquaplane, a surfboard or similar device a child under the age of 14 years is guilty of the separate offense of endangering a child by operating a moving vessel or personal watercraft under the influence of alcohol or drugs. The offense of endangering a child by operating a moving vessel or personal watercraft under the influence of alcohol or drugs shall not be merged with the offense of operating a vessel under the influence of alcohol or drugs for the purposes of prosecution and sentencing. An offender who is convicted of a violation of this subsection shall be punished in accordance with the provisions of subsection (d) of Code Section 16-12-1; ~~relating to the offense of contributing to the delinquency, unruliness, or deprivation of a child.~~"

PART V**EFFECTIVE DATE, APPLICABILITY, AND REPEALER****SECTION 5-1.**

This Act shall become effective on July 1, 2013, and shall apply to all juvenile proceedings commenced on and after such date. The enactment of this Act shall not affect any prosecutions for acts occurring before July 1, 2013, and shall not act as an abatement of any such prosecutions.

SECTION 5-2.

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