

## House Bill 641 (COMMITTEE SUBSTITUTE)

By: Representatives Willard of the 49<sup>th</sup>, Lindsey of the 54<sup>th</sup>, Abrams of the 84<sup>th</sup>, Collins of the 27<sup>th</sup>, Oliver of the 83<sup>rd</sup>, and others

## A BILL TO BE ENTITLED

## AN ACT

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

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

38 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

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

44 "CHAPTER 11  
 45 ARTICLE 1

46 15-11-1.

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

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

62 15-11-2.

63 As used in this chapter, the term:

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

66 Intent may be evidenced by:

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

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

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

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

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

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

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

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

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

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

87 (2) 'Abuse' means:

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

91 (B) Emotional abuse;

92 (C) Sexual abuse or sexual exploitation;

93 (D) Prenatal abuse; or

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

96 course of conduct. As used in this subparagraph, the term 'presence' means physically  
 97 present or able to see or hear.

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

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

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

105 (A) Abandoned an infant;

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

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

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

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

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

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

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

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

124 (A) Under the age of 18 years;

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

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

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

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

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

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

170 prosecution, adjudication, correctional supervision, or rehabilitation of children or adults  
 171 who are accused of, convicted of, adjudicated of, or charged with crimes, delinquent acts  
 172 or the collection, storage, and dissemination of criminal history record information.

173 (16) 'DBHDD' means the Department of Behavioral Health and Developmental  
 174 Disabilities.

175 (17) 'Delinquent act' means:

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

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

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

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

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

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

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

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

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

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

193 (A) Aggravated assault;

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

196 (C) Armed robbery not involving a firearm;

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

198 (E) Attempted murder;

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

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

202 (H) Hijacking a motor vehicle;

203 (I) Kidnapping or attempted kidnapping;

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

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

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

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

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

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

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

262 (29) 'Foster care' means placement in foster family homes, child care institutions, or  
 263 another substitute care setting approved by the department. Such term shall exclude  
 264 secure detention facilities or other facilities operated primarily for the purpose of  
 265 detention of a child adjudicated delinquent.

266 (30) 'Guardian ad litem' means an individual appointed to assist the court in determining  
 267 the best interests of a child.

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

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

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

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

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

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

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

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

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

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

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

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

295 (38) 'Legal custodian' means:

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

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

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

302 (A) Has legally adopted a child;

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

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

309 (D) Has been determined to be the father by a final paternity order pursuant to Article  
 310 3 of Chapter 7 of Title 19; or

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

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

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

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

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

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

327 (44) 'Neglect' means:

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

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

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

334 (45) 'Other persons who have demonstrated an ongoing commitment to the child'  
 335 includes:

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

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

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

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

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

350 (49) 'Permanent placement' means:

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

352 (B) Placement of a child with an adoptive parent pursuant to a final order of adoption;

353 or

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

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

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

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

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

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

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

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

437 (66) 'Sibling' means a person with whom the child shares one or both parents in common  
 438 by blood, adoption, or marriage, even if the marriage was terminated by death or  
 439 dissolution.

440 (67) 'Statutory overnight delivery' means delivery of notice as provided in Code Section  
 441 9-10-12.

442 (68) 'Visitation' means a period of access to a child by a parent, guardian, legal  
 443 custodian, sibling, other relative, or other person who has demonstrated an ongoing  
 444 commitment to the child in order to maintain parental and familial involvement in the  
 445 child's life when the child is not residing with such person.

446 (69) 'Weekend' means Saturday or Sunday.

447 15-11-3.

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

450 15-11-4.

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

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

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

455 15-11-5.

456 (a) When a period of time measured in days, weeks, months, years, or other measurements  
 457 of time except hours is prescribed for the exercise of any privilege or the discharge of any  
 458 duty, the first day shall not be counted but the last day shall be counted; and, if the last day

459 falls on a weekend, the party having such privilege or duty shall have through the following  
460 business day to exercise such privilege or discharge such duty.

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

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

467 15-11-6.

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

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

472 15-11-7.

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

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

487 15-11-8.

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

490 15-11-9.

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

495 15-11-10.

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

498 (1) Concerning any child who:

499 (A) Is alleged to be delinquent;

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

501 (C) Is alleged to be dependent;

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

504 (E) Is alleged to have committed a juvenile traffic offense as defined in Code Section  
 505 15-11-630;

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

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

515 (H) Requires a comprehensive services plan in accordance with Code Section  
 516 15-11-658; or

517 (2) Involving any proceedings:

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

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

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

524 (D) For the termination of the legal parent-child relationship and the rights of the  
 525 biological father who is not the legal father of the child, other than that in connection

526 with adoption proceedings under Article 1 of Chapter 8 of Title 19, in which the  
 527 superior courts shall have concurrent jurisdiction to terminate the legal parent-child  
 528 relationship and the rights of the biological father who is not the legal father of the  
 529 child;

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

531 (F) Under Article 9 of this chapter, relating to prior notice to a parent, guardian, or  
 532 legal custodian relative to an unemancipated minor's decision to seek an abortion; or

533 (G) Brought by a local board of education pursuant to Code Section 20-2-766.1  
 534 relating to court orders requiring that a parent, guardian, or legal custodian attend a  
 535 conference or participate in programs or treatment to improve a student's behavior.

536 15-11-11.

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

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

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

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

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

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

548 15-11-12.

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

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

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

559 15-11-13.

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

565 15-11-14.

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

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

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

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

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

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

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

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

587 15-11-15.

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

592 (b) If the referral is for investigation and determination, then the juvenile court shall  
 593 proceed to handle the matter in the same manner as though the action originated under this

594 chapter in compliance with the order of the superior court, except that the parties shall not  
 595 be entitled to obtain an appointed attorney through the juvenile court.

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

598 15-11-16.

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

600 (1) By an order of transfer of a case from another court as provided in Code Section  
 601 15-11-11 or 15-11-567 or subsection (f) of Code Section 29-2-6 or subsection (b) of Code  
 602 Section 29-2-8;

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

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

609 (b) The petition and all other documents in the proceeding shall be entitled 'In the interest  
 610 of \_\_\_\_\_, a child,' except upon appeal.

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

614 15-11-17.

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

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

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

622 (d) A juvenile court judge, an associate juvenile court judge, a judge pro tempore of the  
 623 juvenile court, or any person sitting as a juvenile court judge may conduct hearings in  
 624 connection with any proceeding under this chapter in any county within the judicial circuit.  
 625 When a superior court judge sits as a juvenile court judge, hearings in connection with any  
 626 proceeding under this chapter may be heard before such judge in any county within the  
 627 judicial circuit over which the judge presides.

628 15-11-18.

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

633 15-11-19.

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

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

642 15-11-20.

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

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

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

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

653 15-11-21.

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

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

659 15-11-22.

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

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

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

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

674 15-11-23.

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

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

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

679 15-11-24.

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

682 (b) A mediator shall terminate mediation when:

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

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

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

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

689 15-11-25.

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

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

694 15-11-26.

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

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

700 (2) The love, affection, bonding, and emotional ties existing between the child and each  
701 parent or person available to the care for the child;

702 (3) The love, affection, bonding, and emotional ties existing between the child and his  
703 or her siblings, half siblings, and stepsiblings and the residence of such other children;

704 (4) The child's need for permanence, including the child's need for stability and  
705 continuity of relationships with a parent, siblings, other relatives, and any other person  
706 who has provided significant care of the child;

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

709 (6) The capacity and disposition of each parent or person available to care for the child  
710 to give the child love, affection, and guidance and to continue the education and rearing  
711 of the child;

712 (7) The home environment of each parent or person available to care for the child  
713 considering the promotion of nurturance and safety of the child rather than superficial or  
714 material factors;

715 (8) The stability of the family unit and the presence or absence of support systems within  
716 the community to benefit the child;

717 (9) The mental and physical health of all individuals involved;

718 (10) The home, school, and community record and history of the child, as well as any  
719 health or educational special needs of the child;

720 (11) The child's community ties, including church, school, and friends;

721 (12) The child's background and ties, including familial, cultural, and religious;

722 (13) The least disruptive placement alternative for the child;

723 (14) The uniqueness of every family and child;

724 (15) The risks attendant to entering and being in substitute care;

725 (16) The child's wishes and long-term goals;

726 (17) The preferences of the persons available to care for the child;

727 (18) Any evidence of family violence, substance abuse, criminal history, or sexual,  
 728 mental, or physical child abuse in any current, past, or considered home for the child;  
 729 (19) Any recommendation by a court appointed custody evaluator or guardian ad litem;  
 730 and  
 731 (20) Any other factors considered by the court to be relevant and proper to its  
 732 determination.

733 15-11-27.

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

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

743 15-11-28.

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

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

757 15-11-29.

758 (a) In any proceeding under this chapter, either on application of a party or on the court's  
 759 own motion, the court may make an order restraining or otherwise controlling the conduct  
 760 of a person if due notice of the application or motion and the grounds therefor and an

761 opportunity to be heard thereon have been given to the person against whom the order is  
 762 directed. Such an order may require any such person:

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

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

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

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

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

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

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

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

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

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

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

786 15-11-30.

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

792 15-11-31.

793 (a) In addition to all other inherent powers of the court to enforce its lawful orders, the  
 794 court may punish an adult for contempt of court by imprisonment for not more than 20

795 days or a fine not to exceed \$1,000.00 for willfully disobeying an order of the court or for  
 796 obstructing or interfering with the proceedings of the court or the enforcement of its orders.

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

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

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

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

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

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

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

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

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

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

823 15-11-32.

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

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

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

827 (3) Newly discovered evidence so requires.

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

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

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

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

842 15-11-33.

843 (a) Whenever an order of disposition incorporates a reunification plan and the residence  
844 of the parent is not in the county of the court with jurisdiction or the residence of the parent  
845 changes to a county other than the county of the court with jurisdiction, the court may  
846 transfer jurisdiction to the juvenile court of the residence of the parent to whom the  
847 reunification plan is directed.

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

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

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

856 15-11-34.

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

860 15-11-35.

861 In all cases of final judgments of the juvenile court, appeals shall be taken to the Court of  
862 Appeals or the Supreme Court in the same manner as appeals from the superior court.  
863 However, no such judgment or order shall be superseded except in the discretion of the trial

864 court; rather, the judgment or order of the court shall stand until reversed or modified by  
865 the reviewing court.

866 15-11-36.

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

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

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

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

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

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

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

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

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

896 15-11-37.

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

900 (1) Housing in nonsecure facilities;

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

902 (3) Counseling and diagnostic testing;

903 (4) Mediation;

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

905 (6) Truancy intervention services;

906 (7) Restitution programs;

907 (8) Job development or work experience programs;

908 (9) Community services; and

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

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

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

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

917 The child and each parent, guardian, or legal custodian of the child may be jointly and  
 918 severally liable for the payment of such fee and shall be subject to the enforcement  
 919 procedure in subsection (c) of Code Section 15-11-36. The judge shall provide that any  
 920 such fees shall be imposed on such terms and conditions as shall assure that the funds for  
 921 the payment are from moneys earned by the child. All moneys collected by the clerk under  
 922 this subsection shall be transferred to the county treasurer, or such other county official or  
 923 employee who performs duties previously performed by the treasurer, who shall deposit  
 924 the moneys into a county supplemental juvenile services fund. The governing authority of  
 925 the county shall appropriate moneys from the county supplemental juvenile services fund  
 926 to the juvenile court for the court's discretionary use in providing supplemental community  
 927 based services described in subsection (a) of this Code section to child offenders. These  
 928 funds shall be administered by the county and the court may draw upon them by submitting  
 929 invoices to the county. The county supplemental juvenile services fund may be used only  
 930 for these services. Any moneys remaining in the fund at the end of the county fiscal year  
 931 shall not revert to any other fund but shall continue in the county supplemental juvenile

932 services fund. The county supplemental juvenile services fund may not be used to replace  
933 other funding of services.

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

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

938 15-11-38.

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

945 (b) As part of a risk reduction program, a court may implement or adopt an early  
946 intervention program designed to identify children and families who are at risk of  
947 becoming involved with the court. Such early intervention program shall be for the  
948 purpose of developing and implementing intervention actions or plans to divert the children  
949 and their families from becoming involved in future cases in the court. The court's  
950 involvement shall be for the limited purpose of facilitating the development of the program  
951 and for the purpose of protecting the confidentiality of the children and families  
952 participating in the program.

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

962 (d) When any agency or entity participating in a protocol agreement identifies a child who  
963 is at risk of becoming delinquent, dependent, or a child in need of services, the agency or  
964 entity shall refer the case to a multiagency staffing panel. The panel shall develop a  
965 multiagency intervention plan for the child. The child or the parent, or both, may be  
966 present during any review of the child's case by the panel. The parent, guardian, or legal  
967 custodian of the child shall be notified of the plan by the agency making the referral or by

968 a person or entity designated by the panel to administer the program. The staff of the court,  
969 but not the judge, shall work with the other agencies involved to educate the parent and the  
970 child on the importance of following the plan and on the consequences if either the parent  
971 or the child is referred to the court. If an intervention plan is developed for a child and the  
972 parent, guardian, or legal custodian consents to the plan, the failure to comply with the plan  
973 or any portion thereof may constitute the basis for a referral to DFCS.

974 15-11-39.

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

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

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

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

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

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

996 (e) If a child or a parent, guardian, or legal custodian objects to the case plan, the court  
997 shall conduct a hearing. The court may decline to adopt the case plan or may confirm or  
998 modify the case plan. In implementing a case plan, the court shall have available all of the  
999 protective powers set forth in Code Section 15-11-29, without the necessity of a show  
1000 cause hearing, unless objection is made to the case plan.

1001 15-11-40.

1002 (a) Notwithstanding any provision contained in this chapter or in any rule or regulation  
1003 adopted by any department, board, or agency of the state to the contrary, the court and any  
1004 individual, public or private agency, or other entity participating in a community based risk  
1005 reduction program may exchange, as necessary, information, medical records, school  
1006 records, immigration records, records of adjudication, treatment records, and any other  
1007 records or information which may aid in the assessment of and intervention with the  
1008 children and families in the program if such exchange of information is ordered by the  
1009 court or consented to by the parties. Such information shall be used by such individuals  
1010 and agencies only for the purposes provided in this chapter and as authorized by the court  
1011 for the purpose of implementing the case plan and for the purposes permitted under each  
1012 agency's own rules and regulations. Such information shall not be released to any other  
1013 individual or agency except as may be necessary to effect the appropriate treatment or  
1014 intervention as provided in the case plan. Such information shall otherwise remain  
1015 confidential as required by state and federal law and the court may punish any violations  
1016 of confidentiality as contempt of court.

1017 (b) Any person who authorizes or permits any unauthorized person or agency to have  
1018 access to confidential records or reports of child abuse shall be guilty of a misdemeanor.  
1019 Any person who knowingly and under false pretenses obtains or attempts to obtain  
1020 confidential records or reports of child abuse or information contained therein shall be  
1021 guilty of a misdemeanor.

1022 (c) Confidential records or reports of child abuse and information obtained from such  
1023 records may not be made a part of any record which is open to the public except that a  
1024 prosecuting attorney may use and make public that record or information in the course of  
1025 any criminal prosecution for any offense which constitutes or results from child abuse.

1026 (d) This Code section shall not abridge the provisions relating to confidentiality of patient  
1027 or client records and shall not serve to destroy or in any way abridge the confidential or  
1028 privileged character thereof.

1029 15-11-41.

1030 (a) Except as otherwise provided in Code Section 15-11-710, entities governed by federal  
1031 or state privacy laws may require the following before sharing confidential information:

1032 (1) For release of child abuse records by the department, a subpoena and subsequent  
1033 order of the court requiring the release of such information in accordance with Code  
1034 Section 49-5-41;

1035 (2) For release of information relating to diagnosis, prognosis, or treatment of drug and  
1036 alcohol abuse;

- 1037 (A) If the person is 18 or has been emancipated, consent from the person to whom such  
 1038 information relates;
- 1039 (B) If the person is under the age of 18 years and has not been emancipated, valid  
 1040 consent from such person's parent, guardian, or legal custodian or consent by a parent,  
 1041 guardian, or legal custodian to a confidentiality agreement between the health care  
 1042 provider and the unemancipated minor; provided, however, that consent from an  
 1043 unemancipated minor shall be sufficient for the release of such information if the  
 1044 unemancipated minor is allowed by law to consent to the health care service to which  
 1045 the records relate without the consent of a parent, guardian, or legal custodian and the  
 1046 unemancipated minor has not designated anyone as a personal representative; or
- 1047 (C) A subpoena requiring the release of such information and protective order of the  
 1048 court regarding the release of such information; and
- 1049 (3) For release of confidential health, mental health, or education records:
- 1050 (A) If the person is 18 or has been emancipated, consent from the person to whom such  
 1051 information relates;
- 1052 (B) If the person is under the age of 18 years and has not been emancipated, valid  
 1053 consent from such person's parent, guardian, or legal custodian or consent by a parent,  
 1054 guardian, or legal custodian to a confidentiality agreement between the health care  
 1055 provider and the unemancipated minor; provided, however, that consent from an  
 1056 unemancipated minor shall be sufficient for the release of such information if the  
 1057 unemancipated minor is allowed by law to consent to the health care service to which  
 1058 the records relate without the consent of a parent, guardian, or legal custodian and has  
 1059 not designated anyone as a personal representative;
- 1060 (C) A subpoena requiring the release of such information; or
- 1061 (D) An order of the court requiring the release of such information.
- 1062 (b) In issuing an order for the release of information under this Code section, the court  
 1063 may:
- 1064 (1) Include protections against further disclosure of the information;  
 1065 (2) Limit the purposes for which the information may be used; and  
 1066 (3) Require records to be redacted so that only relevant information is shared.
- 1067 (c) Nothing in this Code section shall be deemed to replace the responsibility of entities  
 1068 governed by federal and state privacy laws to comply with such laws.

## ARTICLE 2

1070 15-11-50.

1071 (a) There is created a juvenile court in every county in the state.

1072 (b) Except where election is provided by local law, the judge or a majority of the judges  
1073 of the superior court in each circuit in the state may appoint one or more qualified persons  
1074 as judge of the juvenile courts of the circuit. Such superior court judge or judges shall  
1075 establish the total number of circuit-wide juvenile court judges and shall establish whether  
1076 the judge or judges shall be full time or part time, or a combination of full time and part  
1077 time. Each circuit-wide judge appointed shall have the authority to act as judge of each  
1078 juvenile court in each county of the circuit.

1079 (c) If no person is appointed as a juvenile court judge for a circuit, then a superior court  
1080 judge of the circuit shall as part of the duties of the superior court judge assume the duties  
1081 of the juvenile court judge in all counties in the circuit in which a separate juvenile court  
1082 judgeship has not been established.

1083 (d) All juvenile court judgeships established on or before October 1, 2000, their methods  
1084 of compensation, selection, and operation shall continue until such time as one or more  
1085 circuit-wide juvenile court judges are appointed. However, in any circuit where a superior  
1086 court judge assumes the duties of the juvenile court judge, such circuit shall not be entitled  
1087 to the state funds provided for in Code Section 15-11-52.

1088 (e) When one or more circuit-wide juvenile court judges are appointed or elected, any  
1089 juvenile court judge in office at that time shall be authorized to fulfill his or her term of  
1090 office. The jurisdiction of each judge shall be circuit wide.

1091 (f) After the initial appointments and prior to any subsequent appointment or  
1092 reappointment of any part-time or full-time juvenile court judge, the judge or judges  
1093 responsible for making the appointment shall publish notice of the vacancy of the juvenile  
1094 court judgeship once a month for three months prior to such appointment or reappointment.  
1095 Such notice shall be published in the official legal organ of each of the counties in the  
1096 circuit where the juvenile court judge has venue. The expense of such publication shall be  
1097 paid by the county governing authority in the county where such notice is published.

1098 (g) In the event that more than one juvenile court judge is appointed, one judge shall be  
1099 designated presiding judge.

1100 (h) In any case in which action under this Code section is to be taken by a superior court  
1101 judge of the circuit, such action shall be taken as follows:

1102 (1) Where there are one or two superior court judges, such action shall be taken by the  
1103 chief judge of the circuit; and

1104 (2) Where there are more than two superior court judges, such action shall be taken by  
1105 a majority vote of the judges of the circuit.

1106 15-11-51.

1107 (a) No person shall be judge of the juvenile court unless, at the time of his or her  
 1108 appointment, he or she has attained the age of 30 years, has been a citizen of the state for  
 1109 three years, is a member of the State Bar of Georgia, and has practiced law for five years.

1110 (b) A juvenile court judge shall be eligible for reappointment or election.

1111 15-11-52.

1112 (a) Each appointed juvenile court judge shall serve for a term of four years.

1113 (b) The compensation of the full-time or part-time juvenile court judges shall be set by the  
 1114 superior court with the approval of the governing authority or governing authorities of the  
 1115 county or counties for which the juvenile court judge is appointed.

1116 (c) Out of funds appropriated to the judicial branch of government, the state shall  
 1117 contribute toward the salary of the judges on a per circuit basis in the following amounts:

1118 (1) Each circuit with one or more juvenile court judges who are not superior court judges  
 1119 assuming the duties of juvenile court judges shall receive a state base grant of  
 1120 \$85,000.00;

1121 (2) In addition to this base amount, each circuit which has more than four superior court  
 1122 judges is eligible for additional state grants. For each superior court judge who exceeds  
 1123 the base of four judges, the circuit shall be eligible for an additional grant in an amount  
 1124 equal to one-fourth of the base amount of the state grant;

1125 (3) In circuits where the superior court judges elect to use the state grant for one or more  
 1126 part-time judges, the amount of the state grant shall be as follows:

1127 (A) For each part-time judge who works one day weekly . . . . . \$17,000.00

1128 (B) For each part-time judge who works two days weekly . . . . . 34,000.00

1129 (C) For each part-time judge who works three days weekly . . . . . 51,000.00

1130 (D) For each part-time judge who works four days weekly . . . . . 68,000.00;

1131 provided, however, that a grant for one or more part-time judges shall not exceed the  
 1132 amount the circuit is eligible for in accordance with paragraphs (1) and (2) of this  
 1133 subsection; and

1134 (4) All state grants provided by this subsection shall be spent solely on salaries for  
 1135 juvenile court judges and shall not be used for any other purposes.

1136 15-11-53.

1137 (a) It shall be unlawful for any full-time juvenile court judge to engage in any practice of  
 1138 law outside his or her role as a juvenile court judge.

1139 (b) It shall be unlawful for a part-time judge of any juvenile court to engage directly or  
 1140 indirectly in the practice of law in his or her own name or in the name of another as a  
 1141 partner in any manner in any case, proceeding, or matter of any kind in the court to which  
 1142 he or she is assigned or in any other court in any case, proceeding, or any other matters of  
 1143 which it has pending jurisdiction or has had jurisdiction.

1144 (c) It shall be unlawful for any juvenile court judge, full time or part time, to give advice  
 1145 or counsel to any person on any matter of any kind whatsoever which has arisen directly  
 1146 or indirectly in court, except such advice or counsel as a judge is called upon to give while  
 1147 performing the duties of a juvenile court judge.

1148 15-11-54.

1149 (a) Each juvenile court shall be assigned and attached to the superior court of the county  
 1150 for administrative purposes.

1151 (b) The governing authority of the county of residence of each juvenile court judge shall  
 1152 offer the juvenile court judge insurance benefits and any other benefits except retirement  
 1153 or pension benefits equivalent to those offered to employees of the county, with a right to  
 1154 contribution from other counties in the circuit for a pro rata contribution toward the costs  
 1155 of such benefits, based on county population. Counties shall continue to provide  
 1156 membership in retirement plans available to county employees for any juvenile court judge  
 1157 in office before July 1, 1998, who did not become a member of the Georgia Judicial  
 1158 Retirement System provided by Chapter 23 of Title 47.

1159 (c) Except for state base grants provided by Code Section 15-11-52, all expenditures of the  
 1160 court are declared to be an expense of the court and payable out of the county treasury with  
 1161 the approval of the governing authority or governing authorities of the county or counties  
 1162 for which the juvenile court judge is appointed.

1163 15-11-55.

1164 (a) To the extent that the provisions of this article conflict with a local constitutional  
 1165 amendment authorizing the election of a juvenile court judge and with the provisions of a  
 1166 local Act authorized by such local constitutional amendment to provide for the term of  
 1167 office, vacancies in office, qualifications, compensation, and full-time or part-time status  
 1168 of a juvenile court judge or judges, the provisions of such local constitutional amendment  
 1169 and such local Act shall govern.

1170 (b) The state grants provided by Code Section 15-11-52 shall be provided to any circuit  
 1171 encompassing a juvenile court governed by the provisions of a local constitutional  
 1172 amendment and a local Act in the same manner as other circuits, except that, in any circuit  
 1173 with one or more elected juvenile court judges, the elected juvenile court judge who is

1174 senior in duration of service as a juvenile court judge shall establish, subject to other  
 1175 applicable provisions of law, the total number of circuit-wide juvenile court judges,  
 1176 whether the judge or judges shall be full time or part time or a combination of full time and  
 1177 part time, and the compensation of any part-time juvenile court judge or judges.

1178 15-11-56.

1179 (a) No person who is serving as a full-time juvenile court judge shall at the same time hold  
 1180 the office of judge of any other class of court of this state.

1181 (b) No person serving as a juvenile court judge after being elected juvenile court judge  
 1182 pursuant to a local law authorized by a constitutional amendment shall at the same time  
 1183 hold the office of judge of any other class of court of this state.

1184 (c) Nothing in this Code section shall prevent any duly appointed or elected juvenile court  
 1185 judge from sitting by designation as a superior court judge pursuant to Code Section  
 1186 15-1-9.1.

1187 15-11-57.

1188 (a) Whenever a juvenile court judge is appointed it shall be the duty of the clerk of the  
 1189 superior court to forward to the Secretary of State and to the Council of Juvenile Court  
 1190 Judges a certified copy of the order of appointment. The order of appointment shall set out  
 1191 the name of the person appointed, the term of office, the effective date of the appointment,  
 1192 the name of the person being succeeded, if any, and whether the office was vacated by  
 1193 resignation, death, or otherwise. Upon receipt of such order, the Secretary of State shall  
 1194 issue a commission as for superior court judges.

1195 (b) Whenever an associate juvenile court judge is appointed to serve in a juvenile court,  
 1196 the clerk of the juvenile court shall forward a certified copy of the order of appointment to  
 1197 the Council of Juvenile Court Judges.

1198 15-11-58.

1199 (a) All of the judges and associate judges of the courts exercising jurisdiction over children  
 1200 shall constitute a Council of Juvenile Court Judges. The council shall annually elect from  
 1201 among its members a judge to serve as presiding judge and chairperson of the council.

1202 (b) The Council of Juvenile Court Judges:

1203 (1) Shall meet at stated times to be fixed by it or on call of the chairperson;

1204 (2) May establish general policies for the conduct of courts exercising jurisdiction over  
 1205 children;

1206 (3) May promulgate uniform rules and forms governing procedures and practices of the  
 1207 courts;

1208 (4) Shall publish in print or electronically an annual report of the work of the courts  
 1209 exercising jurisdiction over children, which shall include statistical and other data on the  
 1210 courts' work and services, research studies the council may make of the problems of  
 1211 children and families dealt with by the courts, and any recommendations for legislation;  
 1212 and

1213 (5) Shall be authorized to inspect and copy records of the courts, law enforcement  
 1214 agencies, the department, and DJJ for the purpose of compiling statistical data on  
 1215 children.

1216 (c) Subject to the approval of the Council of Juvenile Court Judges, the presiding judge  
 1217 of the council shall appoint a chief administrative and executive officer for the Council of  
 1218 Juvenile Court Judges who shall have the title of director of the Council of Juvenile Court  
 1219 Judges. Under the general supervision of the presiding judge of the council and within the  
 1220 policies established by the Council of Juvenile Court Judges, the director shall:

1221 (1) Provide consultation to the courts regarding the administration of court services and  
 1222 the recruitment and training of personnel;

1223 (2) Make recommendations to the Council of Juvenile Court Judges for improvement in  
 1224 court services;

1225 (3) With the approval of the presiding judge, appoint consultants and necessary clerical  
 1226 personnel to perform the duties assigned to the Council of Juvenile Court Judges and the  
 1227 director;

1228 (4) Collect necessary statistics and prepare an annual report of the work of the courts;

1229 (5) Promulgate in cooperation with DJJ standard procedures for coordinating state and  
 1230 local probation services throughout the state; and

1231 (6) Perform such other duties as the presiding judge of the council shall specify.

1232 15-11-59.

1233 (a) The Council of Juvenile Court Judges, in conjunction with the Institute of Continuing  
 1234 Judicial Education of Georgia, shall establish seminars for all judges and associate juvenile  
 1235 court judges exercising juvenile court jurisdiction and may make provisions relative to such  
 1236 seminars by court rules properly adopted.

1237 (b) Seminars shall offer instruction and training in juvenile law and procedure, child  
 1238 development and psychology, sociological theories relative to delinquency and breakdown  
 1239 of the family structure, and such other training and activities as the Council of Juvenile  
 1240 Court Judges may determine would promote the quality of justice in the juvenile court  
 1241 system.

1242 (c) Expenses of administration of seminar programs and actual expenses incurred by the  
 1243 judges or associate juvenile court judges in attending such seminars shall be paid from state

1244 funds appropriated for the Council of Juvenile Court Judges for such purpose, from federal  
 1245 funds available to the Council of Juvenile Court Judges for such purpose, or from other  
 1246 appropriate sources. Expenses for judges and associate juvenile court judges shall not  
 1247 exceed the allowances allowed members of the General Assembly.

1248 (d) Each judge and associate juvenile court judge exercising juvenile jurisdiction shall  
 1249 receive training appropriate to the role and participate in at least 12 hours of continuing  
 1250 legal education or continuing judicial education established or approved by the Council of  
 1251 Juvenile Court Judges each year and meet such rules as established by the Council of  
 1252 Juvenile Court Judges pertaining to such training. Superior court judges may meet this  
 1253 requirement by attending seminars held in conjunction with the seminars for superior court  
 1254 judges provided by the Institute of Continuing Judicial Education of Georgia. Judges and  
 1255 associate juvenile court judges shall not exercise juvenile court jurisdiction unless the  
 1256 Council of Juvenile Court Judges certifies that annual training has been accomplished or  
 1257 unless the judge is in the first year of his or her initial appointment; provided, however, that  
 1258 the Council of Juvenile Court Judges may in hardship cases extend deadlines for  
 1259 compliance with this Code section.

1260 15-11-60.

1261 (a) A judge may appoint one or more persons to serve as associate juvenile court judges  
 1262 in juvenile matters on a full-time or part-time basis. The associate juvenile court judge  
 1263 shall serve at the pleasure of the judge, and his or her salary shall be fixed by the judge  
 1264 with the approval of the governing authority or governing authorities of the county or  
 1265 counties for which the associate juvenile court judge is appointed. The salary of each  
 1266 associate juvenile court judge shall be paid from county funds.

1267 (b) Each associate juvenile court judge shall have the same qualifications as required for  
 1268 a judge of the juvenile court as provided in Code Section 15-11-51; provided, however, that  
 1269 any person serving as an associate juvenile court judge on January 1, 2013, shall be  
 1270 qualified for appointment thereafter to serve as an associate juvenile court judge.

1271 15-11-61.

1272 (a) The judge may appoint one or more persons to serve at the pleasure of the judge as  
 1273 associate juvenile court traffic judges on a full-time or part-time basis.

1274 (b) An associate juvenile court traffic judge shall be a member of the State Bar of Georgia.

1275 (c) The compensation of associate juvenile court traffic judges shall be fixed by the judge  
 1276 with the approval of the governing authority of the county and shall be paid in equal  
 1277 monthly installments from county funds, unless otherwise provided by law.

1278 15-11-62.

1279 (a) In the event of the disqualification, illness, or absence of the judge of the juvenile  
 1280 court, the judge of the juvenile court may appoint any member of the State Bar of Georgia  
 1281 who is resident in the judicial circuit in which the court lies and has practiced law for five  
 1282 years, any judge or senior judge of the superior courts, or any duly appointed juvenile court  
 1283 judge to serve as judge pro tempore of the juvenile court. In the event the judge of the  
 1284 juvenile court is absent or unable to make such appointment, the judge of the superior court  
 1285 of that county may so appoint.

1286 (b) The person appointed shall have the authority to preside in the stead of the disqualified,  
 1287 ill, or absent judge and shall be paid from the county treasury such emolument as the  
 1288 appointing judge shall prescribe; provided, however, that the emolument shall not exceed  
 1289 the compensation received by the regular juvenile court judge for such services.

1290 15-11-63.

1291 (a) The judge of the juvenile court shall have the authority to appoint clerks and any other  
 1292 personnel necessary for the execution of the purposes of this chapter.

1293 (b) The salary, tenure, compensation, and all other conditions of employment of such  
 1294 employees shall be fixed by the judge, with the approval of the governing authority of the  
 1295 county. The salaries of the employees shall be paid out of county funds.

1296 (c) Any employee of the court may be removed for cause by the judge of the court, the  
 1297 reasons therefor to be assigned in writing.

1298 15-11-64.

1299 (a) Any person who is appointed as or is performing the duties of a clerk of the juvenile  
 1300 court shall satisfactorily complete 20 hours of training in the performance of the duties of  
 1301 a clerk of the juvenile court within the first 12 months following such appointment or the  
 1302 first performance of such duties.

1303 (b) In each year after the initial appointment, any person who is appointed as or is  
 1304 performing the duties of a clerk of the juvenile court shall satisfactorily complete in that  
 1305 year 12 hours of additional training in the performance of such person's duties as clerk.

1306 (c) Training pursuant to this Code section shall be provided by the Institute of Continuing  
 1307 Judicial Education of Georgia. Upon satisfactory completion of such training, a certificate  
 1308 issued by the institute shall be placed into the minutes of the juvenile court record in the  
 1309 county in which such person serves as a clerk of the juvenile court. All reasonable  
 1310 expenses of such training including, but not limited to, any tuition fixed by such institution  
 1311 shall be paid from county funds by the governing authority of the county for which the

1312 person serves as a clerk of the juvenile court, unless funding is provided from other  
 1313 sources.

1314 (d) A judge of the juvenile court shall appoint a clerk pro tempore for that court in order  
 1315 for the regular clerk to attend required training. Such clerk pro tempore shall not be  
 1316 required to meet the training requirements for performing the clerk's duties.

1317 (e) The provisions of this Code section shall not apply to clerks of juvenile courts who also  
 1318 act as clerks of superior courts and who already have mandatory training requirements in  
 1319 such capacity.

1320 15-11-65.

1321 (a) The judge may appoint one or more probation and intake officers.

1322 (b) The salaries of the probation and intake officers shall be fixed by the judge with the  
 1323 approval of the governing authority of the county or counties for which he or she is  
 1324 appointed and shall be payable from county funds.

1325 15-11-66.

1326 (a) A county juvenile probation officer or DJJ staff member serving as a juvenile probation  
 1327 officer:

1328 (1) Shall make investigations, reports, and recommendations to the court as directed by  
 1329 this chapter;

1330 (2) Shall supervise and assist a child placed on probation or under the protective  
 1331 supervision or care of such probation officer by order of the court or other authority of  
 1332 law;

1333 (3) Shall make appropriate referrals to other private or public agencies of the community  
 1334 if such assistance appears to be needed or desirable;

1335 (4) May take into custody and detain a child who is under the supervision or care of such  
 1336 probation officer if the probation officer has reasonable cause to believe that the child's  
 1337 health or safety or that of another is in imminent danger, or that the child may abscond  
 1338 or be removed from the jurisdiction of the court, or when so ordered by the court pursuant  
 1339 to this chapter;

1340 (5) May not conduct accusatory proceedings against a child who is or may be under such  
 1341 probation officer's care or supervision;

1342 (6) May not draft judicial orders, official charges, or any other document which is  
 1343 required to be drafted by an attorney;

1344 (7) Shall perform all other functions designated by this chapter or by order of the court  
 1345 pursuant thereto. Any of the functions specified in this Code section may be performed

1346 in another state if authorized by the court located in this state and permitted by the laws  
 1347 of the other state; and

1348 (8) Other laws to the contrary notwithstanding, no county juvenile probation officer or  
 1349 DJJ staff serving as a probation officer shall be liable for the acts of a child not detained  
 1350 or taken into custody when, in the judgment of such officer, such detention or custody is  
 1351 not warranted.

1352 (b) Notwithstanding subsection (a) of this Code section, DJJ, as the employer, shall  
 1353 maintain sole authority over the duties and responsibilities of all DJJ staff members serving  
 1354 as probation officers.

1355 15-11-67.

1356 (a) A juvenile court intake officer:

1357 (1) Shall receive and examine complaints and charges of delinquency, dependency, or  
 1358 that a child is in need of services for the purpose of considering the commencement of  
 1359 proceedings under this chapter;

1360 (2) Shall make appropriate referrals to other private or public agencies of the community  
 1361 if such assistance appears to be needed or desirable;

1362 (3) Shall compile on a regular basis the case files or a report on those cases that were  
 1363 informally adjusted for review by the judge;

1364 (4) May not conduct accusatory proceedings against a child or draft judicial orders,  
 1365 official charges, or any other document which is required to be drafted by an attorney;

1366 (5) Shall perform all other functions designated by this chapter or by order of the court  
 1367 pursuant thereto; and

1368 (6) Except as provided in Article I, Section II, Paragraph IX(d) of the Constitution, no  
 1369 county juvenile court intake officer, or DJJ staff member serving as a juvenile court  
 1370 intake officer shall be liable for the acts of a child not detained or taken into custody  
 1371 when, in the judgment of such officer, such detention or custody is not warranted.

1372 (b) Notwithstanding subsection (a) of this Code section, DJJ, as the employer, shall  
 1373 maintain sole authority over the duties and responsibilities of all DJJ staff members serving  
 1374 as juvenile court intake officers.

1375 15-11-68.

1376 (a) The probation and intake services of the juvenile court of each county may be  
 1377 transferred to and become a part of the state-wide juvenile and intake services and be fully  
 1378 funded through DJJ. The probation and intake officers of juvenile courts of those counties  
 1379 whose probation and intake services are transferred pursuant to this Code section shall  
 1380 become DJJ employees on the date of such transfer and on and after that date such

1381 employees shall be subject to the salary schedules and other DJJ personnel policies, except  
 1382 that the salaries of such employees shall not be reduced as a result of becoming DJJ  
 1383 employees.

1384 (b) The probation and intake services of the juvenile court of a county may be transferred  
 1385 to DJJ by local Act of the General Assembly which approves such transfer.

1386 (c) Persons who were probation and intake officers of the juvenile court of a county on  
 1387 June 30, 1996, but who were transferred as probation and intake officers to and became a  
 1388 part of the state-wide juvenile and intake services system fully funded through DJJ before  
 1389 January 1, 1999, shall be covered employees in the classified service of the State Personnel  
 1390 Administration.

### 1391 ARTICLE 3

#### 1392 Part 1

1393 15-11-100.

1394 The purpose of this article is:

1395 (1) To assist and protect children whose physical or mental health and welfare is  
 1396 substantially at risk of harm from abuse, neglect, or exploitation and who may be further  
 1397 threatened by the conduct of others by providing for the resolution of dependency  
 1398 proceedings in juvenile court;

1399 (2) To ensure that dependency proceedings are conducted expeditiously to avoid delays  
 1400 in permanency plans for children;

1401 (3) To provide the greatest protection as promptly as possible for children; and

1402 (4) To ensure that the health, safety, and best interests of the child be the paramount  
 1403 concern in all dependency proceedings.

1404 15-11-101.

1405 (a) If necessary, the investigator of a report of child abuse and neglect may apply to the  
 1406 court for certain medical examinations and evaluations of a child or other children in the  
 1407 household.

1408 (b) Upon a showing of probable cause in an affidavit executed by the applicant, the court  
 1409 may order a physical examination and evaluation of a child or other children in the  
 1410 household by a physician. Such order may be granted ex parte.

1411 (c) Upon a showing of probable cause in an affidavit executed by the applicant and after  
 1412 a hearing, the court may order a psychological or psychiatric examination and evaluation  
 1413 of a child or other children in the household by a psychologist, psychiatrist, or other  
 1414 licensed mental health professional.

1415 (d) Upon a showing of probable cause in an affidavit executed by the applicant and after  
 1416 a hearing, the court may order a forensic examination and evaluation of a child or other  
 1417 children in the household by a psychologist, psychiatrist, or other licensed mental health  
 1418 professional.

1419 (e) Upon a showing of probable cause in an affidavit executed by the applicant and after  
 1420 a hearing, the court may order a physical, psychological, or psychiatric examination of a  
 1421 child's parent, guardian, or legal custodian.

1422 15-11-102.

1423 (a) The preliminary protective hearing shall be held promptly and no later than 72 hours  
 1424 after a child is placed in foster care, provided that, if the 72 hour time frame expires on a  
 1425 weekend or legal holiday, such hearing shall be held on the next day which is not a  
 1426 weekend or legal holiday.

1427 (b) If a child was not taken into protective custody or is released from foster care at the  
 1428 preliminary protective hearing, the following time frames apply:

1429 (1) The petition for dependency shall be filed within 30 days of the preliminary  
 1430 protective hearing;

1431 (2) Summons shall be served at least 72 hours before the adjudication hearing;

1432 (3) The adjudication hearing shall be held no later than 60 days after the filing of the  
 1433 petition for dependency; and

1434 (4) 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 (c) If a child is not released from foster care at the preliminary protective hearing, the  
 1438 following time frames apply:

1439 (1) The petition for dependency shall be filed within five days of the preliminary  
 1440 protective hearing;

1441 (2) Summons shall be served at least 72 hours before the adjudication hearing;

1442 (3) The adjudication hearing shall be held no later than ten days after the filing of the  
 1443 petition;

1444 (4) DFCS shall submit to the court its written report within 30 days of the date a child  
 1445 who is placed in the custody of DFCS is removed from the home and at each subsequent  
 1446 review of the disposition order. If the DFCS report does not contain a plan for  
 1447 reunification services, the nonreunification hearing shall be held no later than 30 days  
 1448 from the time the report is filed; and

1449 (5) If the dispositional hearing is not held in conjunction with the adjudication hearing,  
 1450 it shall be held and completed within 30 days after the conclusion of the adjudication  
 1451 hearing.

1452 (d) An initial periodic review hearing shall be held within 75 days following a child's  
 1453 removal from his or her home. An additional periodic review shall be held within four  
 1454 months following such initial review.

1455 (e) Permanency plan hearings shall be held no later than 30 days after DFCS has submitted  
 1456 a written report to the court which does not provide a plan for reunification services or:

1457 (1) For children under seven years of age at the time a petition for dependency is filed,  
 1458 no later than nine months after the child is considered to have entered foster care,  
 1459 whichever comes first. Thereafter a permanency plan hearing shall be held every six  
 1460 months while the child continues in DFCS custody or more frequently as deemed  
 1461 necessary by the court until the court determines that the child's permanency plan and  
 1462 goal have been achieved; and

1463 (2) For children seven years of age and older at the time a petition is filed, no later than  
 1464 12 months after the child is considered to have entered foster care, whichever comes first.  
 1465 Thereafter a permanency plan hearing shall be held every six months while the child  
 1466 continues in DFCS custody or more frequently as deemed necessary by the court until the  
 1467 court determines that the child's permanency plan and goal have been achieved.

1468 (f) A supplemental order of the court adopting a child's permanency plan shall be entered  
 1469 within 30 days after the court has determined that reunification efforts need not be made  
 1470 by DFCS.

1471 15-11-103.

1472 (a) The child and any other party to a proceeding under this article shall have the right to  
 1473 a qualified and independent attorney at all stages of the proceedings under this article.

1474 (b) The court shall appoint an attorney for a child alleged to be dependent. The  
 1475 appointment shall be made as soon as practicable to ensure adequate representation of such  
 1476 child and, in any event, before the first court hearing that may substantially affect the  
 1477 interests of such child.

1478 (c) A child's attorney owes to the child the duties imposed by the law of this state in an  
 1479 attorney-client relationship.

1480 (d) Before an attorney may be appointed to represent a child, he or she shall have received  
 1481 training appropriate to the role that is administered or approved by the Office of the Child  
 1482 Advocate for the Protection of Children; provided, however, that such office shall exempt  
 1483 from the training requirement any attorney who has practiced as an attorney or guardian  
 1484 ad litem in juvenile court dependency proceedings for three or more years and, when such

1485 determination is made by the court, has demonstrated a proficiency in child representation.  
1486 Preappointment training shall be satisfied within an attorney's existing continuing legal  
1487 education obligations and shall not require the attorney to complete additional training  
1488 hours in addition to the hours currently required by the State Bar of Georgia.

1489 (e) If an attorney has been appointed to represent a child in a prior proceeding under this  
1490 chapter, the court, when possible, shall appoint the same attorney to represent the child in  
1491 any subsequent proceeding.

1492 (f) An attorney appointed to represent a child in a dependency proceeding shall continue  
1493 the representation in any subsequent appeals unless excused by the court.

1494 (g) Neither a child nor a representative of a child may waive a child's right to an attorney  
1495 in a dependency proceeding.

1496 (h) A party other than a child shall be informed of his or her right to an attorney prior to  
1497 any hearing. A party other than a child shall be given an opportunity to:

1498 (1) Obtain and employ an attorney of such party's own choice;

1499 (2) Obtain a court appointed attorney if the court determines that such party is an  
1500 indigent person; or

1501 (3) Waive the right to an attorney.

1502 15-11-104.

1503 (a) The court shall appoint a guardian ad litem for a child alleged to be dependent.

1504 (b) A child's attorney may serve as the child's guardian ad litem unless or until there is  
1505 conflict of interest between the attorney's duty to the child as the child's attorney and the  
1506 attorney's considered opinion of the child's best interests as guardian ad litem.

1507 (c) A party to the proceeding, the employee or representative of a party to the proceeding,  
1508 or any other individual with a conflict of interest shall not be appointed as guardian ad  
1509 litem.

1510 (d) A court shall appoint a CASA to act as guardian ad litem whenever possible, and a  
1511 CASA may be appointed in addition to an attorney who is serving as a guardian ad litem.

1512 (e) A lay guardian shall not engage in activities which could reasonably be construed as  
1513 the practice of law.

1514 (f) Before the appointment as a guardian ad litem, such person shall have received training  
1515 appropriate to the role as guardian ad litem which is administered or approved by the  
1516 Office of the Child Advocate for the Protection of Children. For attorneys, preappointment  
1517 guardian ad litem training shall be satisfied within the attorney's existing continuing legal  
1518 education obligations and shall not require the attorney to complete additional training  
1519 hours in addition to the hours currently required by the State Bar of Georgia.

1520 (g) Any volunteer guardian ad litem authorized and acting in good faith, in the absence of  
 1521 fraud or malice and in accordance with the duties required by this Code section, shall have  
 1522 immunity from any liability, civil or criminal, that might otherwise be incurred or imposed  
 1523 as a result of taking or failing to take any action pursuant to this Code section.

1524 (h) The court may remove a guardian ad litem from a case upon finding that the guardian  
 1525 ad litem acted in a manner contrary to a child's best interests, has not appropriately  
 1526 participated in the case, or if the court otherwise deems continued service as inappropriate  
 1527 or unnecessary.

1528 (i) A guardian ad litem shall not engage in ex parte contact with the court except as  
 1529 otherwise provided by law.

1530 (j) The court, the child, or any other party may compel a guardian ad litem for a child to  
 1531 attend a trial or hearing relating to the child and to testify, if appropriate, as to the proper  
 1532 disposition of a proceeding.

1533 (k) The court shall ensure that parties have the ability to challenge recommendations made  
 1534 by the guardian ad litem or the factual basis for the recommendations in accordance with  
 1535 the rules of evidence applicable to the specific proceeding.

1536 (l) A guardian ad litem's report shall not be admissible into evidence prior to the  
 1537 disposition hearing except in accordance with the rules of evidence applicable to the  
 1538 specific proceeding.

1539 (m) A guardian ad litem who is not also serving as attorney for a child may be called as  
 1540 a witness for the purpose of cross-examination regarding the guardian ad litem's report  
 1541 even if the guardian ad litem is not identified as a witness by a party.

1542 15-11-105.

1543 (a) A guardian ad litem shall advocate for a child's best interests in the proceeding for  
 1544 which the guardian ad litem has been appointed.

1545 (b) In determining the child's best interests, a guardian ad litem shall consider and evaluate  
 1546 all of the factors affecting the best interests of the child in the context of a child's age and  
 1547 developmental needs. Such factors shall include:

1548 (1) The physical safety and welfare of the child, including food, shelter, health, and  
 1549 clothing;

1550 (2) The mental and physical health of all individuals involved;

1551 (3) Evidence of domestic violence in any current, past, or considered home for the child;

1552 (4) A child's background and ties, including familial, cultural, and religious;

1553 (5) A child's sense of attachments, including a child's sense of security, a child's sense  
 1554 of familiarity, and continuity of affection for the child;

1555 (6) The least disruptive placement alternative for a child;

- 1556 (7) A child's wishes and long-term goals;  
 1557 (8) A child's community ties, including church, school, and friends;  
 1558 (9) A child's need for permanence which includes the child's need for stability and  
 1559 continuity of relationships with a parent, siblings, and other relatives;  
 1560 (10) The uniqueness of every family and child;  
 1561 (11) The risks attendant to entering and being in substitute care;  
 1562 (12) The preferences of the persons available to care for the child; and  
 1563 (13) Any other factors considered by the guardian ad litem to be relevant and proper to  
 1564 his or her determination.
- 1565 (c) Unless a child's circumstances render the following duties and responsibilities  
 1566 unreasonable, a guardian ad litem shall at a minimum:
- 1567 (1) Maintain regular and sufficient in-person contact with the child and, in a manner  
 1568 appropriate to the child's developmental level, meet with and interview the child prior to  
 1569 custody hearings, adjudication hearings, disposition hearings, judicial reviews, and any  
 1570 other hearings scheduled in accordance with the provisions of this chapter;
- 1571 (2) In a manner appropriate to the child's developmental level, ascertain the child's needs,  
 1572 circumstances, and views;
- 1573 (3) Conduct an independent assessment to determine the facts and circumstances  
 1574 surrounding the case;
- 1575 (4) Consult with the child's attorney, if appointed separately, regarding the issues in the  
 1576 proceeding;
- 1577 (5) Communicate with health care, mental health care, and other professionals involved  
 1578 with the child's case;
- 1579 (6) Review case study and educational, medical, psychological, and other relevant  
 1580 reports relating to the child and the respondents;
- 1581 (7) Review all court related documents;
- 1582 (8) Attend all court hearings and other proceedings to advocate for the child's best  
 1583 interests;
- 1584 (9) Advocate for timely court hearings to obtain permanency for the child;
- 1585 (10) Protect the cultural needs of the child;
- 1586 (11) Contact the child prior to any proposed change in the child's placement;
- 1587 (12) Contact the child after changes in the child's placement;
- 1588 (13) Request a judicial citizen review panel or judicial review of the case;
- 1589 (14) Attend citizen panel review hearings concerning the child and if unable to attend the  
 1590 hearings, forward to the panel a letter setting forth the child's status during the period  
 1591 since the last citizen panel review and include an assessment of the DFCS permanency  
 1592 and treatment plans;

1593 (15) Provide written reports to the court and the parties on the child's best interests which  
 1594 shall include, but not be limited to, recommendations regarding placement of the child,  
 1595 updates on the child's adjustment to placement, DFCS's and respondent's compliance with  
 1596 prior court orders and treatment plans, the child's degree of participation during  
 1597 visitations, and any other recommendations based on the best interests of the child;

1598 (16) When appropriate, encourage settlement and the use of any alternative forms of  
 1599 dispute resolution and participate in such processes to the extent permitted; and

1600 (17) Monitor compliance with the case plan and all court orders.

1601 (d)(1) Except as provided in Article 12 of this chapter, a guardian ad litem shall receive  
 1602 notices, pleadings, or other documents required to be provided to or served upon a party  
 1603 and shall be notified of all court hearings, judicial reviews, judicial citizen review panels,  
 1604 and other significant changes of circumstances of the child's case to the same extent and  
 1605 in the same manner as the parties to the case are notified of such matters.

1606 (2) A guardian ad litem shall be notified of the formulation of any case plan of the child's  
 1607 case and may be given the opportunity to be heard by the court about such plans.

1608 (e) Upon presentation of an order appointing a guardian ad litem, such guardian ad litem  
 1609 shall have access to all records and information relevant to a child's case when such records  
 1610 and information are not otherwise protected from disclosure pursuant to Code Section  
 1611 19-7-5. Such records and information shall not include records and information provided  
 1612 under Article 12 of this chapter or provided under Chapter 4A of Title 49.

1613 (f) All records and information acquired or reviewed by a guardian ad litem during the  
 1614 course of his or her appointment shall be deemed confidential and shall not be disclosed  
 1615 except as ordered by the court.

1616 (g) Except as provided in Code Section 49-5-41, regarding access to records, any guardian  
 1617 ad litem who discloses confidential information obtained during the course of his or her  
 1618 appointment, in violation of law, shall be guilty of a misdemeanor. A guardian ad litem  
 1619 shall maintain all information and records regarding mental health, developmental  
 1620 disability as defined in Code Section 37-1-1, and substance abuse according to the  
 1621 confidentiality requirements contained in Code Section 37-3-166, 37-4-125, or 37-7-166,  
 1622 as applicable.

1623 (h) In the event of a change of venue, the original guardian ad litem shall, as soon as  
 1624 possible, communicate with the appointed guardian ad litem in the new venue and shall  
 1625 forward all pertinent information to the new guardian ad litem.

1626 15-11-106.

1627 (a)(1) Before executing duties as a CASA, and upon completion of all the requirements  
 1628 of an affiliate court appointed special advocate program, a CASA shall be sworn in by

1629 a judge of the juvenile court in the court or circuit in which he or she wishes to serve. A  
1630 CASA shall not be assigned a case prior to being sworn in by a juvenile court judge as  
1631 set forth in this paragraph.

1632 (2) If a juvenile court judge determines that a child involved in a dependency proceeding  
1633 needs a CASA, the judge shall have the authority to appoint a CASA, and in such  
1634 circumstance shall sign an order appointing a CASA at the earliest possible stage of the  
1635 proceedings. Such order shall impose on a CASA all the duties, rights, and  
1636 responsibilities set forth in this Code section and Code Sections 15-11-104 and  
1637 15-11-105.

1638 (b) The role of a CASA in juvenile court dependency proceedings shall be to advocate for  
1639 the best interests of the child.

1640 (c) In addition to the reasons stated in subsection (h) of Code Section 15-11-104, the court  
1641 may discharge a CASA upon finding that the CASA has acted in a manner contrary to the  
1642 mission and purpose of the affiliate court appointed special advocate program.

1643 15-11-107.

1644 (a) A parent, guardian, or legal custodian's reliance on prayer or other religious  
1645 nonmedical means for healing in lieu of medical care, in the exercise of religious beliefs,  
1646 shall not be the sole basis for considering his or her child to be a dependent child; provided,  
1647 however, that the religious rights of a parent, guardian, or legal custodian shall not limit the  
1648 access of a child to medical care in a life-threatening situation or when the condition will  
1649 result in serious disability.

1650 (b) In order to make a determination as to whether a child is in a life-threatening situation  
1651 or that the child's condition will result in serious disability, the court may order a medical  
1652 evaluation of the child.

1653 (c) If the court determines, on the basis of any relevant evidence before the court,  
1654 including the court ordered medical evaluation and the affidavit of the attending physician,  
1655 that a child is in a life-threatening situation or that a child's condition will result in serious  
1656 disability, the court may order that medical treatment be provided for a child.

1657 (d) A child whose parent, guardian, or legal custodian inhibits or interferes with the  
1658 provision of medical treatment in accordance with a court order shall be considered to be  
1659 dependent and the court may find the parent, guardian, or legal custodian in contempt and  
1660 enter any order authorized by and in accordance with the provisions of Code Section  
1661 15-11-31.

1662 15-11-108.

1663 (a) The court shall give to all parties written notice of the date, time, place, and purpose  
1664 of the following postadjudication hearings or reviews:

1665 (1) Nonreunification hearings;

1666 (2) Disposition hearings;

1667 (3) Periodic review hearings;

1668 (4) Periodic reviews by judicial citizen review panel;

1669 (5) Permanency plan hearings;

1670 (6) Termination of parental rights hearings; and

1671 (7) Termination of parental rights review hearings.

1672 (b) Issuance and service of summons, when appropriate, shall comply with the  
1673 requirements of Code Sections 15-11-160 and 15-11-161.

1674 (c) Unless otherwise provided in this chapter, written notice shall be delivered to the  
1675 recipient at least 72 hours before the hearing or review by United States mail, e-mail, or  
1676 hand delivery.

1677 15-11-109.

1678 (a) In advance of each hearing or review, DFCS shall give written notice of the date, time,  
1679 place, and purpose of the review or hearing to the caregiver of the child, the foster parent  
1680 of the child, any preadoptive parent, or any relative providing care for the child including  
1681 the right to be heard. The written notice shall be delivered to the recipient at least 72 hours  
1682 before the review or hearing, except in the case of preliminary protective hearings or  
1683 emergency hearings when such notice is not possible, by United States mail, e-mail, or  
1684 hand delivery.

1685 (b) Notice of a hearing or review shall not be construed to require a legal custodian, foster  
1686 parent, preadoptive parent, or relative caring for the child to be made a party to the hearing  
1687 or review solely on the basis of such notice and opportunity to be heard.

1688 15-11-110.

1689 (a) Upon request of an attorney for the parent, guardian, legal custodian, child, or  
1690 petitioner, the court may continue any hearing under this article beyond the time limit  
1691 within which the hearing is otherwise required to be held; provided, however, that no  
1692 continuance shall be granted that is contrary to the interests of the child. In considering a  
1693 child's interests, the court shall give substantial weight to a child's need for prompt  
1694 resolution of his or her custody status, the need to provide a child with a stable  
1695 environment, and the damage to a child of prolonged temporary placements.

1696 (b) Continuances shall be granted only upon a showing of good cause and only for that  
 1697 period of time shown to be necessary by the evidence presented at the hearing on the  
 1698 motion. Whenever any continuance is granted, the facts proved which require the  
 1699 continuance shall be entered in the court record.

1700 (c) A stipulation between attorneys or the convenience of the parties shall not constitute  
 1701 good cause. Except as otherwise provided by judicial rules governing attorney conflict  
 1702 resolution, a pending criminal prosecution or family law matter shall not constitute good  
 1703 cause. The need for discovery shall not constitute good cause.

1704 (d) In any case in which a parent, guardian, legal custodian, or child is represented by an  
 1705 attorney and no objection is made to an order continuing any such hearing beyond the time  
 1706 limit, the absence of such an objection shall be deemed a consent to the continuance;  
 1707 provided, however, that even with consent, the court shall decide whether to grant the  
 1708 continuance in accordance with subsection (a) of this Code section.

1709 15-11-111.

1710 (a) At any hearing held with respect to a child, the court in its discretion, and based upon  
 1711 the evidence, may enter an order:

1712 (1) Accepting or rejecting any DFCS report;

1713 (2) Ordering an additional evaluation; or

1714 (3) Undertaking such other review as it deems necessary and appropriate to determine  
 1715 the disposition that is in the child's best interests.

1716 (b) The court's order:

1717 (1) May incorporate all or part of the DFCS report; and

1718 (2) Shall include findings of fact which reflect the court's consideration of the oral and  
 1719 written testimony offered by all parties, as well as nonparties, who are required to be  
 1720 provided with notice and a right to be heard in any hearing to be held with respect to the  
 1721 child, and DFCS.

1722 15-11-112.

1723 (a) When a child is removed from his or her home the court shall order reasonable  
 1724 visitation that is consistent with the age and developmental needs of the child if the court  
 1725 finds that it is in the child's best interests. The court's order shall specify the frequency,  
 1726 duration, and terms of visitation including whether or not visitation shall be supervised or  
 1727 unsupervised.

1728 (b) There shall be a presumption that visitation shall be unsupervised unless the court finds  
 1729 that unsupervised visitation is not in the child's best interests.

1730 (c) Within 30 days of the court finding that there is a lack of substantial progress towards  
 1731 completion of a case plan, the court shall review the terms of visitation and determine  
 1732 whether the terms continue to be appropriate for the child or whether the terms need to be  
 1733 modified.

1734 15-11-113.

1735 When a child is alleged to be dependent, the date the child is considered to have entered  
 1736 foster care shall be the date of the first judicial finding that a child has been subjected to  
 1737 child abuse or neglect or the date that is 60 days after the date on which a child is removed  
 1738 from his or her home, whichever is earlier.

1739 Part 2

1740 15-11-125.

1741 (a) A proceeding under this article may be commenced:

1742 (1) In the county in which a child legally resides; or

1743 (2) In the county in which a child is present when the proceeding is commenced if the  
 1744 child is present without a parent, guardian, or legal custodian or the acts underlying the  
 1745 dependency allegation are alleged to have occurred in that county.

1746 (b) For the convenience of the parties, the court may transfer the proceeding to the county  
 1747 in which a child legally resides. If the proceeding is transferred, certified copies of all legal  
 1748 and social documents and records pertaining to the proceeding on file with the clerk of  
 1749 court shall accompany the transfer.

1750 Part 3

1751 15-11-130.

1752 (a) Notwithstanding Code Sections 15-11-133 and 15-11-135, DFCS shall be authorized  
 1753 to provide emergency care and supervision to any child without seeking a court order for  
 1754 a period not to exceed seven days when:

1755 (1) As a result of an emergency or illness, the person who has physical and legal custody  
 1756 of a child is unable to provide for the care and supervision of the child, and such person  
 1757 or a law enforcement officer, emergency personnel employed by a licensed ambulance  
 1758 provider, fire rescue personnel, or a hospital administrator or his or her designee requests  
 1759 that DFCS exercise such emergency custody; and

1760 (2) The child is not at imminent risk of abuse or neglect, other than the risks arising from  
 1761 being without a caretaker.

1762 (b) During the period when a child is in the temporary care and supervision of DFCS,  
 1763 DFCS shall endeavor to place the child with a relative of the parent, guardian, or legal  
 1764 custodian, in foster care, or in emergency foster care or shall make other appropriate  
 1765 placement arrangements. DFCS shall have the same rights and powers with regard to the  
 1766 child as does the parent, guardian, or legal custodian including the right to consent to  
 1767 medical treatment.

1768 (c) Immediately upon receiving custody of a child, DFCS shall begin a diligent search for  
 1769 a relative or other designee of the parent who can provide for the care and supervision of  
 1770 the child.

1771 (d) At any time during such seven-day period, and upon notification to DFCS that the  
 1772 parent, guardian, or legal custodian or an expressly authorized relative, or designee thereof,  
 1773 is able to provide care to and exercise control over the child, DFCS shall release the child  
 1774 to the person having custody of the child at the time the child was taken into DFCS custody  
 1775 or to such person's authorized relative or designee.

1776 (e) Upon the expiration of such seven-day period, if the child has not been released or if  
 1777 DFCS determines that there is an issue of neglect, abandonment, or abuse, DFCS shall  
 1778 promptly contact a juvenile court intake officer or bring the child before the juvenile court.  
 1779 If, upon making an investigation, the juvenile court intake officer finds that foster care is  
 1780 warranted for the child, then, for purposes of this chapter, the child shall be deemed to have  
 1781 been placed in foster care at the time such finding was made and DFCS may file a  
 1782 dependency petition.

1783 (f) DFCS and its successors, agents, assigns, and employees shall be immune from any and  
 1784 all liability for providing care and supervision in accordance with this Code section, for  
 1785 consenting to medical treatment for the child, and for releasing the child.

1786 15-11-131.

1787 (a) Notwithstanding Code Section 15-11-133, a physician, licensed to practice medicine  
 1788 in this state who is treating a child may take or retain temporary protective custody of the  
 1789 child, without a court order and without the consent of a parent, guardian, or legal  
 1790 custodian, provided that:

1791 (1) The physician has reasonable cause to believe that the child is in a circumstance or  
 1792 condition that presents an imminent danger to the child's life or health as a result of  
 1793 suspected abuse or neglect; or

1794 (2) There is reasonable cause to believe that the child has been abused or neglected and  
 1795 there is not sufficient time for a court order to be obtained for temporary custody of the  
 1796 child before the child may be removed from the presence of the physician.

1797 (b) A physician holding a child in temporary protective custody shall:

- 1798 (1) Make reasonable and diligent efforts to inform the parents, guardian, or legal  
 1799 custodian of the child of the whereabouts of the child;
- 1800 (2) As soon as possible, make a report of the suspected abuse or neglect which caused  
 1801 him or her to take temporary custody of the child and inform DFCS that the child has  
 1802 been held in temporary custody; and
- 1803 (3) Not later than 24 hours after the child is held in temporary custody:
- 1804 (A) Contact a juvenile court intake officer, and inform such intake officer that the child  
 1805 is in imminent danger to his or her life or health as a result of suspected abuse or  
 1806 neglect; or
- 1807 (B) Contact a law enforcement officer who shall take the child and promptly bring the  
 1808 child before a juvenile court intake officer.
- 1809 (c) A child who meets the requirements for inpatient admission shall be retained in the  
 1810 hospital or institution until such time as the child is medically ready for discharge. Upon  
 1811 notification by the hospital or institution to DFCS that a child who is not eligible for  
 1812 inpatient admission or who is medically ready for discharge has been taken into custody  
 1813 by a physician and the child has been placed in DFCS custody, DFCS shall take physical  
 1814 custody of the child within six hours of being notified.
- 1815 (d) If the juvenile court intake officer determines that the child is to be placed in foster  
 1816 care and the court orders that the child be placed in DFCS custody, then:
- 1817 (1) If the child remains in the physical care of the physician, DFCS shall take physical  
 1818 possession of the child within six hours of being notified by the physician, unless the  
 1819 child meets the criteria for admission to a hospital or other medical institution or facility;  
 1820 or
- 1821 (2) If the child has been brought before the court by a law enforcement officer, DFCS  
 1822 shall promptly take physical possession of the child.
- 1823 (e) If the juvenile court intake officer determines that the child should not be placed in  
 1824 foster care, the child shall be released.
- 1825 (f) If the child is placed in foster care, then the court shall notify the child's parents,  
 1826 guardian, or legal custodian, the physician, and DFCS of the preliminary protective hearing  
 1827 which is to be held within 72 hours.
- 1828 (g) If after the preliminary protective hearing the child is not released, DFCS shall file a  
 1829 petition alleging dependency in accordance with this article, provided that there is a  
 1830 continued belief that the child's life or health is in danger as a result of suspected abuse or  
 1831 neglect.
- 1832 (h) Any hospital or physician authorized and acting in good faith and in accordance with  
 1833 acceptable medical practice in the treatment of a child under this Code section shall have  
 1834 immunity from any liability, civil or criminal, that might otherwise be incurred or imposed

1835 as a result of taking or failing to take any action pursuant to this Code section. This Code  
 1836 section shall not be construed as imposing any additional duty not already otherwise  
 1837 imposed by law.

1838 15-11-132.

1839 (a) The facts supporting the issuance of an order of removal may be relayed orally,  
 1840 including telephonically, to the judge or a designated juvenile court intake officer, and the  
 1841 order directing that a child be taken into custody may be issued orally or electronically.

1842 (b) When a child is taken into custody under exceptional circumstances, an affidavit or  
 1843 sworn complaint containing the information previously relayed orally, including  
 1844 telephonically, shall be filed with the clerk of the court the next business day, and a written  
 1845 order shall be issued if not previously issued. The written order shall include the court's  
 1846 findings of fact supporting the necessity for the child's removal in order to safeguard the  
 1847 child's welfare and shall designate the child's legal custodian.

1848 (c) The affidavit or sworn complaint filed after the child has been placed shall indicate  
 1849 whether the child was released to the child's parent, guardian, or legal custodian or remains  
 1850 removed.

1851 (d) DFCS shall promptly notify the parent, guardian, or legal custodian of the nature of the  
 1852 allegations forming the basis for taking the child into custody and, if the child is not  
 1853 released, of the time and place of the preliminary protective hearing.

1854 15-11-133.

1855 (a) A child may be removed from his or her home, without the consent of the child's  
 1856 parents, guardian, or legal custodian:

1857 (1) Pursuant to an order of the court under this article; or

1858 (2) By a law enforcement officer or duly authorized officer of the court if the child is in  
 1859 imminent danger of abuse or neglect if he or she remains in the home.

1860 (b) Upon removing a child from his or her home, the law enforcement officer or duly  
 1861 authorized officer of the court shall:

1862 (1) Immediately deliver the child to a medical facility if the child is believed to suffer  
 1863 from a serious physical condition or illness which requires prompt treatment, and, upon  
 1864 delivery, shall promptly contact DFCS;

1865 (2) Bring the child immediately before the juvenile court or promptly contact a juvenile  
 1866 court intake officer; and

1867 (3) Promptly give notice to the court and the child's parents, guardian, or legal custodian  
 1868 that the child is in protective custody, together with a statement of the reasons for taking  
 1869 the child into protective custody.

1870 (c) The removal of child from his or her home by a law enforcement officer shall not be  
 1871 deemed an arrest.

1872 (d) A law enforcement officer removing a child from his or her home has all the privileges  
 1873 and immunities of a law enforcement officer making an arrest.

1874 (e) A law enforcement officer shall promptly contact a juvenile court intake officer for  
 1875 issuance of a court order once such officer has taken a child into protective custody and  
 1876 delivered the child to a medical facility.

1877 (f) A juvenile court intake officer shall immediately determine if the child should be  
 1878 released, remain in protective custody, or be brought before the court upon being contacted  
 1879 by a law enforcement officer, duly authorized officer of the court, or DFCS that a child has  
 1880 been taken into protective custody.

1881 15-11-134.

1882 (a) Any order authorizing the removal of a child from his or her home shall be based on  
 1883 a finding by the court that continuation in the home would be contrary to the child's  
 1884 welfare.

1885 (b) Such findings shall be made on an individualized case-by-case basis and shall be  
 1886 documented in the court's written order.

1887 15-11-135.

1888 (a) A child taken into custody shall not be placed in foster care prior to the hearing on the  
 1889 petition unless:

1890 (1) Foster care is required to protect the child;

1891 (2) The child has no parent, guardian, or legal custodian or other person able to provide  
 1892 supervision and care and return him or her to the court when required; or

1893 (3) An order for the child's foster care has been made by the court.

1894 (b) No child alleged or adjudicated to be dependent shall be detained in any jail, adult  
 1895 lockup, or adult detention facility, nor shall a child be detained in a regional youth  
 1896 detention center or youth development center unless the child is also alleged or adjudicated  
 1897 to be delinquent, and the court determines that the requirements for detention under Article  
 1898 7 of this chapter are met.

1899 (c) A child alleged to be dependent may be placed in foster care only in:

1900 (1) A licensed or approved foster home or a home approved by the court which may be  
 1901 a public or private home or the home of the noncustodial parent or of a relative;

1902 (2) A facility operated by a licensed child welfare agency; or

1903 (3) A licensed shelter care facility approved by the court.

1904 (d) The actual physical placement of a child pursuant to this Code section shall require the  
 1905 approval of the judge of the juvenile court or his or her designee.

1906 (e) In any case in which a child is taken into protective custody of DFCS, the child shall  
 1907 be placed together with any siblings who are also in protective custody, to the extent that  
 1908 it is practical and appropriate, or DFCS shall include a statement in its report and case plan  
 1909 of continuing efforts to place the siblings together or why such efforts are not appropriate.  
 1910 If siblings are not placed together, DFCS shall provide for frequent visitation or other  
 1911 ongoing interaction between the siblings, unless DFCS documents that such frequent  
 1912 visitation or other ongoing interaction would be contrary to the safety or well-being of any  
 1913 of the siblings.

1914 Part 4

1915 15-11-145.

1916 (a) If a child alleged to be dependent is removed from his or her home and is not returned  
 1917 home, the preliminary protective hearing shall be held promptly and not later than 72 hours  
 1918 after the child is placed in foster care; provided, however, that if the 72 hour time frame  
 1919 expires on a weekend or legal holiday, the hearing shall be held on the next day which is  
 1920 not a weekend or legal holiday.

1921 (b) Reasonable oral or written notice of the preliminary protective hearing, stating the  
 1922 time, place, and purpose of the hearing, shall be given to the child and, if such person can  
 1923 be found, to the child's parent, guardian, or legal custodian.

1924 (c) If a parent, guardian, or legal custodian has not been notified of the preliminary  
 1925 protective hearing and did not appear or waive appearance at such hearing and thereafter  
 1926 files an affidavit showing such facts, the court shall rehear the matter without unnecessary  
 1927 delay and shall order the child's release unless it appears from such hearing that the child's  
 1928 foster care is warranted or required.

1929 (d) The following persons shall have the right to participate in the preliminary protective  
 1930 hearing:

1931 (1) The child's parent, guardian, or legal custodian, unless such person cannot be located  
 1932 or fails to appear in response to the notice;

1933 (2) The child's attorney and guardian ad litem if a guardian ad litem has been appointed;

1934 (3) The child, unless the court finds, after considering evidence of harm to the child that  
 1935 will result from the child's presence at the proceeding, that being present is not in the  
 1936 child's best interests;

1937 (4) The parent's attorney if an attorney has been retained or appointed;

1938 (5) The assigned DFCS caseworker; and

- 1939 (6) The attorney for DFCS.
- 1940 (e) The court may allow the following parties to be present at the preliminary protective  
 1941 hearing, if the court finds it is in the best interests of the child:
- 1942 (1) Any relative or other person who has demonstrated an ongoing commitment to the  
 1943 child with whom the child might be placed;
- 1944 (2) DFCS employees involved in the case;
- 1945 (3) An advocate as requested by the parent, guardian, or legal custodian; and
- 1946 (4) Other persons who have knowledge of or an interest in the welfare of the child.
- 1947 (f) At the commencement of the preliminary protective hearing, the court shall inform the  
 1948 parties of:
- 1949 (1) The contents of the complaint in terms understandable to the child and parent,  
 1950 guardian, or legal custodian;
- 1951 (2) The nature of the proceedings in terms understandable to the child and parent,  
 1952 guardian, or legal custodian;
- 1953 (3) Their due process rights including their right to an attorney and to an appointed  
 1954 attorney if they are indigent persons, the right to call witnesses and to cross-examine all  
 1955 witnesses, the right to present evidence, and the right to a trial by the court on the  
 1956 allegations in the complaint or petition.
- 1957 (g) If the child is not released at the preliminary protective hearing, a petition for  
 1958 dependency shall be made and presented to the court within five days of such hearing.
- 1959 15-11-146.
- 1960 (a) At the preliminary protective hearing, the court shall determine:
- 1961 (1) Whether there is probable cause to believe the child is dependent; and
- 1962 (2) Whether protective custody of the child is necessary to prevent abuse or neglect  
 1963 pending the hearing on the dependency petition.
- 1964 (b) The court:
- 1965 (1) On finding that the complainant has not proved either of the required elements  
 1966 prescribed in subsection (a) of this Code section, shall dismiss the case and shall return  
 1967 the child to the child's parent, guardian, or legal custodian;
- 1968 (2) On finding that the complainant has not met the burden of proving that protective  
 1969 custody is necessary, shall return the child to the child's parent, guardian, or legal  
 1970 custodian pending the hearing on the dependency petition; or
- 1971 (3) On finding that the complainant has met the burden prescribed in subsection (a) of  
 1972 this Code section, may place the child in the temporary custody of DFCS pending the  
 1973 hearing on the dependency petition.

1974 (c) A court's order removing a child from the child's home shall be based upon a finding  
 1975 that:

1976 (1) Continuation in the home would be contrary to the child's welfare; and

1977 (2) Removal is in the child's best interests.

1978 (d) The court shall make written findings as to whether DFCS has made reasonable efforts  
 1979 to prevent or eliminate the need for removal of the child from the home and to make it  
 1980 possible for the child to safely return home. When the court finds that no services were  
 1981 provided but that reasonable services would not have eliminated the need for protective  
 1982 custody, the court shall consider DFCS to have made reasonable efforts to prevent or  
 1983 eliminate the need for protective custody. The court shall include in the written findings  
 1984 a brief description of what preventive and reunification efforts were made by DFCS.

1985 (e) In determining whether a child shall be removed or continued out of the home, the  
 1986 court shall consider whether the provision of reasonable services can prevent or eliminate  
 1987 the need to separate the family. The court shall make a written finding in every order of  
 1988 removal that describes why it is in the best interests of the child that the child be removed  
 1989 from the home or continued in foster care.

1990 (f) To aid the court in making the required written findings, DFCS shall present evidence  
 1991 to the court outlining the reasonable efforts made to prevent taking the child into protective  
 1992 custody and to provide services to make it possible for the child to safely return home and  
 1993 why protective custody is in the best interests of the child.

1994 Part 5

1995 15-11-150.

1996 A DFCS employee, a law enforcement officer, or any person who has actual knowledge  
 1997 of the abuse, neglect, or abandonment of a child or is informed of the abuse, neglect, or  
 1998 abandonment of a child that he or she believes to be truthful may make a petition alleging  
 1999 dependency.

2000 15-11-151.

2001 (a) If a child was removed from his or her home, the petition alleging dependency shall be  
 2002 filed within five days of the preliminary protective hearing.

2003 (b) If the child was not removed from his or her home or if the child was removed from  
 2004 his or her home but was released from protective custody at the preliminary protective  
 2005 hearing, the petition alleging dependency shall be filed within 30 days of the preliminary  
 2006 protective hearing.

2007 (c) Upon a showing of good cause and notice to all parties, the court may grant a requested  
 2008 extension of time for filing a petition alleging dependency in accordance with the best  
 2009 interests of the child. The court shall issue a written order reciting the facts justifying the  
 2010 extension.

2011 (d) If a petition alleging dependency is not filed within the required time frame, the  
 2012 complaint shall be dismissed without prejudice.

2013 15-11-152.

2014 A petition alleging dependency shall be verified and may be on information and belief and  
 2015 shall set forth plainly and with particularity:

2016 (1) The facts which bring the child within the jurisdiction of the court, with a statement  
 2017 that it is in the best interests of the child and the public that the proceeding be brought;

2018 (2) The name, date of birth, and residence address of the child on whose behalf the  
 2019 petition is brought;

2020 (3) The name and residence address of the parent, guardian, or legal custodian of the  
 2021 child; or, if neither the child's parent nor the child's guardian nor the child's legal  
 2022 custodian resides or can be found within the state or if such place of residence address is  
 2023 unknown, the name of any known adult relative residing within the county or, if there is  
 2024 none, the known adult relative residing nearest to the location of the court;

2025 (4) Whether the child is in protective custody and, if so, the place of his or her foster care  
 2026 and the time the child was taken into protective custody; and

2027 (5) Whether any of the matters required by this Code section are unknown.

2028 15-11-153.

2029 (a) The petitioner may amend the petition alleging dependency at any time:

2030 (1) To cure defects of form; and

2031 (2) Prior to the adjudication hearing, to include new allegations of fact or requests for  
 2032 adjudication.

2033 (b) When the petition is amended after the initial service to include new allegations of fact  
 2034 or requests for adjudication, the amended petition shall be served on the parties and  
 2035 provided to the attorneys of record.

2036 (c) The court shall grant the parties such additional time to prepare as may be required to  
 2037 ensure a full and fair hearing; provided, however, that when a child is in protective custody  
 2038 or in detention, the adjudication hearing shall not be delayed more than ten days beyond  
 2039 the time originally fixed for the hearing.

Part 6

2040

2041 15-11-160.

2042 (a) The court shall direct the issuance of a summons to the child if the child is 14 years of  
2043 age or older, the child's parent, guardian, or legal custodian, the child's attorney, the child's  
2044 guardian ad litem, if any, and any other persons who appear to the court to be proper or  
2045 necessary parties to the proceeding, requiring them to appear before the court at the time  
2046 fixed to answer the allegations of the petition alleging dependency. A copy of the petition  
2047 alleging dependency shall accompany the summons unless the summons is served by  
2048 publication, in which case the published summons shall indicate the general nature of the  
2049 allegations and where a copy of the petition alleging dependency can be obtained.

2050 (b) The summons shall state that a party is entitled to an attorney in the proceedings and  
2051 that the court will appoint an attorney if the party is an indigent person.

2052 (c) The court may endorse upon the summons an order directing the parent, guardian, or  
2053 legal custodian of the child to appear personally at the hearing and directing the person  
2054 having the physical custody or control of the child to bring the child to the hearing.

2055 (d) A party other than the child may waive service of summons by written stipulation or  
2056 by voluntary appearance at the hearing.

2057 15-11-161.

2058 (a) If a party to be served with a summons is within this state and can be found, the  
2059 summons shall be served upon him or her personally as soon as possible and at least 72  
2060 hours before the adjudication hearing.

2061 (b) If a party to be served is within this state and cannot be found but his or her address is  
2062 known or can be ascertained with reasonable diligence, the summons shall be served upon  
2063 such party at least five days before the adjudication hearing by mailing him or her a copy  
2064 by registered or certified mail or statutory overnight delivery, return receipt requested.

2065 (c) If a party to be served is outside this state but his or her address is known or can be  
2066 ascertained with reasonable diligence, service of the summons shall be made at least five  
2067 days before the adjudication hearing either by delivering a copy to such party personally  
2068 or by mailing a copy to him or her by registered or certified mail or statutory overnight  
2069 delivery, return receipt requested.

2070 (d) If, after justifiable effort, a party to be served with a summons cannot be found and  
2071 such party's address cannot be ascertained, whether he or she is within or outside this state,  
2072 the court may order service of the summons upon him or her by publication. The  
2073 adjudication hearing shall not be earlier than five days after the date of the last publication.

2074 (e)(1) Service by publication shall be made once a week for four consecutive weeks in  
 2075 the official organ of the county where the petition alleging dependency has been filed.  
 2076 Service shall be deemed complete upon the date of the last publication.

2077 (2) When served by publication, the notice shall contain the names of the parties, except  
 2078 that the anonymity of the child shall be preserved by the use of appropriate initials, and  
 2079 the date the petition alleging dependency was filed. The notice shall indicate the general  
 2080 nature of the allegations and where a copy of the petition alleging dependency can be  
 2081 obtained and require the party to be served by publication to appear before the court at  
 2082 the time fixed to answer the allegations of the petition alleging dependency.

2083 (3) Within 15 days after the filing of the order of service by publication, the clerk of  
 2084 court shall mail a copy of the notice, a copy of the order of service by publication, and  
 2085 a copy of the petition alleging dependency to the last known address of the party being  
 2086 served by publication.

2087 (f) Service of the summons may be made by any suitable person under the direction of the  
 2088 court.

2089 (g) The court may authorize the payment from county funds of the costs of service and of  
 2090 necessary travel expenses incurred by persons summoned or otherwise required to appear  
 2091 at the hearing.

2092 15-11-162.

2093 (a) In the event a parent, guardian, or legal custodian of the child willfully fails to appear  
 2094 personally at a hearing after being ordered to so appear or the parent, guardian, or legal  
 2095 custodian of the child willfully fails to bring the child to a hearing after being so directed,  
 2096 the court may issue an order against the person, directing the person to appear before the  
 2097 court to show cause why he or she should not be held in contempt of court.

2098 (b) If the parent, guardian, or legal custodian fails to appear in response to an order to  
 2099 show cause, the court may issue a bench warrant directing that the parent, guardian, or  
 2100 legal custodian be brought before the court without delay to show cause why he or she  
 2101 should not be held in contempt and the court may enter any order authorized by and in  
 2102 accordance with the provisions of Code Section 15-11-31.

2103 15-11-163.

2104 (a) If service of summons upon a party is made by publication, the court may conduct a  
 2105 provisional hearing upon the allegations of the petition alleging dependency and enter an  
 2106 interlocutory order of disposition if:

2107 (1) The petition alleges dependency of the child;

2108 (2) The summons served upon any party:

- 2109 (A) States that prior to the final hearing on such petition a provisional hearing will be  
 2110 held at a specified time and place;  
 2111 (B) Requires the party who is served other than by publication to appear and answer  
 2112 the allegations of the petition alleging dependency at the provisional hearing;  
 2113 (C) States further that findings of fact and orders of disposition made pursuant to the  
 2114 provisional hearing will become final at the final hearing unless the party served by  
 2115 publication appears at the final hearing; and  
 2116 (D) Otherwise conforms to the requirements of Code Section 15-11-160; and  
 2117 (3) The child is personally before the court at the provisional hearing.  
 2118 (b) Findings of fact and orders of disposition shall have only interlocutory effect pending  
 2119 final hearing on the petition alleging dependency.  
 2120 (c) If the party served by publication fails to appear at the final hearing on the petition  
 2121 alleging dependency, the findings of fact and interlocutory orders made shall become final  
 2122 without further evidence. If the party appears at the final hearing, the findings and orders  
 2123 shall be vacated and disregarded and the hearing shall proceed upon the allegations of such  
 2124 petition without regard to this Code section.

2125 Part 7

2126 15-11-170.

- 2127 (a) In all cases under this article, any party shall, upon written request to the party having  
 2128 actual custody, control, or possession of the material to be produced, have full access to the  
 2129 following for inspection, copying, or photographing:  
 2130 (1) The names and telephone numbers of each witness likely to be called to testify at the  
 2131 hearing by another party;  
 2132 (2) A copy of any formal written statement made by the child who is alleged to be  
 2133 dependent or any witness that relates to the subject matter concerning the testimony of  
 2134 the witness that a party intends to call as a witness at the hearing;  
 2135 (3) Except as otherwise provided in subsection (b) of this Code section, any scientific or  
 2136 other report which is intended to be introduced at any hearing or that pertains to physical  
 2137 evidence which is intended to be introduced;  
 2138 (4) Any drug screen concerning the child who is alleged to be dependent or his or her  
 2139 parent, guardian, or legal custodian;  
 2140 (5) Any case plan concerning the child who is alleged to be dependent or his or her  
 2141 parent, guardian, or legal custodian;  
 2142 (6) Any visitation schedule related to the child who is alleged to be dependent;

2143 (7) Photographs and any physical evidence which are intended to be introduced at any  
 2144 hearing;

2145 (8) Copies of the police incident report regarding an occurrence which forms part or all  
 2146 of the basis of the petition; and

2147 (9) Any other relevant evidence not requiring consent or a court order under subsection  
 2148 (b) of this Code section.

2149 (b) Upon presentation of a court order or written consent from the appropriate person or  
 2150 persons permitting access to the party having actual custody, control, or possession of the  
 2151 material to be produced, any party shall have access to the following for inspection,  
 2152 copying, or photographing:

2153 (1) Any psychological, developmental, physical, mental or emotional health, or other  
 2154 assessments of the child who is alleged to be dependent or the family, parent, guardian,  
 2155 or legal custodian of such child;

2156 (2) Any school record concerning the child who is alleged to be dependent;

2157 (3) Any medical record concerning the child who is alleged to be dependent;

2158 (4) Transcriptions, recordings, and summaries of any oral statement of the child who is  
 2159 alleged to be dependent or of any witness, except child abuse reports that are confidential  
 2160 pursuant to Code Section 19-7-5 and work product of counsel;

2161 (5) Any family team meeting report or multidisciplinary team meeting report concerning  
 2162 the child who is alleged to be dependent or his or her parent, guardian, or legal custodian;

2163 (6) Supplemental police reports, if any, regarding an occurrence which forms part of all  
 2164 of the basis of the petition; and

2165 (7) Immigration records concerning the child who is alleged to be dependent.

2166 (c) If a party requests disclosure of information pursuant to subsection (a) or (b) of this  
 2167 Code section, it shall be the duty of such party to promptly make the following available  
 2168 for inspection, copying, or photographing to every other party:

2169 (1) The names and last known addresses and telephone numbers of each witness to the  
 2170 occurrence which forms the basis of the party's defense or claim;

2171 (2) Any scientific or other report which is intended to be introduced at the hearing or that  
 2172 pertains to physical evidence which is intended to be introduced;

2173 (3) Photographs and any physical evidence which are intended to be introduced at the  
 2174 hearing; and

2175 (4) A copy of any written statement made by any witness that relates to the subject  
 2176 matter concerning the testimony of the witness that the party intends to call as a witness.

2177 (d) A request for discovery or reciprocal discovery shall be complied with promptly and  
 2178 not later than five days after the request is received or 72 hours prior to any hearing except  
 2179 when later compliance is made necessary by the timing of the request. If the request for

2180 discovery is made fewer than 48 hours prior to an adjudicatory hearing, the discovery  
2181 response shall be produced in a timely manner. If, subsequent to providing a discovery  
2182 response in compliance with this Code section, the existence of additional evidence is  
2183 found, it shall be promptly provided to the party making the discovery request.

2184 (e) If a request for discovery or consent for release is refused, application may be made to  
2185 the court for a written order granting discovery. Motions for discovery shall certify that  
2186 a request for discovery or consent was made and was unsuccessful despite good faith  
2187 efforts made by the requesting party. An order granting discovery shall require reciprocal  
2188 discovery. Notwithstanding the provisions of subsection (a) or (b) of this Code section, the  
2189 court may deny, in whole or in part, or otherwise limit or set conditions concerning the  
2190 discovery response upon a sufficient showing by a person or entity to whom a request for  
2191 discovery is made that disclosure of the information would:

2192 (1) Jeopardize the safety of a party, witness, or confidential informant;  
2193 (2) Create a substantial threat of physical or economic harm to a witness or other person;  
2194 (3) Endanger the existence of physical evidence;  
2195 (4) Disclose privileged information; or  
2196 (5) Impede the criminal prosecution of a minor who is being prosecuted as an adult or  
2197 the prosecution of an adult charged with an offense arising from the same transaction or  
2198 occurrence.

2199 (f) No deposition shall be taken of a child unless the court orders the deposition, under  
2200 such conditions as the court may order, on the ground that the deposition would further the  
2201 purposes of this part.

2202 (g) If at any time during the course of the proceedings it is brought to the attention of the  
2203 court that a person or entity has failed to comply with an order issued pursuant to this Code  
2204 section, the court may grant a continuance, prohibit the party from introducing in evidence  
2205 the information not disclosed, or enter such other order as the court deems just under the  
2206 circumstances.

2207 (h) Nothing contained in this Code section shall prohibit the court from ordering the  
2208 disclosure of any information that the court deems necessary for proper adjudication.

2209 (i) Any material or information furnished to a party pursuant to this part shall remain in  
2210 the exclusive custody of the party and shall only be used during the pendency of the case  
2211 and shall be subject to such other terms and conditions as the court may provide.

Part 8

2212

2213 15-11-180.

2214 The petitioner shall have the burden of proving the allegations of a dependency petition by  
2215 clear and convincing evidence.

2216 15-11-181.

2217 (a) The court shall fix a time for the adjudication hearing. If the child is in foster care, the  
2218 hearing shall be scheduled for no later than ten days after the filing of the petition alleging  
2219 dependency. If the child is not in foster care, the adjudication hearing shall be held no later  
2220 than 60 days after the filing of the petition alleging dependency. If adjudication is not  
2221 completed within 60 days from the date the child was taken into protective custody, the  
2222 petition alleging dependency may be dismissed without prejudice.

2223 (b) The following persons shall have the right to participate in the adjudication hearing:

2224 (1) The child's parent, guardian, or legal custodian, unless such person cannot be located  
2225 or fails to appear in response to the notice;

2226 (2) The child's attorney and guardian ad litem, if a guardian ad litem has been appointed;

2227 (3) The child, unless the court finds, after considering evidence of harm to the child that  
2228 will result from the child's presence at the proceeding, that being present is not in the  
2229 child's best interests;

2230 (4) The attorneys for the parent, guardian, or legal custodian if attorneys have been  
2231 retained or appointed;

2232 (5) The assigned DFCS caseworker; and

2233 (6) The attorney for DFCS.

2234 (c) If the court finds it is in the best interests of the child, the court may allow the  
2235 following to be present at the adjudication hearing:

2236 (1) Any relative or other person who has demonstrated an ongoing commitment to the  
2237 child with whom the child might be placed;

2238 (2) DFCS employees involved with the case;

2239 (3) An advocate as requested by the parent, guardian, or legal custodian; and

2240 (4) Other persons who have knowledge of or an interest in the welfare of the child.

2241 (d) Except as provided in this subsection, the adjudication hearing shall be conducted in  
2242 accordance with Title 24. Testimony or other evidence relevant to the dependency of a  
2243 child or the cause of such condition may not be excluded on any ground of privilege,  
2244 except in the case of:

2245 (1) Communications between a party and his or her attorney; and

- 2246 (2) Confessions or communications between a priest, rabbi, or duly ordained minister or  
 2247 similar functionary and his or her confidential communicant.
- 2248 (e) After hearing the evidence, the court shall make and file specific written findings as  
 2249 to whether the child is a dependent child.
- 2250 (f) If the court finds that the child is not a dependent child, it shall dismiss the petition  
 2251 alleging dependency and order the child discharged from foster care or other restriction  
 2252 previously ordered.
- 2253 (g) If the court finds that the child is dependent, the court shall proceed immediately or at  
 2254 a postponed hearing to make a proper disposition of the case.
- 2255 (h) If the court finds that a child is dependent, the court shall also make and file a finding  
 2256 whether such dependency is the result of substance abuse by a parent, guardian, or legal  
 2257 custodian.
- 2258 (i) If the disposition hearing is held on the same day as the adjudication hearing, the court  
 2259 shall schedule the dates and times for the first periodic review hearing and for the  
 2260 permanency plan hearing.

2261 Part 9

2262 15-11-190.

2263 If the allegations of the petition alleging dependency are admitted or after an adjudication  
 2264 hearing the court has found the child to be dependent, the court may direct that a written  
 2265 social study and report be made by DFCS.

2266 15-11-191.

2267 Each social study shall include, but shall not be limited to, a factual discussion of each of  
 2268 the following subjects:

- 2269 (1) What plan, if any, for the return of the child to his or her parent and for achieving  
 2270 legal permanency for the child if efforts to reunify fail, is recommended to the court;
- 2271 (2) Whether the best interests of the child will be served by granting reasonable visitation  
 2272 rights to his or her other relatives, in order to maintain and strengthen the child's family  
 2273 relationships;
- 2274 (3) Whether the child has siblings under the court's jurisdiction, and, if so:
- 2275 (A) The nature of the relationship between the child and his or her sibling;
- 2276 (B) Whether the siblings were raised together in the same home and whether the  
 2277 siblings have shared significant common experiences or have existing close and strong  
 2278 bonds;

- 2279 (C) Whether the child expresses a desire to visit or live with his or her sibling and  
 2280 whether ongoing contact is in the child's best interests;  
 2281 (D) The appropriateness of developing or maintaining the sibling relationships;  
 2282 (E) If the siblings are not placed together in the same home, why the siblings are not  
 2283 placed together and what efforts are being made to place the siblings together or why  
 2284 those efforts are not appropriate;  
 2285 (F) If the siblings are not placed together, the frequency and nature of the visits  
 2286 between siblings; and  
 2287 (G) The impact of the sibling relationship on the child's placement and planning for  
 2288 legal permanence;  
 2289 (4) The appropriateness of any relative placement; and  
 2290 (5) Whether the caregiver desires and is willing to provide legal permanency for the  
 2291 child if reunification is unsuccessful.

2292 Part 10

2293 15-11-200.

- 2294 (a) Within 30 days of the date a child who is placed in DFCS custody is removed from the  
 2295 home and at each subsequent review of the disposition order, DFCS shall submit a written  
 2296 report to the court which shall either:  
 2297 (1) Include a case plan for a reunification of the family; or  
 2298 (2) Include a statement of the factual basis for determining that a plan for reunification  
 2299 is not appropriate.  
 2300 (b) The report submitted by DFCS shall become a discrete part of the case record in a  
 2301 format determined by DFCS and shall be made available to the child if the child is 14 years  
 2302 of age or older, the child's attorney, the child's guardian ad litem, if any, and the parent,  
 2303 guardian, or legal custodian of the child. The contents of the report shall be determined at  
 2304 a meeting to be held by DFCS in consultation with the parent, guardian, or legal custodian  
 2305 and child, when appropriate. The parent, guardian, or legal custodian, the child if the child  
 2306 is 14 years of age or older, the child's attorney, and the child's guardian ad litem, if any,  
 2307 shall be given written notice of the meeting at least five days in advance of such meeting  
 2308 and shall be advised that the report will be submitted to the court for consideration as an  
 2309 order of the court. The report submitted to the court shall also contain any dissenting  
 2310 recommendations of the judicial citizen review panel, if applicable, and any  
 2311 recommendations of the parent, guardian, or legal custodian, if such are available.  
 2312 (c) If the court adopts a report that contains a case plan for reunification services, it shall  
 2313 be in effect until modification by the court. The case plan shall address each reason

2314 requiring removal and shall, at a minimum, comply with the requirements of Code Section  
 2315 15-11-201.

2316 (d) If the submitted report contains a proposed case plan for reunification services:

2317 (1) DFCS shall provide the caregiver, the foster parent, and any preadoptive parent or  
 2318 relative providing care for the child with a copy of those portions of the court approved  
 2319 case plan that involve the permanency goal and the services to be provided to the child;

2320 (2) A copy of the report and case plan shall be delivered to the parent, guardian, or legal  
 2321 custodian by United States mail, e-mail, or hand delivery at the same time the report and  
 2322 case plan are transmitted to the court, along with written notice that the report will be  
 2323 considered by the court without a hearing unless, within five days from the date the copy  
 2324 of the report and case plan were delivered, the parent, guardian, or legal custodian  
 2325 requests a hearing before the court to review the report and case plan; and

2326 (3) If no hearing is requested, the court shall enter a disposition order or supplemental  
 2327 order incorporating all elements of the case plan for reunification services which the court  
 2328 finds essential to reunification, specifying what shall be accomplished by all parties  
 2329 before reunification of the family can be achieved.

2330 (e) When a recommendation is made that reunification services are not appropriate and  
 2331 should not be allowed, the report submitted by DFCS shall address each reason requiring  
 2332 removal and shall contain at least the following:

2333 (1) The purpose for which the child was placed in foster care, including a statement of  
 2334 the reasons why the child cannot be adequately and safely protected at home and the  
 2335 harm which may occur if the child remains in the home and a description of the services  
 2336 offered and the services provided to prevent removal of the child from the home;

2337 (2) A clear statement describing all of the reasons supporting a finding that reunification  
 2338 of a child with the child's parent will be detrimental to the child and that reunification  
 2339 services therefore need not be provided, including specific findings as to whether any of  
 2340 the grounds for terminating parental rights exist; and

2341 (3) The statements, provisions, and requirements found in paragraphs (11) and (12) of  
 2342 subsection (b) of Code Section 15-11-201.

2343 15-11-201.

2344 (a) The case plan shall be designed to achieve placement in the most appropriate, least  
 2345 restrictive, and most family-like setting available and in close proximity to the parent's  
 2346 home, consistent with the best interests and special needs of the child, and which considers  
 2347 the placement's proximity to the school in which the child is enrolled at the time of  
 2348 placement.

2349 (b) The case plan shall be developed by DFCS and the child's parent, guardian, or legal  
 2350 custodian and, when appropriate, the child. The case plan shall include, but shall not be  
 2351 limited to, all of the following:

2352 (1) A description of the circumstances that resulted in the child being placed under the  
 2353 jurisdiction of the court and in foster care;

2354 (2) An assessment of the child's and family's strengths and needs and the type of  
 2355 placement best equipped to meet those needs;

2356 (3) A description of the type of home or institution in which the child is to be placed,  
 2357 including a discussion of the safety and appropriateness of the placement;

2358 (4) Specific time-limited goals and related activities designed to enable the safe return  
 2359 of the child to his or her home, or, in the event that return to his or her home is not  
 2360 possible, activities designed to result in permanent placement or emancipation;

2361 (5) Assignment of specific responsibility for accomplishing the planned activities;

2362 (6) The projected date of completion of the case plan objectives;

2363 (7) The date time-limited services will be terminated;

2364 (8) A schedule of visits between the child and his or her siblings and other appropriate  
 2365 family members and an explanation if no visits are scheduled;

2366 (9) When placement is made in a foster family home, group home, or other child care  
 2367 institution that is either a substantial distance from the home of the child's parent,  
 2368 guardian, or legal custodian or out-of-state, the case plan shall specify the reasons why  
 2369 the placement is the most appropriate and is in the best interests of the child;

2370 (10) When an out-of-state group home placement is recommended or made, the case plan  
 2371 shall comply with Code Section 39-4-4, the Interstate Compact on the Placement of  
 2372 Children. In addition, documentation of the recommendation of the multidisciplinary  
 2373 team and the rationale for such particular placement shall be included. The case plan  
 2374 shall also address what in-state services or facilities were used or considered and why  
 2375 they were not recommended;

2376 (11) If applicable, a statement that reasonable efforts have been made and a requirement  
 2377 that reasonable efforts shall be made for so long as the child remains in the custody of the  
 2378 department:

2379 (A) To place siblings removed from their home in the same foster care, kinship care,  
 2380 guardianship, or adoptive placement, unless DFCS documents that such a joint  
 2381 placement would be contrary to the safety or well-being of any of the siblings; and

2382 (B) In the case of siblings removed from their home who are not so jointly placed, for  
 2383 frequent visitation or other ongoing interaction between the siblings, unless DFCS  
 2384 documents that such frequent visitation or other ongoing interaction would be contrary  
 2385 to the safety or well-being of any of the siblings;

- 2386 (12) Provisions ensuring the educational stability of the child while in foster care,  
 2387 including:
- 2388 (A) An assurance that the placement of the child in foster care takes into account the  
 2389 appropriateness of the current educational setting and the proximity to the school in  
 2390 which the child is enrolled at the time of placement;
- 2391 (B) An assurance that the state agency has coordinated with appropriate local  
 2392 educational agencies to ensure that the child remains in the school in which the child  
 2393 is enrolled at the time of placement; or
- 2394 (C) If remaining in such school is not in the best interests of the child, an assurance by  
 2395 DFCS that DFCS and the local educational agencies have cooperated to assure the  
 2396 immediate and appropriate enrollment in a new school, with all of the educational  
 2397 records of the child provided to such new school;
- 2398 (13) An account of health and education information about the child including school  
 2399 records, immunizations, known medical problems, any known medications the child may  
 2400 be taking, names and addresses of the child's health and educational providers; the child's  
 2401 grade level performance; assurances that the child's placement in foster care takes into  
 2402 account proximity to the school in which the child was enrolled at the time of placement;  
 2403 and other relevant health and educational information;
- 2404 (14) A recommendation for a permanency plan for the child. If, after considering  
 2405 reunification, adoptive placement, or permanent guardianship, DFCS recommends  
 2406 placement in another planned permanent living arrangement, the case plan shall include  
 2407 documentation of a compelling reason or reasons why termination of parental rights is  
 2408 not in the child's best interests. For purposes of this paragraph, a 'compelling reason' shall  
 2409 have the same meaning as in paragraph (2) of subsection (b) of Code Section 15-11-233;
- 2410 (15) A statement that the parent, guardian, or legal custodian and the child have had an  
 2411 opportunity to participate in the development of the case plan, to review the case plan,  
 2412 to sign the case plan, and to receive a copy of the plan, or an explanation about why he  
 2413 or she was not able to participate or sign the case plan;
- 2414 (16) A requirement that the DFCS case manager and staff and, as appropriate, other  
 2415 representatives of the child provide the child with assistance and support in developing  
 2416 a transition plan that is personalized at the direction of the child; includes specific options  
 2417 on housing, health insurance, education, local opportunities for mentors and continuing  
 2418 support services, and work force supports and employment services; and is as detailed as  
 2419 the child may elect in the 90 day period immediately prior to the date on which the child  
 2420 will attain 18 years of age;

2421 (17) For a child in out-of-home care who is 14 years of age or older, a written description  
 2422 of the programs and services which will help the child prepare for the transition from  
 2423 foster care to independent living; and

2424 (18) The identity of the person within DFCS or other agency who is directly responsible  
 2425 for ensuring that the case plan is implemented.

2426 15-11-202.

2427 (a) Except as provided in subsection (a) of Code Section 15-11-203, reasonable efforts  
 2428 shall be made to preserve or reunify families:

2429 (1) Prior to the placement of a child in DFCS custody to prevent the need for removing  
 2430 the child from the child's home; or

2431 (2) To eliminate the need for removal and make it possible for a child to return safely to  
 2432 the child's home at the earliest possible time.

2433 (b) In determining the type of reasonable efforts to be made with respect to a child and in  
 2434 making such reasonable efforts, the child's health and safety shall be the paramount  
 2435 concern.

2436 (c) Reasonable efforts are made upon the exercise of due diligence by DFCS to use  
 2437 appropriate services to meet the needs of the child and the child's family. Services may  
 2438 include those provided by DFCS and other services available in the community.

2439 (d) The court shall be required to review the appropriateness of DFCS's reasonable efforts  
 2440 at each stage of the proceedings.

2441 (e)(1) At the preliminary protective hearing, DFCS has the burden of demonstrating that:

2442 (A) It has made reasonable efforts to prevent placement of a child in foster care;

2443 (B) There are no appropriate services or efforts which could allow the child to safely  
 2444 remain in the home given the particular circumstances of the child and family at the  
 2445 time of the child's removal and so the absence of such efforts was justifiable; or

2446 (C) Reasonable efforts to prevent placement and to reunify the child with the child's  
 2447 family are not required because of the existence of one or more of the circumstances  
 2448 enumerated in subsection (a) of Code Section 15-11-203.

2449 (2) At the adjudication hearing, DFCS has the burden of demonstrating that:

2450 (A) It has made reasonable efforts to eliminate the need for removal of the child from  
 2451 the child's home and to reunify the child with the child's family at the earliest possible  
 2452 time; or

2453 (B) Reasonable efforts to prevent placement and to reunify the child with the child's  
 2454 family are not required because of the existence of one or more of the circumstances  
 2455 enumerated in subsection (a) of Code Section 15-11-203.

2456 (3) At each other hearing, DFCS has the burden of demonstrating that:

- 2457 (A) It has made reasonable efforts to eliminate the need for removal of the child from  
 2458 the child's home and to reunify the child with the child's family at the earliest possible  
 2459 time; or
- 2460 (B) It has made reasonable efforts to finalize an alternative permanent home for the  
 2461 child.
- 2462 (f) When determining whether reasonable efforts have been made, the court shall consider  
 2463 whether services to the child and family were:
- 2464 (1) Relevant to the safety and protection of the child;  
 2465 (2) Adequate to meet the needs of the child and family;  
 2466 (3) Culturally and linguistically appropriate;  
 2467 (4) Available and accessible;  
 2468 (5) Consistent and timely; and  
 2469 (6) Realistic under the circumstances.
- 2470 (g) A finding that reasonable efforts have not been made shall not preclude the entry of an  
 2471 order authorizing the child's placement when the court finds that placement is necessary  
 2472 for the protection of the child.
- 2473 (h) When efforts to prevent the need for the child's placement were precluded by an  
 2474 immediate threat of harm to the child, the court may make a finding that reasonable efforts  
 2475 were made if it finds that the placement of the child in the absence of such efforts was  
 2476 justifiable.
- 2477 (i) Reasonable efforts to place a child for adoption or with a guardian or legal custodian  
 2478 may be made concurrently with reasonable efforts to reunify. When DFCS decides to  
 2479 concurrently make reasonable efforts for both reunification and permanent placement away  
 2480 from the parent, guardian, or legal custodian, DFCS shall disclose its decision and both  
 2481 plans to all parties and obtain approval from the court. When DFCS proceeds on both  
 2482 plans, the court's review of reasonable efforts shall include efforts under both plans.
- 2483 (j) An order placing or continuing the placement of a child in DFCS custody shall contain,  
 2484 but shall not be limited to, written findings of facts stating:
- 2485 (1) That the child's continuation in or return to the child's own home would be contrary  
 2486 to the child's welfare;  
 2487 (2) Whether reasonable efforts have been made to prevent or eliminate the need for  
 2488 placement of the child, unless the court has determined that such efforts are not required  
 2489 or shall cease; and  
 2490 (3) Whether reasonable efforts should continue to be made to prevent or eliminate the  
 2491 need for placement, unless the court has previously determined that such efforts are not  
 2492 required or shall cease.

2493 15-11-203.

2494 (a) The court may direct that reasonable efforts to eliminate the need for placement of the  
 2495 child shall not be required or shall cease if the court determines and makes written findings  
 2496 of fact that:

2497 (1) The parent has subjected the child to aggravated circumstances;

2498 (2) The parent has been convicted of the murder of another child of the parent;

2499 (3) The parent has been convicted of the voluntary manslaughter of another child of the  
 2500 parent;

2501 (4) The parent has been convicted of aiding or abetting, attempting, conspiring, or  
 2502 soliciting to commit murder or voluntary manslaughter of another child of the parent;

2503 (5) The parent has been convicted of committing a felony assault that results in serious  
 2504 bodily injury to the child or another child of the parent;

2505 (6) The parent has been convicted of rape, sodomy, aggravated sodomy, child  
 2506 molestation, aggravated child molestation, incest, sexual battery, or aggravated sexual  
 2507 battery of the child or another child of the parent;

2508 (7) The parent is required to register as a sex offender and that preservation of the  
 2509 parent-child relationship is not in the child's best interests; or

2510 (8) The parental rights of the parent to a sibling have been terminated involuntarily and  
 2511 the circumstances leading to the termination of parental rights to that sibling have not  
 2512 been resolved.

2513 (b) If the court determines that one or more of the circumstances enumerated in  
 2514 subsection (a) of this Code section exist or DFCS has submitted a written report to the  
 2515 court which does not contain a plan for reunification services then:

2516 (1) A permanency plan hearing shall be held for the child within 30 days; and

2517 (2) Reasonable efforts shall be made to place the child in a timely manner in accordance  
 2518 with the permanency plan and to complete whatever steps are necessary to finalize the  
 2519 permanent placement of the child.

2520 15-11-204.

2521 (a) If the DFCS report does not contain a plan for reunification services, the court shall  
 2522 hold a nonreunification hearing to review the report and the determination that a plan for  
 2523 reunification services is not appropriate.

2524 (b) The nonreunification hearing shall be held no later than 30 days from the time the  
 2525 DFCS report is filed. Notice of the nonreunification hearing shall be provided, by  
 2526 summons, to the child if the child is 14 years of age or older, the child's parent, guardian,  
 2527 or legal custodian, the child's attorney, the child's guardian ad litem, if any, and specified  
 2528 nonparties entitled to notice.

2529 (c) At the nonreunification hearing:

2530 (1) DFCS shall notify the court whether and when it intends to proceed with termination  
 2531 of parental rights; and

2532 (2) The court shall also hold a permanency plan hearing, at which the court shall  
 2533 consider in-state and out-of-state permanent placement options for the child, and shall  
 2534 incorporate a permanency plan for the child in its order.

2535 (d) DFCS shall have the burden of demonstrating by clear and convincing evidence that  
 2536 a reunification plan is not appropriate considering the health and safety of the child and the  
 2537 child's need for permanence. There shall be a presumption that reunification is detrimental  
 2538 to the child and reunification services should not be provided if the court finds by clear and  
 2539 convincing evidence that:

2540 (1) The parent has unjustifiably failed to comply with a previously ordered plan designed  
 2541 to reunite the family;

2542 (2) A child has been removed from the home on at least two previous occasions and  
 2543 reunification services were made available on those occasions;

2544 (3) A ground for terminating parental rights exists; or

2545 (4) Any of the circumstances set out in subsection (a) of Code Section 15-11-203 exist,  
 2546 making it unnecessary to provide reasonable efforts to reunify.

2547 (e) If the court has entered an order finding that reasonable efforts to reunify a child with  
 2548 his or her family are not required but the court finds further that referral for termination of  
 2549 parental rights and adoption is not in the best interests of the child, the court may, upon  
 2550 proper petition, place the child in the custody of a permanent guardian pursuant to the  
 2551 provisions of this article.

2552 Part 11

2553 15-11-210.

2554 (a) If not held in conjunction with the adjudication hearing, the disposition hearing shall  
 2555 be held and completed within 30 days after the conclusion of the adjudication hearing.

2556 (b) The court may consider any evidence, including hearsay evidence, that the court finds  
 2557 to be relevant, reliable, and necessary to determine the needs of the child and the most  
 2558 appropriate disposition.

2559 (c) Before determining the appropriate disposition, the court shall receive in evidence:

2560 (1) The social study report, if applicable, made by DFCS and the child's proposed written  
 2561 case plan. The social study report and case plan shall be filed with the court not less than  
 2562 48 hours before the disposition hearing;

2563 (2) Any study or evaluation made by a guardian ad litem appointed by the court;

2564 (3) Any psychological, medical, developmental, or educational study or evaluation of the  
 2565 child; and

2566 (4) Other relevant and material evidence as may be offered, including, but not limited  
 2567 to, the willingness of the caregiver to provide legal permanency for the child if  
 2568 reunification is unsuccessful.

2569 (d) Prior to the disposition hearing, and upon request, the parties and their attorneys shall  
 2570 be afforded an opportunity to examine any written reports received by the court.

2571 (e)(1) Portions of written reports received by the court which are not relied on by the  
 2572 court in reaching its decision, which if revealed would be prejudicial to the interests of  
 2573 the child or any party to the proceeding, may be withheld in the court's discretion.  
 2574 Confidential sources of information need not be disclosed.

2575 (2) Parties and their attorneys shall be given the opportunity to controvert written reports  
 2576 received by the court and to cross-examine individuals making such reports.

2577 (f) At the conclusion of the disposition hearing, the court shall set the time and date for the  
 2578 first periodic review hearing and the permanency plan hearing.

2579 15-11-211.

2580 (a) Before final disposition, a reasonably diligent search for a parent or relative of the child  
 2581 or other persons who have demonstrated an ongoing commitment to the child shall be  
 2582 conducted by DFCS.

2583 (b) All adult relatives of the child identified in the search required by subsection (a) of this  
 2584 Code section, subject to exceptions due to family or domestic violence, shall be provided  
 2585 with notice:

2586 (1) Specifying that the child has been or is being removed from parental custody;

2587 (2) Explaining the options the relative has to participate in the care and placement of the  
 2588 child and any options that may be lost by failing to respond to the notice;

2589 (3) Describing the process for becoming an approved foster family home and the  
 2590 additional services and supports available for children placed in approved foster homes;  
 2591 and

2592 (4) Describing any financial assistance for which the relative may be eligible.

2593 (c) The search required by subsection (a) of this Code section and the notification required  
 2594 by subsection (b) of this Code section shall be completed, documented in writing, and filed  
 2595 with the court within 30 days from the date on which the child was removed from the  
 2596 home.

2597 (d) After the completion of the search required by subsection (a) of this Code section,  
 2598 DFCS shall have a continuing duty to search for relatives or other persons who have  
 2599 demonstrated an ongoing commitment to the child and with whom it may be appropriate

2600 to place the child until such relatives or persons are found or until the child is placed for  
 2601 adoption unless DFCS is excused from such search by the court.

2602 15-11-212.

2603 (a) The court may make any of the following orders of disposition or a combination of  
 2604 those best suited to the protection and physical, emotional, mental, and moral welfare of  
 2605 the child:

2606 (1) Permit the child to remain with his or her parent, guardian, or legal custodian subject  
 2607 to conditions and limitations as the court prescribes, including supervision as directed by  
 2608 the court for the protection of the child;

2609 (2) Grant or transfer temporary legal custody to any of these persons or entities:

2610 (A) Any individual, including a biological parent, who, after study by the probation  
 2611 officer or other person or agency designated by the court, is found by the court to be  
 2612 qualified to receive and care for the child;

2613 (B) An agency or other private organization licensed or otherwise authorized by law  
 2614 to receive and provide care for the child;

2615 (C) Any public agency authorized by law to receive and provide care for the child;  
 2616 provided, however, that for the purpose of this Code section, the term 'public agency'  
 2617 shall not include DJJ; or

2618 (D) An individual in another state with or without supervision by an appropriate officer  
 2619 pursuant to the requirements of the Code Section 39-4-4, the Interstate Compact on the  
 2620 Placement of Children;

2621 (3) Transfer jurisdiction over the child in accordance with the requirements of Code  
 2622 Section 39-4-4, the Interstate Compact on the Placement of Children;

2623 (4) Order the child and such child's parent, guardian, or legal custodian to participate in  
 2624 counseling or in counsel and advice as determined by the court. Such counseling and  
 2625 counsel and advice may be provided by the court, court personnel, probation officers,  
 2626 professional counselors or social workers, psychologists, physicians, qualified volunteers,  
 2627 or appropriate public, private, or volunteer agencies as directed by the court and shall be  
 2628 designed to assist in deterring future conditions of dependency or other conduct or  
 2629 conditions which would be harmful to the child or society;

2630 (5) Order the parent, guardian, or legal custodian of the child to participate in a court  
 2631 approved educational or counseling program designed to contribute to the ability of the  
 2632 parent, guardian, or legal custodian to provide proper parental care and supervision of the  
 2633 child, including, but not limited to, parenting classes;

2634 (6) Order DFCS to implement and the child's parent, guardian, or legal custodian to  
 2635 cooperate with any plan approved by the court; or

2636 (7) Order temporary child support for a child to be paid by that person or those persons  
2637 determined to be legally obligated to support the child. In determining such temporary  
2638 child support, the court shall apply the child support guidelines provided in Code Section  
2639 19-6-15 and the implementation and any review of the order shall be held as provided in  
2640 Code Section 19-6-15. Where there is an existing order of a superior court or other court  
2641 of competent jurisdiction, the court may order the child support obligor in the existing  
2642 order to make payments to the child's caretaker on a temporary basis but shall not  
2643 otherwise modify the terms of the existing order. A copy of the juvenile court's order  
2644 shall be filed in the clerk's office of the court that entered the existing order. Temporary  
2645 child support orders entered pursuant to this paragraph shall be enforceable by the court's  
2646 contempt powers so long as the court is entitled to exercise jurisdiction over the  
2647 dependency case.

2648 (b) The transfer of temporary legal custody may be subject to conditions and limitations  
2649 the court may prescribe. Such conditions and limitations shall include a provision that the  
2650 court shall approve or direct the return of the physical custody of the child to the child's  
2651 parent, guardian, or legal custodian either upon the occurrence of specified circumstances  
2652 or at the direction of the court. The return of physical custody of the child to the child's  
2653 parent, guardian, or legal custodian may be made subject to conditions and limitations the  
2654 court may prescribe including, but not limited to, supervision for the protection of the child.

2655 (c) A child found to be dependent shall not be committed to or confined in an institution  
2656 or other facility designed or operated for the benefit of delinquent children unless the child  
2657 is also found to be delinquent and the child's detention is warranted under the requirements  
2658 of Article 7 of this chapter.

2659 (d) After transferring temporary legal custody of a child to DFCS, the court may at any  
2660 time conduct sua sponte a judicial review of the current placement plan being provided to  
2661 the child. After its review, the court may order DFCS to comply with the current  
2662 placement plan, order DFCS to devise a new placement plan, or make any other order  
2663 relative to placement or custody outside DFCS as the court finds to be in the best interests  
2664 of the child. Placement or a change of custody by the court outside DFCS shall relieve  
2665 DFCS of further responsibility for the child except for any provision of services ordered  
2666 by the court to ensure the continuation of reunification services to the family when  
2667 appropriate.

2668 (e) A court shall not be required to make an order of disposition regarding a child who is  
2669 discharged from a facility in which the child was hospitalized or habilitated pursuant to  
2670 Chapter 3, 4, or 7 of Title 37 unless the child is to be discharged into the physical custody  
2671 of any person who had such custody when the court made its most recent finding that the  
2672 child was dependent.

2673 (f) If a child is found to be a dependent child and the dependency is found to have been the  
 2674 result of substance abuse by a parent, guardian, or legal custodian and the court orders  
 2675 transfer of temporary legal custody of the child, the court shall be authorized to further  
 2676 order that legal custody of the child may not be transferred back to the child's parent,  
 2677 guardian, or legal custodian unless the parent, guardian, or legal custodian undergoes  
 2678 substance abuse treatment and random substance abuse screenings and those screenings  
 2679 remain negative for a period of no less than six consecutive months.

2680 (g) If the court finds that DFCS preventive or reunification efforts have not been  
 2681 reasonable but that further efforts could not permit the child to safely remain at home, the  
 2682 court may nevertheless authorize or continue the removal of the child.

2683 (h) When the case plan requires a concurrent permanency plan, the court shall review the  
 2684 reasonable efforts of DFCS to recruit, identify, and make a placement in a home in which  
 2685 a relative, foster parent, or other person who has demonstrated an ongoing commitment to  
 2686 the child has agreed to provide a legally permanent home for the child in the event  
 2687 reunification efforts are not successful.

2688 15-11-213.

2689 Any order of disposition shall contain written findings of fact to support the disposition and  
 2690 case plan ordered. Before making an order of disposition, the court shall consider the  
 2691 following:

2692 (1) Why the best interests and safety of the child are served by the disposition and case  
 2693 plan ordered including but not limited to:

2694 (A) The interaction and interrelationship of the child with his or her parent, siblings,  
 2695 and any other person who may significantly affect the child's best interests;

2696 (B) The child's adjustment to his or her home, school, and community;

2697 (C) The mental and physical health of all individuals involved;

2698 (D) The wishes of the child as to the child's placement;

2699 (E) The wishes of the child's parent, guardian, or legal custodian as to the child's  
 2700 custody;

2701 (F) Whether there exists a relative of the child or other individual who, after study by  
 2702 DFCS, is found to be qualified to receive and care for the child; and

2703 (G) The ability of the parent, guardian, or legal custodian to care for the child in the  
 2704 home so that no harm will result to the child;

2705 (2) The availability of services recommended in the case plan;

2706 (3) What alternative dispositions or services under the case plan were considered by the  
 2707 court and why such dispositions or services were not appropriate in the instant case;

2708 (4) The appropriateness of the particular placement made or to be made by the placing  
 2709 agency; and  
 2710 (5) Whether reasonable efforts were made to prevent or eliminate the necessity of the  
 2711 child's removal and to reunify the family after removal unless reasonable efforts were not  
 2712 required. The court's findings should include a brief description of what preventive and  
 2713 reunification efforts were made and why further efforts could not have prevented or  
 2714 eliminated the necessity of removal.

2715 15-11-214.

2716 (a) An order of disposition in a dependency proceeding shall continue in force until the  
 2717 purposes of the order have been accomplished.

2718 (b) The court may terminate an order of disposition of a child adjudicated as dependent on  
 2719 or without an application of a party, if it appears to the court that the purposes of the order  
 2720 have been accomplished.

2721 (c) Unless a child remains in DFCS care or continues to receive services from DFCS, as  
 2722 allowed by Article 5 of this chapter, when a child adjudicated as dependent reaches 18  
 2723 years of age, all orders affecting him or her then in force terminate and he or she shall be  
 2724 discharged from further obligation or control.

2725 15-11-215.

2726 (a) Not less than five days in advance of any placement change, DFCS shall notify the  
 2727 court, a child who is 14 years of age or older, the child's parent, guardian, or legal  
 2728 custodian, the person or agency with physical custody of the child, the child's attorney, the  
 2729 child's guardian ad litem, if any, and any other attorney of record of such change in the  
 2730 location of the child's placement while the child is in DFCS custody.

2731 (b) If the child's health or welfare may be endangered by any delay in changing the child's  
 2732 placement, the court and all attorneys of record shall be notified of such placement change  
 2733 within 24 hours of such change.

2734 (c) A child who is 14 years of age or older, the child's parent, guardian, or legal custodian,  
 2735 the person or agency with physical custody of the child, the child's attorney or guardian ad  
 2736 litem, if any, and any attorney of record may request a hearing with regard to the child's  
 2737 case plan or the permanency plan in order for the court to consider the change in the  
 2738 location of the child's placement and any changes to the case plan or permanency plan  
 2739 resulting from the child's change in placement location. The hearing shall be held within  
 2740 five days of receiving notice of a change in the location of the child's placement and prior  
 2741 to any such placement change, unless the child's health or welfare may be endangered by  
 2742 any delay in changing the child's placement.

2743 (d) At the hearing to consider the child's case plan and permanency plan, the court shall  
 2744 consider the case plan and permanency plan recommendations made by DFCS, including  
 2745 a recommendation as to the location of the placement of the child, and shall make findings  
 2746 of fact upon which the court relied in determining to reject or accept the case plan or  
 2747 permanency plan and the recommendations made by DFCS, including the location of the  
 2748 child's placement.

2749 (e) If the court rejects DFCS recommendations, the court shall demonstrate that DFCS  
 2750 recommendations were considered and explain why it did not follow such  
 2751 recommendations. If the court rejects the DFCS case plan and permanency plan  
 2752 recommendations, including the change in the location of the placement of the child, the  
 2753 court may order DFCS to devise a new case plan and permanency plan recommendation,  
 2754 including a new recommendation as to the location of the child within the resources of the  
 2755 department, or make any other order relative to placement or custody outside the  
 2756 department as the court finds to be in the best interests of the child and consistent with the  
 2757 policy that children in DFCS custody should have stable placements.

2758 (f) Placement or a change of legal custody by the court outside DFCS shall relieve DFCS  
 2759 of further responsibility for the child except for any provision of services ordered by the  
 2760 court to ensure the continuation of reunification services to the family when appropriate.

2761 15-11-216.

2762 (a) All cases of children in DFCS custody shall be initially reviewed within 75 days  
 2763 following the child's removal from his or her home and shall be conducted by the court.  
 2764 An additional periodic review shall be held within four months following the initial review  
 2765 and shall be conducted by the court or by judicial citizen review panels established by the  
 2766 court, as the court directs, meeting such standards and using such procedures as are  
 2767 established by court rule by the Supreme Court of Georgia, with the advice and consent of  
 2768 the Council of Juvenile Court Judges. The court shall have the discretion to schedule any  
 2769 subsequent review hearings as necessary.

2770 (b) At any periodic review hearing, the paramount concern shall be the health and safety  
 2771 of the child.

2772 (c) At the initial 75 day periodic review, the court shall approve the completion of the  
 2773 relative search, schedule the subsequent four-month review to be conducted by the court  
 2774 or a citizen judicial review panel, and shall determine:

2775 (1) Whether the child continues to be a dependent child;

2776 (2) Whether the existing case plan is still the best case plan for the child and the child's  
 2777 family and whether any changes need to be made to the case plan including whether a  
 2778 concurrent case plan for nonreunification is appropriate;

- 2779 (3) The extent of compliance with the case plan by all participants;  
 2780 (4) The appropriateness of any recommended changes to the child's placement;  
 2781 (5) Whether appropriate progress is being made on the permanency plan;  
 2782 (6) Whether all legally required services are being provided to the child, the foster  
 2783 parents if there are foster parents, and the child's parent, guardian, or legal custodian;  
 2784 (7) Whether visitation is appropriate and, if so, approve and establish a reasonable  
 2785 visitation schedule consistent with the age and developmental needs of the child;  
 2786 (8) Whether, for a child who is 14 years of age or older, the services needed to assist the  
 2787 child to make a transition from foster care to independent living are being provided; and  
 2788 (9) Whether reasonable efforts continue to be made to prevent or eliminate the necessity  
 2789 of the child's removal and to reunify the family after removal, unless reasonable efforts  
 2790 were not required.
- 2791 (d) If at any review subsequent to the initial 75 day review the court finds that there is a  
 2792 lack of substantial progress towards completion of the case plan, the court shall order  
 2793 DFCS to develop a case plan for nonreunification or a concurrent case plan contemplating  
 2794 nonreunification.
- 2795 (e) At the time of each review of a child in DFCS custody, DFCS shall notify the court  
 2796 whether and when it intends to proceed with the termination of parental rights.
- 2797 15-11-217.
- 2798 (a) In the event the periodic review of a case is conducted by a judicial citizen review  
 2799 panel, the panel shall transmit its report and that of DFCS, including its findings and  
 2800 recommendations together with DFCS proposed revised plan for reunification or other  
 2801 permanency plan, if necessary, to the court and the parent within five days after the review.
- 2802 (b) DFCS shall provide the caregiver of the child, the foster parents of the child if there  
 2803 are foster parents, and any preadoptive parents or relatives providing care for the child with  
 2804 a copy of those portions of the report of the judicial citizen review panel that involve the  
 2805 recommended permanency goal and the recommended services to be provided to the child.
- 2806 (c) Any party may request a hearing on the proposed revised plan in writing within five  
 2807 days after receiving a copy of the plan.
- 2808 (d) If no hearing is requested or scheduled by the court on its own motion, the court shall  
 2809 review the proposed revised plan and enter a supplemental order incorporating the revised  
 2810 plan as part of its disposition in the case. In the event that a hearing is held, the court shall,  
 2811 after hearing evidence, enter a supplemental order incorporating all elements that the court  
 2812 finds essential in the proposed revised plan.
- 2813 (e) Notwithstanding subsections (c) and (d) of this Code section, if the judicial citizen  
 2814 review panel finds that there is a lack of substantial progress towards completion of the

2815 case plan, the court shall schedule a hearing within 30 days of such finding to determine  
 2816 whether a case plan for nonreunification is appropriate.

2817 (f) If the judicial citizen review panel determines that the parent has unjustifiably failed  
 2818 to comply with the ordered plan designed to reunite the family and that such failure is  
 2819 significant enough to warrant consideration of termination of parental rights, the panel may  
 2820 make a recommendation to DFCS and the child's attorney that a petition for termination  
 2821 of parental rights should be prepared.

2822 15-11-218.

2823 (a) At the conclusion of a periodic review hearing, or upon review of a report by a judicial  
 2824 citizen review panel, the court shall issue written findings of fact that include:

- 2825 (1) Why the child continues to be a dependent child;  
 2826 (2) Whether the existing case plan is still the best case plan for the child and the child's  
 2827 family and whether any changes need to be made to the case plan including whether a  
 2828 concurrent case plan for nonreunification is appropriate;  
 2829 (3) The extent of compliance with the case plan by all participants;  
 2830 (4) The basis for any changes to the child's placement;  
 2831 (5) Whether visitation is or continues to be appropriate;  
 2832 (6) A description of progress being made on the permanency plan;  
 2833 (7) Whether all legally required services are being provided to the child, the foster  
 2834 parents if there are foster parents, and the child's parent, guardian, or legal custodian;  
 2835 (8) Whether, for a child who is 14 years of age or older, the services needed to assist the  
 2836 child to make a transition from foster care to independent living are being provided; and  
 2837 (9) Whether reasonable efforts continue to be made to prevent or eliminate the necessity  
 2838 of the child's removal and to reunify the family after removal, unless reasonable efforts  
 2839 were not required.

2840 (b) At the conclusion of a periodic review hearing, or upon review of a report by a judicial  
 2841 citizen review panel, the court shall order one of the following dispositions:

- 2842 (1) Return the child to the home of his or her parent, guardian, or legal custodian with  
 2843 or without court imposed conditions;  
 2844 (2) Allow the child to continue in the current custodial placement because the current  
 2845 placement is appropriate for the child's needs;  
 2846 (3) Allow the child to continue in the current custodial placement although the current  
 2847 placement is no longer appropriate for the child's needs and direct DFCS to devise  
 2848 another plan which shall:  
 2849 (A) Be submitted within ten days for court approval;  
 2850 (B) Be furnished to all parties after court approval of the revised plan; and

2851 (C) Be provided to the caregiver of the child, the foster parents of the child if there are  
 2852 foster parents , and any preadoptive parents or relative providing care for the child with  
 2853 a copy of those portions of the court approved revised plan that involve the permanency  
 2854 goal and the services to be provided to the child; or  
 2855 (4) Make additional orders regarding the treatment plan or placement of the child to  
 2856 protect the child's best interests if the court determines DFCS has failed in implementing  
 2857 any material provision of the case plan or abused its discretion in the placement or  
 2858 proposed placement of the child.

2859 Part 12

2860 15-11-230.

2861 (a) The court shall hold a permanency plan hearing to determine the future permanent legal  
 2862 status of each child in DFCS custody.

2863 (b) The permanency plan hearing, which considers in-state and out-of-state placement  
 2864 options for the child, shall be held:

2865 (1) No later than 30 days after DFCS has submitted a written report to the court which  
 2866 does not contain a plan for reunification services;

2867 (2) For children under seven years of age at the time a petition is filed, no later than nine  
 2868 months after the child has entered foster care;

2869 (3) For children seven years of age and older at the time a petition is filed, no later than  
 2870 12 months after the child has entered foster care; or

2871 (4) For a child in a sibling group whose members were removed from the home at the  
 2872 same time and in which one member of the sibling group was under seven years of age  
 2873 at the time a petition for dependency was filed, the permanency plan hearing shall be held  
 2874 no later than nine months after the child has entered foster care.

2875 (c) After the initial permanency plan hearing has occurred, a permanency plan hearing  
 2876 shall be held not less frequently than every six months during the time the child continues  
 2877 in DFCS custody or more frequently as deemed necessary by the court until the court  
 2878 determines that the child's permanency plan and goal have been achieved.

2879 (d) The child, the child's parent, guardian, or legal custodian, the child's attorney, the  
 2880 child's guardian ad litem, if any, the foster parents of the child if there are foster parents,  
 2881 any preadoptive parent or relatives providing care for the child, and other parties shall be  
 2882 given written notice of a permanency plan hearing at least five days in advance of such  
 2883 hearing and shall be advised that the permanency plan recommended by DFCS will be  
 2884 submitted to the court for consideration as the order of the court.

2885 (e) The court shall consult with the child, in an age-appropriate manner, regarding the  
2886 proposed permanency plan for the child.

2887 15-11-231.

2888 At least five days prior to the permanency plan hearing, DFCS shall submit for the court's  
2889 consideration a report recommending a permanency plan for the child. The report shall  
2890 include documentation of the steps to be taken by DFCS to finalize the permanent  
2891 placement for the child and shall include, but shall not be limited to:

2892 (1) The name, address, and telephone number of the child's parent, guardian, or legal  
2893 custodian;

2894 (2) The date on which the child was removed from his or her home and the date on  
2895 which the child was placed in foster care;

2896 (3) The location and type of home or facility in which the child is currently held or  
2897 placed and the location and type of home or facility in which the child will be placed;

2898 (4) The basis for the decision to hold the child in protective custody or to place the child  
2899 outside of his or her home;

2900 (5) A statement as to the availability of a safe and appropriate placement with a fit and  
2901 willing relative of the child or other person who has demonstrated an ongoing  
2902 commitment to the child or a statement as to why placement with the relative or other  
2903 person is not safe or appropriate;

2904 (6) If as a result of the placement the child has been or will be transferred from the  
2905 school in which the child is or most recently was enrolled, documentation that a  
2906 placement that would maintain the child in that school is unavailable, inappropriate, or  
2907 that the child's transfer to another school would be in the child's best interests;

2908 (7) A plan for ensuring the safety and appropriateness of the placement and a description  
2909 of the services provided to meet the needs of the child and family, including a discussion  
2910 of services that have been investigated and considered and are not available or likely to  
2911 become available within a reasonable time to meet the needs of the child or, if available,  
2912 why such services are not safe or appropriate;

2913 (8) The goal of the permanency plan which shall include:

2914 (A) Whether and, if applicable, when the child shall be returned to the child's parent;

2915 (B) Whether and, if applicable, when the child shall be referred for termination of  
2916 parental rights and adoption;

2917 (C) Whether and, if applicable, when the child shall be placed with a permanent  
2918 guardian; or

2919 (D) In the case in which DFCS has documented a compelling reason that none of the  
 2920 foregoing options would be in the best interests of the child, whether, and if applicable,  
 2921 when the child shall be placed in another planned permanent living arrangement;

2922 (9) If the child is 14 years of age or older, a description of the programs and services that  
 2923 are or will be provided to assist the child in preparing for the transition from foster care  
 2924 to independent living. The description shall include all of the following:

2925 (A) The anticipated age at which the child will be discharged from foster care;

2926 (B) The anticipated amount of time available in which to prepare the child for the  
 2927 transition from foster care to independent living;

2928 (C) The anticipated location and living situation of the child on discharge from foster  
 2929 care;

2930 (D) A description of the assessment processes, tools, and methods that have been or  
 2931 will be used to determine the programs and services that are or will be provided to  
 2932 assist the child in preparing for the transition from foster care to independent living; and

2933 (E) The rationale for each program or service that is or will be provided to assist the  
 2934 child in preparing for the transition from foster care to independent living, the time  
 2935 frames for delivering such programs or services, and the intended outcome of such  
 2936 programs or services; and

2937 (10) When the recommended permanency plan is referral for termination of parental  
 2938 rights and adoption or placement in another home, a description of specific recruitment  
 2939 efforts such as the use of state, regional, and national adoption exchanges, including  
 2940 electronic exchange systems, to facilitate orderly and timely in-state and interstate  
 2941 placements.

2942 15-11-232.

2943 (a) At the permanency plan hearing, the court shall make written findings of fact that  
 2944 include the following:

2945 (1) Whether DFCS has made reasonable efforts to finalize the permanency plan which  
 2946 is in effect at the time of the hearing;

2947 (2) The continuing necessity for and the safety and appropriateness of the placement;

2948 (3) Compliance with the permanency plan by DFCS and any other service providers, the  
 2949 child's parent, and the child's guardian or legal custodian, if any;

2950 (4) Efforts to involve appropriate service providers in addition to DFCS staff in planning  
 2951 to meet the special needs of the child and the child's parent, guardian, or legal custodian;

2952 (5) Efforts to eliminate the causes for the child's placement outside of his or her home  
 2953 and toward returning the child safely to his or her home or obtaining a permanent  
 2954 placement for the child;

2955 (6) The date by which it is likely that the child will be returned to his or her home, placed  
2956 for adoption, or placed with a permanent guardian or in some other alternative permanent  
2957 placement;

2958 (7) Whether, in the case of child placed out-of-state, the out-of-state placement continues  
2959 to be appropriate and in the best interests of the child; and

2960 (8) In the case of a child who is 14 years of age or older, the services needed to assist the  
2961 child to make a transition from foster care to independent living.

2962 (b) The permanency plan incorporated in the court's order shall include:

2963 (1) Whether and, if applicable, when the child shall be returned to the child's parent;

2964 (2) Whether and, if applicable, when the child shall be referred for termination of  
2965 parental rights and adoption;

2966 (3) Whether and, if applicable, when the child shall be placed with a permanent  
2967 guardian; or

2968 (4) Whether there is a safe and appropriate placement with a fit and willing relative of  
2969 the child or other person who has demonstrated an ongoing commitment to the child or  
2970 a statement as to why placement with the relative or other person is not safe or  
2971 appropriate.

2972 (c) If the court finds that there is a compelling reason that it would not be in the child's best  
2973 interests to be returned to the parent, referred for termination of parental rights and  
2974 adoption, or placed with a permanent guardian, then the court's order shall document the  
2975 compelling reason and provide that the child should be placed in another planned  
2976 permanent living arrangement as defined in the court's order.

2977 (d) A supplemental order of the court adopting the permanency plan including all  
2978 requirements of the permanency plan as provided in Code Section 15-11-231 shall be  
2979 entered following the permanency hearing and in no case later than 30 days after the court  
2980 has determined that reunification efforts shall not be made by DFCS. The supplemental  
2981 order shall include a requirement that the DFCS case manager and staff and, as appropriate,  
2982 other representatives of the child provide the child with assistance and support in  
2983 developing a transition plan that is personalized at the direction of the child; includes  
2984 specific options on housing, health insurance, education, local opportunities for mentors  
2985 and continuing support services, and work force supports and employment services; and  
2986 is as detailed as the child may elect in the 90 day period immediately prior to the date on  
2987 which the child will attain 18 years of age.

2988 15-11-233.

2989 (a) Except as provided in subsection (b) of this Code section, DFCS shall file a petition to  
2990 terminate the parental rights of the child's parent or, if such a petition has been filed by

2991 another party, seek to be joined as a party to the petition, and, concurrently, to identify,  
 2992 recruit, process, and approve a qualified family for an adoption if:

2993 (1) A child has been in foster care under the responsibility of DFCS for 15 of the most  
 2994 recent 22 months;

2995 (2) The court has made a determination that the parent has subjected the child to  
 2996 aggravated circumstances;

2997 (3) The court has made a determination that the child is an abandoned infant; or

2998 (4) The court has made a determination that the parent has been convicted of:

2999 (A) The murder of another child of the parent;  
 3000 (B) Voluntary manslaughter of another child of the parent;  
 3001 (C) Voluntary manslaughter of the other parent of the child;  
 3002 (D) Aiding or abetting, attempting, conspiring, or soliciting to commit murder or  
 3003 voluntary manslaughter of another child of the parent;  
 3004 (E) Aiding or abetting, attempting, conspiring, or soliciting to commit murder or  
 3005 voluntary manslaughter of the other parent of the child; or  
 3006 (F) Committing felony assault that has resulted in serious bodily injury to the child or  
 3007 to another child of the parent.

3008 (b) Termination of parental rights may not be in the best interests of the child when:

3009 (1) The child is being cared for by a relative;

3010 (2) The case plan documents a compelling reason for determining that filing such a  
 3011 petition would not be in the best interests of the child. Such compelling reasons may  
 3012 include, but shall not be limited to:

3013 (A) The parent is successfully participating in services that will make it possible for  
 3014 the child to safely return home;

3015 (B) Another permanency plan is better suited to meet the health and safety needs of the  
 3016 child. Documentation that another permanent plan is better suited to meet the health  
 3017 and safety needs of the child may include documentation that:

3018 (i) The child is 14 years of age or older and objects to termination of parental rights.  
 3019 Prior to accepting a child's objection, the court shall personally question the child in  
 3020 chambers to determine whether the objection is the voluntary and knowing choice of  
 3021 the child;

3022 (ii) The child is 16 years of age or older and specifically requests that emancipation  
 3023 be established as his or her permanent plan;

3024 (iii) The parent and the child have a significant bond, but the parent is unable to care  
 3025 for the child because of an emotional or physical disability, and the child's caregiver  
 3026 has committed to raising the child to the age of majority and facilitating visitation  
 3027 with the disabled parent; or

3028 (iv) The child is in a residential treatment facility that provides services specifically  
 3029 designed to address the child's treatment needs, and the court determines that the  
 3030 child's needs could not be served by a less restrictive placement;

3031 (C) The child is living with a relative who is unable or unwilling to adopt the child, but  
 3032 who is willing and capable of providing the child with a stable and permanent home  
 3033 environment, and the removal of the child from the physical custody of his or her  
 3034 relative would be detrimental to the child's emotional well-being;

3035 (D) The court or judicial citizen review panel, in a prior hearing or review, determined  
 3036 that while the case plan was to reunify the family, DFCS did not make reasonable  
 3037 efforts; or

3038 (E) The child is an unaccompanied refugee or there are international legal obligations  
 3039 or foreign policy reasons that would preclude terminating parental rights; or

3040 (3) DFCS has not provided to the family of the child services deemed necessary for the  
 3041 safe return of the child to the child's home, consistent with the specific time frames for  
 3042 the accomplishment of the case plan goals.

3043 (c) The recommendation by DFCS that termination of parental rights is not in the best  
 3044 interests of the child shall be based on the present family circumstances of the child and  
 3045 shall not preclude a different recommendation at a later date if the child's family  
 3046 circumstances change.

3047 Part 13

3048 15-11-240.

3049 (a) In addition to the jurisdiction to appoint guardians pursuant to Code Section 15-11-13,  
 3050 the juvenile court shall be vested with jurisdiction to appoint a permanent guardian for a  
 3051 child whose custody is a subject of controversy before the court as a result of an  
 3052 adjudication that the child is dependent in accordance with this article. Prior to the entry  
 3053 of such an order, the court shall:

3054 (1) Find that reasonable efforts to reunify the child with his or her parents would be  
 3055 detrimental to the child or find that the living parents of the child have consented to the  
 3056 permanent guardianship;

3057 (2) Find that termination of parental rights and adoption is not in the best interests of the  
 3058 child;

3059 (3) Find that the proposed permanent guardian can provide a safe and permanent home  
 3060 for the child;

3061 (4) Find that the appointment of a permanent guardian for the child is in the best interests  
 3062 of the child and that the individual chosen as the child's permanent guardian is the

3063 individual most appropriate to be the child's permanent guardian taking into consideration  
 3064 the best interests of the child; and

3065 (5) If the child is 14 years of age or older, find that the appointment of a permanent  
 3066 guardian for the child is in the best interests of the child and that the individual chosen  
 3067 by such child as the child's permanent guardian is the individual most appropriate to be  
 3068 the child's permanent guardian taking into consideration the best interests of the child.

3069 (b) The court may enter an order of support on behalf of the child against the parents of  
 3070 the child in accordance with paragraph (7) of subsection (a) of Code Section 15-11-212.

3071 15-11-241.

3072 The petition for the appointment of a permanent guardian pursuant to this part shall set  
 3073 forth:

3074 (1) The facts upon which the court's jurisdiction is based;

3075 (2) The name and date of birth of the child;

3076 (3) The name, address, and county of domicile of the petitioner and the petitioner's  
 3077 relationship to the child, if any, and, if different from the petitioner, the name, address,  
 3078 and county of domicile of the individual nominated by the petitioner to serve as guardian  
 3079 and that individual's relationship to the child, if any;

3080 (4) A statement that:

3081 (A) Reasonable efforts to reunify the child with his or her parents would be detrimental  
 3082 to the child;

3083 (B) Termination of parental rights and adoption is not in the best interests of the child;

3084 (C) The proposed guardian can provide a safe and permanent home for the child;

3085 (D) The appointment of a permanent guardian for the child is in the best interests of  
 3086 the child and that the individual chosen as the child's guardian is the individual most  
 3087 appropriate to be the child's permanent guardian taking into consideration the best  
 3088 interests of the child; and

3089 (E) If the child is 14 years of age or older, that the appointment of a permanent  
 3090 guardian for the child is in the best interests of the child and that the individual chosen  
 3091 by such child as the child's permanent guardian is the most appropriate individual to be  
 3092 the child's permanent guardian taking into consideration the best interests of the child;

3093 (5) Whether the child was born out of wedlock and, if so, the name and address of the  
 3094 biological father, if known;

3095 (6) Whether, to the petitioner's knowledge, there exists any notarized or witnessed  
 3096 document made by a parent of the child that deals with the guardianship of the child and  
 3097 the name and address of any designee named in the document;

3098 (7) In addition to the petitioner and the nominated guardian and, if the parent has not  
 3099 consented to the permanent guardianship, the names and addresses of the following  
 3100 relatives of the child whose whereabouts are known:

3101 (A) The adult siblings of the child; provided, however, that not more than three adult  
 3102 siblings need to be listed;

3103 (B) If there is no adult sibling of the child, the grandparents of the child; provided,  
 3104 however, that not more than three grandparents need to be listed; or

3105 (C) If there is no grandparent of the child, any three of the nearest adult relatives of the  
 3106 child determined according to Code Section 53-2-1;

3107 (8) Whether a temporary guardian has been appointed for the child or a petition for the  
 3108 appointment of a temporary guardian has been filed or is being filed; and

3109 (9) The reason for any omission in the petition for appointment of a permanent guardian  
 3110 for the child in the event full particulars are lacking.

3111 15-11-242.

3112 (a) Permanent guardianship orders entered pursuant to Code Section 15-11-240 shall:

3113 (1) Remain in effect until the child reaches the age of 18 or becomes emancipated;

3114 (2) Not be subject to review by the court except as provided in Code Section 15-11-244;  
 3115 and

3116 (3) Establish a reasonable visitation schedule which allows the child to maintain  
 3117 meaningful contact with his or her parents through personal visits, telephone calls, letters,  
 3118 or other forms of communication or specifically include any restriction on a parent's right  
 3119 to visitation.

3120 (b) A permanent guardian shall have the rights and duties of a permanent guardian as  
 3121 provided in Code Sections 29-2-21, 29-2-22, and 29-2-23 and shall take the oath required  
 3122 of a guardian as provided in Code Section 29-2-24.

3123 15-11-243.

3124 (a) Notice of a guardianship petition pursuant to this part shall be given in accordance with  
 3125 subsection (c) of Code Section 29-2-17 except that, if the parents have consented to the  
 3126 guardianship, notice of the petition shall not be required to be given to:

3127 (1) The adult siblings of the child;

3128 (2) The grandparents of the child; or

3129 (3) The nearest adult relatives of the child as determined in accordance with Code  
 3130 Section 53-2-1.

3131 (b) The hearing shall be conducted in accordance with Code Section 29-2-18, to determine  
 3132 the best interests of the child, and in reaching its determination the court shall consider  
 3133 Code Section 15-11-240.

3134 15-11-244.

3135 (a) The court shall retain jurisdiction over a guardianship action under this part for the sole  
 3136 purpose of entering an order following the filing of a petition to modify, vacate, or revoke  
 3137 the guardianship and appoint a new guardian.

3138 (b) The superior courts shall have concurrent jurisdiction for enforcement or modification  
 3139 of any child support or visitation order entered pursuant to Code Section 15-11-240.

3140 (c) The guardianship shall be modified, vacated, or revoked based upon a finding, by clear  
 3141 and convincing evidence, that there has been a material change in the circumstances of the  
 3142 child or the guardian and that such modification, vacation, or revocation of the  
 3143 guardianship order and the appointment of a new guardian is in the best interests of the  
 3144 child. Appointment of a new guardian shall be subject to the provisions of Code Sections  
 3145 15-11-240 and 15-11-241.

#### 3146 ARTICLE 4

##### 3147 Part 1

3148 15-11-260.

3149 (a) The purpose of this article is:

3150 (1) To protect a child whose parent is unwilling or unable to provide safety and care  
 3151 adequate to meet his or her physical, emotional, and mental health needs by providing a  
 3152 judicial process for the termination of all parental rights and responsibilities;

3153 (2) To eliminate the need for a child to wait unreasonable periods of time for his or her  
 3154 parent to correct the conditions which prevent a return to the family;

3155 (3) To ensure that the continuing needs of a child for proper physical, mental, and  
 3156 emotional growth and development are the decisive considerations in all proceedings;

3157 (4) To ensure that the constitutional rights of all parties are recognized and enforced in  
 3158 all proceedings conducted pursuant to this article while ensuring that the fundamental  
 3159 needs of a child are not subjugated to the interests of others; and

3160 (5) To encourage stability in the life of a child who has been adjudicated dependent and  
 3161 has been removed from his or her home by ensuring that all proceedings are conducted  
 3162 expeditiously to avoid delays in resolving the status of the parent and in achieving  
 3163 permanency for a child.

3164 (b) Nothing in this article shall be construed as affecting the rights of a parent other than  
 3165 the parent who is the subject of the proceedings.

3166 15-11-261.

3167 (a) An order terminating the parental rights of a parent shall be without limit as to duration  
 3168 and shall divest the parent and the child of all legal rights, powers, privileges, immunities,  
 3169 duties, and obligations with respect to each other, except:

3170 (1) The right of the child to receive child support from his or her parent until a final order  
 3171 of adoption is entered;

3172 (2) The right of the child to inherit from and through his or her parent. The right of  
 3173 inheritance of the child shall be terminated only by a final order of adoption;

3174 (3) The right of the child to benefits due to him or her from any third person, agency,  
 3175 state, or the United States based on the child's status as a child of his or her parent. This  
 3176 right shall be terminated only by a final order of adoption; and

3177 (4) The right of the child to pursue any civil action against his or her parent.

3178 (b) When an order terminating the parent and child relationship has been issued, the parent  
 3179 whose right has been terminated shall not thereafter be entitled to notice of proceedings for  
 3180 the adoption of the child by another, nor has the parent any right to object to the adoption  
 3181 or otherwise to participate in such proceedings.

3182 (c) The relationship between the child and his or her siblings shall not be severed until that  
 3183 relationship is terminated by final order of adoption.

3184 (d) A relative whose relationship to the child is derived through the parent whose parental  
 3185 rights are terminated shall be considered to be a relative of the child for purposes of  
 3186 placement of, and permanency plan for, the child until such relationship is terminated by  
 3187 final order of adoption.

3188 15-11-262.

3189 (a) The child and any other party to a proceeding under this article shall have the right to  
 3190 a qualified and independent attorney at all stages of the proceedings under this article.

3191 (b) The court shall appoint an attorney for the child in a termination of parental rights  
 3192 proceeding. The appointment shall be made as soon as practicable to ensure adequate  
 3193 representation of the child and, in any event, before the first court hearing that may  
 3194 substantially affect the interests of the child.

3195 (c) A child's attorney owes to the child the duties imposed by the law of this state in an  
 3196 attorney-client relationship.

3197 (d) The court shall appoint a guardian ad litem for the child in a termination proceeding:

3198 (1) At the request of the child's attorney; or

3199 (2) Upon the court's own motion if it determines that a guardian ad litem is necessary to  
 3200 assist the court in determining the best interests of the child.

3201 (e) The role of a guardian ad litem in a termination of parental rights proceeding shall be  
 3202 the same role as provided for in all dependency proceedings under Article 3 of this chapter.

3203 (f) A person appointed as a child's attorney shall have received training that is  
 3204 administered or approved by the Office of the Child Advocate for the Protection of  
 3205 Children prior to being appointed. Such preappointment training shall be satisfied within  
 3206 an attorney's existing continuing legal education obligations and shall not require the  
 3207 attorney to complete additional training hours in addition to those currently required by the  
 3208 State Bar of Georgia.

3209 (g) If an attorney has been appointed to represent a child in a prior proceeding under this  
 3210 chapter, the court, when possible, shall appoint the same attorney to represent the child in  
 3211 any subsequent proceeding.

3212 (h) An attorney appointed to represent a child in a termination proceeding shall continue  
 3213 the representation in any subsequent appeals unless excused by the court.

3214 (i) Neither the child nor a representative of the child may waive the right to an attorney in  
 3215 a termination proceeding.

3216 (j) A party other than a child shall be informed of his or her right to an attorney prior to  
 3217 the adjudication hearing and prior to any other hearing at which a party could be subjected  
 3218 to the loss of residual parental rights. A party other than a child shall be given an  
 3219 opportunity to:

3220 (1) Obtain and employ an attorney of the party's own choice;

3221 (2) To obtain a court appointed attorney if the court determines that the party is an  
 3222 indigent person; or

3223 (3) Waive the right to an attorney.

3224 15-11-263.

3225 (a) Upon motion of any party or the court, the court may require a physical or mental  
 3226 evaluation of any parent, stepparent, guardian, legal custodian, or child.

3227 (b) The cost of any ordered evaluation shall be paid by the moving party unless  
 3228 apportioned by the court, in its discretion, to any other party or parties.

3229 15-11-264.

3230 (a) In all cases under this article, any party shall, upon written request to the party having  
 3231 actual custody, control, or possession of the material to be produced, have full access to the  
 3232 following for inspection, copying, or photographing:

- 3233 (1) The names and telephone numbers of each witness likely to be called to testify at the  
 3234 hearing by another party;
- 3235 (2) A copy of any formal written statement made by the child who is alleged to be  
 3236 dependent or any witness that relates to the subject matter concerning the testimony of  
 3237 the witness that a party intends to call as a witness at the hearing;
- 3238 (3) Except as otherwise provided in subsection (b) of this Code section, any scientific or  
 3239 other report which is intended to be introduced at any hearing or that pertains to physical  
 3240 evidence which is intended to be introduced;
- 3241 (4) Any drug screen concerning the child who is alleged to be dependent or his or her  
 3242 parent, guardian, or legal custodian;
- 3243 (5) Any case plan concerning the child who is alleged to be dependent or his or her  
 3244 parent, guardian, or legal custodian;
- 3245 (6) Any visitation schedule related to the child who is alleged to be dependent;
- 3246 (7) Photographs and any physical evidence which are intended to be introduced at any  
 3247 hearing;
- 3248 (8) Copies of the police incident report regarding an occurrence which forms part or all  
 3249 of the basis of the petition; and
- 3250 (9) Any other relevant evidence not requiring consent or a court order under subsection  
 3251 (b) of this Code section.
- 3252 (b) Upon presentation of a court order or written consent from the appropriate person or  
 3253 persons permitting access to the party having actual custody, control, or possession of the  
 3254 material to be produced, any party shall have access to the following for inspection,  
 3255 copying, or photographing:
- 3256 (1) Any psychological, developmental, physical, mental or emotional health, or other  
 3257 assessments of the child who is alleged to be dependent or the family, parent, guardian,  
 3258 or legal custodian of such child;
- 3259 (2) Any school record concerning the child who alleged to be dependent;
- 3260 (3) Any medical record concerning the child who is alleged to be dependent;
- 3261 (4) Transcriptions, recordings, and summaries of any oral statement of the child who is  
 3262 alleged to be dependent or of any witness, except child abuse reports that are confidential  
 3263 pursuant to Code Section 19-7-5 and work product of counsel;
- 3264 (5) Any family team meeting report or multidisciplinary team meeting report concerning  
 3265 the child who is alleged to be dependent or his or her parent, guardian, or legal custodian;
- 3266 (6) Supplemental police reports, if any, regarding an occurrence which forms part of all  
 3267 of the basis of the petition; and
- 3268 (7) Immigration records concerning the child who is alleged to be dependent.

3269 (c) If a party requests disclosure of information pursuant to subsection (a) or (b) of this  
3270 Code section, it shall be the duty of such party to promptly make the following available  
3271 for inspection, copying, or photographing to every other party:

3272 (1) The names and last known addresses and telephone numbers of each witness to the  
3273 occurrence which forms the basis of the party's defense or claim;

3274 (2) Any scientific or other report which is intended to be introduced at the hearing or that  
3275 pertains to physical evidence which is intended to be introduced;

3276 (3) Photographs and any physical evidence which are intended to be introduced at the  
3277 hearing; and

3278 (4) A copy of any written statement made by any witness that relates to the subject  
3279 matter concerning the testimony of the witness that the party intends to call as a witness.

3280 (d) A request for discovery or reciprocal discovery shall be complied with promptly and  
3281 not later than five days after the request is received or 72 hours prior to any hearing except  
3282 when later compliance is made necessary by the timing of the request. If the request for  
3283 discovery is made fewer than 48 hours prior to an adjudicatory hearing, the discovery  
3284 response shall be produced in a timely manner. If, subsequent to providing a discovery  
3285 response in compliance with this Code section, the existence of additional evidence is  
3286 found, it shall be promptly provided to the party making the discovery request.

3287 (e) If a request for discovery or consent for release is refused, application may be made to  
3288 the court for a written order granting discovery. Motions for discovery shall certify that  
3289 a request for discovery or consent was made and was unsuccessful despite good faith  
3290 efforts made by the requesting party. An order granting discovery shall require reciprocal  
3291 discovery. Notwithstanding the provisions of subsection (a) or (b) of this Code section, the  
3292 court may deny, in whole or in part, or otherwise limit or set conditions concerning the  
3293 discovery response upon a sufficient showing by a person or entity to whom a request for  
3294 discovery is made that disclosure of the information would:

3295 (1) Jeopardize the safety of a party, witness, or confidential informant;

3296 (2) Create a substantial threat of physical or economic harm to a witness or other person;

3297 (3) Endanger the existence of physical evidence;

3298 (4) Disclose privileged information; or

3299 (5) Impede the criminal prosecution of a minor who is being prosecuted as an adult or  
3300 the prosecution of an adult charged with an offense arising from the same transaction or  
3301 occurrence.

3302 (f) No deposition shall be taken of a child unless the court orders the deposition, under  
3303 such conditions as the court may order, on the ground that the deposition would further the  
3304 purposes of this part.

3305 (g) If at any time during the course of the proceedings it is brought to the attention of the  
 3306 court that a person or entity has failed to comply with an order issued pursuant to this Code  
 3307 section, the court may grant a continuance, prohibit the party from introducing in evidence  
 3308 the information not disclosed, or enter such other order as the court deems just under the  
 3309 circumstances.

3310 (h) Nothing contained in this Code section shall prohibit the court from ordering the  
 3311 disclosure of any information that the court deems necessary for proper adjudication.

3312 (i) Any material or information furnished to a party pursuant to this Code section shall  
 3313 remain in the exclusive custody of the party and shall only be used during the pendency of  
 3314 the case and shall be subject to such other terms and conditions as the court may provide.

3315 15-11-265.

3316 Once a petition to terminate parental rights has been filed, the parent shall thereafter be  
 3317 without authority to execute an act of surrender or otherwise to affect the custody of the  
 3318 child except the parent may:

- 3319 (1) Execute an act of surrender in favor of DFCS; and  
 3320 (2) Consent to a judgment terminating his or her parental rights.

3321 Part 2

3322 15-11-270.

3323 (a) A proceeding under this article shall be commenced in the county that has jurisdiction  
 3324 over the related dependency proceedings.

3325 (b) For the convenience of the parties, the court may transfer proceedings to the county in  
 3326 which the parent legally resides. If a proceeding is transferred, certified copies of all legal  
 3327 and social documents and records pertaining to the proceeding on file with the clerk of  
 3328 court shall accompany the transfer.

3329 Part 3

3330 15-11-280.

3331 (a) A petition to terminate parental rights and all subsequent court documents in such  
 3332 proceeding shall be entitled 'In the interest of \_\_\_\_\_, a child.', except upon appeal, in which  
 3333 event the anonymity of the child shall be preserved by use of appropriate initials. The  
 3334 petition shall be in writing.

3335 (b) The petition to terminate parental rights shall be made, verified, and endorsed by the  
 3336 court as provided in Article 3 of this chapter for a petition alleging dependency.

- 3337 (c) The petition to terminate parental rights shall:
- 3338 (1) State clearly that an order for termination of parental rights is requested and that the
- 3339 effect of the order will be as stated in Code Section 15-11-260;
- 3340 (2) State the statutory ground, as provided in Code Section 15-11-310, on which the
- 3341 petition is based; and
- 3342 (3) Set forth plainly and with particularity:
- 3343 (A) The facts which bring the child within the jurisdiction of the court, with a
- 3344 statement that it is in the best interests of the child and the public that the proceeding
- 3345 be brought;
- 3346 (B) The name, age, date of birth, and residence address of the child on whose behalf
- 3347 the petition is brought;
- 3348 (C) The name and residence address of the parent, guardian, or legal custodian of the
- 3349 child; or, if neither the child's parent nor the child's guardian nor the child's legal
- 3350 custodian resides or can be found within the state or if such place of residence address
- 3351 is unknown, the name of any known adult relative residing within the county or, if there
- 3352 is none, the known adult relative residing nearest to the location of the court;
- 3353 (D) Whether the child is in protective custody and, if so, the place of his or her foster
- 3354 care and the time the child was taken into protective custody; and
- 3355 (E) Whether any of the matters required by this paragraph are unknown.
- 3356 (d) When a petition seeks termination of the rights of a biological father who is not the
- 3357 legal father and who has not surrendered his rights to the child, the petition shall include
- 3358 a certificate from the putative father registry disclosing the name, address, and social
- 3359 security number of any registrant acknowledging paternity of the child or indicating the
- 3360 possibility of paternity of a child of the child's mother for a period beginning no later than
- 3361 two years immediately preceding the child's date of birth. The certificate shall document
- 3362 a search of the registry on or after the date of the filing of the petition and shall include a
- 3363 statement that the registry is current as to filings of registrants as of the date of the petition
- 3364 or as of a date later than the date of the petition to terminate parental rights.
- 3365 (e) A copy of a voluntary surrender or written consent, if any, previously executed by the
- 3366 parent shall be attached to the petition to terminate parental rights.

3367 15-11-281.

- 3368 (a) The court shall direct the issuance of a summons to the child's mother, legal father or
- 3369 biological father, guardian, legal custodian, the child's attorney, the child's guardian ad
- 3370 litem, if any, and any other persons who appear to the court to be proper or necessary
- 3371 parties to the proceeding, requiring them to appear before the court at the time fixed to
- 3372 answer the allegations of the petition to terminate parental rights. A copy of such petition

3373 shall accompany the summons unless the summons is served by publication, in which case  
 3374 the published summons shall indicate the general nature of the allegations and where a  
 3375 copy of such petition can be obtained.

3376 (b) The court shall direct notice and a copy of the petition be provided to the child if the  
 3377 child is 14 years of age or older.

3378 (c) The summons shall include the notice of effect of a termination judgment as set forth  
 3379 in Code Section 15-11-284 and shall state that a party is entitled to an attorney in the  
 3380 proceedings and that the court will appoint an attorney if the party is an indigent person.

3381 (d) The court may endorse upon the summons an order directing the parent, guardian, or  
 3382 legal custodian of the child to appear personally at the hearing or directing the person  
 3383 having the physical custody or control of the child to bring the child to the hearing.

3384 (e) A party other than the child may waive service of summons by written stipulation or  
 3385 by voluntary appearance at the hearing.

3386 15-11-282.

3387 (a) If a party to be served with a summons is within this state and can be found, the  
 3388 summons shall be served upon him or her personally as soon as possible and at least 30  
 3389 days before the termination of parental rights hearing.

3390 (b) If a party to be served is within this state and cannot be found but his or her address is  
 3391 known or can be ascertained with reasonable diligence, the summons shall be served upon  
 3392 such party at least 30 days before the termination of parental rights hearing by mailing him  
 3393 or her a copy by registered or certified mail or statutory overnight delivery, return receipt  
 3394 requested.

3395 (c) If a party to be served is outside this state but his or her address is known or can be  
 3396 ascertained with reasonable diligence, service of the summons shall be made at least 30  
 3397 days before the termination of parental rights hearing either by delivering a copy to such  
 3398 party personally or by mailing a copy to him or her by registered or certified mail or  
 3399 statutory overnight delivery, return receipt request.

3400 (d) If, after justifiable effort, a party to be served with a summons cannot be found and  
 3401 such party's address cannot be ascertained, whether he or she is within or outside this state,  
 3402 the court may order service of the summons upon him or her by publication. The  
 3403 termination of parental rights hearing shall not be earlier than 31 days after the date of the  
 3404 last publication.

3405 (e)(1) Service by publication shall be made once a week for four consecutive weeks in  
 3406 the official organ of the county where the petition to terminate parental rights has been  
 3407 filed. Service shall be deemed complete upon the date of the last publication.

3408 (2) When served by publication, the notice shall contain the names of the parties, except  
 3409 that the anonymity of the child shall be preserved by the use of appropriate initials, and  
 3410 the date the petition to terminate parental rights was filed. The notice shall indicate the  
 3411 general nature of the allegations and where a copy of the petition to terminate parental  
 3412 rights can be obtained and require the party to be served by publication to appear before  
 3413 the court at the time fixed to answer the allegations of the petition to terminate parental  
 3414 rights.

3415 (3) A free copy of the petition to terminate parental rights shall be available to the parent  
 3416 from the court during business hours or, upon request, shall be mailed to the parent.

3417 (4) Within 15 days after the filing of the order of service by publication, the clerk of  
 3418 court shall mail a copy of the notice, a copy of the order of service by publication, and  
 3419 a copy of the petition to terminate parental rights to the absent parent's last known  
 3420 address.

3421 (f) Service of the summons may be made by any suitable person under the direction of the  
 3422 court.

3423 (g) The court may authorize the payment from county funds of the costs of service and of  
 3424 necessary travel expenses incurred by persons summoned or otherwise required to appear  
 3425 at the hearing.

3426 15-11-283.

3427 (a) Unless he has surrendered all parental rights to the child, a summons shall be served  
 3428 on:

3429 (1) A biological father who is the legal father of the child;

3430 (2) A biological father whose paternity has been previously established in a judicial  
 3431 proceeding to which the father was a party;

3432 (3) A biological father whose identity is known to the petitioner or the petitioner's  
 3433 attorney;

3434 (4) A biological father who is a registrant on the putative father registry and has  
 3435 acknowledged paternity of the child;

3436 (5) A biological father who is a registrant on the putative father registry who has  
 3437 indicated possible paternity of a child born to the child's mother during a period  
 3438 beginning two years immediately preceding the child's date of birth; or

3439 (6) A biological father who, if the court finds from the evidence including but not limited  
 3440 to the affidavit of the child's mother, has performed any of the following acts:

3441 (A) Lived with the child;

3442 (B) Contributed to the child's support;

3443 (C) Made any attempt to legitimate the child; or

3444 (D) Provided support or medical care for the mother either during her pregnancy or  
3445 during her hospitalization for the birth of the child.

3446 (b) Notice shall be given to a biological father by the following methods:

3447 (1) If a biological father is within this state and can be found, the summons shall be  
3448 served upon him personally as soon as possible and least 30 days before the termination  
3449 of parental rights hearing;

3450 (2) If a biological father is outside this state but his address is known or can be  
3451 ascertained with reasonable diligence, service of summons shall be made at least 30 days  
3452 before the termination of parental rights hearing either by delivering a copy to him  
3453 personally or by mailing a copy to him by registered or certified mail or statutory  
3454 overnight delivery, return receipt requested; or

3455 (3) If, after justifiable effort, a biological father to be served with summons cannot be  
3456 found and his address cannot be ascertained, whether he is within or outside this state, the  
3457 court may order service of summons upon him by publication. The termination of  
3458 parental rights hearing shall not be earlier than 31 days after the date of the last  
3459 publication. Service by publication shall be as follows:

3460 (A) Service by publication shall be made once a week for four consecutive weeks in  
3461 the official organ of the county where the petition to terminate parental rights has been  
3462 filed and of the county of the biological father's last known address. Service shall be  
3463 deemed complete upon the date of the last publication;

3464 (B) When served by publication, the notice shall contain the names of the parties,  
3465 except that the anonymity of the child shall be preserved by the use of appropriate  
3466 initials, and the date the petition to terminate parental rights was filed. The notice shall  
3467 indicate the general nature of the allegations and where a copy of the petition to  
3468 terminate parental rights can be obtained and require the biological father to appear  
3469 before the court at the time fixed to answer the allegations of the petition to terminate  
3470 parental rights;

3471 (C) A free copy of the petition to terminate parental rights shall be available to the  
3472 biological father from the court during business hours or, upon request, shall be mailed  
3473 to the biological father; and

3474 (D) Within 15 days after the filing of the order of service by publication, the clerk of  
3475 court shall mail a copy of the notice, a copy of the order of service by publication, and  
3476 a copy of the petition to terminate parental rights to the biological father's last known  
3477 address.

3478 (c) The notice shall advise the biological father who is not the legal father that he may lose  
3479 all rights to the child and will not be entitled to object to the termination of his rights to the  
3480 child unless, within 30 days of receipt of notice, he files:

- 3481 (1) A petition to legitimate the child; and  
 3482 (2) Notice of the filing of the petition to legitimate with the court in which the  
 3483 termination of parental rights proceeding is pending.  
 3484 (d) If the identity of the biological father is not known to the petitioner or the petitioner's  
 3485 attorney and the biological father would not be entitled to notice in accordance with  
 3486 subsection (a) of this Code section, then it shall be rebuttably presumed that he is not  
 3487 entitled to notice of the proceedings. The court shall be authorized to require the mother  
 3488 to execute an affidavit supporting the presumption or show cause before the court if she  
 3489 refuses. Absent evidence rebutting the presumption, no further inquiry or notice shall be  
 3490 required by the court, and the court may enter an order terminating the rights of the father.  
 3491 (e) The court may enter an order terminating all the parental rights of a biological father,  
 3492 including any right to object thereafter to such proceedings:  
 3493 (1) Who fails to file a timely petition to legitimate the child and notice in accordance  
 3494 with subsection (c) of this Code section;  
 3495 (2) Whose petition to legitimate is subsequently dismissed for failure to prosecute; or  
 3496 (3) Whose petition to legitimate does not result in a court order finding that he is the  
 3497 legal father of the child.

3498 15-11-284.

3499 The notice required to be given to the mother, the biological father, and legal father of the  
 3500 child shall state:

3501 'NOTICE OF EFFECT OF TERMINATION JUDGMENT

3502 Georgia law provides that you can permanently lose your rights as a parent. A petition  
 3503 to terminate parental rights has been filed requesting the court to terminate your parental  
 3504 rights to your child. A copy of the petition to terminate parental rights is attached to this  
 3505 notice. A court hearing of your case has been scheduled for the \_\_\_\_\_ day of  
 3506 \_\_\_\_\_, at the \_\_\_\_\_ Court of \_\_\_\_\_ County.

3507 If you fail to appear, the court can terminate your rights in your absence.

3508 If the court at the trial finds that the facts set out in the petition to terminate parental  
 3509 rights are true and that termination of your rights will serve the best interests of your  
 3510 child, the court can enter a judgment ending your rights to your child.

3511 If the judgment terminates your parental rights, you will no longer have any rights to your  
 3512 child. This means that you will not have the right to visit, contact, or have custody of  
 3513 your child or make any decisions affecting your child or your child's earnings or property.

3514 Your child will be legally freed to be adopted by someone else.

3515 Even if your parental rights are terminated:

3516 (1) You will still be responsible for providing financial support (child support payments)  
 3517 for the child's care unless and until the child is adopted;

3518 (2) The child can still inherit from you unless and until the child is adopted; and

3519 (3) The child can still receive benefits based on his or her status as your child unless and  
 3520 until the child is adopted.

3521 This is a very serious matter. You should contact an attorney immediately so that you  
 3522 can be prepared for the court hearing. You have the right to hire an attorney and to have  
 3523 him or her represent you. If you cannot afford to hire an attorney, the court will appoint  
 3524 an attorney if the court finds that you are an indigent person. Whether or not you decide  
 3525 to hire an attorney, you have the right to attend the hearing of your case, to call witnesses  
 3526 on your behalf, and to question those witnesses brought against you.

3527 If you have any questions concerning this notice, you may call the telephone number of  
 3528 the clerk's office which is \_\_\_\_\_.'

3529 15-11-285.

3530 (a) If any person named in and properly served with summons shall without reasonable  
 3531 cause fail to appear or, when directed in the summons, to bring the child before the court,  
 3532 then the court may issue a rule nisi against the person, directing the person to appear before  
 3533 the court to show cause why he or she should not be held in contempt of court.

3534 (b) If the summons cannot be served or if the person to whom the summons is directed  
 3535 fails to obey it, the court may issue an order to take the child into protective custody.

3536 Part 4

3537 15-11-300.

3538 (a) In advance of each hearing to terminate parental rights, DFCS shall give written notice  
 3539 of the date, time, place, and purpose of the hearing to the caregiver of the child, the foster  
 3540 parents of the child if there are foster parents, any preadoptive parent, or any relative  
 3541 providing care for the child, including the right to be heard. The written notice shall be  
 3542 delivered to the recipient at least 72 hours before the review or hearing by United States  
 3543 mail, e-mail, or hand delivery.

3544 (b) This Code section shall not be construed to require a caregiver, foster parent,  
 3545 preadoptive parent, or relative caring for the child to be made a party to the hearing solely  
 3546 on the basis of such notice and right to be heard.

3547 15-11-301.

3548 (a) If no just cause has been shown for delay, all hearings contemplated by this article shall  
 3549 be conducted within 90 days of the date a petition to terminate parental rights is filed.

3550 (b) If no just cause for delay has been shown by written finding of fact by the court, an  
 3551 order of disposition shall be issued by the juvenile court no later than 30 days after the  
 3552 conclusion of the hearing on the petition to terminate parental rights.

3553 (c) All hearings contemplated by this article shall be recorded by stenographic notes or by  
 3554 electronic, mechanical, or other appropriate means capable of accurately capturing a full  
 3555 and complete record of all words spoken during the hearings. If no just cause for delay has  
 3556 been shown, the court reporter shall provide a transcript of the hearings no later than 30  
 3557 days after a notice of appeal is filed.

3558 (d) This Code section shall not affect the right to request a rehearing or the right to appeal  
 3559 the juvenile court's order.

3560 (e) Failure to comply with the time requirements of this Code section shall not be grounds  
 3561 to invalidate an otherwise proper order terminating parental rights unless the court  
 3562 determines that such delay resulted in substantial prejudice to a party.

3563 15-11-302.

3564 The record of the testimony of the parties adduced in any proceeding under this article shall  
 3565 not be admissible in any civil, criminal, or any other cause or proceedings in any court  
 3566 against a person named as respondent for any purpose whatsoever, except in subsequent  
 3567 dependency or termination proceedings involving the same child or dependency or  
 3568 termination proceedings involving the same respondent.

3569 15-11-303.

3570 In all proceedings under this article, the standard of proof to be adduced to terminate  
 3571 parental rights shall be by clear and convincing evidence.

3572 Part 5

3573 15-11-310.

3574 (a) In considering the termination of parental rights, the court shall first determine whether  
 3575 one of the following statutory grounds for termination of parental rights has been met:

3576 (1) The parent has given written consent to termination which has been acknowledged  
 3577 by the court or has voluntarily surrendered the child for adoption;

3578 (2) The parent has subjected the child to aggravated circumstances;

3579 (3) The parent has wantonly and willfully failed to comply for a period of 12 months or  
 3580 longer with a decree to support the child that has been entered by a court of competent  
 3581 jurisdiction of this or any other state;

3582 (4) The child is abandoned by the parent; or

3583 (5) The child is dependent due to lack of proper parental care or control by the parent,  
 3584 reasonable efforts to remedy the circumstances have been unsuccessful or were not  
 3585 required, such cause of dependency is likely to continue or will not likely be remedied,  
 3586 and the continued dependency will cause or is likely to cause serious physical, mental,  
 3587 emotional, or moral harm to the child.

3588 (b) If any of the statutory grounds for termination has been met, the court shall then  
 3589 consider whether termination is in the child's best interests after considering the following  
 3590 factors:

3591 (1) The child's sense of attachments, including the child's sense of security, the child's  
 3592 sense of familiarity, and continuity of affection for the child;

3593 (2) The child's wishes and long-term goals;

3594 (3) The child's need for permanence which includes the child's need for stability and  
 3595 continuity of relationships with a parent, siblings, and other relatives; and

3596 (4) Any other factors, including the factors set forth in Code Section 15-11-26,  
 3597 considered by the court to be relevant and proper to its determination.

3598 (c) If the court determines that the parent has subjected the child to aggravated  
 3599 circumstances because the parent has committed the murder of the other parent of the child,  
 3600 the court shall presume that termination of parental rights is in the best interests of the  
 3601 child.

3602 15-11-311.

3603 (a) In determining whether the child is without proper parental care and control, the court  
 3604 shall consider, without being limited to, the following:

3605 (1) A medically verified deficiency of the parent's physical, mental, or emotional health  
 3606 of such duration or nature as to render the parent unable to provide adequately for the  
 3607 child;

3608 (2) Excessive use of or history of chronic unrehabilitated substance abuse with the effect  
 3609 of rendering the parent incapable of providing adequately for the physical, mental,  
 3610 emotional, or moral condition and needs of the child;

3611 (3) A felony conviction and imprisonment of the parent for an offense which has a  
 3612 demonstrably negative effect on the quality of the parent-child relationship including, but  
 3613 not limited to, any of the following:

3614 (A) Murder of another child of the parent;

- 3615 (B) Voluntary manslaughter of another child of the parent;  
 3616 (C) Voluntary manslaughter of the other parent of the child;  
 3617 (D) Aiding or abetting, attempting, conspiring, or soliciting to commit murder or  
 3618 voluntary manslaughter of another child of the parent;  
 3619 (E) Aiding or abetting, attempting, conspiring, or soliciting to commit murder or  
 3620 voluntary manslaughter of the other parent of the child; or  
 3621 (F) Committing a felony assault that results in serious bodily injury to the child or  
 3622 another child of the parent;
- 3623 (4) Egregious conduct or evidence of past egregious conduct of a physically,  
 3624 emotionally, or sexually cruel or abusive nature by the parent toward the child or toward  
 3625 another child of the parent;
- 3626 (5) Physical, mental, or emotional neglect of the child or evidence of past physical,  
 3627 mental, or emotional neglect by the parent of the child or another child of the parent; and
- 3628 (6) Serious bodily injury or death of a sibling of a child under circumstances which  
 3629 constitute substantial evidence that such injury or death resulted from parental neglect or  
 3630 abuse.
- 3631 (b) In determining whether the child who is not in the custody and care of a parent is  
 3632 without proper parental care and control, the court shall also consider, without being  
 3633 limited to, whether the parent, without justifiable cause, has failed significantly for a period  
 3634 of six months prior to the date of the termination hearing:
- 3635 (1) To develop and maintain a parental bond with the child in a meaningful, supportive  
 3636 manner;
- 3637 (2) To provide for the care and support of the child as required by law or judicial decree;  
 3638 and
- 3639 (3) To comply with a court ordered plan designed to reunite the child with the parent.
- 3640 (c) A parent's reliance on prayer or other religious nonmedical means for healing in lieu  
 3641 of medical care, in the exercise of religious beliefs, shall not be the sole basis for  
 3642 determining the parent to be unwilling or unable to provide safety and care adequate to  
 3643 meet the child's physical, emotional, and mental health needs as provided in paragraph (1)  
 3644 of subsection (a) of this Code section or as depriving the child of proper parental care or  
 3645 control for purposes of this Code section and Code Section 15-11-310.

Part 6

3646

3647 15-11-320.

3648 (a) When the court finds that any ground set out in Code Section 15-11-310 is proved by  
 3649 clear and convincing evidence and that termination of parental rights is in the child's best  
 3650 interests, it shall order the termination of the parent's rights.

3651 (b) The court's order shall:

3652 (1) Contain written findings on which the order is based, including the factual basis for  
 3653 a determination that grounds for termination of parental rights exist and that termination  
 3654 is in the best interests of the child;

3655 (2) Be conclusive and binding on all parties from the date of entry;3656 (3) Grant custody of the child in accordance with Code Section 15-11-321; and

3657 (4) Inform the parent of his or her right to use the services of the Georgia Adoption  
 3658 Reunion Registry although failure to include such information shall not affect the validity  
 3659 of the judgment.

3660 (c) If the court does not order the termination of parental rights but the court finds that  
 3661 there is clear and convincing evidence that the child is dependent, the court may enter a  
 3662 disposition order in accordance with the provisions of Article 3 of this chapter.

3663 (d) The court shall transmit a copy of every final order terminating the parental rights of  
 3664 a parent to the Office of Adoptions of the department within 15 days of the filing of such  
 3665 order.

3666 15-11-321.

3667 (a) Upon entering of an order terminating the parental rights of a parent, a placement may  
 3668 be made only if the court finds that such placement is in the best interests of the child and  
 3669 in accordance with the child's court approved permanency plan created pursuant to Code  
 3670 Sections 15-11-231 and 15-11-232. In determining which placement is in the child's best  
 3671 interests, the court shall enter findings of fact reflecting its consideration of the following:

3672 (1) The child's need for a placement that offers the greatest degree of legal permanence  
 3673 and security;

3674 (2) The least disruptive placement for the child;3675 (3) The child's sense of attachment and need for continuity of relationships;3676 (4) The value of biological and familial connections; and3677 (5) Any other factors the court deems relevant to its determination.

3678 (b) A guardian or legal custodian shall submit to the jurisdiction of the court for purposes  
 3679 of placement.

3680 (c) A placement effected under the provisions of this Code section shall be conditioned  
 3681 upon the person who is given custody or who is granted an adoption of the child agreeing  
 3682 to abide by the terms and conditions of the order of the court.

3683 (d) In addition to its rights as a legal custodian, the department has the authority to consent  
 3684 to the adoption of the child.

3685 15-11-322.

3686 (a) If a petition seeking the adoption of the child is not filed within six months after the  
 3687 date of the disposition order, the court shall then, and at least every six months thereafter  
 3688 as long as the child remains unadopted, review the circumstances of the child to determine  
 3689 what efforts have been made to assure that the child will be adopted. The court shall:

3690 (1) Make written findings regarding whether reasonable efforts have been made to move  
 3691 the child to permanency;

3692 (2) Evaluate whether, in light of any change in circumstances, the permanency plan for  
 3693 the child remains appropriate; and

3694 (3) Enter such orders as it deems necessary to further adoption or if appropriate, other  
 3695 permanency options, including, but not limited to, another placement.

3696 (b) In those cases in which the child was placed with a guardian of the child's person,  
 3697 within 60 days after such appointment and within 60 days after each anniversary date of  
 3698 such appointment, the guardian shall file with the court a personal status report of the child  
 3699 which shall include:

3700 (1) A description of the child's general condition, changes since the last report, and the  
 3701 child's needs;

3702 (2) All addresses of the child during the reporting period and the living arrangements of  
 3703 the child for all addresses; and

3704 (3) Recommendations for any modification of the guardianship order.

3705 15-11-323.

3706 (a) A child who has not been adopted after the passage of at least three years from the date  
 3707 the court terminated parental rights or the parent voluntarily surrendered parental rights to  
 3708 DFCS and for whom the court has determined that adoption is no longer the permanent  
 3709 plan may petition the court to reinstate parental rights pursuant to the modification of  
 3710 orders procedure prescribed by Code Section 15-11-32. The child may file the petition to  
 3711 reinstate parental rights prior to the expiration of such three-year period if the department  
 3712 or licensed child-placing agency that is responsible for the custody and supervision of the  
 3713 child and the child stipulate that the child is no longer likely to be adopted. A child 14

3714 years of age or older shall sign the petition in the absence of a showing of good cause as  
3715 to why the child could not do so.

3716 (b) If it appears that the best interests of the child may be promoted by reinstatement of  
3717 parental rights, the court shall order that a hearing be held and shall cause notice to be  
3718 served by United States mail to DFCS, the child's attorney of record, guardian ad litem, if  
3719 any, foster parents, if any, and the child's former parent whose parental rights were  
3720 terminated. The parent and foster parents, if any, shall have a right to be heard at the  
3721 hearing to reinstate parental rights but shall not be parties at such hearing, and such hearing  
3722 may be conducted in their absence. The child's motion shall be dismissed if the parent  
3723 cannot be located or if the parent objects to the reinstatement.

3724 (c) The court shall grant the petition if it finds by clear and convincing evidence that the  
3725 child is no longer likely to be adopted and that reinstatement of parental rights is in the  
3726 child's best interests. In determining whether reinstatement is in the child's best interests  
3727 the court shall consider, but shall not be limited to, the following:

3728 (1) Whether the parent whose rights are to be reinstated is a fit parent and has remedied  
3729 his or her deficits as provided in the record of the prior termination proceedings and prior  
3730 termination order;

3731 (2) The age and maturity of the child and the ability of the child to express his or her  
3732 preference;

3733 (3) Whether the reinstatement of parental rights will present a risk to the child's health,  
3734 welfare, or safety; and

3735 (4) Other material changes in circumstances, if any, that may have occurred which  
3736 warrant the granting of the petition.

3737 (d) If the court grants the petition to reinstate parental rights, a review hearing will be  
3738 scheduled within six months. During such period, the court may order that the child be  
3739 immediately placed in the custody of the parent or, if the court determines that a transition  
3740 period is necessary and the child is in DFCS custody at the time of the order, order DFCS  
3741 to provide transition services to the family as appropriate.

3742 (e) An order granted under this Code section reinstates the parental rights to the child.  
3743 Such reinstatement shall be a recognition that the situation of the parent and child has  
3744 changed since the time of the termination of parental rights and reunification is now  
3745 appropriate.

3746 (f) This Code section is intended to be retroactive and applied to any child who is under  
3747 the jurisdiction of the court at the time of the hearing regardless of the date parental rights  
3748 were terminated.

3749

ARTICLE 53750 15-11-350.3751 The purpose of this article is:

3752 (1) To enable children who have come into the care of the state due to abuse or neglect  
 3753 to enjoy as much normalcy as possible, by facilitating their participation in activities and  
 3754 opportunities appropriate to their ages and goals;

3755 (2) To prepare children who experience foster care to become independent and  
 3756 self-sufficient adults;

3757 (3) To assist children in foster care in planning for their future, including postsecondary  
 3758 education and the workplace; and

3759 (4) To provide support to older children who are leaving the state's care to ensure that  
 3760 their basic health, education, and safety needs are met as they transition to adulthood.

3761 15-11-351.3762 As used in this article, the term:

3763 (1) 'Independent life skills assessment' means an assessment of a child upon reaching 16  
 3764 years of age to determine the specific life skills services that are most appropriate for  
 3765 such child.

3766 (2) 'Independent living assessment' means a comprehensive assessment conducted during  
 3767 the month following a child's seventeenth birthday to determine such child's skills and  
 3768 abilities to live independently and become self-sufficient.

3769 (3) 'Life skills services' includes, but shall not be limited to, independent living skills  
 3770 training, including training to develop banking and budgeting skills, interviewing skills,  
 3771 parenting skills, educational support, employment training, basic legal skills, and  
 3772 counseling.

3773 (4) 'Preindependent living assessment' means an initial assessment of a child's strengths  
 3774 and needs to determine the preindependent living services that are most appropriate for  
 3775 such child.

3776 (5) 'Preindependent living services' includes, but shall not be limited to, life skills  
 3777 training, educational field trips, and mentoring.

3778 (6) 'Subsidized independent living services' means living arrangements that allow the  
 3779 child to live independently of the daily care and supervision of an adult in a setting that  
 3780 is not required to be licensed.

3781 (7) 'Young adult' means a person who has reached the age of 18 but is not yet 23 years  
 3782 of age.

3783 15-11-352.

3784 (a) DFCS shall administer a system of independent living transition services to enable  
3785 adolescents and young adults in foster care and young adults who exit foster care at age 18  
3786 to make the transition to self-sufficiency as adults.

3787 (b) The goals of independent living transition services shall be to assist adolescents and  
3788 young adults in foster care and young adults who were formerly in foster care to obtain life  
3789 skills and education for independent living and employment, to enjoy a quality of life  
3790 appropriate for their age, and to assume personal responsibility for becoming self-sufficient  
3791 adults.

3792 (c) In providing independent living services for children, DFCS shall balance the goals of  
3793 normalcy and safety for a child and provide caregivers with as much flexibility as possible  
3794 to enable such child to live as normal a life as possible and participate in age-appropriate  
3795 extracurricular, enrichment, and social activities.

3796 (d) DFCS shall establish a continuum of services for eligible children in foster care and  
3797 eligible young adults who were formerly in foster care which accomplish the goals for the  
3798 system of independent living transition services.

3799 (e) For children in foster care, independent living transition services shall not be a  
3800 permanency plan. Independent living transition services may occur concurrently with  
3801 continued efforts to locate and achieve placement in adoptive families for adolescents in  
3802 foster care or to achieve another court approved permanency plan.

3803 15-11-353.

3804 (a) DFCS shall provide independent living services to children who have reached 14 years  
3805 of age but are not yet 18 years of age and who are in foster care. Children to be served  
3806 shall meet the eligibility requirements set forth for specific services as provided in this  
3807 article.

3808 (b) DFCS shall provide independent living services to young adults who were in foster  
3809 care when they turned 18 years of age. Young adults to be served shall meet the eligibility  
3810 requirements set forth for specific services in this article.

3811 (c) DFCS shall develop objective criteria for determining eligibility benefits and services  
3812 available under this article.

3813 15-11-354.

3814 (a) DFCS shall provide adolescents and young adults with opportunities to participate in  
3815 life skills activities in their foster families and communities which are reasonable and  
3816 appropriate for their respective ages and shall provide them with services to build such

3817 skills and increase their ability to live independently and become self-sufficient. In  
 3818 providing these services DFCS may:

3819 (1) Develop a list of age-appropriate activities and responsibilities to be offered to all  
 3820 children involved in independent living transition services and their foster parents;

3821 (2) Provide training for staff and foster parents to address the issues of adolescents in  
 3822 foster care in transitioning to adulthood, which shall include information on supporting  
 3823 education and employment and providing opportunities to participate in appropriate daily  
 3824 activities;

3825 (3) Develop procedures to maximize participation in age-appropriate activities of  
 3826 children in foster care;

3827 (4) Provide opportunities for adolescents in foster care to interact with mentors; and

3828 (5) Develop and implement procedures for adolescents to directly access and manage the  
 3829 personal allowance they receive from DFCS in order to learn responsibility and  
 3830 participate in age-appropriate life skills activities.

3831 (b) Each child in foster care, his or her foster parents, and DFCS or the community based  
 3832 provider shall set early achievement and career goals for the child's postsecondary  
 3833 educational and work experience. DFCS and community based providers shall implement  
 3834 a model to help ensure that children in foster care are ready for postsecondary education  
 3835 and the workplace as follows:

3836 (1) A child in foster care entering the ninth grade, the child's foster parents, and DFCS  
 3837 or a community based provider shall be active participants in choosing a postsecondary  
 3838 goal based upon both the abilities and interests of the child. Such goal shall  
 3839 accommodate the needs of the child served in exceptional education programs to the  
 3840 extent appropriate for the child. A child in foster care, with the assistance of the child's  
 3841 foster parents, and DFCS or a community based provider shall set a postsecondary goal  
 3842 including, but not limited to:

3843 (A) Attending a four-year college or university, a community college plus university,  
 3844 or a military academy;

3845 (B) Receiving a two-year postsecondary degree;

3846 (C) Attaining a postsecondary career and technical certificate or credential;

3847 (D) Beginning immediate employment after completion of a high school diploma or  
 3848 its equivalent; or

3849 (E) Enlisting in the military;

3850 (2) In order to assist a child in achieving his or her chosen goal, DFCS or a community  
 3851 based provider shall, with the participation of the child and foster parents, identify:

3852 (A) The core courses necessary to qualify for a chosen goal;

3853 (B) Any elective courses which would provide additional help in reaching a chosen  
 3854 goal;

3855 (C) The grade point requirement and any additional information necessary to achieve  
 3856 a specific goal; and

3857 (D) A teacher, other school staff member, employee of DFCS or a community based  
 3858 care provider, or community volunteer who would be willing to work with the child as  
 3859 an academic advocate or mentor if foster parent involvement is insufficient or  
 3860 unavailable;

3861 (3) In order to complement educational goals, DFCS and community based providers are  
 3862 encouraged to form partnerships with the business community to support internships,  
 3863 apprenticeships, or other work related opportunities; and

3864 (4) DFCS and community based providers shall ensure that a child and the child's foster  
 3865 parents are made aware of the postsecondary goals available and shall assist in  
 3866 identifying the coursework necessary to enable the child to reach the chosen goal.

3867 (c) A child in foster care and a young adult formerly in foster care shall be encouraged to  
 3868 take part in learning opportunities that result from participation in community service  
 3869 activities.

3870 (d) A child in foster care and a young adult formerly in foster care shall be provided with  
 3871 the opportunity to change from one postsecondary goal to another, and each postsecondary  
 3872 goal shall allow for changes in each individual's needs and preferences. Any change,  
 3873 particularly a change that will result in additional time required to achieve a goal, shall be  
 3874 made with the guidance and assistance of DFCS or a community based provider.

3875 15-11-355.

3876 DFCS shall provide transition to independence services to children in foster care who meet  
 3877 prescribed conditions and are determined eligible by DFCS. DFCS may allow a child who  
 3878 is between the ages of 18 and 21 years to remain in foster care. The service categories  
 3879 available to children in foster care which facilitate successful transition into adulthood are:

3880 (1) Preindependent living services;

3881 (2) Life skills services; and

3882 (3) Subsidized independent living services.

3883 15-11-356.

3884 (a) A child who has reached 14 years of age but is not yet 16 years of age who is in foster  
 3885 care shall be eligible for preindependent living services. The specific services to be  
 3886 provided to a child shall be determined using a preindependent living assessment.

3887 (b) DFCS shall conduct an annual staffing for each child who has reached 14 years of age  
 3888 but is not yet 16 years of age to ensure that the preindependent living training and services  
 3889 to be provided as determined by the preindependent living assessment are being received  
 3890 and to evaluate the progress of the child in developing the needed independent living skills.

3891 (c) At the first annual staffing that occurs following a child's fourteenth birthday, and at  
 3892 each subsequent staffing, DFCS shall provide to each child detailed information on any  
 3893 grants, scholarships, and waivers that are available and should be sought by the child with  
 3894 assistance from DFCS.

3895 (d) Information related to both the preindependent living assessment and all staffings,  
 3896 which shall be reduced to writing and signed by the child, shall be included as a part of the  
 3897 written report required to be provided to the court at each periodic review hearing.

3898 15-11-357.

3899 (a) A child who has reached 16 years of age but is not yet 18 years of age who is in foster  
 3900 care shall be eligible for life skills services.

3901 (b) Children receiving such life skills services shall also be provided with information  
 3902 related to social security insurance benefits and public assistance. The specific services to  
 3903 be provided to a child shall be determined using an independent life skills assessment

3904 (c) DFCS shall conduct a staffing at least once every six months for each child who has  
 3905 reached 16 years of age but is not yet 18 years of age to ensure that the appropriate  
 3906 independent living training and services as determined by the independent life skills  
 3907 assessment are being received and to evaluate the progress of the child in developing the  
 3908 needed independent living skills.

3909 (d) DFCS shall provide to each child in foster care during the calendar month following  
 3910 the child's seventeenth birthday an independent living assessment to determine the child's  
 3911 skills and abilities to live independently and become self-sufficient. Based on the results  
 3912 of the independent living assessment, services and training shall be provided in order for  
 3913 the child to develop the necessary skills and abilities prior to the child's eighteenth birthday.

3914 (e) Information related to both the independent life skills assessment and all staffings,  
 3915 which shall be reduced to writing and signed by the child, shall be included as a part of the  
 3916 written report required to be provided to the court at each periodic review hearing.

3917 15-11-358.

3918 (a) A child who has reached 17 years of age but is not yet 21 years of age may be eligible  
 3919 for subsidized independent living services if:

3920 (1) The child has been adjudicated dependent under Article 3 of this chapter; has been  
 3921 placed in licensed out-of-home care for at least six months prior to entering subsidized

3922 independent living; and has a permanency goal of independent living or long-term  
 3923 licensed care; and

3924 (2) The child is able to demonstrate independent living skills, as determined by DFCS  
 3925 using established procedures and assessments.

3926 (b) Independent living arrangements established for a child shall be part of an overall plan  
 3927 leading to the total independence of the child from DFCS supervision. Such plan shall  
 3928 include, but shall not be limited to:

3929 (1) A description of the skills of the child and a plan for learning additional identified  
 3930 skills;

3931 (2) The behavior that the child has exhibited which indicates an ability to be responsible  
 3932 and a plan for developing additional responsibilities, as appropriate;

3933 (3) A plan for future educational, vocational, and training skills;

3934 (4) Present financial and budgeting capabilities and a plan for improving resources and  
 3935 ability;

3936 (5) A description of a proposed residence;

3937 (6) Documentation that the child understands the specific consequences of his or her  
 3938 conduct in an independent living program;

3939 (7) Documentation of proposed services to be provided by DFCS and other agencies,  
 3940 including the type of service and the nature and frequency of contact; and

3941 (8) A plan for maintaining or developing relationships with family, other adults, friends,  
 3942 and the community, as appropriate.

3943 (c) Subsidy payments in an amount established by DFCS may be made directly to a child  
 3944 under the direct supervision of a caseworker or other responsible adult approved by DFCS.

3945 15-11-359.

3946 DFCS shall provide or arrange for the following services to young adults formerly in foster  
 3947 care who meet the prescribed conditions and are determined eligible by DFCS:

3948 (1) Aftercare support services which are available to such young adults in their efforts  
 3949 to continue to develop the skills and abilities necessary for independent living; and

3950 (2) Transitional short-term services.

3951 15-11-360.

3952 (a) A young adult who left foster care at 18 years of age but who requests services prior  
 3953 to reaching 23 years of age shall be eligible for aftercare support services.

3954 (b) Aftercare support services may include, but shall not be limited to:

3955 (1) Mentoring and tutoring;

3956 (2) Mental health services and substance abuse counseling;

3957 (3) Life skills classes, including, but not limited to, credit management, preventive health  
 3958 activities, and basic legal skills;

3959 (4) Parenting classes;

3960 (5) Job skills training;

3961 (6) Counselor consultations; and

3962 (7) Temporary financial assistance.

3963 (c) The specific services to be provided under this Code section shall be determined by an  
 3964 aftercare services assessment and may be provided by DFCS or through referrals in the  
 3965 community. Temporary assistance provided to prevent homelessness shall be provided as  
 3966 expeditiously as possible and within the limitations defined by DFCS.

3967 15-11-361.

3968 (a) In addition to any services provided through aftercare support, in DFCS's discretion,  
 3969 a young adult formerly in foster care may receive other appropriate transitional services,  
 3970 which may include financial, housing, counseling, employment, education, mental health,  
 3971 disability, and other services, if the young adult demonstrates that the services are critical  
 3972 to the young adult's own efforts to achieve self-sufficiency and to develop a personal  
 3973 support system.

3974 (b) A young adult shall be eligible to apply for transitional support services if he or she  
 3975 was a dependent child, was living in licensed foster care or in subsidized independent  
 3976 living at the time of his or her eighteenth birthday, and had spent at least six months living  
 3977 in foster care before his or her eighteenth birthday.

3978 (c) If at any time transitional support services are no longer critical to the young adult's  
 3979 own efforts to achieve self-sufficiency and to develop a personal support system, the  
 3980 provision of such services may be terminated.

3981 15-11-362.

3982 Payment of aftercare or transitional support funds shall be made directly to the recipient  
 3983 unless the recipient requests in writing to the community based provider or DFCS that the  
 3984 payments or a portion of the payments be made directly on the recipient's behalf to a third  
 3985 party in order to secure services such as housing, counseling, education, or employment  
 3986 training as part of the young adult's own efforts to achieve self-sufficiency.

3987 15-11-363.

3988 (a) A judicial review of the independent living services being provided to a child shall be  
 3989 held:

3990 (1) For a child who has reached 14 years of age but is not 18 years of age, during the  
 3991 periodic review and permanency plan hearings under Article 3 of this chapter; or

3992 (2) For a young adult, at least annually.

3993 (b) In addition to the periodic review and permanency plan hearings under Article 3 of this  
 3994 chapter, the court shall hold a hearing to review the status of the child within 90 days after  
 3995 a child's seventeenth birthday. Such hearing may be held concurrently with a periodic  
 3996 review or permanency plan hearing. If necessary, the court may review the status of the  
 3997 child more frequently during the year prior to the child's eighteenth birthday.

3998 (c) At each periodic review, in addition to any information or report provided to the court,  
 3999 the foster parent, legal custodian, guardian ad litem, if any, and the child shall be given the  
 4000 opportunity to provide the court with any information relevant to the child's best interests  
 4001 as it relates to independent living transition services. In addition to any information or  
 4002 report provided to the court, DFCS shall include in its social study report written  
 4003 verification that the child has been:

4004 (1) Provided with a current Medicaid card and has been provided all necessary  
 4005 information concerning the Medicaid program sufficient to prepare the child to apply for  
 4006 coverage upon reaching 18 years of age, if such application would be appropriate;

4007 (2) Provided with a certified copy of his or her birth certificate and, if the child does not  
 4008 have a valid driver's license, a valid Georgia identification card;

4009 (3) Provided information relating to federal social security insurance benefits if the child  
 4010 is eligible for such benefits. If the child has received such benefits and the benefits are  
 4011 being held in trust for the child, a full accounting of such funds shall be provided and the  
 4012 child shall be informed about how to access such funds;

4013 (4) Provided with information and training related to budgeting skills, interviewing  
 4014 skills, parenting skills, and basic legal skills;

4015 (5) Provided with essential banking skills including an open bank account or  
 4016 identification necessary to open an account;

4017 (6) Provided with information on public assistance and how to apply;

4018 (7) Provided a clear understanding of where he or she will be living on his or her  
 4019 eighteenth birthday, how living expenses will be paid, and what educational program or  
 4020 school he or she will be enrolled in; and

4021 (8) Encouraged to attend all judicial review hearings occurring after his or her  
 4022 seventeenth birthday.

4023 (d) At the first judicial review hearing held subsequent to a child's seventeenth birthday,  
 4024 DFCS shall provide the court with an updated case plan that includes specific information  
 4025 related to independent living services that have been provided since the child's fourteenth  
 4026 birthday or since the date the child came into foster care, whichever came later.

4027 (e) At the time of a periodic review hearing if, in the opinion of the court, DFCS has not  
 4028 complied with its obligations as specified in the written case plan or in the provision of  
 4029 independent living services, the court shall issue a show cause order. If cause is shown for  
 4030 failure to comply, the court shall give DFCS 30 days within which to comply and, on  
 4031 failure to comply with this or any subsequent order, DFCS may be held in contempt.

4032 15-11-364.

4033 The department shall promulgate regulations to administer this article and shall follow the  
 4034 requirements of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The  
 4035 department shall complete the development of all procedures, systems, assessments, and  
 4036 other items required by this article by January 1, 2014.

4037 15-11-365.

4038 Nothing in this article shall be interpreted to limit a child's eligibility for postsecondary  
 4039 tuition, ancillary fees, or living expenses under Code Section 20-3-660.

## 4040 ARTICLE 6

### 4041 Part 1

4042 15-11-380.

4043 The purpose of this article is:

4044 (1) To acknowledge that certain behaviors or conditions occurring within a family or  
 4045 school environment indicate that a child is experiencing serious difficulties and is in need  
 4046 of services and corrective action in order to protect the child from the irreversibility of  
 4047 certain choices and to protect the integrity of the family;

4048 (2) To make other family members aware of their contributions to their family's  
 4049 problems and to encourage family members to accept the responsibility to participate in  
 4050 any program of care ordered by the court;

4051 (3) To provide a child with a program of treatment, care, guidance, counseling, structure,  
 4052 supervision, and rehabilitation which the child needs to assist him or her in becoming a  
 4053 responsible and productive member of society; and

4054 (4) To ensure the cooperation and coordination of all agencies having responsibility to  
 4055 supply services to any member of the family referred to the court.

4056 15-11-381.

4057 As used in this article, the term:

4058 (1) 'Comprehensive services plan' means an interagency treatment, habilitation, support,  
4059 or supervision plan developed at an interagency meeting of state or local agency  
4060 representatives, parties, and other interested persons following a court's finding that a  
4061 child is incompetent to proceed. A comprehensive services plan shall be submitted to the  
4062 court for approval as part of the disposition of the child's case.

4063 (2) 'Habilitation' means the process by which a child is helped to acquire and maintain  
4064 those life skills which will enable him or her to cope more effectively with the demands  
4065 of his or her own person and of his or her environment and to raise the level of his or her  
4066 physical, mental, social, and vocational abilities.

4067 (3) 'Home detention' means court ordered confinement of a child with his or her parent,  
4068 guardian, legal custodian, or in some other specified home for 24 hours a day unless  
4069 otherwise prescribed by written court order, under which the child is permitted out of the  
4070 residence only at such hours and in the company of persons specified in the court order  
4071 establishing the home detention. Home detention shall be monitored by DJJ or court  
4072 based probation.

4073 (4) 'Nonsecure facility' means a public or private facility which does not include  
4074 construction fixtures such as locked rooms and buildings, fences, or other physical  
4075 structures designed to physically restrict the movements and activities of a child in  
4076 custody.

4077 (5) 'Plan manager' means a person who is under the supervision of the court and is  
4078 appointed by the court to convene a meeting of all relevant parties for the purpose of  
4079 developing a comprehensive services plan. A plan manager shall be responsible for  
4080 collecting all previous histories of the child including, but not limited to, evaluations,  
4081 assessments, treatment summaries, and school records.

4082 (6) 'Runaway' means a child who without just cause and without the consent of his or her  
4083 parent, guardian, or legal custodian is absent from his or her home or place of abode for  
4084 at least 24 hours.

4085 (7) 'Status offense' means an act prohibited by law which would not be an offense if  
4086 committed by an adult.

4087 (8) 'Truant' means having ten or more days of unexcused absences from school in the  
4088 current academic year.

4089 (9) 'Valid court order' means a court order issued by a judge to a child alleged or found  
4090 to have committed a status offense and:

4091 (A) Who was brought before the court and made subject to the order;

4092 (B) Whose future conduct is regulated by the order;

4093 (C) Who was given verbal and written warning of the consequences of violating the  
4094 order at the time the order was issued and whose attorney, parent, guardian, or legal

4095 custodian was also provided with written notice of the consequences of violating the  
 4096 order, and the notice is reflected in the court record; and  
 4097 (D) Who was afforded due process prior to the issuance of the order.

4098 Part 2

4099 15-11-390.

4100 (a) A complaint alleging a child is in need of services may be filed by a parent, guardian,  
 4101 or legal custodian, DFCS, a school official, a law enforcement officer, a guardian ad litem,  
 4102 or an attorney who has knowledge of the facts alleged or is informed and believes that such  
 4103 facts are true.

4104 (b) The complaint shall set forth plainly and with particularity:

4105 (1) The name, date of birth, and residence address of the child on whose behalf the  
 4106 complaint is being filed;

4107 (2) The names and residence addresses of the parent, guardian, or legal custodian, any  
 4108 other family members, or any other individuals living within the child's home;

4109 (3) The name of any public institution or agency having the responsibility or ability to  
 4110 supply services alleged to be needed by the child; and

4111 (4) Whether any of the matters required by this subsection are unknown.

4112 (c) When a school official is filing a complaint, information shall be included which shows  
 4113 that:

4114 (1) The legally liable school district has sought to resolve the expressed problem through  
 4115 available educational approaches; and

4116 (2) The school district has sought to engage the parent, guardian, or legal custodian in  
 4117 solving the problem but such person has been unwilling or unable to do so, that the  
 4118 problem remains, and that court intervention is needed.

4119 (d) When a school official is filing a complaint involving a child who is eligible or  
 4120 suspected to be eligible for services under the federal Individuals with Disabilities  
 4121 Education Act or Section 504 of the federal Rehabilitation Act of 1973, information shall  
 4122 be included which demonstrates that the legally liable school district:

4123 (1) Has determined that the child is eligible or suspected to be eligible under the federal  
 4124 Individuals with Disabilities Education Act or Section 504 of the federal Rehabilitation  
 4125 Act of 1973; and

4126 (2) Has reviewed for appropriateness the child's current Individualized Education  
 4127 Program (IEP) and placement and has made modifications where appropriate.

4128 (e) The juvenile court intake officer shall be responsible for receiving complaints alleging  
 4129 that a child is in need of services.

4130 15-11-391.

4131 (a) Upon the filing of a complaint alleging that a child is in need of services, the juvenile  
4132 court intake officer shall convene a multidisciplinary conference to be attended by the  
4133 child, the child's parent, guardian, or legal custodian, DFCS, and any other agency or public  
4134 institution having legal responsibility or discretionary authority to supply services to the  
4135 family except in emergencies or when the court or the juvenile court intake officer  
4136 determines it to be inappropriate or futile.

4137 (b) The juvenile court intake officer shall determine whether a mandatory conference is  
4138 inappropriate or futile based on:

4139 (1) A screening of the child; and

4140 (2) If a parent, guardian, or legal custodian has filed the complaint, the nature of that  
4141 parent, guardian, or legal custodian's participation in and compliance with previous  
4142 mandatory conferences or informal family services plan agreements, if any.

4143 (c) Upon application to the court by the plan manager or upon the motion of any party or  
4144 upon the court's own motion, the court shall issue an order for good cause to any person  
4145 determined by the court to be a required participant in the mandatory multidisciplinary  
4146 conference and who is required by federal or state law to protect the privacy of health  
4147 information in his or her possession relating to the child alleged to be in need of services  
4148 or to such child's primary caregiver. Such order shall require such person to comply with  
4149 the convening of the multidisciplinary conference and to cooperate with the plan manager  
4150 by disclosing relevant protected health information as ordered by the court. The relevant  
4151 health information required to be disclosed by the court order shall be used only for the  
4152 purposes of developing and implementing a comprehensive services plan that is reasonably  
4153 related to the promotion of the care, guidance, counseling, structure, supervision, treatment,  
4154 or rehabilitation of the child or the child's primary caregiver for the benefit of such child.  
4155 For the purposes of this subsection, good cause shall exist when the protected health  
4156 information being sought is reasonably related to the child alleged to be in need of services.

4157 15-11-392.

4158 (a) After the mandatory multidisciplinary conference, the child, the child's parent,  
4159 guardian, or legal custodian, DFCS, and any other member of the conference may effect  
4160 an informal family services plan agreement.

4161 (b) An informal family services plan agreement shall include:

4162 (1) The identification of the conduct of the child, the child's parent, guardian, or legal  
4163 custodian, or any family member which is causing serious harm to the child and the  
4164 services needed by that individual to mitigate or eliminate the problems within the  
4165 family;

4166 (2) A description of the services which are needed for the child, the child's parent,  
 4167 guardian, or legal custodian, or other family members, the availability of such services  
 4168 within the community, and a plan for ensuring that any such services that are available  
 4169 will be secured and delivered;

4170 (3) A description of all expected action to be taken by the child, the child's parent,  
 4171 guardian, or legal custodian, or other family members;

4172 (4) The identification of DFCS caseworker assigned to the case and who is directly  
 4173 responsible for assuring that the informal family services plan agreement is implemented;  
 4174 and

4175 (5) An estimate of the time anticipated to be necessary in order to accomplish the goals  
 4176 set out in the informal family services plan agreement.

4177 (c) The informal family services plan agreement shall set forth in writing the terms and  
 4178 conditions agreed to by the parties as evidenced by their signature thereto.

4179 (d) The informal family services plan agreement shall demonstrate that the child and the  
 4180 child's parent, guardian, or legal custodian understand their right to an adjudication hearing  
 4181 on their need for services and shall also demonstrate that they consent to its terms with  
 4182 knowledge that consent is not obligatory and with knowledge of the effect of such  
 4183 agreement.

4184 (e) The duration of the informal family services plan agreement shall not exceed six  
 4185 months; however, the court may extend such agreement for one additional period not to  
 4186 exceed six months.

4187 Part 3

4188 15-11-400.

4189 DFCS shall be the lead agency and shall have the primary responsibility for the monitoring  
 4190 and management of child in need of services cases under this article.

4191 15-11-401.

4192 (a) The continued custody hearing for a child in need of services shall be held promptly  
 4193 and no later than:

4194 (1) Twenty-four hours after a child is taken into temporary custody if the child is being  
 4195 held in a secure juvenile detention facility; or

4196 (2) Seventy-two hours after the child is placed in foster care, provided that, if the 72 hour  
 4197 time frame expires on a weekend or legal holiday, the hearing shall be held on the next  
 4198 day which is not a weekend or legal holiday.

4199 (b) If a child was never taken into temporary custody or is released from temporary  
 4200 custody at the continued custody hearing, the following time frames apply:

4201 (1) The petition for a child in need of services shall be filed:

4202 (A) Within 30 days of the juvenile court intake officer's determination that a mandatory  
 4203 conference would be inappropriate or futile;

4204 (B) Within 30 days of the child's release from temporary custody if the court  
 4205 determines that the mandatory conference would be inappropriate or futile;

4206 (C) Within 30 days of a court determination that continuing participation in the  
 4207 informal family services plan procedure would be inappropriate or futile; or

4208 (D) Within 30 days of the conclusion of the period governed by the informal family  
 4209 services plan agreement if the child and family have not achieved the goals set out in  
 4210 such agreement and there are reasonable grounds to believe that the child is still in need  
 4211 of services. If no petition for a child in need of services is filed within the required time  
 4212 frame, the complaint may be dismissed without prejudice;

4213 (2) Summons shall be served at least 24 hours before the adjudication hearing;

4214 (3) The adjudication hearing shall be scheduled to be held no later than 60 days after the  
 4215 filing of the petition for a child in need of services; and

4216 (4) If not held in conjunction with the adjudication hearing, the disposition hearing shall  
 4217 be held and completed within 30 days after the conclusion of the adjudication hearing.

4218 (c) If a child is not released from temporary custody at the continued custody hearing, the  
 4219 following time frames apply:

4220 (1) The petition for a child in need of services shall be filed within five days of the  
 4221 continued custody hearing;

4222 (2) Summons shall be served at least 72 hours before the adjudication hearing;

4223 (3) The adjudication hearing shall be scheduled to be held no later than ten days after the  
 4224 filing of the petition for a child in need of services; and

4225 (4) If not held in conjunction with the adjudication hearing, the disposition hearing shall  
 4226 be held and completed within 30 days after the conclusion of the adjudication hearing.

4227 15-11-402.

4228 (a) A proceeding under this article may be commenced in the county in which the act  
 4229 complained of took place.

4230 (b) If a proceeding is commenced in the county in which the act complained of took place,  
 4231 the court shall transfer the case to the county in which the child legally resides for further  
 4232 proceedings.

4233 (c) When a proceeding is transferred, certified copies of all legal and social documents and  
 4234 records pertaining to the proceeding on file with the clerk of court shall accompany such  
 4235 transfer.

4236 15-11-403.

4237 (a) A child shall have the right to a qualified and independent attorney at all stages of  
 4238 proceedings under this article.

4239 (b) The court shall appoint an attorney for a child alleged to be a child in need of services.

4240 (c) The court shall appoint a guardian ad litem for a child alleged to be a child in need of  
 4241 services:

4242 (1) At the request of the child's attorney; or

4243 (2) Upon the court's own motion if it determines that a guardian ad litem is necessary to  
 4244 assist the court in determining the best interests of the child.

4245 (d) The role of a guardian ad litem in a proceeding for a child in need of services shall be  
 4246 the same role as provided for in all dependency proceedings under Article 3 of this chapter.

4247 (e) If an attorney or a guardian ad litem has previously been appointed for the child in a  
 4248 dependency or delinquency proceeding, the court, when possible, shall appoint the same  
 4249 attorney or guardian ad litem.

4250 (f) An attorney appointed to represent the child in a proceeding for a child in need of  
 4251 services shall continue the representation in any subsequent appeals unless excused by the  
 4252 court.

4253 (g) Neither the child nor a representative of the child may waive the right to an attorney  
 4254 in a proceeding for a child in need of services.

4255 (h) A child shall be informed of his or her right to an attorney at or prior to the first  
 4256 mandatory conference and prior to the first court proceeding for a child in need of services.

4257 A child shall be given an opportunity to:

4258 (1) Obtain and employ an attorney of the child's own choice; or

4259 (2) To obtain a court appointed attorney if the court determines that the child is an  
 4260 indigent person.

4261 15-11-404.

4262 A continuance shall be granted only upon a showing of good cause and only for that period  
 4263 of time shown to be necessary by the moving party at the hearing on such motion.

4264 Whenever any continuance is granted, the facts which require the continuance shall be  
 4265 entered into the court record.

4266 15-11-405.

4267 If a child is alleged or found to be a child in need of services and is placed in foster care,  
 4268 the child shall be required to have a case plan. In addition to the case plan requirements  
 4269 of Code Section 15-11-201, a case plan shall include:

4270 (1) A description of the child's strengths and needs;

4271 (2) A description of specific parental strengths and needs;

4272 (3) A description of other personal, family, or environmental problems that may  
 4273 contribute to the child's behaviors;

4274 (4) A description of the safety, physical, and mental health needs of the child;

4275 (5) Identification of the least restrictive placement to safeguard the child's best interests  
 4276 and protect the community;

4277 (6) An assessment of the availability of community resources to address the child's and  
 4278 family's needs;

4279 (7) An assessment of the availability of court diversion services; and

4280 (8) An assessment of the availability of other preventive measures.

4281 15-11-406.

4282 Any proceeding or other processes or actions alleging for the first time that a child is a  
 4283 runaway shall be terminated or dismissed upon the request of the parent, guardian, or legal  
 4284 custodian of the child.

4285 Part 4

4286 15-11-410.

4287 (a) A child may be taken into temporary custody under this article:

4288 (1) Pursuant to a court order; or

4289 (2) By a law enforcement officer when there are reasonable grounds to believe that a  
 4290 child has run away from his or her parent, guardian, or legal custodian or the  
 4291 circumstances are such as to endanger the child's health or welfare unless immediate  
 4292 action is taken.

4293 (b) Before entering an order authorizing temporary custody, the court shall determine  
 4294 whether continuation in the home is contrary to the child's welfare and whether there are  
 4295 available services that would prevent the need for custody. The court shall make such  
 4296 determination on a case-by-case basis and shall make written findings of fact referencing  
 4297 any and all evidence relied upon in reaching its decision.

4298 (c) A person taking a child into temporary custody shall deliver the child, with all  
 4299 reasonable speed and without first taking the child elsewhere, to a medical facility if the

4300 child is believed to suffer from a serious physical condition or illness which requires  
 4301 prompt treatment and, upon delivery, shall promptly contact a juvenile court intake officer.  
 4302 Immediately upon being notified by the person taking a child into custody, the juvenile  
 4303 court intake officer shall determine if such child should be released, remain in temporary  
 4304 custody, or be brought before the court.

4305 15-11-411.

4306 (a) A person taking a child into temporary custody shall not exercise custody over the  
 4307 child except for a period of 12 hours. A child taken into temporary custody may be placed  
 4308 in a nonsecure facility for a child in need of services.

4309 (b) Counties and municipalities shall be authorized to establish nonsecure facilities where  
 4310 a child who is suspected of being a child in need of services may be placed until the parent,  
 4311 guardian, or legal custodian assumes custody of the child.

4312 (c) Immediately after a child is brought into a nonsecure facility, every effort shall be  
 4313 made to contact the parents, guardian, or legal custodian of the child.

4314 (d) If a parent, guardian, or legal custodian has not assumed custody of the child in a  
 4315 nonsecure facility at the end of the 12 hour period, the court shall be notified and shall  
 4316 place the child in the least restrictive placement consistent with the child's needs for  
 4317 protection or control in the custody of the child's parents, guardian, or legal custodian upon  
 4318 such person's promise to bring the child before the court when requested by the court;  
 4319 provided, however, that if such placement is not available, the child shall be placed in the  
 4320 custody of DFCS which shall promptly arrange for foster care of the child.

4321 15-11-412.

4322 (a) A child may be held in a secure juvenile detention facility until a continued custody  
 4323 hearing is held, provided that such child is not held in a secure detention facility for more  
 4324 than 24 hours and any of the following apply:

4325 (1) It is alleged that the child is a runaway;

4326 (2) It is alleged that the child is habitually disobedient of the reasonable and lawful  
 4327 commands of his or her parent, guardian, or legal custodian and is ungovernable; or

4328 (3) The child has previously failed to appear at a scheduled hearing.

4329 (b) A child placed in a secure detention facility pursuant to subsection (a) of this Code  
 4330 section shall be appointed an attorney prior to the continued custody hearing.

4331 (c) In no case shall a child in custody be detained in a jail, adult lock-up, or other adult  
 4332 detention facility.

4333 15-11-413.

4334 (a) If the child is being held in a secure juvenile detention facility, a continued custody  
 4335 hearing shall be held within 24 hours. If such hearing is not held within the time specified,  
 4336 the child shall be released from temporary detention in accordance with subsection (d) of  
 4337 Code Section 15-11-411 and with authorization of the detaining authority.

4338 (b) If a child is not being held in a secure juvenile detention facility and has not been  
 4339 released to the custody of the child's parent, guardian, or legal custodian, a hearing shall  
 4340 be held promptly and not later than 72 hours after the child is placed in foster care,  
 4341 provided that, if the 72 hour time frame expires on a weekend or legal holiday, the hearing  
 4342 shall be held on the next day which is not a weekend or legal holiday.

4343 (c) At the commencement of the continued custody hearing, the court shall inform the  
 4344 parties of:

4345 (1) The nature of the allegations;

4346 (2) The nature of the proceedings;

4347 (3) The possible consequences or dispositions that may apply to the child's case  
 4348 following adjudication; and

4349 (4) Due process rights, including the right to an attorney and to an appointed attorney;  
 4350 the privilege against self-incrimination; that the child may remain silent and that anything  
 4351 said may be used against the child; the right to confront anyone who testifies against the  
 4352 child and to cross-examine any persons who appear against the child; the right of the  
 4353 child to testify and to compel other witnesses to attend and testify in his or her own  
 4354 behalf; the right of the child to a speedy adjudication hearing; and the right to appeal and  
 4355 be provided with a transcript for such purpose.

4356 15-11-414.

4357 (a) At the continued custody hearing, the court shall determine whether there is probable  
 4358 cause to believe that the child has committed a status offense or is otherwise a child in need  
 4359 of services and that continued custody is necessary.

4360 (b) If the court determines there is probable cause to believe that the child has committed  
 4361 a status offense or is otherwise in need of services, the court may order that the child:

4362 (1) Be released to the custody of a parent, guardian, or legal custodian; or

4363 (2) Be placed in the least restrictive preadjudication placement consistent with the child's  
 4364 need for protection and control as authorized by Code Section 15-11-411 and in  
 4365 accordance with Code Section 15-11-415.

4366 (c) If the court determines there is probable cause to believe that the child has committed  
 4367 a status offense or is otherwise in need of services, the court shall:

4368 (1) Refer the child and the child's family for a mandatory conference;

4369 (2) Order that a petition for a child in need of services be filed and set a date for an  
 4370 adjudication hearing if the court determines that a mandatory conference would be  
 4371 inappropriate or futile; or

4372 (3) When a child and his or her family are already participating in informal family  
 4373 services plan procedures, order that a petition for a child in need of services be filed and  
 4374 set a date for an adjudication hearing if the court determines that continuing participation  
 4375 in the informal family services plan procedures would be inappropriate or futile.

4376 (d) Following the continued custody hearing, the court may detain a child in a secure  
 4377 juvenile detention facility for up to 24 hours, excluding weekends and legal holidays, only  
 4378 for the purpose of providing adequate time to arrange for an appropriate alternative  
 4379 placement pending the adjudication hearing.

4380 (e) All orders shall contain written findings as to the form or conditions of release. If a  
 4381 child cannot be returned to the custody of his or her parent, guardian, or legal custodian at  
 4382 the hearing, the court shall state the facts upon which the continued custody is based. The  
 4383 court shall make the following findings of fact referencing any and all evidence relied upon  
 4384 to make its determinations:

4385 (1) Whether continuation in the home of the parent, guardian, or legal custodian is  
 4386 contrary to the child's welfare; and

4387 (2) Whether reasonable efforts have been made to safely maintain the child in the home  
 4388 of his or her parent, guardian, or legal custodian and to prevent or eliminate the need for  
 4389 removal. Such finding shall be made at the continued custody hearing if possible but in  
 4390 no case later than 60 days following the child's removal from the home.

4391 15-11-415.

4392 (a) Restraints on the freedom of a child prior to adjudication shall be imposed only when  
 4393 there is probable cause to believe that the child committed the act of which he or she is  
 4394 accused, there is clear and convincing evidence that the child's freedom should be  
 4395 restrained, that no less restrictive alternatives will suffice, and:

4396 (1) The child's detention or care is required to reduce the likelihood that the child may  
 4397 inflict serious bodily harm on others during the interim period;

4398 (2) The child's detention is necessary to secure the child's presence in court to protect the  
 4399 jurisdiction and processes of the court; or

4400 (3) An order for the child's detention has been made by the court.

4401 (b) A child shall not be detained:

4402 (1) To punish, treat, or rehabilitate the child;

4403 (2) To allow a parent, guardian, or legal custodian to avoid his or her legal  
 4404 responsibilities;

- 4405 (3) To satisfy demands by a victim, law enforcement, or the community;  
 4406 (4) To permit more convenient administrative access to the child;  
 4407 (5) To facilitate further interrogation or investigation; or  
 4408 (6) Due to a lack of a more appropriate facility.
- 4409 (c) Whenever a child cannot be unconditionally released, conditional or supervised release  
 4410 that results in the least necessary interference with the liberty of the child shall be favored  
 4411 over more intrusive alternatives.
- 4412 (d) Whenever the curtailment of a child's freedom is permitted, the exercise of authority  
 4413 shall reflect the following values:
- 4414 (1) Respect for the privacy, dignity, and individuality of the child and his or her family;  
 4415 (2) Protection of the psychological and physical health of the child;  
 4416 (3) Tolerance of the diverse values and preferences among different groups and  
 4417 individuals;  
 4418 (4) Assurance of equality of treatment by race, class, ethnicity, and sex;  
 4419 (5) Avoidance of regimentation and depersonalization of the child;  
 4420 (6) Avoidance of stigmatization of the child; and  
 4421 (7) Assurance that the child has been informed of his or her right to consult with an  
 4422 attorney and that, if the child is an indigent person, an attorney will be provided.
- 4423 (e) Before entering an order authorizing detention, the court shall determine whether  
 4424 continuation in the home is contrary to the child's welfare and whether there are available  
 4425 services that would prevent or eliminate the need for detention. The court shall make such  
 4426 determination on a case-by-case basis and shall make written findings of fact referencing  
 4427 any and all evidence relied upon in reaching its decision.
- 4428 (f) If a child can remain in the custody of his or her parent, guardian, or legal custodian  
 4429 through the provision of services to prevent the need for removal, the court shall order that  
 4430 such services shall be provided.
- 4431 15-11-416.
- 4432 (a) A child alleged or found to have committed a status offense may be held in a secure  
 4433 juvenile detention facility for more than 24 hours if:
- 4434 (1) The child is alleged to have violated a valid court order; and  
 4435 (2) At the continued custody hearing, the court finds that there is probable cause to  
 4436 believe that the child violated the court order.
- 4437 (b) If there is probable cause to believe that the child violated a valid court order, the child  
 4438 may be held in a secure juvenile detention facility until a violation hearing is held but in  
 4439 no event shall a child's detention prior to a violation hearing exceed 72 hours, excluding  
 4440 weekends and legal holidays.

4441 (c) At a violation hearing, the court may order that the child be placed in a secure juvenile  
 4442 detention facility if the court:

4443 (1) Affirms that the requirements for a valid court order were met at the time the original  
 4444 order finding the child to have committed a status offense was issued;

4445 (2) Finds that the child was afforded due process rights; and

4446 (3) Received and reviewed a written report prepared by DFCS that described the  
 4447 behavior of the child and the circumstances under which the child was brought before the  
 4448 court and made subject to such order; determined the reasons for the child's behavior; and  
 4449 determined whether all dispositions other than secure confinement have been exhausted  
 4450 or are clearly inappropriate.

4451 (d) A child in need of services who is alleged or found to have violated a valid court order  
 4452 remains a child in need of services and shall not be considered a delinquent child by virtue  
 4453 of such conduct.

4454 (e) If a child is to be held in secure detention under the valid court order exception, the  
 4455 report prepared by DFCS in accordance with subsection (c) of this Code section shall be  
 4456 provided to DJJ as the detention agency.

4457 Part 5

4458 15-11-420.

4459 All proceedings seeking an adjudication that a child is in need of services shall be initiated  
 4460 by a petition filed by an attorney.

4461 15-11-421.

4462 (a) If a child is not released from temporary custody at the continued custody hearing, a  
 4463 petition seeking an adjudication that a child is in need of services shall be filed within five  
 4464 days of the continued custody hearing.

4465 (b) If the child was never taken into temporary custody or is released from temporary  
 4466 custody at the continued custody hearing, the petition seeking an adjudication that a child  
 4467 is in need of services shall be filed:

4468 (1) Within 30 days of the juvenile court intake officer's determination that a mandatory  
 4469 conference would be inappropriate or futile;

4470 (2) Within 30 days of the child's release from temporary custody if the court determines  
 4471 that the mandatory conference would be inappropriate or futile;

4472 (3) Within 30 days of a court determination that continuing participation in the informal  
 4473 family services plan procedure would be inappropriate or futile; or

4474 (4) Within 30 days of the conclusion of the period governed by the informal family  
 4475 services plan agreement if the child and family have not achieved the goals set out in such  
 4476 agreement and there are reasonable grounds to believe that the child is still in need of  
 4477 services.

4478 (c) Upon a showing of good cause and notice to all parties, the court may grant a requested  
 4479 extension of time for filing a petition seeking an adjudication that a child is in need of  
 4480 services in accordance with the best interests of the child. The court shall issue a written  
 4481 order reciting the facts justifying the extension.

4482 (d) If no petition seeking an adjudication that a child is in need of services is filed within  
 4483 the required time frame, the complaint may be dismissed without prejudice.

4484 15-11-422.

4485 (a) The petition seeking an adjudication that a child is in need of services shall be verified  
 4486 and may be on information and belief. It shall set forth plainly and with particularity:

4487 (1) The facts which bring the child within the jurisdiction of the court, with a statement  
 4488 that it is in the best interests of the child and the public that the proceeding be brought;

4489 (2) The name, date of birth, and residence address of the child on whose behalf such  
 4490 petition is being brought;

4491 (3) The name and residence address of the parent, guardian, or legal custodian of the  
 4492 child; or, if neither the child's parent nor the child's guardian nor the child's legal  
 4493 custodian resides or can be found within the state or if such place of residence address is  
 4494 unknown, the name of any known adult relative residing within the county or, if there is  
 4495 none, the known adult relative residing nearest to the location of the court;

4496 (4) The name, age, and residence address of any other family member living within the  
 4497 child's home;

4498 (5) Whether all available and appropriate attempts to encourage voluntary use of  
 4499 community services by the family have been exhausted; and

4500 (6) Whether any of the matters required by this subsection are unknown.

4501 (b) If a petition seeking an adjudication that a child is in need of services is based on a  
 4502 complaint filed by a school official, such petition shall be dismissed unless it includes  
 4503 information which shows that:

4504 (1) The legally liable school district has sought to resolve the expressed problem through  
 4505 available educational approaches; and

4506 (2) The school district has sought to engage the parent, guardian, or legal custodian in  
 4507 solving the problem but any such individual has been unwilling or unable to do so; that  
 4508 the problem remains; and that court intervention is needed.

4509 (c) If a petition seeking an adjudication that a child is in need of services is based on a  
 4510 complaint filed by a school official involving a child who is eligible or suspected to be  
 4511 eligible for services under the federal Individuals with Disabilities Education Act or  
 4512 Section 504 of the federal Rehabilitation Act, such petition shall be dismissed unless it  
 4513 includes information which demonstrates that the legally liable school district:

4514 (1) Has determined that the child is eligible or suspected to be eligible under the federal  
 4515 Individuals with Disabilities Education Act or Section 504 of the federal Rehabilitation  
 4516 Act; and

4517 (2) Has reviewed for appropriateness the child's current Individualized Education  
 4518 Program (IEP) and placement and has made modifications where appropriate.

4519 15-11-423.

4520 (a) The court shall direct the issuance of a summons to the child, the child's parent,  
 4521 guardian, or legal custodian, DFCS and any other public agencies or institutions providing  
 4522 services, and any other persons who appear to the court to be proper or necessary parties  
 4523 to the child in need of services proceeding requiring them to appear before the court at the  
 4524 time fixed to answer the allegations of the petition seeking an adjudication that a child is  
 4525 in need of services. A copy of such petition shall accompany the summons.

4526 (b) The summons shall state that a party is entitled to an attorney in the proceedings and  
 4527 that the court will appoint an attorney if the party is an indigent person.

4528 (c) A party other than the child may waive service of summons by written stipulation or  
 4529 by voluntary appearance at the hearing.

4530 15-11-424.

4531 (a) If a party to be served with a summons is within this state and can be found, the  
 4532 summons shall be served upon him or her personally as soon as possible and at least 24  
 4533 hours before the adjudication hearing.

4534 (b) If a party to be served is within this state and cannot be found but his or her address is  
 4535 known or can be ascertained with reasonable diligence, the summons shall be served upon  
 4536 such party at least five days before the adjudication hearing by mailing him or her a copy  
 4537 by registered or certified mail or statutory overnight delivery, return receipt requested.

4538 (c) If a party to be served is outside this state but his or her address is known or can be  
 4539 ascertained with reasonable diligence, service of the summons shall be made at least five  
 4540 days before the adjudication hearing either by delivering a copy to such party personally  
 4541 or by mailing a copy to him or her by registered or certified mail or statutory overnight  
 4542 delivery, return receipt requested.

4543 (d) Service of the summons may be made by any suitable person under the direction of the  
4544 court.

4545 (e) The court may authorize payment from county funds of the costs of service and of  
4546 necessary travel expenses incurred by persons summoned or otherwise required to appear  
4547 at the hearing on the petition seeking an adjudication that a child is in need of services.

4548 15-11-425.

4549 (a) In the event a parent, guardian, or legal custodian of the child willfully fails to appear  
4550 personally at a hearing on the petition seeking an adjudication that a child is in need of  
4551 services after being ordered to so appear or the parent, guardian, or legal custodian of the  
4552 child willfully fails to bring the child to such hearing after being so directed, the court may  
4553 issue a rule nisi against the person directing the person to appear before the court to show  
4554 cause why he or she should not be held in contempt of court.

4555 (b) If the parent, guardian, or legal custodian fails to appear in response to an order to  
4556 show cause, the court may issue a bench warrant directing that the parent, guardian, or  
4557 legal custodian be brought before the court without delay to show cause why he or she  
4558 should not be held in contempt and the court may enter any order authorized by the  
4559 provisions of Code Section 15-11-31.

4560 (c) In the event an agency representative willfully fails to appear at a mandatory  
4561 conference or a hearing on the petition seeking an adjudication that a child is in need of  
4562 services after being ordered to so appear, the court may direct the appropriate agency  
4563 representative to appear before the court to show cause why a contempt order should not  
4564 issue.

4565 (d) If a child 16 years of age or older fails to appear at a hearing on the petition seeking  
4566 an adjudication that a child is in need of services after being ordered to so appear, the court  
4567 may issue a bench warrant requiring that the child be brought before the court without  
4568 delay and the court may enter any order authorized by and in accordance with the  
4569 provisions of Code Section 15-11-31.

4570 (e) If there is sworn testimony that a child 14 years of age but not yet 16 years of age  
4571 willfully refuses to appear at a hearing on the petition seeking an adjudication that a child  
4572 is in need of services after being ordered to so appear, the court may issue a bench warrant  
4573 requiring that the child be brought before the court and the court may enter any order  
4574 authorized by and in accordance with the provisions of Code Section 15-11-31.

Part 6

4575

4576 15-11-440.

4577 The petitioner has the burden of proving the allegations of a child in need of services  
4578 petition beyond a reasonable doubt.

4579 15-11-441.

4580 (a) If a child is in continued custody but not in secure detention, the adjudication hearing  
4581 shall be scheduled to be held no later than ten days after the filing of the petition seeking  
4582 an adjudication that a child is in need of services. If the child is not in continued custody,  
4583 the adjudication hearing shall be scheduled to be held no later than 60 days after the filing  
4584 of such petition.

4585 (b) At the conclusion of the adjudication hearing, the court shall determine whether the  
4586 child is a child in need of services.

4587 15-11-442.

4588 (a) If the court finds the child is in need of services, a final disposition hearing shall be  
4589 held and completed within 30 days of the conclusion of the adjudication hearing.

4590 (b) The court shall order the least restrictive and most appropriate disposition. Such  
4591 disposition may include:

4592 (1) Permitting the child to remain with the child's caregiver without limitations or  
4593 conditions;

4594 (2) Permitting the child to remain with the child's caregiver subject to such limitations  
4595 and conditions as the court may prescribe, including ordering the child, the family, or  
4596 both to undergo physical examination or treatment, accept individual or family  
4597 counseling, or submit to psychiatric examination or treatment or psychological  
4598 examination or treatment as determined by the court;

4599 (3) Placing the child on probation on such terms and conditions as deemed in the best  
4600 interests of the child and the public. An order granting probation to a child in need of  
4601 services may be revoked on the ground that the terms and conditions of the probation  
4602 have not been observed;

4603 (4) Requiring that the child perform community service in a manner prescribed by the  
4604 court and under the supervision of an individual designated by the court;

4605 (5) Requiring that the child make restitution. A restitution order may remain in force and  
4606 effect simultaneously with another order of the court. Payment of funds shall be made  
4607 by the child or the child's family or employer directly to the clerk of the juvenile court  
4608 entering the order or another employee of that court designated by the judge, and such

4609 court shall disburse such funds in the manner authorized in the order. While an order  
 4610 requiring restitution is in effect, the court may transfer enforcement of its order to:

4611 (A) The juvenile court of the county of the child's residence and its probation staff, if  
 4612 the child changes his or her place of residence; or

4613 (B) A superior court once the child reaches 18 years of age if the child thereafter comes  
 4614 under the jurisdiction of the superior court;

4615 (6) Imposing a fine on a child who has committed an offense which, if committed by an  
 4616 adult, would be a violation under the criminal laws of this state or has violated an  
 4617 ordinance or bylaw of a county, city, town, or consolidated government. Such fine shall  
 4618 not exceed the fine which may be imposed against an adult for the same offense;

4619 (7) Requiring the child to attend structured after-school or evening programs or other  
 4620 court approved programs as well as requiring supervision of the child during the time of  
 4621 the day in which the child most often used to perform the acts complained of in the  
 4622 petition alleging that the child is in need of services;

4623 (8) Any order authorized for the disposition of a dependent child;

4624 (9) Assigning the child to the custody of a private or public institution or agency  
 4625 including committing the child to DJJ. A child shall not be placed in a secure detention  
 4626 facility designed and operated exclusively for delinquent children, nor shall such facility  
 4627 accept the child, unless the child has violated a valid court order; or

4628 (10) Any combination of the dispositions set forth in paragraphs (1) through (9) of this  
 4629 subsection as the court deems to be in the best interests of the child and the public.

4630 (c) The court may make orders relative to the support and maintenance of the child during  
 4631 the period after the child's eighteenth birthday as permitted by law.

4632 (d) All disposition orders shall include written findings as to the basis for the disposition  
 4633 and such conditions as the court imposes and a specific plan of the services to be provided.

4634 15-11-443.

4635 (a) An order of disposition shall be in effect for the shortest time necessary to accomplish  
 4636 the purposes of the order and for not more than two years. A written disposition order shall  
 4637 state the length of time the order is to be in effect. An order of extension may be made if:

4638 (1) A hearing is held prior to the expiration of the order upon motion of DFCS, DJJ, the  
 4639 prosecuting attorney, or on the court's own motion;

4640 (2) Reasonable notice of the factual basis of the motion and of the hearing and  
 4641 opportunity to be heard are given to the parties affected;

4642 (3) The court finds that the extension is necessary to accomplish the purposes of the  
 4643 order extended; and

4644 (4) The extension does not exceed two years from the expiration of the prior order.

4645 (b) The court may terminate an order of disposition or an extension of such a disposition  
4646 order prior to its expiration, on its own motion or an application of a party, if it appears to  
4647 the court that the purposes of the order have been accomplished.

4648 (c) When a child reaches 18 years of age, all orders affecting him or her then in force shall  
4649 terminate and he or she shall be discharged from further obligation or control.

4650 15-11-444.

4651 (a) An order granting probation to a child found to be a child in need of services may be  
4652 revoked on the ground that the conditions of probation have been violated.

4653 (b) Any violation of a condition of probation may be reported to the prosecuting attorney  
4654 who may file a motion in court for revocation of probation. A motion for revocation of  
4655 probation shall contain specific factual allegations constituting each violation of a condition  
4656 of probation.

4657 (c) The motion shall be served upon the child, his or her attorney, and parent, guardian,  
4658 or legal custodian in accordance with the provisions of Code Section 15-11-424.

4659 (d) If a child is taken into custody because of the alleged violation of probation, the  
4660 provisions governing the detention of a child under this article shall apply.

4661 (e) A revocation hearing shall be scheduled to be held no later than 30 days after the filing  
4662 of a motion to revoke probation or, if the child has been detained as a result of the filing  
4663 of the motion for revocation, in accordance with Code Section 15-11-416.

4664 (f) If the court finds, beyond a reasonable doubt, that a child violated the terms and  
4665 conditions of probation, the court may:

4666 (1) Extend probation;

4667 (2) Impose additional conditions of probation;

4668 (3) Impose the secure probation sanctions program as defined in Code Section  
4669 15-11-471; or

4670 (4) Make any disposition that could have been made at the time probation was imposed.

4671 15-11-445.

4672 The court shall review the disposition of a child in need of services at least once within  
4673 three months after such disposition and at least every six months thereafter so long as the  
4674 order of disposition is in effect.

Part 7

4675

15-11-450.

The periodic review hearing requirements under Article 3 of this chapter shall apply to proceedings involving a child alleged or found to be a child in need of services and placed in foster care.

15-11-451.

(a) The permanency plan requirements under Article 3 of this chapter shall apply to proceedings involving a child alleged or found to be a child in need of services and placed in foster care.

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

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

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

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

Part 8

4694

15-11-460.

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

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

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

(2) The child's attorney;

(3) The prosecuting attorney;

- 4708 (4) The child's guardian ad litem, if any;
- 4709 (5) Mental health or mental retardation representatives;
- 4710 (6) The child's caseworker;
- 4711 (7) A representative from the child's school; and
- 4712 (8) Any family member of the child who has shown an interest and involvement in the
- 4713 child's well-being.
- 4714 (c) The plan manager may request that other relevant persons attend the comprehensive
- 4715 services plan meeting including but not limited to the following:
- 4716 (1) A representative from the Department of Public Health;
- 4717 (2) A DFCS caseworker; and
- 4718 (3) Representatives of the public and private resources to be utilized in the plan.
- 4719 (d) The plan manager shall be responsible for collecting all previous histories of the child,
- 4720 including, but not limited to, previous evaluations, assessments, and school records and for
- 4721 making such histories available for consideration by the persons at the comprehensive
- 4722 services plan meeting.
- 4723 (e) Unless a time extension is granted by the court, the plan manager shall submit the
- 4724 comprehensive services plan to the court within 30 days of the entry of the court's
- 4725 disposition order for a child found to be unrestorably incompetent to proceed under Article
- 4726 8 of this chapter. The plan shall include the following:
- 4727 (1) An outline of the specific provisions for supervision of the child for protection of the
- 4728 community and the child;
- 4729 (2) An outline of a plan designed to provide treatment, habilitation, support, or
- 4730 supervision services in the least restrictive environment;
- 4731 (3) If the child's evaluation recommends treatment in a secure environment, certification
- 4732 by the plan manager that all other appropriate community based treatment options have
- 4733 been exhausted; and
- 4734 (4) Identification of all parties, including the child, agency representatives, and other
- 4735 persons responsible for each element of the plan.
- 4736 (f) The plan manager shall also be responsible for:
- 4737 (1) Convening a meeting of all parties and representatives of all agencies prior to the
- 4738 comprehensive services plan hearing and review hearings;
- 4739 (2) Identifying to the court any person who should provide testimony at the
- 4740 comprehensive services plan hearing; and
- 4741 (3) Monitoring the comprehensive services plan, presenting to the court amendments to
- 4742 the plan as needed, and presenting evidence to the court for the reapproval of the plan at
- 4743 subsequent review hearings.

4744 15-11-461.

4745 (a) The court shall hold a comprehensive services plan hearing within 30 days after the  
 4746 comprehensive services plan has been submitted to the court for the purpose of approving  
 4747 the plan. Thereafter, the court shall hold a comprehensive services plan hearing every six  
 4748 months for the purpose of reviewing the child's condition and approving the comprehensive  
 4749 services plan.

4750 (b) The persons required to be notified of the comprehensive services plan hearing and  
 4751 witnesses identified by the plan manager shall be given at least ten days' prior notice of the  
 4752 hearing and any subsequent hearing to review the child's condition and shall be afforded  
 4753 an opportunity to be heard at any such hearing. The victim, if any, of the child's alleged  
 4754 delinquent act shall also be provided with the same ten days' prior notice and shall be  
 4755 afforded an opportunity to be heard and to present a victim impact form to the court at the  
 4756 comprehensive services plan hearing. The judge shall make a determination regarding  
 4757 sequestration of witnesses in order to protect the privileges and confidentiality rights of the  
 4758 child.

4759 (c) At the comprehensive services plan hearing, the court shall enter an order incorporating  
 4760 a comprehensive services plan as part of the disposition of the comprehensive services plan  
 4761 hearing. At the time of the disposition, the child shall be placed in an appropriate treatment  
 4762 setting, as recommended by the examiner, unless the child has already been placed in an  
 4763 appropriate treatment setting pursuant to subsection (g) of Code Section 15-11-656.

4764 (d) If, during the comprehensive services plan hearing or any subsequent review hearing,  
 4765 the court determines that the child meets criteria for civil commitment, the child may be  
 4766 committed to a secure treatment facility.

4767 (e) At any time, in the event of a change in circumstances regarding the child, the court on  
 4768 its own motion or on the motion of the attorney representing the child, any guardian ad  
 4769 litem for the child, the prosecuting attorney, or the plan manager may set a hearing for  
 4770 review of the comprehensive services plan and any proposed amendments to such plan.  
 4771 The court may issue an appropriate order incorporating an amended plan.

4772 (f) If a child is under a comprehensive services plan when he or she reaches the age of 18,  
 4773 the plan manager shall make a referral for appropriate adult services.

4774 ARTICLE 7

4775 Part 1

4776 15-11-470.

4777 The purpose of this article is:

- 4778 (1) Consistent with the protection of the public interest, to hold a child committing  
 4779 delinquent acts accountable for his or her actions, taking into account the child's age,  
 4780 education, mental and physical condition, background, and all other relevant factors but  
 4781 to mitigate the adult consequences of criminal behavior;
- 4782 (2) To accord due process of law to each child who is accused of having committed a  
 4783 delinquent act;
- 4784 (3) To provide for a child committing delinquent acts programs of supervision, care, and  
 4785 rehabilitation which ensure balanced attention to the protection of the community, the  
 4786 imposition of accountability, and the development of competencies to enable a child to  
 4787 become a responsible and productive member of the community;
- 4788 (4) To promote a continuum of services for a child and his or her family from prevention  
 4789 to aftercare, considering, whenever possible, prevention, diversion, and early  
 4790 intervention, including an emphasis on community based alternatives;
- 4791 (5) To provide effective sanctions to acts of juvenile delinquency; and
- 4792 (6) To strengthen families and to successfully reintegrate children into homes and  
 4793 communities.

4794 15-11-471.

4795 As used in this article, the term:

- 4796 (1) 'AIDS transmitting crime' means aggravated child molestation, aggravated sodomy,  
 4797 child molestation, incest, prostitution, rape, sodomy, solicitation of sodomy, statutory  
 4798 rape, or any offense involving a violation of Article 2 of Chapter 13 of Title 16 if such  
 4799 offense involves heroin, cocaine, derivatives of either, or any other controlled substance  
 4800 in Schedule I, II, III, IV, or V and that other substance is commonly intravenously  
 4801 injected, as determined by the regulations of the department.
- 4802 (2) 'Arrestment' means the formal act of calling the child into court, informing him or  
 4803 her of the allegations of the petition alleging delinquency, and the entry of a preliminary  
 4804 statement, if any, indicating whether the child shall admit or deny the allegations of such  
 4805 petition.
- 4806 (3) 'Behavioral health evaluation' means a court ordered evaluation completed by a  
 4807 licensed psychologist or psychiatrist of a child alleged to have committed or adjudicated  
 4808 of a delinquent act so as to provide the juvenile court with information and  
 4809 recommendations relevant to the behavioral health status and mental health treatment  
 4810 needs of the child.
- 4811 (4) 'Community rehabilitation center' means a rehabilitation and custodial center  
 4812 established within a county for the purpose of assisting in the rehabilitation of delinquent  
 4813 children and children in need of services in a neighborhood and family environment in

4814 cooperation with community educational, medical, and social agencies. Such center  
 4815 shall:

4816 (A) Be located within any county having a juvenile court presided over by at least one  
 4817 full-time judge exercising jurisdiction exclusively over juvenile matters; and

4818 (B) Be operated by a nonprofit corporation organized under Chapter 3 of Title 14, the  
 4819 'Georgia Nonprofit Corporation Code,' and have a full-time chief executive officer. The  
 4820 charter, bylaws, and method of selecting the board of directors and chief executive  
 4821 officer of such nonprofit corporation shall be subject to the unanimous approval of the  
 4822 chief judge of the judicial circuit in which the county is located, the judge or judges of  
 4823 the juvenile court, the superintendent of the county school district, and the  
 4824 commissioner of juvenile justice, which approval shall be in writing and shall be  
 4825 appended to the charter and bylaws of the nonprofit organization. Any amendment of  
 4826 the charter or bylaws of the nonprofit corporation shall be subject to the same written  
 4827 approval as the original charter and bylaws.

4828 (5) 'Determined to be infected with HIV' means having a confirmed positive human  
 4829 immunodeficiency virus ('HIV') test or having been clinically diagnosed as having AIDS.

4830 (6) 'Graduated sanctions' means:

4831 (A) Verbal and written warnings;

4832 (B) Increased restrictions and reporting requirements;

4833 (C) Community service;

4834 (D) Referral to treatment and counseling programs in the community;

4835 (E) Weekend programming;

4836 (F) Electronic monitoring, as such term is defined in Code Section 42-8-151;

4837 (G) Curfew;

4838 (H) An intensive supervision program; or

4839 (I) A home confinement program.

4840 (7) 'Hearing officer' means a DJJ employee or county juvenile probation office  
 4841 employee, as applicable, who has been selected and appointed by DJJ or the county  
 4842 juvenile probation office, as applicable, to hear cases alleging violations of probation for  
 4843 administrative sanctioning. A hearing officer shall not be a probation officer who has  
 4844 direct supervision over the child who is the subject of the hearing.

4845 (8) 'HIV test' means any antibody, antigen, viral particle, viral culture, or other test to  
 4846 indicate the presence of HIV in the human body, which test has been approved for such  
 4847 purposes by the regulations of the department.

4848 (9) 'Intensive supervision' means the monitoring of a child's activities on a more frequent  
 4849 basis than regular aftercare supervision, pursuant to regulations of the commissioner of  
 4850 juvenile justice.

4851 (10) 'Preadjudication custody' begins when a juvenile court intake officer authorizes the  
4852 placement of a child in a regional youth detention center.

4853 (11) 'Probation management program' means a special condition of probation that  
4854 includes graduated sanctions.

4855 (12) 'Secure probation sanctions program' means secure confinement of seven, 14, or 30  
4856 days.

4857 15-11-472.

4858 (a) A detention hearing shall be held promptly and no later than:

4859 (1) Two business days after the child is placed in preadjudication custody if the child is  
4860 taken into custody without an arrest warrant; or

4861 (2) Three business days after the child is placed in preadjudication custody if the child  
4862 is taken into custody pursuant to an arrest warrant.

4863 (b) If a child is placed in preadjudication custody without an arrest warrant and the  
4864 detention hearing cannot be held within 48 hours because the expiration of the 48 hours  
4865 falls on a weekend or legal holiday, the court shall review the decision to detain a child and  
4866 make a finding based on probable cause within 48 hours of the child being placed in  
4867 preadjudication custody.

4868 (c) If a child is released from preadjudication custody at the detention hearing or was never  
4869 taken into custody, the following time frames apply:

4870 (1) Any petition alleging delinquency shall be filed within 30 days of the filing of the  
4871 complaint or within 30 days of the child's release from preadjudication custody;

4872 (2) Summons shall be served at least 72 hours before the adjudication hearing;

4873 (3) The arraignment hearing shall be scheduled no later than 30 days after the filing of  
4874 the petition alleging delinquency;

4875 (4) The adjudication hearing shall be held no later than 60 days from the filing of the  
4876 petition alleging delinquency; and

4877 (5) The disposition hearing shall be held within 30 days of the adjudication hearing  
4878 unless the court makes written findings of fact explaining the delay.

4879 (d) If a child is not released from preadjudication custody at the detention hearing, the  
4880 following time frames apply:

4881 (1) The petition alleging delinquency shall be filed within 72 hours of the detention  
4882 hearing;

4883 (2) Summons shall be served at least 72 hours before the adjudication hearing;

4884 (3) The adjudication hearing shall be held no later than ten days after the filing of the  
4885 petition alleging delinquency; and

4886 (4) The disposition hearing shall be held within 30 days of the adjudication hearing  
 4887 unless the court makes written findings of fact explaining the delay.

4888 15-11-473.

4889 (a) A prosecuting attorney shall conduct delinquency proceedings on behalf of the state.

4890 (b) Except as provided in Article 10 of this chapter, in any delinquency proceeding, the  
 4891 prosecuting attorney shall be entitled to complete access to all court files, probation files,  
 4892 hearing transcripts, delinquency reports, and any other juvenile court records. It shall be  
 4893 the duty of the clerk, probation officers of the juvenile court, and DJJ to assist the  
 4894 prosecuting attorney in obtaining any requested items.

4895 15-11-474.

4896 (a) The child and the state shall be parties at all stages of delinquency proceedings.

4897 (b) The child's parent, guardian, or legal custodian shall have the right to notice, the right  
 4898 to be present in the courtroom, and the opportunity to be heard at all stages of delinquency  
 4899 proceedings.

4900 (c) DJJ shall receive notice of the disposition hearing.

4901 15-11-475.

4902 (a) A child shall have the right to be represented by an attorney at all proceedings under  
 4903 this article.

4904 (b) A child's parent, guardian, or legal custodian shall not waive the child's right to be  
 4905 represented by an attorney.

4906 (c) A child may waive the right to an attorney only after consultation with an attorney.

4907 (d) Prior to the detention hearing, if any, the court shall appoint a qualified and competent  
 4908 attorney to represent the child unless an attorney has been retained and appears on behalf  
 4909 of the child. Nothing in this subsection shall prohibit a judge from releasing a child from  
 4910 detention prior to appointment of an attorney.

4911 (e) Upon a motion by an attorney for the child, together with written permission of the  
 4912 child, a judge shall issue an order providing that attorney with access to all dependency,  
 4913 school, hospital, physician, or other health or mental health care records relating to the  
 4914 child.

4915 15-11-476.

4916 (a) The court shall appoint a separate guardian ad litem whenever:

4917 (1) A child appears before the court without a parent, guardian, or legal custodian;

4918 (2) It appears to the court that the child's parent, guardian, or legal custodian is incapable  
 4919 or unwilling to make decisions in the best interests of the child with respect to  
 4920 proceedings under this article such that there may be a conflict of interest between the  
 4921 child and his or her parent, guardian, or legal custodian; or

4922 (3) The court finds that it is otherwise in the child's best interests to do so.

4923 (b) The role of a guardian ad litem in a delinquency proceeding shall be the same role as  
 4924 provided for in all dependency proceedings under Article 3 of this chapter.

4925 (c) Neither the child's attorney nor the child's parent, guardian, or legal custodian shall  
 4926 prohibit or impede access to the child by the guardian ad litem.

4927 15-11-477.

4928 (a) At any time prior to the issuance of a final dispositional order, the court may order a  
 4929 behavioral health evaluation of the child which may be conducted by DBHDD or a private  
 4930 psychologist or psychiatrist.

4931 (b) The court shall order and give consideration to the results of a child's behavioral health  
 4932 evaluation before ordering any final disposition confining such child in a secure detention  
 4933 facility; provided, however, that such order shall not be required if the court has considered  
 4934 the results of a prior behavioral health evaluation of the child that had been completed in  
 4935 the preceding six months.

4936 (c) Statements made by the child during a behavioral health evaluation shall only be  
 4937 admissible into evidence as provided in Code Section 15-11-479.

4938 15-11-478.

4939 A continuance shall be granted only upon a showing of good cause and only for that period  
 4940 of time shown to be necessary by the moving party at the hearing on the motion.  
 4941 Whenever any continuance is granted, the facts which require the continuance shall be  
 4942 entered into the court record.

4943 15-11-479.

4944 Voluntary statements made in the course of intake screening of a child or in the course of  
 4945 treatment, any evaluation, or any other related services shall be inadmissible in any  
 4946 adjudication hearing in which the child is the accused and shall not be considered by the  
 4947 court except such statement shall be admissible as rebuttal or impeachment evidence.

4948 15-11-480.

4949 (a) When a child enters a denial to the petition alleging delinquency, jeopardy attaches  
 4950 when the first witness is sworn at the adjudication hearing.

4951 (b) When a child enters an admission to the petition alleging delinquency, jeopardy  
 4952 attaches when the court accepts the admission.

4953 15-11-481.

4954 (a) When a child is adjudicated delinquent and is placed in foster care, DJJ shall develop  
 4955 and complete the child's case plan. When the child is in DFCS custody, DJJ shall  
 4956 cooperate with DFCS in developing and completing the child's case plan.

4957 (b) In addition to the case plan requirements of Code Section 15-11-201, the case plan for  
 4958 a child in delinquency proceedings shall include:

4959 (1) A description of the child's strengths and needs;

4960 (2) A description of specific parental strengths and needs;

4961 (3) A description of other personal, family, or environmental problems that contribute  
 4962 to the child's delinquent behaviors;

4963 (4) A description of the safety, physical, and mental health needs of the child;

4964 (5) Identification of the least restrictive placement to safeguard the child's best interests  
 4965 and protect the community;

4966 (6) An assessment of the availability of community resources to address the child's and  
 4967 family's needs;

4968 (7) An assessment of the availability of court diversion services; and

4969 (8) An assessment of the availability of other preventive measures.

4970 15-11-482.

4971 (a) In any delinquency proceeding in which a petition has been filed, the juvenile court  
 4972 shall notify any victim of a delinquent child's alleged delinquent act that the victim may  
 4973 submit a victim impact form as provided in Code Section 17-10-1.1 if:

4974 (1) The allegedly delinquent child, in conduct which would constitute a felony if  
 4975 committed by an adult, caused physical, psychological, or economic injury to the victim;

4976 or

4977 (2) The allegedly delinquent child, in conduct which would constitute a misdemeanor if  
 4978 committed by an adult, caused serious physical injury or death to the victim.

4979 (b) The provisions of subsection (e) of Code Section 17-10-1.1 shall apply to the use and  
 4980 disclosure of the victim impact form.

4981 (c) The victim may complete the victim impact form and submit such form to the juvenile  
 4982 court. If the victim is unable to do so because of such victim's mental, emotional, or  
 4983 physical incapacity, or because of such victim's age, the victim's attorney or a family  
 4984 member may complete the victim impact form on behalf of the victim.

4985 (d) Prior to the imposition of a dispositional order for an allegedly delinquent child, the  
 4986 juvenile court shall permit the victim to address the juvenile court and present any  
 4987 information or opinions that concern the victim or the victim's family, including the impact  
 4988 of the delinquent act on the victim, the harm caused by the allegedly delinquent child and  
 4989 the delinquent act, the need for restitution, or the terms of the disposition order. Such  
 4990 statement shall be given in the presence of the allegedly delinquent child and shall be  
 4991 subject to cross-examination. The prosecuting attorney and the allegedly delinquent child  
 4992 shall be afforded the opportunity to explain, support, or deny the victim's statement. It  
 4993 shall be the duty of the juvenile court to advise the victim of the right to address the court  
 4994 prior to the entry of a dispositional order for a delinquent child. The victim shall have the  
 4995 discretion to exercise the right to be present and be heard at the dispositional hearing. If  
 4996 the victim is voluntarily absent from the dispositional hearing, such absence shall constitute  
 4997 a waiver of the rights provided by this subsection.

4998 (e) Except as provided in subsection (d) of this Code section, no disposition of the child  
 4999 shall be invalidated because of failure to comply with the provisions of this Code section.  
 5000 This Code section shall not be construed to create any cause of action or any right of appeal  
 5001 on behalf of the victim, the state, or the accused; provided, however, that if the court  
 5002 intentionally fails to comply with this Code section, the victim may file a complaint with  
 5003 the Judicial Qualifications Commission.

5004 Part 2

5005 15-11-490.

5006 (a) A proceeding under this article may be commenced:

5007 (1) In the county in which the child legally resides; or

5008 (2) In any county in which the alleged delinquent acts occurred.

5009 (b) If the adjudicating court finds that a nonresident child has committed a delinquent act,  
 5010 the adjudicating court may retain jurisdiction over the disposition of the nonresident child  
 5011 or may transfer the proceeding to the county of the child's residence for disposition. Like  
 5012 transfer may be made if the residence of the child changes pending the proceeding.

5013 (c) If the adjudicating court retains jurisdiction, prior to making any order for disposition  
 5014 of the nonresident child, the adjudicating court shall communicate to the court of the  
 5015 county of the child's residence the fact that the child has been found to have committed a  
 5016 delinquent act. Such communication shall state the date upon which the adjudicating court  
 5017 plans to enter an order for disposition of the nonresident child and shall request any  
 5018 information or recommendations relevant to the disposition of the nonresident child. Any

5019 such recommendation shall be considered by but shall not be binding upon the adjudicating  
 5020 court in making its order for disposition.

5021 (d) When any case is transferred, certified copies of all documents and records pertaining  
 5022 to the case on file with the clerk of the court shall accompany the transfer order.  
 5023 Compliance with this subsection shall terminate jurisdiction in the transferring court and  
 5024 initiate jurisdiction in the receiving court.

5025 Part 3

5026 15-11-500.

5027 If it appears from a filed affidavit or from sworn testimony before the court that the  
 5028 conduct, condition, or surroundings of the child are endangering the child's health or  
 5029 welfare or those of others or that the child may abscond or be removed from the  
 5030 jurisdiction of the court or will not be brought before the court, notwithstanding the service  
 5031 of the summons, the court may endorse upon the summons an order that a law enforcement  
 5032 officer shall serve the summons and take the child into immediate custody and bring the  
 5033 child forthwith before the court.

5034 15-11-501.

5035 (a) A child may be taken into custody:

5036 (1) Pursuant to an order of the court under this article, including an order to a DJJ  
 5037 employee to apprehend:

5038 (A) A child who has escaped from an institution or facility operated by DJJ; or

5039 (B) A child who has been placed under supervision and who has violated its  
 5040 conditions;

5041 (2) Pursuant to the laws of arrest; or

5042 (3) By a law enforcement officer or duly authorized officer of the court if there are  
 5043 reasonable grounds to believe that the child has committed a delinquent act.

5044 (b) A law enforcement officer taking a child into custody shall promptly give notice  
 5045 together with a statement of the reasons for taking the child into custody to a parent,  
 5046 guardian, or legal custodian and to the court.

5047 (c) When a child who is taken into custody has committed an act which would constitute  
 5048 a felony if committed by an adult, the juvenile court, within 48 hours after it learns of the  
 5049 child having been taken into custody, shall notify the prosecuting attorney of the judicial  
 5050 circuit in which the juvenile proceedings are to be instituted.

5051 15-11-502.

5052 (a) A person taking a child into custody, with all reasonable speed and without first taking  
5053 the child elsewhere, shall:

5054 (1) Immediately release the child, without bond, to the child's parent, guardian, or legal  
5055 custodian upon such person's promise to bring the child before the court when requested  
5056 by the court;

5057 (2) Immediately deliver the child to a medical facility if the child is believed to suffer  
5058 from a serious physical condition or illness which requires prompt treatment and, upon  
5059 delivery, shall promptly contact a juvenile court intake officer. Immediately upon being  
5060 notified by the person taking a child into custody, the juvenile court intake officer shall  
5061 determine if the child should be released, remain in protective custody, or be brought  
5062 before the court; or

5063 (3) Bring the child immediately before the juvenile court or promptly contact a juvenile  
5064 court intake officer. The court or juvenile court intake officer shall determine if the child  
5065 should be released or detained. All determinations and court orders regarding detention  
5066 shall comply with the requirements of this article and shall be based on an individual  
5067 assessment of the child and the child's circumstances. Such assessment shall include  
5068 completion and review of a detention assessment instrument developed by the Governor's  
5069 Office for Children and Families in consultation with DJJ and the Council of Juvenile  
5070 Court Judges.

5071 (b) Notwithstanding subsection (a) of this Code section, a law enforcement officer may  
5072 detain a child for a reasonable period of time sufficient to conduct interrogations and  
5073 perform routine law enforcement procedures including, but not limited to, fingerprinting,  
5074 photographing, and the preparation of any necessary records.

5075 (c) Prior to a detention hearing, a child shall be placed in detention, if necessary, only in  
5076 such places as are authorized by Code Section 15-11-504.

5077 15-11-503.

5078 (a) Restraints on the freedom of a child prior to adjudication shall be imposed only when  
5079 there is probable cause to believe that the child committed the act of which he or she is  
5080 accused, that there is clear and convincing evidence that the child's freedom should be  
5081 restrained, that no less restrictive alternatives will suffice, and that:

5082 (1) The child's detention or care is required to reduce the likelihood that the child may  
5083 inflict serious bodily harm on others during the interim period;

5084 (2) The child has a demonstrated pattern of theft or destruction of property such that  
5085 detention is required to protect the property of others;

- 5086 (3) The child's detention is necessary to secure the child's presence in court to protect the  
 5087 jurisdiction and processes of the court; or
- 5088 (4) An order for the child's detention has been made by the court.
- 5089 (b) All children who are detained shall be informed of their right to bail as provided by  
 5090 Code Section 15-11-507.
- 5091 (c) A child shall not be detained:
- 5092 (1) To punish, treat, or rehabilitate the child;  
 5093 (2) To allow a parent to avoid his or her legal responsibilities;  
 5094 (3) To satisfy demands by a victim, law enforcement, or the community;  
 5095 (4) To permit more convenient administrative access to the child;  
 5096 (5) To facilitate further interrogation or investigation; or  
 5097 (6) Due to a lack of a more appropriate facility.
- 5098 (d) Whenever a child cannot be unconditionally released, conditional or supervised release  
 5099 that results in the least necessary interference with the liberty of the child shall be favored  
 5100 over more intrusive alternatives.
- 5101 (e) Whenever the curtailment of a child's freedom is permitted, the exercise of authority  
 5102 shall reflect the following values:
- 5103 (1) Respect for the privacy, dignity, and individuality of the child and his or her family;  
 5104 (2) Protection of the psychological and physical health of the child;  
 5105 (3) Tolerance of the diverse values and preferences among different groups and  
 5106 individuals;  
 5107 (4) Assurance of equality of treatment by race, class, ethnicity, and sex;  
 5108 (5) Avoidance of regimentation and depersonalization of the child;  
 5109 (6) Avoidance of stigmatization of the child; and  
 5110 (7) Assurance that the child has been informed of his or her right to consult with an  
 5111 attorney and that, if the child is an indigent person, an attorney will be provided.
- 5112 (f) Before entering an order authorizing detention, the court shall determine whether  
 5113 continuation in the home is contrary to the child's welfare and whether there are available  
 5114 services that would prevent or eliminate the need for detention. The court shall make that  
 5115 determination on a case-by-case basis and shall make written findings of fact referencing  
 5116 any and all evidence relied upon in reaching its decision.
- 5117 (g) If the child can remain in the custody of his or her parent, guardian, or legal custodian,  
 5118 through the provision of services to prevent the need for removal, the court shall order that  
 5119 such services shall be provided.
- 5120 15-11-504.
- 5121 (a) A child alleged to be delinquent may be detained only in:

- 5122 (1) A licensed foster home;  
 5123 (2) A home approved by the court which may be a public or private home;  
 5124 (3) The home of a noncustodial parent or of a relative;  
 5125 (4) A facility operated by a licensed child welfare agency; or  
 5126 (5) A detention home or center for delinquent children which is under the direction or  
 5127 supervision of the court or other public authority or of a private agency approved by the  
 5128 court.
- 5129 (b) Placement shall be made in the least restrictive facility available consistent with the  
 5130 best interests of the child.
- 5131 (c) A child 15 years of age or older and alleged to be delinquent may be held in a jail or  
 5132 other facility for the detention of adults for identification or processing procedures or while  
 5133 awaiting transportation only as long as necessary to complete such activities for up to six  
 5134 hours, or for up to 24 hours in nonmetropolitan areas, if all of the following apply:
- 5135 (1) The child is detained for the commission of a crime that would constitute a  
 5136 designated felony or a serious violent felony as defined in Code Section 17-10-6.1;  
 5137 (2) The child is awaiting a detention hearing;  
 5138 (3) The child's detention hearing is scheduled within 24 hours after being taken into  
 5139 custody, excluding weekends and legal holidays;  
 5140 (4) There is no existing acceptable alternative placement for the child; and  
 5141 (5) The jail or other facility for the detention of adults provides sight and sound  
 5142 separation for juveniles which includes:
- 5143 (A) Total separation between juveniles and adult facility spatial areas such that there  
 5144 is no verbal, visual, or physical contact and there could be no haphazard or accidental  
 5145 contact between juvenile and adult residents in the respective facilities;  
 5146 (B) Total separation in all juvenile and adult program activities within the facilities,  
 5147 including recreation, education, counseling, health care, dining, sleeping, and general  
 5148 living activities;  
 5149 (C) Continuous visual supervision of the child; and  
 5150 (D) Separate juvenile and adult staff, specifically direct care staff such as recreation,  
 5151 education, and counseling, although specialized services staff, such as cooks,  
 5152 bookkeepers, and medical professionals who are not normally in contact with detainees  
 5153 or whose infrequent contacts occur under conditions of separation of juvenile and  
 5154 adults, can serve both.
- 5155 (d) A child shall not be transported with adults who have been charged with or convicted  
 5156 of a crime. DJJ may transport a child with children who have been charged with or  
 5157 convicted of a crime in superior court.

5158 (e) The official in charge of a jail or other facility for the detention of adult offenders or  
 5159 persons charged with crime shall inform the court or the juvenile court intake officer  
 5160 immediately when a child, who appears to be under the age of 17 years, is received at such  
 5161 facility and shall deliver the child to the court upon request or transfer the child to the  
 5162 facility designated by the juvenile court intake officer or the court.

5163 (f) All facilities shall maintain data on each child detained and such data shall be recorded  
 5164 and retained by the facility for three years and shall be made available for inspection during  
 5165 normal business hours by any court exercising juvenile court jurisdiction, by DJJ, and by  
 5166 the Council of Juvenile Court Judges. The required data are:

5167 (1) Name;

5168 (2) Date of birth;

5169 (3) Sex;

5170 (4) Race;

5171 (5) Offense or offenses for which being detained;

5172 (6) Date of and authority for confinement;

5173 (7) Date of and authority for release or transfer; and

5174 (8) Where transferred or to whom released.

5175 15-11-505.

5176 If a child is brought before the court or delivered to a detention or foster care facility  
 5177 designated by the court, the juvenile court intake officer shall immediately make an  
 5178 investigation and release the child unless it appears that the child's detention is warranted.

5179 15-11-506.

5180 (a) A detention hearing shall be held to determine whether preadjudication custody of a  
 5181 child is required. If such hearing is not held within the time specified, the child shall be  
 5182 released from detention or foster care.

5183 (b) If a child is detained and is not released from preadjudication custody, a detention  
 5184 hearing shall be held promptly and not later than:

5185 (1) Two business days after the child is placed in preadjudication custody if the child is  
 5186 taken into custody without an arrest warrant; or

5187 (2) Three business days after the child is placed in preadjudication custody if the child  
 5188 is taken into custody pursuant to an arrest warrant.

5189 (c) If the detention hearing cannot be held within two business days, in accordance with  
 5190 paragraph (1) of subsection (b) of this Code section, because the date for the hearing falls  
 5191 on a weekend or legal holiday, the court shall review the decision to detain a child and

5192 make a finding based on probable cause within 48 hours of the child being placed in  
5193 preadjudication custody.

5194 (d) Reasonable oral or written notice of the detention hearing, stating the time, place, and  
5195 purpose of the hearing, shall be given to the child and to the child's parent, guardian, or  
5196 legal custodian, if he or she can be found. In the event the child's parent, guardian, or legal  
5197 custodian cannot be found, the court shall forthwith appoint a guardian ad litem for the  
5198 child.

5199 (e) If the child alleged to be delinquent is not released from preadjudication custody and  
5200 a parent, guardian, or legal custodian or guardian ad litem, if any, has not been notified of  
5201 the hearing and did not appear or waive appearance at the hearing and thereafter files the  
5202 affidavit showing such party was not notified of such hearing, the court shall rehear the  
5203 matter without unnecessary delay and shall order the child's release unless it appears from  
5204 the hearing that the child's detention or foster care is required.

5205 (f) At the commencement of the detention hearing, the court shall inform the child of:

5206 (1) The contents of the complaint or petition;

5207 (2) The nature of the proceedings;

5208 (3) The right to make an application for bail, as provided by Code Section 15-11-507 and  
5209 Title 17;

5210 (4) The possible consequences or dispositions that may apply to the child's case  
5211 following adjudication; and

5212 (5) Due process rights, including the right to an attorney and to an appointed attorney;  
5213 the privilege against self-incrimination; that the child may remain silent and that anything  
5214 said may be used against the child; the right to confront anyone who testifies against the  
5215 child and to cross-examine any persons who appear against the child; the right of the  
5216 child to testify and to compel other witnesses to attend and testify in his or her own  
5217 behalf; the right of the child to a speedy adjudication hearing; and the right to appeal and  
5218 be provided with a transcript for such purpose.

5219 (g) If the child can be returned to the custody of his or her parent, guardian, or legal  
5220 custodian through the provision of services to eliminate the need for removal, the court  
5221 shall release the child to the physical custody of the parent, guardian, or legal custodian and  
5222 order that those services shall be provided.

5223 (h) If the child cannot be returned to the custody of the parent, guardian, or legal  
5224 custodian, the court shall state the facts upon which the detention is based. The court shall  
5225 make the following findings of fact referencing any and all evidence relied upon to make  
5226 its determinations:

5227 (1) Whether continuation in the home of the parent, guardian, or legal custodian is  
5228 contrary to the child's welfare; and

5229 (2) Whether reasonable efforts have been made to safely maintain the child in the home  
 5230 of his or her parent, guardian, or legal custodian and to prevent the need for removal.  
 5231 Such finding shall be made at the detention hearing if possible but in no case later than  
 5232 60 days following the child's removal from the home.

5233 (i) If the child cannot be returned to the custody of the parent, guardian, or legal custodian,  
 5234 the probation officer shall provide referrals for services as soon as possible to enable the  
 5235 child's parent, guardian, or legal custodian to obtain any assistance that may be needed to  
 5236 effectively provide the care and control necessary for the child to return home.

5237 15-11-507.

5238 (a) All children alleged to be delinquent shall have the same right to bail as adults.

5239 (b) The judge shall admit to bail all children in the same manner and under the same  
 5240 circumstances and procedures as are applicable to adults accused of the commission of  
 5241 crimes, with the exception that applying for, holding a hearing on the application, and  
 5242 granting bail for children alleged to have committed a delinquent offense may only occur:

5243 (1) At intake in accordance with Code Section 15-11-503; or

5244 (2) At the detention hearing in accordance with Code Section 15-11-506.

5245 (c) A court shall be authorized to release a child on bail if the court finds that the child:

5246 (1) Poses no significant risk of fleeing from the jurisdiction of the court or failing to  
 5247 appear in court when required;

5248 (2) Poses no significant threat or danger to any person, to the community, or to any  
 5249 property in the community;

5250 (3) Poses no significant risk of committing any felony pending trial; and

5251 (4) Poses no significant risk of intimidating witnesses or otherwise obstructing the  
 5252 administration of justice.

5253 (d) If the child is accused of committing an offense that would be a serious violent felony,  
 5254 as defined in Code Section 17-10-6.1, if committed by an adult and the child has previously  
 5255 been adjudicated delinquent for committing an act that would be a serious violent felony  
 5256 if committed by an adult, there shall be a rebuttable presumption that no condition or  
 5257 combination of conditions will reasonably assure the appearance of the child as required  
 5258 or assure the safety of any other person or the community.

5259 (e) Any person having legal custody or an adult blood relative or stepparent shall be  
 5260 entitled to post bail but shall be required immediately to return the child to the individual  
 5261 or entity having legal custody of the child.

5262 (f) For the purposes of this Code section, the term 'bail' shall include the releasing of a  
 5263 person on such person's own recognizance.

5264 15-11-508.

5265 (a) As used in this Code section, the term:

5266 (1) 'Notice' shall have the same meaning as set forth in Code Section 17-17-3.

5267 (2) 'Victim' shall have the same meaning as set forth in Code Section 17-17-3.

5268 (3) 'Violent delinquent act' means the commission, attempt to commit, conspiracy to  
 5269 commit, or solicitation of another to commit a delinquent act which if committed by an  
 5270 adult would constitute:

5271 (A) A serious violent felony as defined by Code Section 17-10-6.1;

5272 (B) A designated felony act;

5273 (C) Stalking or aggravated stalking as provided by Article 7 of Chapter 5 of Title 16;

5274 or

5275 (D) Any attempt to commit, conspiracy to commit, or solicitation of another to commit  
 5276 an offense enumerated in subparagraphs (A) through (C) of this paragraph.

5277 (b) If a child accused of a violent delinquent act is detained pending adjudication, the  
 5278 juvenile court intake officer shall provide notice to the victim, whenever practicable, that  
 5279 such child is to be released from detention not less than 24 hours prior to such child's  
 5280 release from detention.

5281 (c) Not less than 48 hours prior to the release from detention of a child who has been  
 5282 adjudicated to have committed a violent delinquent act, the juvenile court intake officer  
 5283 shall, whenever practicable, provide notice to the victim of such pending release.

5284 (d) Notification need not be given unless the victim has expressed a desire for such  
 5285 notification and has provided the juvenile court intake officer with a current address and  
 5286 telephone number. It shall be the duty of the juvenile court intake officer to advise the  
 5287 victim of his or her right to notification and of the requirement of the victim's providing a  
 5288 primary and personal telephone number to which such notification shall be directed.

5289 Part 4

5290 15-11-510.

5291 (a) If a child has not been detained after the filing of a complaint, he or she shall be  
 5292 promptly referred to intake or given a date for arraignment.

5293 (b) At intake, the court, the juvenile court intake officer, or other officer designated by the  
 5294 court shall inform the child of:

5295 (1) The contents of the complaint;

5296 (2) The nature of the proceedings;

5297 (3) The possible consequences or dispositions that may apply to the child's case  
 5298 following adjudication; and

5299 (4) Due process rights, including the right to an attorney and to an appointed attorney;  
 5300 the privilege against self-incrimination; that the child may remain silent and that anything  
 5301 said may be used against the child; the right to confront anyone who testifies against the  
 5302 child and to cross-examine any persons who appear against the child; the right of the  
 5303 child to testify and to compel other witnesses to attend and testify in his or her own  
 5304 behalf; the right of the child to a speedy adjudication hearing; and the right to appeal and  
 5305 be provided with a transcript for such purpose.

5306 (c) A juvenile court intake officer may elect to pursue a case through informal adjustment  
 5307 or other nonadjudicatory procedure in accordance with the provisions of Code Section  
 5308 15-11-515.

5309 (d) If a case is to be prosecuted further and handled other than by informal adjustment or  
 5310 other nonadjudicatory procedure, a referral shall be made to the prosecuting attorney and  
 5311 a petition for delinquency shall be filed within 30 days of the filing of a complaint.

5312 15-11-511.

5313 (a) At arraignment, the court shall inform the child of:

5314 (1) The contents of the petition for delinquency;

5315 (2) The nature of the proceedings;

5316 (3) The possible consequences or dispositions that may apply to the child's case  
 5317 following adjudication; and

5318 (4) Due process rights, including the right to an attorney and to an appointed attorney;  
 5319 the privilege against self-incrimination; that the child may remain silent and that anything  
 5320 said may be used against the child; the right to confront anyone who testifies against the  
 5321 child and to cross-examine any persons who appear against the child; the right of the  
 5322 child to testify and to compel other witnesses to attend and testify in his or her own  
 5323 behalf; the right of the child to a speedy adjudication hearing; and the right to appeal and  
 5324 be provided with a transcript for such purpose.

5325 (b) If a child is represented by counsel at arraignment or if a child has waived the right to  
 5326 counsel after consultation with an attorney as to the wisdom of making an admission or  
 5327 denial at arraignment, the child may make a preliminary statement indicating whether he  
 5328 or she plans to admit or deny the allegations of the complaint at the adjudication hearing;  
 5329 otherwise, the court shall not accept an admission from a child at arraignment.

Part 5

5330

5331 15-11-515.

5332 (a) Before a petition for informal adjustment is filed, a probation officer or other officer  
 5333 designated by the court, subject to the court's direction, may inform the parties of informal  
 5334 adjustment if it appears that:

5335 (1) The admitted facts bring the case within the jurisdiction of the court;

5336 (2) Counsel and advice without an adjudication would be in the best interests of the  
 5337 public and the child, taking into account at least the following factors:

5338 (A) The nature of the alleged offense;5339 (B) The age and individual circumstances of the child;5340 (C) The child's prior record, if any;

5341 (D) Recommendations for informal adjustment made by the complainant or the victim;  
 5342 and

5343 (E) Services to meet the child's needs and problems may be unavailable within the  
 5344 formal court system or may be provided more effectively by alternative community  
 5345 programs; and

5346 (3) The child and the child's parent, guardian, or legal custodian consent with knowledge  
 5347 that consent is not obligatory.

5348 (b) The giving of counsel and advice shall not extend beyond three months unless  
 5349 extended by the court for an additional period not to exceed three months and shall not  
 5350 authorize the detention of the child if not otherwise permitted by this article.

5351 (c) An incriminating statement made by a participant to the person giving counsel or  
 5352 advice and in the discussion or conferences incident thereto shall not be used against the  
 5353 declarant over objection in any hearing except in a hearing on disposition in a juvenile  
 5354 court proceeding or in a criminal proceeding upon conviction for the purpose of a  
 5355 presentence investigation.

5356 (d) If a child is alleged to have committed a felony, the case shall not be subject to  
 5357 informal adjustment, counsel, or advice without the prior consent of the district attorney  
 5358 or his or her authorized representative.

5359

Part 6

5360 15-11-520.5361 A petition alleging delinquency shall be filed only by the prosecuting attorney.

5362 15-11-521.

5363 (a) If a child is in detention prior to adjudication, the petition alleging delinquency shall  
 5364 be filed not later than 72 hours after the detention hearing. If no petition alleging  
 5365 delinquency is filed within the applicable time, the child shall be released.

5366 (b) If the child is not in detention prior to adjudication, the petition alleging delinquency  
 5367 shall be filed within 30 days of the filing of the complaint alleging violation of a criminal  
 5368 law or within 30 days of the child's release pursuant to a determination that detention is not  
 5369 warranted.

5370 15-11-522.

5371 (a) The petition alleging delinquency shall be verified and may be on information and  
 5372 belief. It shall set forth plainly and with particularity:

5373 (1) The facts which bring the child within the jurisdiction of the court, with a statement  
 5374 that it is in the best interests of the child and the public that the proceeding be brought and  
 5375 that the child is in need of supervision, treatment, or rehabilitation, as the case may be;

5376 (2) The name, age, and residence address of the child on whose behalf such petition is  
 5377 brought;

5378 (3) The name and residence address of the parent, guardian, or legal custodian of the  
 5379 child; or, if neither the child's parent nor the child's guardian nor the child's legal  
 5380 custodian resides or can be found within the state or if such place of residence address is  
 5381 unknown, the name of any known adult relative residing within the county or, if there is  
 5382 none, the known adult relative residing nearest to the location of the court;

5383 (4) If the child is in custody and, if so, the place of his or her detention and the time the  
 5384 child was taken into custody; and

5385 (5) If the child is being charged with a designated felony act.

5386 (b) The petition alleging delinquency shall indicate if any of the matters required in this  
 5387 Code section are unknown.

5388 15-11-523.

5389 (a) The prosecuting attorney may amend the petition alleging delinquency at any time  
 5390 prior to the commencement of the adjudication hearing. However, if an amendment is  
 5391 made, the child may request a continuance of the adjudication hearing. A continuance may  
 5392 be granted by the court for such period as required in the interest of justice.

5393 (b) When a petition alleging delinquency is amended to include material changes to the  
 5394 allegations or new charges of delinquency for adjudication, the petition shall be served in  
 5395 accordance with Code Sections 15-11-530 and 15-11-531.

5396 (c) After jeopardy attaches, a petition alleging delinquency shall not be amended to include  
5397 new charges of delinquency.

5398 Part 7

5399 15-11-530.

5400 (a) The court shall direct the issuance of a summons to a child and the child's parent,  
5401 guardian, or legal custodian requiring them to appear before the court at the time fixed to  
5402 answer the allegations of the petition. A copy of the petition shall accompany the  
5403 summons.

5404 (b) The summons shall state that a party shall be entitled to have an attorney in the  
5405 proceedings and that the court will appoint an attorney if the party is an indigent person.

5406 15-11-531.

5407 (a) If a party to be served with a summons is within this state and can be found, the  
5408 summons shall be served upon him or her personally as soon as possible and at least 24  
5409 hours before the adjudication hearing.

5410 (b) If a party to be served is within this state and cannot be found but his or her address is  
5411 known or can be ascertained with reasonable diligence, the summons shall be served upon  
5412 such party at least five days before the adjudication hearing by mailing him or her a copy  
5413 by registered or certified mail or statutory overnight delivery, return receipt requested.

5414 (c) If an individual to be served is outside this state but his or her address is known or can  
5415 be ascertained with reasonable diligence, notice of the summons shall be made at least five  
5416 days before the adjudication hearing either by delivering a copy to such party personally  
5417 or by mailing a copy to him or her by registered or certified mail or statutory overnight  
5418 delivery, return receipt requested.

5419 (d) Service of the summons may be made by any suitable person under the direction of the  
5420 court.

5421 (e) The court may authorize payment from county funds of the costs of service and of  
5422 necessary travel expenses incurred by persons summoned or otherwise required to appear  
5423 at the hearing.

5424 15-11-532.

5425 (a) In the event a parent, guardian, or other legal custodian of a child willfully fails to  
5426 appear personally at a hearing after being ordered to so appear or the parent, guardian, or  
5427 other legal custodian of the child willfully fails to bring the child to a hearing after being

5428 so directed, the court may issue a rule nisi against the person directing the person to appear  
 5429 before the court to show cause why he or she should not be held in contempt of court.

5430 (b) If the parent, guardian, or legal custodian fails to appear in response to an order to  
 5431 show cause, the court may issue a bench warrant directing that the parent, guardian, or  
 5432 legal custodian be brought before the court without delay to show cause why he or she  
 5433 should not be held in contempt and the court may enter any order authorized by and in  
 5434 accordance with the provisions of Code Section 15-11-31.

5435 (c) If a child 16 years of age or older fails to appear at a hearing after being ordered to so  
 5436 appear, the court may issue a bench warrant requiring that the child be brought before the  
 5437 court without delay and the court may enter any order authorized by and in accordance with  
 5438 the provisions of Code Section 15-11-31.

5439 (d) If there is sworn testimony that a child 14 years of age but not yet 16 years of age  
 5440 willfully refuses to appear at a hearing after being ordered to so appear, the court may issue  
 5441 a bench warrant requiring that the child be brought before the court and the court may enter  
 5442 any order authorized by and in accordance with the provisions of Code Section 15-11-31.

5443 Part 8

5444 15-11-540.

5445 A delinquency petition shall be dismissed by the court upon the motion of the prosecuting  
 5446 attorney setting forth that there is not sufficient evidence to warrant further proceedings.

5447 15-11-541.

5448 (a) Except as limited by subsection (d) of Code Section 15-11-542, in all cases in which  
 5449 a child is charged with having committed a delinquent act, the child shall, upon filing a  
 5450 motion for discovery with the court and serving a copy of the motion to the prosecuting  
 5451 attorney, have full access to the following for inspection, copying, or photographing:

5452 (1) A copy of the complaint;

5453 (2) A copy of the petition for delinquency;

5454 (3) The names and last known addresses and telephone numbers of each witness to the  
 5455 occurrence which forms the basis of the charge;

5456 (4) A copy of any written statement made by the child or any witness that relates to the  
 5457 testimony of a person whom the prosecuting attorney intends to call as a witness;

5458 (5) A copy of any written statement made by any alleged coparticipant which the  
 5459 prosecuting attorney intends to use at a hearing;

5460 (6) Transcriptions, recordings, and summaries of any oral statement of the child or of any  
 5461 witness, except attorney work product;

- 5462 (7) Any scientific or other report which is intended to be introduced at the hearing or that  
5463 pertains to physical evidence which is intended to be introduced;
- 5464 (8) Photographs and any physical evidence which are intended to be introduced at the  
5465 hearing; and
- 5466 (9) Copies of the police incident report and supplemental report, if any, regarding the  
5467 occurrence which forms the basis of the charge.
- 5468 (b) The prosecuting attorney shall disclose all evidence, known or that may become known  
5469 to him or her, favorable to the child and material either to guilt or punishment.
- 5470 (c) If the child requests disclosure of information pursuant to subsection (a) of this Code  
5471 section, it shall be the duty of the child to promptly make the following available for  
5472 inspection, copying, or photographing to the prosecuting attorney:
- 5473 (1) The names and last known addresses and telephone numbers of each witness to the  
5474 occurrence which forms the basis of the defense;
- 5475 (2) Any scientific or other report which is intended to be introduced at the hearing or that  
5476 pertains to physical evidence which is intended to be introduced;
- 5477 (3) Photographs and any physical evidence which are intended to be introduced at the  
5478 hearing; and
- 5479 (4) A copy of any written statement made by any witness that relates to the testimony of  
5480 a person whom the child intends to call as a witness.
- 5481 (d) A request for discovery or reciprocal discovery shall be complied with promptly and  
5482 not later than 48 hours prior to the adjudication hearing, except when later compliance is  
5483 made necessary by the timing of the request. If the request for discovery is made fewer  
5484 than 48 hours prior to the adjudication hearing, the discovery response shall be produced  
5485 in a timely manner.
- 5486 (e) Any material or information furnished to the child pursuant to a discovery request shall  
5487 remain in the exclusive custody of the child and shall only be used during the pendency of  
5488 the case and shall be subject to such other terms and conditions as the court may provide.
- 5489 15-11-542.
- 5490 (a) If a request for discovery is refused, application may be made to the court for a written  
5491 order granting discovery.
- 5492 (b) Motions to compel discovery shall certify that a request for discovery was made and  
5493 was refused.
- 5494 (c) An order granting discovery shall require reciprocal discovery.
- 5495 (d) The court may deny, in whole or in part, or otherwise limit or set conditions concerning  
5496 discovery upon sufficient showing by a person or entity to whom a request for discovery  
5497 is made that disclosure of the information would:

- 5498 (1) Jeopardize the safety of a party, witness, or confidential informant;  
 5499 (2) Create a substantial threat of physical or economic harm to a witness or other person;  
 5500 (3) Endanger the existence of physical evidence;  
 5501 (4) Disclose privileged information; or  
 5502 (5) Impede the criminal prosecution of a child who is being prosecuted as an adult or the  
 5503 prosecution of an adult charged with an offense arising from the same transaction or  
 5504 occurrence.

5505 15-11-543.

5506 (a) Upon written request by the prosecuting attorney stating the time, date, and place at  
 5507 which the alleged delinquent act was committed, the child shall serve upon the prosecuting  
 5508 attorney a written notice of the child's intention to offer a defense of alibi.

5509 (b) The notice shall state the specific place or places at which the child claims to have been  
 5510 at the time of the alleged delinquent act and the names, addresses, dates of birth, and  
 5511 telephone numbers of the witnesses, if known to the child, upon whom the child intends  
 5512 to rely to establish the child's alibi, unless previously supplied.

5513 (c) A request for alibi evidence shall be complied with promptly and not later than 48  
 5514 hours prior to the adjudication hearing, except when later compliance is made necessary  
 5515 by the timing of the request. If the request for alibi evidence is made fewer than 48 hours  
 5516 prior to the adjudication hearing, the alibi evidence shall be produced in a timely manner.

5517 (d) If the defendant withdraws the notice of intention to rely upon an alibi defense, the  
 5518 notice and intention to rely upon an alibi defense shall not be admissible; provided,  
 5519 however, that the prosecuting attorney or entity prosecuting the case may offer any other  
 5520 evidence regarding alibi.

5521 (e) The prosecuting attorney shall serve upon the child a written notice stating the names,  
 5522 addresses, dates of birth, and telephone numbers of the witnesses, if known to the state,  
 5523 upon whom the state intends to rely to rebut the child's evidence of alibi, unless previously  
 5524 supplied.

5525 15-11-544.

5526 If, subsequent to providing a discovery response, the existence of additional evidence is  
 5527 found, it shall be promptly provided to the state or child making the discovery request.

5528 15-11-545.

5529 Nothing contained in the provisions governing discovery procedure under this part shall  
 5530 prohibit the court from ordering the disclosure of any information that the court deems  
 5531 necessary and appropriate for proper adjudication.

5532 15-11-546.

5533 If at any time during the course of the proceedings it is brought to the attention of the court  
5534 that a person or entity has failed to comply with a discovery request, the court may grant  
5535 a continuance, prohibit the party from introducing in evidence the information not  
5536 disclosed, or enter such other order as the court deems just under the circumstances.

5537 Part 9

5538 15-11-560.

5539 (a) Except as provided in subsection (b) of this Code section, the court shall have  
5540 concurrent jurisdiction with the superior court over a child who is alleged to have  
5541 committed a delinquent act which would be considered a crime if tried in a superior court  
5542 and for which an adult may be punished by loss of life, imprisonment for life without  
5543 possibility of parole, or confinement for life in a penal institution.

5544 (b) The superior court shall have exclusive original jurisdiction over the trial of any child  
5545 13 to 17 years of age who is alleged to have committed any of the following offenses:

5546 (1) Murder;

5547 (2) Voluntary manslaughter;

5548 (3) Rape;

5549 (4) Aggravated sodomy;

5550 (5) Aggravated child molestation;

5551 (6) Aggravated sexual battery; or

5552 (7) Armed robbery if committed with a firearm.

5553 (c) The granting of bail or pretrial release of a child charged with an offense enumerated  
5554 in subsection (b) of this Code section shall be governed by the provisions of Code Section  
5555 17-6-1.

5556 (d) At any time before indictment, the district attorney may, after investigation and for  
5557 cause, decline prosecution in the superior court of a child 13 to 17 years of age alleged to  
5558 have committed an offense specified in subsection (b) of this Code section. Upon declining  
5559 such prosecution in the superior court, the district attorney shall immediately cause a  
5560 petition to be filed in the appropriate juvenile court for adjudication. Any case transferred  
5561 by the district attorney to the juvenile court pursuant to this subsection shall be subject to  
5562 the designated felony provisions of Code Section 15-11-602 and the transfer of the case  
5563 from superior court to juvenile court shall constitute notice to the child that such case is  
5564 subject to the designated felony provisions of Code Section 15-11-602.

5565 (e) After indictment, the superior court may after investigation and for extraordinary cause  
5566 transfer any case involving a child 13 to 17 years of age alleged to have committed any

5567 offense enumerated in paragraph (2), (4), (5), or (6) of subsection (b) of this Code section.  
 5568 Any such transfer shall be appealable by the State of Georgia pursuant to Code Section  
 5569 5-7-1. Upon such a transfer by the superior court, jurisdiction shall vest in the juvenile  
 5570 court and jurisdiction of the superior court shall terminate. Any case transferred by the  
 5571 superior court to the juvenile court pursuant to this subsection shall be subject to the  
 5572 designated felony provisions of Code Section 15-11-602 and the transfer of the case from  
 5573 superior court to juvenile court shall constitute notice to the child that such case is subject  
 5574 to the designated felony provisions of Code Section 15-11-602.

5575 (f) The superior court may transfer any case involving a child 13 to 17 years of age alleged  
 5576 to have committed any offense enumerated in subsection (b) of this Code section and  
 5577 convicted of a lesser included offense not included in subsection (b) of this Code section  
 5578 to the juvenile court of the county of the child's residence for disposition. Upon such a  
 5579 transfer by the superior court, jurisdiction shall vest in the juvenile court and jurisdiction  
 5580 of the superior court shall terminate.

5581 (g) Within 30 days of any proceeding in which a child 13 to 17 years of age is convicted  
 5582 of certain offenses over which the superior court has original jurisdiction as provided in  
 5583 subsection (b) of this Code section or adjudicated delinquent on the basis of conduct which  
 5584 if committed by an adult would constitute such offenses, the superior court shall provide  
 5585 written notice to the school superintendent or his or her designee of the school in which  
 5586 such child is enrolled or, if the information is known, of the school in which such child  
 5587 plans to be enrolled at a future date. Such notice shall include the specific criminal offense  
 5588 that such child committed. A local school system to which the child is assigned may  
 5589 request further information from the court's file.

5590 15-11-561.

5591 (a) After a petition alleging delinquency has been filed but before the adjudication hearing,  
 5592 on its own motion or on a motion by the prosecuting attorney, the court may convene a  
 5593 hearing to determine whether to transfer the offense to the appropriate superior court for  
 5594 criminal trial if the court determines that:

- 5595 (1) There is probable cause to believe that the child committed the alleged offense;  
 5596 (2) The child is not committable to an institution for the developmentally disabled or  
 5597 mentally ill; and  
 5598 (3) The petition alleges that the child:  
 5599 (A) Was at least 15 years of age at the time of the commission of the offense and  
 5600 committed an act which would be a felony if committed by an adult; or

5601 (B) Was 13 or 14 years of age and either committed an act for which the punishment  
 5602 is loss of life or confinement for life in a penal institution or committed aggravated  
 5603 battery resulting in serious bodily injury to a victim.

5604 (b) At least three days prior to the scheduled transfer hearing, written notice shall be given  
 5605 to the child and the child's parent, guardian, or legal custodian. The notice shall contain  
 5606 a statement that the purpose of the hearing is to determine whether the child is to be tried  
 5607 in the juvenile court or transferred for trial as an adult in superior court. The child may  
 5608 request and the court shall grant a continuance to prepare for the transfer hearing.

5609 (c) After consideration of a probation report and any other evidence the court deems  
 5610 relevant, including any evidence offered by the child, the court may determine that because  
 5611 of the seriousness of the offense or the child's prior record, the welfare of the community  
 5612 requires that criminal proceedings against the child be instituted.

5613 (d) No child, either before or after reaching age 17 years of age shall be prosecuted in  
 5614 superior court for an offense committed before the child turned 17, unless the case has been  
 5615 transferred as provided in this part. In addition, no child shall be subject to criminal  
 5616 prosecution at any time for an offense arising out of a criminal transaction for which the  
 5617 juvenile court retained jurisdiction in its transfer order.

5618 15-11-562.

5619 (a) The criteria which the court shall consider in determining whether to transfer the child  
 5620 to superior court includes, but shall not be limited to:

5621 (1) The age of the child;

5622 (2) The seriousness of the alleged offense, especially if personal injury resulted;

5623 (3) Whether the protection of the community requires transfer of jurisdiction;

5624 (4) Whether the alleged offense involved violence or was committed in an aggressive or  
 5625 premeditated manner;

5626 (5) The culpability of the child including the child's level of planning and participation  
 5627 in the alleged offense;

5628 (6) Whether the alleged offense is a part of a repetitive pattern of offenses which  
 5629 indicates that the child may be beyond rehabilitation in the juvenile justice system;

5630 (7) The record and history of the child, including experience with the juvenile justice  
 5631 system, other courts, supervision, commitments to juvenile institutions, and other  
 5632 placements;

5633 (8) The sophistication and maturity of the child as determined by consideration of the  
 5634 child's home and environmental situation, emotional condition, and pattern of living;

5635 (9) The program and facilities available to the juvenile court in considering disposition;  
 5636 and

5637 (10) Whether or not the child can benefit from the treatment or rehabilitative programs  
5638 available to the juvenile court.

5639 (b) The probation officer shall prepare a written report developing fully all available  
5640 information relevant to the transfer criteria. The probation officer shall submit such report  
5641 to the parties and the court as soon as practicable but not later than 24 hours before the  
5642 scheduled hearing. The child and the prosecuting attorney shall have the right to review  
5643 such report and cross-examine the individual making such report.

5644 (c) The court may order a transfer evaluation of the child's clinical status as it may impact  
5645 the criteria in subsection (a) of this Code section. The transfer evaluation shall be  
5646 completed by DBHDD or by a licensed psychologist or psychiatrist. If ordered to be  
5647 performed by DBHDD, the transfer evaluation shall be completed by a DBHDD forensic  
5648 evaluator. Statements made by the child in a transfer evaluation shall only be admissible  
5649 into evidence in an adjudication hearing or in a criminal proceeding as provided by Code  
5650 Sections 15-11-479 and 15-11-563.

5651 15-11-563.

5652 Statements made by the child at the transfer hearing shall not be admissible against the  
5653 child over objection in the criminal proceedings if transfer is ordered except as  
5654 impeachment or rebuttal evidence.

5655 15-11-564.

5656 (a) The decision of the court regarding transfer of the case shall only be an interlocutory  
5657 judgment which either the child or the prosecuting attorney, or both, have the right to have  
5658 reviewed by the Court of Appeals.

5659 (b) The pendency of an interlocutory appeal shall stay criminal proceedings in superior  
5660 court. A child transferred for trial as an adult in superior court shall be detained only in  
5661 those places authorized for the preadjudication detention of a child.

5662 15-11-565.

5663 (a) Prior to the entry of a judgment ordering a child's transfer or during the pendency of  
5664 an appeal of a judgment ordering a child's transfer, the child shall be detained only in those  
5665 places authorized for the preadjudication detention of a child.

5666 (b) After the entry of a judgment ordering transfer, a child shall be detained only in those  
5667 places authorized for the detention of a child until the child reaches 17 years of age.

5668 15-11-566.

5669 (a) If the court decides to transfer the child for trial in superior court, it shall dismiss the  
5670 juvenile court petition alleging delinquency, set forth the offense or offenses which are  
5671 being transferred, and make the following findings of fact in its dismissal order:

5672 (1) That the court had jurisdiction of the cause and the parties;

5673 (2) That the child was represented by an attorney; and

5674 (3) That the hearing was held in the presence of the child and the child's attorney.

5675 (b) The dismissal order shall also recount the reasons underlying the decision to transfer  
5676 jurisdiction.

5677 (c) A dismissal of the petition alleging delinquency terminates the jurisdiction of the  
5678 juvenile court over the child as to those offenses which are transferred. If the petition  
5679 alleging delinquency alleges multiple offenses that constitute a single criminal transaction,  
5680 the court shall either retain or transfer all offenses relating to a single criminal transaction.

5681 (d) Once juvenile court jurisdiction is terminated, the superior court shall retain  
5682 jurisdiction even though, thereafter, the child pleads guilty to, or is convicted of, a lesser  
5683 included offense. The plea to, or conviction of, a lesser included offense shall not re-vest  
5684 juvenile jurisdiction over the child.

5685 (e) A copy of the petition alleging delinquency and order of dismissal shall be sent to the  
5686 district attorney of the judicial circuit in which the proceeding is taking place.

5687 (f) If the court decides not to transfer the child for trial in superior court, it shall set a date  
5688 for an adjudication hearing in juvenile court on the petition alleging delinquency.

5689 15-11-567.

5690 (a) Except in those cases in which the superior court has exclusive original jurisdiction or  
5691 juvenile court jurisdiction has been terminated and the child has been transferred to  
5692 superior court, if it appears to any court in a criminal proceeding or a quasi-criminal  
5693 proceeding that the accused is a child, the case shall forthwith be transferred to the juvenile  
5694 court together with a copy of the accusatory pleading and all other papers, documents, and  
5695 transcripts of testimony relating to the case.

5696 (b) The transferring court shall order that the child be taken forthwith to the juvenile court  
5697 or to a place of detention designated by the court or shall release him or her to the custody  
5698 of his or her parent, guardian, legal custodian, or other person legally responsible for him  
5699 or her to be brought before the juvenile court at a time designated by that court. The  
5700 accusatory pleading may not serve in lieu of a petition alleging delinquency in the juvenile  
5701 court.

Part 10

5702

5703 15-11-580.

5704 (a) At the commencement of the adjudication hearing, the court shall address the child, in  
5705 language understandable to the child, and determine whether the child is capable of  
5706 understanding statements about his or her rights under this chapter.

5707 (b) If a child is capable, the court shall inquire how the child responds to the allegations  
5708 of the delinquency petition. The child may:

5709 (1) Deny the allegations of such petition, in which case the court shall proceed to hear  
5710 evidence on such petition; or

5711 (2) Admit the allegations of such petition, in which case the court shall further inquire  
5712 to determine whether there is a factual basis for adjudication. If so, the court may then  
5713 adjudge the child to have committed a delinquent act.

5714 (c) If the child stands mute, refuses to answer, or answers evasively, the court shall enter  
5715 a denial of the allegations.

5716 15-11-581.

5717 The state shall have the burden of proving the allegations of a delinquency petition beyond  
5718 a reasonable doubt.

5719 15-11-582.

5720 (a) The court shall fix a time for the adjudication hearing. If the child is in detention, the  
5721 hearing shall be scheduled to be held no later than ten days after the filing of the  
5722 delinquency petition. If the child is not in detention, the hearing shall be scheduled to be  
5723 held no later than 60 days after the filing of such petition.

5724 (b) Adjudication hearings shall be conducted:

5725 (1) By the court without a jury;

5726 (2) In accordance with Title 24 and Title 17; and

5727 (3) In language understandable to the child and participants, to the fullest extent  
5728 practicable.

5729 (c) The court shall determine if the allegations of the petition alleging delinquency are  
5730 admitted or denied in accordance with the provisions of Code Section 15-11-580.

5731 (d) After hearing all of the evidence, the court shall make and record its findings on  
5732 whether the delinquent acts ascribed to the child were committed by the child. If the court  
5733 finds that the allegations of delinquency have not been established, it shall dismiss the  
5734 delinquency petition and order the child released from any detention or legal custody  
5735 imposed in connection with the proceedings.

5736 (e) The court shall make a finding that the child has committed a delinquent act based on  
 5737 a valid admission made in open court of the allegations of the delinquency petition or on  
 5738 the basis of proof beyond a reasonable doubt. If the court finds that the child has  
 5739 committed a delinquent act, the court may proceed immediately or at a postponed hearing  
 5740 to make disposition of the case.

5741 Part 11

5742 15-11-590.

5743 (a) After an adjudication that the child has committed a delinquent act, the court may  
 5744 direct that a written predisposition investigation report be prepared by the probation officer  
 5745 or other person designated by the court.

5746 (b) The predisposition investigation report shall contain information about the child's  
 5747 characteristics, family, environment, and the circumstances affecting the child's behavior  
 5748 as may be helpful in determining the need for treatment or rehabilitation and a proper  
 5749 disposition of the case, including but not limited to:

5750 (1) A summary of the facts with respect to the conduct of the child that led to the  
 5751 adjudication;

5752 (2) The sophistication and maturity of the child;

5753 (3) A summary of the child's home environment, family relationships, and background;

5754 (4) A summary of the child's prior contacts with the juvenile court and law enforcement  
 5755 agencies, including the disposition following each contact and the reasons therefor;

5756 (5) A summary of the child's educational status, including, but not limited to, the child's  
 5757 strengths, abilities, and special educational needs. The report shall identify appropriate  
 5758 educational and vocational goals for the child. Examples of appropriate goals include:

5759 (A) Attainment of a high school diploma or its equivalent;

5760 (B) Successful completion of literacy courses;

5761 (C) Successful completion of vocational courses;

5762 (D) Successful attendance and completion of the child's current grade if enrolled in  
 5763 school; or

5764 (E) Enrollment in an apprenticeship or a similar program;

5765 (6) A summary of the results and recommendations of any significant physical and  
 5766 mental examinations;

5767 (7) The seriousness of the offense to the community;

5768 (8) The nature of the offense; and

5769 (9) Whether the offense was against persons or against property with greater weight  
 5770 being given to offenses against persons.

- 5771 (c) If the court has ordered a physical or mental examination to be conducted, the report  
 5772 shall include a copy of the results of the examination.
- 5773 (d) All information shall be presented in a concise and factual manner. The report shall  
 5774 indicate the sources of information in the report.
- 5775 (e) The original report and any other material to be disclosed shall be furnished to the  
 5776 court, and copies shall be furnished to the child's attorney and to the prosecuting attorney  
 5777 at least five days prior to the disposition hearing.

5778 Part 12

5779 15-11-600.

- 5780 (a) After a finding that a child has committed a delinquent act, the court shall conduct a  
 5781 hearing for the purpose of hearing evidence as to whether the child is in need of treatment,  
 5782 rehabilitation, or supervision and shall make and file its findings thereon.
- 5783 (b) The court may proceed immediately to the disposition hearing after the adjudication  
 5784 hearing or conduct the disposition hearing within 30 days of the adjudication hearing. The  
 5785 hearing may occur later than 30 days after the adjudication hearing only if the court makes  
 5786 and files written findings of fact explaining the need for delay.
- 5787 (c) In the absence of evidence to the contrary, evidence sufficient to warrant a finding that  
 5788 acts have been committed which constitute a felony shall also be sufficient to sustain a  
 5789 finding that the child is in need of treatment or rehabilitation.
- 5790 (d) If the court finds that the child is not in need of treatment, rehabilitation, or  
 5791 supervision, it shall dismiss the proceeding and discharge the child from any detention or  
 5792 other restriction previously ordered.
- 5793 (e) If the court finds that the child is in need of supervision but not of treatment or  
 5794 rehabilitation, it shall find that the child is a child in need of services and enter any  
 5795 disposition authorized by Code Section 15-11-442.
- 5796 (f) The court may consider any evidence, including hearsay evidence, that the court finds  
 5797 to be relevant, reliable, and necessary to determine the needs of the child and the most  
 5798 appropriate disposition.
- 5799 (g)(1) Prior to the disposition hearing, and upon request, the parties and their attorneys  
 5800 shall be afforded an opportunity to examine any written reports received by the court.
- 5801 (2) Portions of such reports not relied on by the court in reaching its decision which, if  
 5802 revealed would be prejudicial to the interests of the child or any party to the proceeding,  
 5803 may be withheld in the court's discretion. Confidential sources of information need not  
 5804 be disclosed.

5805 (3) Parties and their attorneys shall be given the opportunity to controvert written reports  
5806 received by the court and to cross-examine individuals making such reports.

5807 (h) In scheduling investigations and hearings, the court shall give priority to proceedings  
5808 in which a child is in detention or has otherwise been removed from his or her home.

5809 15-11-601.

5810 (a) At the conclusion of the disposition hearing, if the child is determined to be in need of  
5811 treatment or rehabilitation, the court shall enter the least restrictive disposition order  
5812 appropriate in view of the seriousness of the delinquent act, the child's culpability as  
5813 indicated by the circumstances of the particular case, the age of the child, the child's prior  
5814 record, and the child's strengths and needs. The court may make any of the following  
5815 orders of disposition, or combination of them, best suited to the child's treatment,  
5816 rehabilitation, and welfare:

5817 (1) Any order authorized for the disposition of a dependent child other than placement  
5818 in the temporary custody of DFCS unless the child is also found to be a dependent child;

5819 (2) An order requiring the child and the child's parent, guardian, or legal custodian to  
5820 participate in counseling or in counsel and advice. Such counseling and counsel and  
5821 advice may be provided by the court, court personnel, probation officers, professional  
5822 counselors or social workers, psychologists, physicians, qualified volunteers, or  
5823 appropriate public, private, or volunteer agencies and shall be designed to assist in  
5824 detering future delinquent acts or other conduct or conditions which would be harmful  
5825 to the child or society;

5826 (3) An order placing the child on probation under conditions and limitations the court  
5827 prescribes and which may include the probation management program. The court may  
5828 place a child on probation under the supervision of:

5829 (A) The probation officer of the court or the court of another state;

5830 (B) Any public agency authorized by law to receive and provide care for the child; or

5831 (C) Any community rehabilitation center if its chief executive officer has  
5832 acknowledged in writing its willingness to accept the responsibility for the supervision  
5833 of the child;

5834 (4) In any case in which a child who has not achieved a high school diploma or the  
5835 equivalent is placed on probation, the court shall consider and may order as a condition  
5836 of probation that the child pursue a course of study designed to lead to achieving a high  
5837 school diploma or the equivalent;

5838 (5) An order requiring that the child perform community service in a manner prescribed  
5839 by the court and under the supervision of an individual designated by the court;

5840 (6) An order requiring that the child make restitution. Such order may remain in force  
 5841 and effect simultaneously with another order of the court, including, but not limited to an  
 5842 order of commitment to DJJ. However, no order of restitution shall be enforced while  
 5843 the child is in placement at a youth development center unless the commissioner of  
 5844 juvenile justice certifies that a restitution program is available at such center. Payment  
 5845 of funds shall be made by the child or the child's family or employer directly to the clerk  
 5846 of the juvenile court entering the order or to another employee of such court designated  
 5847 by the judge, and that court shall disburse such funds in the manner authorized in the  
 5848 order. While an order requiring restitution is in effect, the court may transfer  
 5849 enforcement of its order to:

5850 (A) DJJ;

5851 (B) The juvenile court of the county of the child's residence and its probation staff, if  
 5852 the child changes his or her place of residence; or

5853 (C) The superior court once the child reaches 17 years of age if the child thereafter  
 5854 comes under the jurisdiction of such court;

5855 (7) An order requiring the child remit to the general fund of the county a sum not to  
 5856 exceed the maximum fine applicable to an adult for commission of any of the following  
 5857 offenses:

5858 (A) Any felony in the commission of which a motor vehicle is used;

5859 (B) Driving under the influence of alcohol or drugs;

5860 (C) Driving without proof of minimum required motor vehicle insurance;

5861 (D) Fraudulent or fictitious use of a driver's license;

5862 (E) Hit and run or leaving the scene of an accident;

5863 (F) Homicide by vehicle;

5864 (G) Manslaughter resulting from the operation of a motor vehicle;

5865 (H) Possession of controlled substances or marijuana;

5866 (I) Racing on highways or streets;

5867 (J) Using a motor vehicle in fleeing or attempting to elude an officer; or

5868 (K) Any violation of the provisions contained in Title 40 which is properly adjudicated  
 5869 as a delinquent act;

5870 (8) An order suspending the child's driver's license for a period not to exceed the date on  
 5871 which the child reaches 18 years of age or, in the case of a child who does not have a  
 5872 driver's license, an order prohibiting the issuance of a driver's license to the child for a  
 5873 period not to exceed the date on which the child reaches 18 years of age. The court shall  
 5874 retain the driver's license during such period of suspension and return it to the child at the  
 5875 end of such period. The court shall notify the Department of Driver Services of any  
 5876 actions taken pursuant to this paragraph;

5877 (9) An order placing the child in an institution, camp, or other facility for delinquent  
5878 children operated under the direction of the court or other local public authority; or  
5879 (10) An order committing the child to DJJ.

5880 (b)(1) This subsection shall apply to cases involving:

5881 (A) An offense that would be a felony if committed by an adult; or  
5882 (B) An offense that would be a misdemeanor of a high and aggravated nature if  
5883 committed by an adult and involving bodily injury or harm or substantial likelihood of  
5884 bodily injury or harm.

5885 (2) In addition to any other treatment or rehabilitation, the court may order the child to  
5886 serve up to a maximum of 30 days in a youth development center or, after assessment and  
5887 with the court's approval, in a treatment program provided by DJJ or the juvenile court.

5888 (3) On and after July 1, 2013, the maximum number of days that the court may order a  
5889 child to serve in a youth development center under this subsection shall be increased to  
5890 60 days.

5891 (c) A child ordered to a youth development center under subsection (b) of this Code  
5892 section and detained after the adjudication hearing in a secure facility pending placement  
5893 in a youth development center shall be given credit for time served in the secured facility  
5894 awaiting placement.

5895 (d) Notwithstanding the provisions of subsections (a) and (b) of this Code section, if a  
5896 child is found to have committed the offense of driving under the influence, the court may  
5897 make an order of disposition which, for purposes of the child's rehabilitation, imposes the  
5898 same penalty, period of confinement, and period of community service which are  
5899 applicable to an adult convicted of violating Code Section 40-6-391. The child shall serve  
5900 any period of confinement in an institution, camp, or other facility for delinquent children  
5901 operated under the direction of the court or other local public authority or, if no such  
5902 facility is available, in a regional youth detention center. A previous finding that the child  
5903 committed the offense of driving under the influence shall be deemed a previous conviction  
5904 for purposes of this subsection. The court shall have the same authority and discretion  
5905 regarding allowing service of confinement on weekends or during nonworking hours as is  
5906 provided under subsection (a) of Code Section 17-10-3.1.

5907 (e) The child shall be given adequate information concerning the obligations and  
5908 conditions imposed upon him or her by the disposition ordered by the court and the  
5909 consequences of failure to meet such obligations and conditions. Such information shall  
5910 be given in terms understandable to the child to enable the child to conform his or her  
5911 conduct to the requirements of the disposition.

5912 15-11-602.

5913 (a) When a child is found to have committed a designated felony act, the order of  
 5914 disposition shall be made within 20 days of the conclusion of the disposition hearing. The  
 5915 court may make one of the following orders of disposition best suited to provide for the  
 5916 rehabilitation of the child and the protection of the community:

5917 (1) Any order authorized by Code Section 15-11-601 if the court finds that restrictive  
 5918 custody is not required; or

5919 (2) An order placing the child in restrictive custody.

5920 (b) Every order shall include a finding, based on a preponderance of the evidence, of  
 5921 whether the child requires restrictive custody. In determining whether restrictive custody  
 5922 is required, the court shall consider and make specific written findings of fact as to each  
 5923 of the following factors:

5924 (1) The age and maturity of the child;

5925 (2) The needs and best interests of the child;

5926 (3) The record and background of the child including but not limited to information  
 5927 disclosed in the probation investigation, diagnostic assessment, school records, and  
 5928 dependency records;

5929 (4) The nature and circumstances of the offense, including whether any injury involved  
 5930 was inflicted by the child or another participant, the culpability of the child or another  
 5931 participant in planning and carrying out of the offense, and the existence of any  
 5932 aggravating or mitigating factors;

5933 (5) The need for protection of the community; and

5934 (6) The age and physical condition of the victim.

5935 (c) A restrictive custody order may provide that:

5936 (1) The child be placed in DJJ custody for an initial period of up to five years;

5937 (2) The child be confined in a youth development center for a period set by the order, not  
 5938 to be less than six months nor to exceed 60 months. All time spent in secure detention  
 5939 subsequent to the date of the disposition hearing and prior to placement in a youth  
 5940 development center shall be counted toward the period set by the order;

5941 (3) After a period of confinement set by the court, the child may be placed under  
 5942 intensive supervision not to exceed 12 months; and

5943 (4) If the child is confined in a youth development center, the child may not be released  
 5944 or transferred to a nonsecure facility unless by court order pursuant to Code Section  
 5945 15-11-32. Such child may not be released from intensive supervision unless by court  
 5946 order and with the written approval of the commissioner of juvenile justice or a  
 5947 designated deputy. All home visits shall be carefully arranged and monitored while a  
 5948 child is confined in a youth development center.

5949 (d) During the child's placement order or any extension of the restrictive custody order:  
5950 (1) While in a youth development center, the child shall be permitted to participate in all  
5951 youth development center services and programs and shall be eligible to receive special  
5952 medical and treatment services, regardless of the time of confinement in the youth  
5953 development center. A child may be eligible to participate in programs sponsored by the  
5954 youth development center including community work programs and sheltered workshops  
5955 under the general supervision of a youth development center staff outside of the youth  
5956 development center. In cooperation and coordination with the department, the child shall  
5957 be allowed to participate in state sponsored programs for evaluation and services under  
5958 the Division of Rehabilitation Services of the Department of Labor and DBHDD;  
5959 (2)(A) A child adjudicated to have committed a designated felony act shall not be  
5960 discharged from restrictive custody prior to the period of time provided in the court's  
5961 order unless a motion therefor is granted by the court. After a court order denying a  
5962 motion to discharge a child from restrictive custody, a subsequent such motion shall not  
5963 be filed until at least six months have elapsed. Notwithstanding Code Section  
5964 15-11-32, DJJ or any party may file a motion with the court seeking the child's release  
5965 from restrictive custody, an order modifying the court's order requiring restrictive  
5966 custody, or termination of an order of disposition for a child committed for a designated  
5967 felony act.  
5968 (B) All motions filed under this paragraph shall be accompanied by a written  
5969 recommendation for release, modification, or termination from the child's DJJ  
5970 counselor or placement supervisor, filed in the court that committed the child to DJJ,  
5971 and served on the prosecuting attorney for such jurisdiction.  
5972 (C) At least 14 days prior to the date of the hearing on the motion, the moving party  
5973 shall serve a copy of the motion, by first-class mail, upon the victim of the designated  
5974 felony act, if any, at the victim's last known address, the child's attorney, if any, the  
5975 child's parents or guardian, and the law enforcement agency that investigated the  
5976 designated felony act. In addition to the parties to the motion, the prosecuting attorney  
5977 and the victim, if any, shall have a right to be heard and to present evidence to the court  
5978 relative to any motion filed pursuant to this paragraph.  
5979 (D) A court hearing a motion filed under this paragraph shall determine the disposition  
5980 of the child based upon a preponderance of the evidence. In determining whether a  
5981 motion for release from custody, modification of a restrictive custody order, or  
5982 termination of an order of disposition should be granted or denied due to changed  
5983 circumstances, the court shall be required to find that the child has been rehabilitated  
5984 and shall consider and make specific findings of fact as to each of the following factors:  
5985 (i) The needs and best interests of the child;

- 5986 (ii) The record and background of the child, including the disciplinary history of the  
 5987 child during the period of restrictive custody and subsequent offense history;
- 5988 (iii) The academic progress of the child during the period of restrictive custody,  
 5989 including, if the child is receiving services under the federal Individuals with  
 5990 Disabilities Education Act, a review of the child's Individualized Education Program  
 5991 (IEP) and the child's progress toward IEP goals;
- 5992 (iv) The victim's impact statement submitted for purposes of a hearing conducted  
 5993 pursuant to this paragraph;
- 5994 (v) The safety risk to the community if the child is released; and
- 5995 (vi) The child's acknowledgment to the court and victim, if any, of his or her conduct  
 5996 being the cause of harm to others; and
- 5997 (3) Unless otherwise specified in the order, DJJ shall report in writing to the court not  
 5998 less than once every six months during the placement on the status, adjustment, and  
 5999 progress of the child.
- 6000 (e) The period of placement in a youth development center may be extended on motion by  
 6001 DJJ, after a disposition hearing, for two additional periods not to exceed 12 months each,  
 6002 provided that no placement or extension of custody may continue beyond the child's  
 6003 twenty-first birthday.
- 6004 (f) The court shall identify the school last attended by the child and the school which the  
 6005 child intends to attend and shall transmit a copy of the adjudication to the principals of both  
 6006 schools within 15 days of the adjudication. Such information shall be subject to  
 6007 notification, distribution, and requirements as provided in Code Section 20-2-671.
- 6008 15-11-603.
- 6009 (a) As part of any order of disposition regarding a child adjudged to have committed a  
 6010 delinquent act constituting an AIDS transmitting crime, the court may in its discretion and  
 6011 after conferring with the director of the health district, order that the child submit to an HIV  
 6012 test within 45 days following the adjudication of delinquency. The court shall mail DJJ a  
 6013 copy of the order within three days following its issuance.
- 6014 (b) Within 30 days following receipt of the copy of the order, DJJ shall arrange for the  
 6015 HIV test for the child.
- 6016 (c) Any child placed in the custody and control of DJJ shall be HIV tested in accordance  
 6017 with DJJ's policies and procedures.
- 6018 (d) If a child is determined to be infected with HIV, that determination and the name of  
 6019 the child shall be deemed to be AIDS confidential information and shall only be reported  
 6020 to:

6021 (1) DJJ or the Department of Corrections, as the case may be, and the Department of  
 6022 Public Health, which may disclose the name of the child if necessary to provide  
 6023 counseling and which shall provide counseling to each victim of the AIDS transmitting  
 6024 crime or to any parent, guardian, or legal custodian of any victim who is a minor or  
 6025 incompetent person, if DJJ or the Department of Corrections believes the crime posed a  
 6026 reasonable risk of transmitting HIV to the victim. Counseling shall include providing the  
 6027 person with information and explanations medically appropriate for such person which  
 6028 may include all or part of the following: accurate information regarding AIDS and HIV;  
 6029 an explanation of behaviors that reduce the risk of transmitting AIDS and HIV; an  
 6030 explanation of the confidentiality of information relating to AIDS diagnoses and HIV  
 6031 tests; an explanation of information regarding both social and medical implications of  
 6032 HIV tests; and disclosure of commonly recognized treatment or treatments for AIDS and  
 6033 HIV;

6034 (2) The court which ordered the HIV test; and

6035 (3) Those persons in charge of any facility to which the child has been confined by order  
 6036 of the court. In addition to any other restrictions regarding the confinement of a child,  
 6037 a child determined to be an HIV infected person may be confined separately from any  
 6038 other children in that facility other than those who have been determined to be infected  
 6039 with HIV if:

6040 (A) That child is reasonably believed to be sexually active while confined;

6041 (B) That child is reasonably believed to be sexually predatory either during or prior to  
 6042 detention; or

6043 (C) The commissioner of juvenile justice reasonably determines that other  
 6044 circumstances or conditions exist which indicate that separate confinement would be  
 6045 warranted.

6046 15-11-604.

6047 (a) A child found to have committed a delinquent act shall be given credit for each day  
 6048 spent in secure confinement awaiting adjudication and for each day spent in secure  
 6049 confinement, in connection with and resulting from a court order entered in the proceedings  
 6050 for which the disposition was imposed, and in any institution or facility for treatment or  
 6051 examination of a physical or mental disability. Such credit shall be applied toward the  
 6052 child's disposition.

6053 (b) Subsection (a) of this Code section shall apply to dispositions for all offenses, whether  
 6054 classified as violations, misdemeanors, or felonies.

6055 15-11-605.

6056 (a) In addition to any other terms or conditions of probation provided for under this article,  
6057 the court may require that children who receive a disposition of probation:

6058 (1) Be ordered to a probation management program; or

6059 (2) Be ordered to a secure probation sanctions program by a probation officer or hearing  
6060 officer.

6061 (b) Where a child has been ordered to a probation management program or secure  
6062 probation sanctions program, the court shall retain jurisdiction throughout the period of the  
6063 probated sentence and may modify or revoke any part of a probated sentence as provided  
6064 in Code Section 15-11-32.

6065 (c)(1) DJJ in jurisdictions where DJJ is authorized to provide probation supervision, or  
6066 the county juvenile probation office in jurisdictions where probation supervision is  
6067 provided directly by the county, as applicable, shall be authorized to establish rules and  
6068 regulations for graduated sanctions as an alternative to judicial modifications or  
6069 revocations for probationers who violate the terms and conditions of a probation  
6070 management program.

6071 (2) DJJ or the county juvenile probation office, as applicable, shall not sanction  
6072 probationers for violations of conditions of probation if the court has expressed an  
6073 intention in a written order that such violations be heard by the court.

6074 (d) DJJ or the county juvenile probation office, as applicable, shall impose only those  
6075 restrictions equal to or less restrictive than the maximum sanction established by the court.

6076 (e) The secure probation sanctions program shall be established by DJJ. Exclusion of a  
6077 child from a secure probation sanctions program otherwise authorized by this Code section  
6078 to enter such program shall be mutually agreed upon by the Council of Juvenile Court  
6079 Judges and DJJ. The secure probation sanctions program shall be available to the juvenile  
6080 courts to the extent that each secure facility has capacity for such offenders within its  
6081 facilities. Prior to reaching full capacity, DJJ shall inform the various juvenile courts of  
6082 its capacity constraints.

6083 (f)(1) When requesting the secure probation sanctions program, probation officers  
6084 supervising a child under a probation management program shall provide an affidavit to  
6085 the court specifying:

6086 (A) The elements of the child's probation program;

6087 (B) The child's failures to respond to graduated sanctions in the community; and

6088 (C) The child's number of violations and the nature of each violation.

6089 (2) If a probation officer fails to document the violations and specify how the child has  
6090 failed to complete a probation management program, such child shall be ineligible to  
6091 enter the secure probation sanctions program.

- 6092 (3) A child may enter the secure probation sanctions program if ordered by the court and:  
6093 (A) The probation officer has complied with the provisions of paragraph (1) of this  
6094 subsection and the criteria set by the department for entrance into such program and the  
6095 child has had three or more violations of probation; or  
6096 (B) A child in a probation management program and his or her parent or guardian, or  
6097 a child in such program and his or her attorney, admit to three or more violations of  
6098 such program and sign a waiver accepting the sanction proposed by the probation  
6099 officer.
- 6100 (4) Each new violation of a condition of a probated sentence may result in a child being  
6101 sentenced to the secure probation sanctions program; provided, however, that if a child  
6102 is sentenced to the secure probation sanctions program and completes all program  
6103 components in the seven, 14, and 30 day programs, such child shall be ineligible to attend  
6104 the secure probation sanctions program for a future violation of a condition of the same  
6105 probated sentence.
- 6106 (g)(1) When a violation of a condition of probation occurs, a child may have an  
6107 administrative hearing conducted by a hearing officer. If the hearing officer determines  
6108 by a preponderance of the evidence that such child violated the conditions of probation,  
6109 the probation officer shall be authorized to impose graduated sanctions. A child's failure  
6110 to comply with a sanction imposed under this paragraph shall constitute another violation  
6111 of probation.
- 6112 (2) The hearing officer's decision shall be final unless such child files, within five days  
6113 of the service of such decision, a written demand with the hearing officer for review of  
6114 such decision. Such demand shall not stay the sanction decision. The hearing officer  
6115 shall issue a response to such demand within five days of receiving such demand.
- 6116 (3) If the hearing officer insists on the sanction, such decision shall be final unless the  
6117 child files an appeal in the court that originally adjudicated the child. Such appeal shall  
6118 be filed within ten days of the date of the decision of the hearing officer.
- 6119 (4) The appeal shall first be reviewed by the court upon the record. At the court's  
6120 discretion, a de novo hearing may be held on the decision. The filing of the appeal shall  
6121 not stay the sanction decision.
- 6122 (5) Where the court does not act on the appeal within 15 days of the date of the filing of  
6123 the appeal, the sanction decision shall be affirmed by operation of law.

6124 15-11-606.

6125 An order of disposition or adjudication shall not be a conviction of a crime and shall not  
6126 impose any civil disability ordinarily resulting from a conviction nor operate to disqualify  
6127 the child in any civil service application or appointment.

6128 15-11-607.

6129 (a) Except as otherwise provided in Code Section 15-11-602, an order of disposition  
6130 committing a child adjudicated delinquent to DJJ shall continue in force for two years or  
6131 until the child is sooner discharged by DJJ. The court which made the order may extend  
6132 its duration for a period not to exceed two years subject to like discharge, if:

6133 (1) A hearing is held upon DJJ's motion prior to the expiration of the order;

6134 (2) Reasonable notice of the factual basis of the motion and of the hearing and an  
6135 opportunity to be heard are given to the child and the parent, guardian, or legal custodian;  
6136 and

6137 (3) The court finds that the extension is necessary for the treatment or rehabilitation of  
6138 the child.

6139 (b) Any other order of disposition except an order of restitution as allowed by paragraph  
6140 (6) or (7) of subsection (a) of Code Section 15-11-601 shall continue in force for not more  
6141 than two years. An order of extension may be made if:

6142 (1) A hearing is held prior to the expiration of the order upon motion of DJJ, the  
6143 prosecuting attorney, or on the court's own motion;

6144 (2) Reasonable notice of the factual basis of the motion and of the hearing and  
6145 opportunity to be heard are given to the parties affected;

6146 (3) The court finds that the extension is necessary to accomplish the purposes of the  
6147 order extended; and

6148 (4) The extension does not exceed two years from the expiration of the prior order.

6149 (c) The court may terminate an order of disposition or an extension of such a disposition  
6150 order prior to its expiration, on its own motion or an application of a party, if it appears to  
6151 the court that the purposes of the order have been accomplished.

6152 (d) When a child reaches 21 years of age, all orders affecting him or her then in force  
6153 terminate and he or she is discharged from further obligation or control.

6154 15-11-608.

6155 (a) An order granting probation to a child found to be delinquent may be revoked on the  
6156 ground that the conditions of probation have been violated.

6157 (b) Any violation of a condition of probation may be reported to the prosecuting attorney  
6158 who may file a motion in the court for revocation of probation. A motion for revocation  
6159 of probation shall contain specific factual allegations constituting each violation of a  
6160 condition of probation.

6161 (c) The motion for revocation of probation shall be served upon the child, his or her  
6162 attorney, and his or her parent, guardian, or legal custodian in accordance with the  
6163 provisions of Code Section 15-11-531.

6164 (d) If a child is taken into custody because of an alleged violation of probation, the  
6165 provisions governing the detention of a child shall apply.

6166 (e) A revocation hearing shall be scheduled to be held no later than 30 days after the filing  
6167 of such motion or, if the child has been detained as a result of the filing of such motion for  
6168 revocation, no later than ten days after the filing of the motion.

6169 (f) If the court finds, beyond a reasonable doubt, that the child violated the terms and  
6170 conditions of probation, the court may:

6171 (1) Extend probation;

6172 (2) Impose additional conditions of probation;

6173 (3) Make any disposition that could have been made at the time probation was imposed;  
6174 or

6175 (4) Upon finding that graduated alternative sanctions have failed, order the child to serve  
6176 up to a maximum of 60 days in a youth development center or, after assessment and with  
6177 the court's approval, in a treatment program provided by DJJ or the juvenile court.

6178 (g) In the case of a designated felony, if the court finds that the child violated the terms  
6179 and conditions of probation, the court shall reconsider and make specific findings of fact  
6180 as to each of the factors in subsection (b) of Code Section 15-11-602 to determine whether  
6181 restrictive custody is required.

6182 (h) In the case of a designated felony, if the court finds, beyond a reasonable doubt, that  
6183 the child violated the terms and conditions of probation and that the order granting  
6184 probation to the child shall be revoked, the child shall be given credit for time served on  
6185 probation.

6186 Part 13

6187 15-11-620.

6188 (a) When a child is alleged to be both delinquent and dependent, the date the child is  
6189 considered to have entered foster care shall be the date of the first judicial finding that the  
6190 child has been subjected to child abuse or neglect or the date that is 60 days after the date  
6191 on which the child is removed from his or her home, whichever is earlier.

6192 (b) If a child alleged or adjudicated to be delinquent is first placed in a noneligible  
6193 placement but is later placed in foster care within 60 days of the child's removal from the  
6194 home, then the date of entry into foster care shall be 60 days from the date of removal.

6195 (c) If a child is detained in a facility operated primarily for the detention of a child  
6196 determined to be delinquent pending placement in foster care and remains detained for  
6197 more than 60 days, then the date of entry into foster care shall be the date the child is  
6198 placed in foster care.

6199 15-11-621.

6200 The periodic review hearing requirements under Code Sections 15-11-216, 15-11-217, and  
 6201 15-11-218 shall apply to proceedings involving a child alleged or adjudicated to be  
 6202 delinquent and placed in foster care.

6203 15-11-622.

6204 (a) The permanency plan requirements under Code Sections 15-11-230, 15-11-231, and  
 6205 15-11-232 shall apply to proceedings involving a child alleged or adjudicated to be  
 6206 delinquent and placed in foster care.

6207 (b) In addition to the compelling reasons set forth in Code Section 15-11-233 under  
 6208 Article 3 of this chapter, a compelling reason for determining that filing a termination of  
 6209 parental rights petition is not in the best interests of a child alleged or adjudicated to be  
 6210 delinquent may include but shall not be limited to:

6211 (1) The child's developmental needs require continued out-of-home placement for an  
 6212 additional number of months, and the parent, guardian, or legal custodian has cooperated  
 6213 with referrals, visitation, and family conferences, as well as therapy;

6214 (2) The child is uncooperative with services or referrals; and

6215 (3) The length of the delinquency disposition affects the permanency plan.

6216 Part 14

6217 15-11-630.

6218 (a) A juvenile traffic offense consists of a violation by a child of:

6219 (1) A law or local ordinance governing the operation of a moving motor vehicle upon the  
 6220 streets or highways of this state or upon the waterways within or adjoining this state; or

6221 (2) Any other motor vehicle traffic law or local ordinance if the child is taken into  
 6222 custody and detained for its violation or is transferred to the juvenile court by the court  
 6223 hearing the charge.

6224 (b) The following offenses shall be acts of delinquency and shall not be handled as  
 6225 juvenile traffic offenses: aggressive driving, reckless driving, a four-point speeding offense,  
 6226 homicide by vehicle, manslaughter resulting from the operation of a vehicle, any felony in  
 6227 the commission of which a motor vehicle is used, racing on highways and streets, using a  
 6228 motor vehicle in fleeing or attempting to elude an officer, fraudulent or fictitious use of a  
 6229 driver's license, hit and run or leaving the scene of an accident, driving under the influence  
 6230 of alcohol or drugs, and any offense committed by an unlicensed driver under 16 years of  
 6231 age.

- 6232 (c) A juvenile traffic offense shall not be an act of delinquency unless the case is  
6233 transferred to the delinquency calendar.
- 6234 (d) The summons, notice to appear, or other designation of a citation accusing a child of  
6235 committing a juvenile traffic offense constitutes the commencement of the proceedings in  
6236 the court of the county in which the alleged violation occurred and serves in place of a  
6237 summons and petition under this article. These cases shall be filed and heard separately  
6238 from other proceedings of the court. If the child is taken into custody on the charge, Code  
6239 Sections 15-11-503 and 15-11-505 shall apply. If the child is, or after commencement of  
6240 the proceedings becomes, a resident of another county of this state, the court in the county  
6241 where the alleged traffic offense occurred may retain jurisdiction over the entire case.
- 6242 (e) The court shall fix a time for a hearing and shall give reasonable notice thereof to the  
6243 child and, if his or her address is known, to the parent, guardian, or legal custodian. If the  
6244 accusation made in the summons, notice to appear, or other designation of a citation is  
6245 denied, a hearing shall be held at which the parties shall have the right to subpoena  
6246 witnesses, present evidence, cross-examine witnesses, and appear by their attorney. The  
6247 hearing shall be open to the public.
- 6248 (f) If the court finds on the admission of the child or upon the evidence that the child  
6249 committed the offense charged, it may make one or more of the following orders:
- 6250 (1) Reprimand, counsel, or warn the child and the child's parent, guardian, or legal  
6251 custodian; provided, however, that this disposition order shall not be available for any act  
6252 of delinquency;
- 6253 (2) As a matter of probation or if the child is committed to the custody of the state, order  
6254 the Department of Driver Services to suspend the child's privilege to drive under stated  
6255 conditions and limitations for a period not to exceed 12 months;
- 6256 (3) Require the child to attend a traffic school approved by the Department of Driver  
6257 Services or a substance abuse clinic or program approved by either DBHDD or the  
6258 Council of Juvenile Court Judges for a reasonable period of time;
- 6259 (4) Assess a fine and order the child to remit to the general fund of the county a sum not  
6260 exceeding the maximum applicable to an adult for a like offense. The fine shall be  
6261 subject to all additions and penalties as specified under this title and Title 47;
- 6262 (5) Require the child to participate in a program of community service as specified by  
6263 the court;
- 6264 (6) Impose any sanction authorized by Code Section 15-11-442 or 15-11-601; or
- 6265 (7) Place the child on probation subject to the conditions and limitations imposed by  
6266 Title 40 governing probation granted to adults for like offenses, but such probation shall  
6267 be supervised by the court.

6268 (g) In lieu of the preceding orders, if the evidence warrants, the court may transfer the case  
 6269 to the delinquency calendar of the court and direct the filing and service of a summons and  
 6270 delinquency petition.

6271 (h) Upon finding that the child has committed a juvenile traffic offense or an act of  
 6272 delinquency which would be a violation of Title 40 if committed by an adult, the court shall  
 6273 forward, within ten days, a report of the final adjudication and disposition of the charge to  
 6274 the Department of Driver Services; provided, however, that this procedure shall not be  
 6275 applicable to those cases which have been dismissed or in which the child and the child's  
 6276 parent, guardian, or legal custodian have been reprimanded, counseled, or warned by the  
 6277 court. The Department of Driver Services shall record the adjudication and disposition of  
 6278 the offense on the child's permanent record, and such adjudication and disposition shall be  
 6279 deemed a conviction for the purpose of suspending or revoking the individual's driver's  
 6280 license. Such record shall also be available to law enforcement agencies and courts as are  
 6281 the permanent traffic records of adults.

6282 ARTICLE 8

6283 15-11-650.

6284 The purpose of this article is to:

- 6285 (1) Set forth procedures for a determination of whether a child is incompetent to proceed;  
 6286 and  
 6287 (2) Provide a mechanism for the development and implementation of competency  
 6288 remediation services, when appropriate, including treatment, habilitation, support, or  
 6289 supervision services.

6290 15-11-651.

6291 As used in this article, the term:

- 6292 (1) 'Competency remediation services' means outpatient interventions directed only at  
 6293 facilitating the attainment of competence to proceed for a child found to be incompetent  
 6294 to proceed. Such term may include mental health treatment to reduce interfering  
 6295 symptoms, specialized psychoeducational programming, or a combination of these  
 6296 interventions.  
 6297 (2) 'Comprehensive services plan' shall have the same meaning as set forth in Code  
 6298 Section 15-11-381.  
 6299 (3) 'Developmental disability' shall have the same meaning as set forth in Code Section  
 6300 37-1-1.

6301 (4) 'Incompetent to proceed' means lacking sufficient present ability to understand the  
 6302 nature and object of the proceedings, to comprehend his or her own situation in relation  
 6303 to the proceedings, and to assist his or her attorney in the preparation and presentation of  
 6304 his or her case in all adjudication, disposition, or transfer hearings. The child's age or  
 6305 immaturity may be used as the basis for determining a child's competency.

6306 (5) 'Mental competency proceedings' means hearings conducted to determine whether  
 6307 a child is incompetent to proceed in adjudication, a disposition hearing, or a transfer  
 6308 proceeding.

6309 (6) 'Plan manager' shall have the same meaning as set forth in Code Section 15-11-381.

6310 (7) 'Treatment facility' means a facility that receives patients for psychiatric treatment  
 6311 as provided in Code Sections 37-3-80 through 37-3-84 and shall not include a secure  
 6312 detention facility.

6313 15-11-652.

6314 (a) If at any time after the filing of a petition alleging delinquency or that the child is a  
 6315 child in need of services the court has reason to believe that the child named in the petition  
 6316 may be incompetent to proceed, the court on its own motion or on the motion of the  
 6317 attorney representing the child, any guardian ad litem for the child, the child's parent,  
 6318 guardian, or legal custodian, or the prosecuting attorney shall stay all proceedings relating  
 6319 to such petition and, unless the court accepts a stipulation by the parties as to the child's  
 6320 incompetency, shall order a competency evaluation of and report on the child's mental  
 6321 condition.

6322 (b) When a delinquency petition is filed alleging a child under the age of 13 has committed  
 6323 a serious violent felony, as defined in Code Section 17-10-6.1, the court shall stay all  
 6324 delinquency proceedings relating to such petition and, unless the court accepts a stipulation  
 6325 by the parties as to the child's incompetency, shall order a competency evaluation and  
 6326 report concerning the child's mental condition.

6327 (c) Any motion, notice of hearing, order, or other pleading relating to a child's  
 6328 incompetency to proceed shall be served upon the child, the child's attorney, the child's  
 6329 guardian ad litem, if any, the child's parent, guardian, or legal custodian and the  
 6330 prosecuting attorney.

6331 (d) Prior to the administration of any evaluation, the court shall appoint an attorney to  
 6332 represent a child if the child is not yet represented by an attorney.

6333 (e) All time limits set forth in Articles 6 and 7 of this chapter for adjudication and  
 6334 disposition of a delinquency or child in need of services proceeding shall be tolled during  
 6335 the evaluation, adjudication, and disposition phases of the mental competency proceeding  
 6336 and during provision of competency remediation services.

6337 15-11-653.

6338 (a) The court ordered evaluation and report shall be conducted by an examiner who shall  
6339 consider whether a child is incompetent to proceed. The court shall provide the examiner  
6340 with any law enforcement or court records necessary for understanding the petition alleging  
6341 delinquency. The attorney for the child and the prosecuting attorney shall provide the  
6342 examiner with any records from any other available sources that are deemed necessary for  
6343 the competency evaluation.

6344 (b) The competency evaluation shall be performed on an outpatient basis; provided,  
6345 however, that if the child is in an out of home placement, the evaluation shall be performed  
6346 at the child's location.

6347 (c) An examiner who conducts the evaluation shall submit a written report to the court  
6348 within 30 days from receipt of the court order for evaluation. The court may, in its  
6349 discretion, grant the examiner an extension in filing such report. The report shall contain  
6350 the following:

6351 (1) The specific reason for the evaluation, as provided by the court or the party  
6352 requesting the evaluation;

6353 (2) The evaluation procedures used, including any psychometric instruments  
6354 administered, any records reviewed, and the identity of any persons interviewed;

6355 (3) Any available pertinent background information;

6356 (4) The results of a mental status exam, including the diagnosis if any and description  
6357 of any psychiatric symptoms, cognitive deficiency, or both;

6358 (5) A description of the child's abilities and deficits in the following mental competency  
6359 functions:

6360 (A) The ability to understand and appreciate the nature and object of the proceedings;

6361 (B) The ability to comprehend his or her situation in relation to the proceedings; and

6362 (C) The ability to assist his or her attorney in the preparation and presentation of his  
6363 or her case;

6364 (6) An opinion regarding the potential significance of the child's mental competency,  
6365 strengths, and deficits;

6366 (7) An opinion regarding whether or not the child should be considered incompetent to  
6367 proceed; and

6368 (8) A specific statement explaining the reasoning supporting the examiner's final  
6369 determination.

6370 (d) If, in the opinion of the examiner, the child should be considered incompetent to  
6371 proceed, the report shall also include the following:

- 6372 (1) An opinion as to whether the primary cause of incompetency to proceed is  
6373 immaturity, mental illness, developmental disability, or combination of mental illness and  
6374 developmental disability;
- 6375 (2) An opinion as to whether there is a substantial probability that the child will attain  
6376 the mental competency necessary to participate in adjudication, a disposition hearing, or  
6377 a transfer hearing in the foreseeable future;
- 6378 (3) If the examiner believes that the child will attain mental competency,  
6379 recommendations for the general level and type of competency remediation services  
6380 necessary for significant deficits;
- 6381 (4) A recommendation as to the appropriate treatment or services;
- 6382 (5) When appropriate, recommendations for modifications of court procedure which may  
6383 help compensate for mental competency weaknesses; and
- 6384 (6) Any relevant medication history.
- 6385 (e) If the examiner determines that the child is currently competent because of ongoing  
6386 treatment with medication or other services, the report shall address the necessity of  
6387 continuing such treatment and shall include a description of any limitation such treatment  
6388 may have on competency.
- 6389 (f) Copies of the written evaluation report shall be provided by the court to the attorney  
6390 representing the child, the prosecuting attorney or a member of his or her staff, and any  
6391 guardian ad litem for the child no later than five days after receipt of the report by the  
6392 court.
- 6393 (g) Upon a showing of good cause by any party or upon the court's own motion, the court  
6394 may order additional evaluations by other licensed psychologists or psychiatrists. In no  
6395 event shall more than one evaluation be conducted by an examiner employed by DBHDD.
- 6396 15-11-654.
- 6397 (a) If at any time following a finding that a child is incompetent to proceed, the court  
6398 determines that the child is a resident of a county of this state other than the county in  
6399 which the court sits, the court may transfer the proceeding to the county of the child's  
6400 residence.
- 6401 (b) When any case is transferred, certified copies of all legal, social history, health, or  
6402 mental health records pertaining to the case on file with the clerk of the court shall  
6403 accompany the transfer. Compliance with this subsection shall terminate jurisdiction in the  
6404 transferring court and initiate jurisdiction in the receiving court.
- 6405 (c) If the child's competency is remediated, jurisdiction of the case may be returned to the  
6406 transferring court for the adjudication hearing and any subsequent proceedings.

6407 15-11-655.

6408 (a) A hearing to determine if a child is incompetent to proceed shall be conducted within  
6409 60 days after the initial court order for evaluation. The hearing may be continued by the  
6410 court for good cause shown.

6411 (b) Written notice shall be given to all parties and the victim at least ten days prior to such  
6412 hearing.

6413 (c) The burden of proving that the child is incompetent to proceed shall be on the child.  
6414 The standard of proof necessary for proving mental competency shall be a preponderance  
6415 of the evidence.

6416 (d) At the hearing to determine incompetency to proceed, the child's attorney and the  
6417 prosecuting attorney shall have the right to:

6418 (1) Present evidence;

6419 (2) Call and examine witnesses;

6420 (3) Cross-examine witnesses; and

6421 (4) Present arguments.

6422 (e) The examiner appointed by the court shall be considered the court's witness and shall  
6423 be subject to cross-examination by both the child's attorney and the prosecuting attorney.

6424 (f) The court's findings of fact shall be based on any evaluations of the child's mental  
6425 condition conducted by licensed psychologists or psychiatrists appointed by the court, any  
6426 evaluations of the child's mental condition conducted by independent licensed  
6427 psychologists or psychiatrists hired by the parties, and any additional evidence presented.

6428 (g) If the court finds that the child is not incompetent to proceed, the proceedings which  
6429 have been suspended shall be resumed. The time limits under Article 6 or 7 of this chapter  
6430 for adjudication and disposition of the petition shall begin to run from the date of the order  
6431 finding the child mentally competent.

6432 (h) Copies of the court's findings shall be given to the parties within ten days following the  
6433 issuance of such findings.

6434 15-11-656.

6435 (a) If the court finds that the child is incompetent to proceed but the child's incompetence  
6436 may be remediated, the court may order competency remediation services for the child.

6437 (b) In determining whether to order competency remediation services, the court shall  
6438 consider:

6439 (1) Whether there is probable cause to believe the allegations in the petition are true;

6440 (2) The nature of the incompetency;

6441 (3) The child's age; and

6442 (4) The nature of the act alleged to have been committed by the child, in particular  
 6443 whether the act is a serious violent felony as such term is defined in Code Section  
 6444 17-10-6.1.

6445 (c) If a child is determined to be incompetent to proceed, the court has ordered that  
 6446 competency remediation services should be provided, and:

6447 (1) The child is alleged to have committed an act that would be a felony if committed by  
 6448 an adult, the court may retain jurisdiction of the child for up to two years after the date  
 6449 of the order of incompetency, with review hearings at least every six months to  
 6450 redetermine competency or proceed as provided in subsection (f) of this Code section;  
 6451 or

6452 (2) The child is alleged to be a child in need of services or to have committed an act that  
 6453 would be a misdemeanor if committed by an adult, the court may retain jurisdiction of  
 6454 the child for up to 120 days after the date of the order of incompetency or proceed as  
 6455 provided in subsection (f) of this Code section.

6456 (d) All court orders determining incompetency shall include specific written findings by  
 6457 the court as to the nature of the incompetency and the mandated outpatient competency  
 6458 remediation services. If the child is in an out of home placement, the court shall specify  
 6459 the type of competency remediation services to be performed at the child's location. A  
 6460 child may be placed in a secure treatment facility or program, not to include DJJ facilities,  
 6461 if the court makes a finding by clear and convincing evidence that:

6462 (1) The child is mentally ill or developmentally disabled and meets the requirements for  
 6463 civil commitment pursuant to Chapters 3 and 4 of Title 37; and

6464 (2) All available less restrictive alternatives, including treatment in community  
 6465 residential facilities or community settings which would offer an opportunity for  
 6466 improvement of the child's condition, are inappropriate.

6467 (e) A child who is incompetent to proceed shall not be subject to transfer to superior court,  
 6468 adjudication, disposition, or modification of disposition so long as the mental  
 6469 incompetency exists.

6470 (f) If the court determines that a child is incompetent to proceed, the court may dismiss the  
 6471 petition without prejudice.

6472 (g) If a child is detained in a secure detention facility and the court determines that the  
 6473 child is incompetent to proceed, within five days of such determination the court shall issue  
 6474 an order to immediately release the child to the appropriate parent, guardian, or legal  
 6475 custodian.

6476 15-11-657.

6477 (a) All competency remediation service orders issued by the court shall contain:

- 6478 (1) The name of the competency remediation service program provider and the location  
 6479 of the program;
- 6480 (2) A statement of the arrangements for the child's transportation to the program site;  
 6481 (3) The length of the competency remediation service program;
- 6482 (4) A statement of the arrangements for the child's transportation after the program ends;  
 6483 and
- 6484 (5) A direction concerning the frequency of reports required by the court.
- 6485 (b) DBHDD or a licensed psychologist or psychiatrist shall file a written report with the  
 6486 court:
- 6487 (1) Not later than six months after the date the court orders that competency remediation  
 6488 be attempted but prior to the first review hearing;
- 6489 (2) Every six months after the first review hearing if the child remains incompetent to  
 6490 proceed and under an order for remediation;
- 6491 (3) At any time DBHDD or a licensed psychologist or psychiatrist opines the child has  
 6492 attained competency; or
- 6493 (4) At shorter intervals designated by the court in its competency remediation order.
- 6494 (c) DBHDD or the licensed psychologist or psychiatrist written report shall include, but  
 6495 shall not be limited to:
- 6496 (1) Whether the child's competency can be remediated or whether the child is likely to  
 6497 remain incompetent to proceed for the foreseeable future;
- 6498 (2) Whether additional time is needed to remediate the child's competency; and  
 6499 (3) If the child has attained competency, the effect, if any, of any limitations that are  
 6500 imposed by any medication or other treatment used in the effort to remediate competency.
- 6501 15-11-658.
- 6502 (a) If the court initially finds that a child is unrestorably incompetent to proceed, the court  
 6503 shall dismiss the petition, appoint a plan manager, and order that procedures for a  
 6504 comprehensive services plan be initiated under Article 6 of this chapter. When appropriate,  
 6505 the court may:
- 6506 (1) Order that the child be referred for civil commitment pursuant to Chapters 3 and 4  
 6507 of Title 37. Such proceedings shall be instituted not less than 60 days prior to the  
 6508 dismissal of the delinquency or child in need of services petition; or
- 6509 (2) Order that referral be made for appropriate adult services if the child has reached the  
 6510 age of 18 years at the time of the competency determination.
- 6511 (b) If at any time after the child is ordered to undergo competency remediation services  
 6512 DBHDD or a licensed psychologist or psychiatrist opines that the child is likely to remain

6513 incompetent to proceed for the foreseeable future, DBHDD or the licensed psychologist  
 6514 or psychiatrist shall submit a report to the court so stating.

6515 (c) Upon receipt of the report specified in subsection (b) of this Code section, the court  
 6516 shall make a competency determination and shall dismiss the delinquency petition, appoint  
 6517 a plan manager, and order that procedures for a comprehensive services plan be initiated  
 6518 under Article 6 of this chapter. When appropriate, the court may:

6519 (1) Order that the child be referred for civil commitment pursuant to Chapters 3 and 4  
 6520 of Title 37. Such proceedings shall be instituted not less than 60 days prior to the  
 6521 dismissal of the delinquency or child in need of services petition; or

6522 (2) Order that referral be made for appropriate adult services if the child has reached the  
 6523 age of 18 years at the time of the competency determination.

6524 15-11-659.

6525 If at any time after a child is found to be incompetent to proceed due to age, immaturity,  
 6526 or for any reason other than mental illness or developmental disability and is ordered to  
 6527 undergo competency remediation services and DBHDD determines that the child is likely  
 6528 to remain incompetent to proceed for the foreseeable future, DBHDD shall submit a report  
 6529 and its conclusions to the court. Upon receipt of such report, the court shall:

6530 (1) Make a competency determination;

6531 (2) Order that the petition be dismissed; and

6532 (3) Order that a plan manager be appointed and that the procedures for a comprehensive  
 6533 services plan be initiated under Article 6 of this chapter.

6534 15-11-660.

6535 (a) The court shall hold a hearing to review a child's progress toward competency:

6536 (1) At least every six months;

6537 (2) At any time, on its own motion or on the motion of the prosecuting attorney, the  
 6538 child's attorney, or the child's guardian ad litem, if any;

6539 (3) On receipt of a report submitted by DBHDD; or

6540 (4) Not less than three months before the child's eighteenth birthday.

6541 (b) If at a review hearing the court finds that the child has attained competency, the  
 6542 suspended proceedings shall be resumed and the time limits as applicable under Article 6  
 6543 or 7 of this chapter shall begin to run from the date of the order finding the child mentally  
 6544 competent.

6545 (c) If at a review hearing held following the court's receipt of a DBHDD or licensed  
 6546 psychologist or psychiatrist's report the court finds that the child's incompetency has not  
 6547 been remediated but that the child has made substantial progress toward remediation, the

6548 court may extend the competency remediation program period for an additional 60 days  
 6549 if the court determines by clear and convincing evidence that further participation is likely  
 6550 to lead to remediation of competency.

6551 (d) If at a review hearing the court finds that the child's competency is not remediated and  
 6552 is not likely to be remediated within the time left before the child's eighteenth birthday, the  
 6553 court shall dismiss the petition with prejudice if the child is alleged to be a child in need  
 6554 of services or to have committed a delinquent act which would be a misdemeanor if  
 6555 committed by an adult.

6556 (e) At each review hearing, the court shall also consider whether the petition alleging  
 6557 delinquency or that a child is in need of services should be withdrawn, maintained, or  
 6558 dismissed, without prejudice, upon grounds other than the child's being incompetent to  
 6559 proceed. If the court dismisses the petition, the prosecuting attorney may seek to refile a  
 6560 petition alleging a delinquent act which would be a felony if committed by an adult if the  
 6561 child is later determined to be mentally competent. The prosecuting attorney may also seek  
 6562 transfer to superior court if the child is later determined to be mentally competent and  
 6563 otherwise meets all the requirements for transfer under Article 7 of this chapter.

6564 ARTICLE 9

6565 15-11-680.

6566 This article shall be known and may be cited as the 'Parental Notification Act.'

6567 15-11-681.

6568 As used in this article, the term:

6569 (1) 'Abortion' means the use or prescription of any instrument, medicine, drug, or any  
 6570 other substance or device with the intent to terminate the pregnancy of a female known  
 6571 to be pregnant. The term 'abortion' shall not include the use or prescription of any  
 6572 instrument, medicine, drug, or any other substance or device employed solely to increase  
 6573 the probability of a live birth, to preserve the life or health of the child after live birth, or  
 6574 to remove a dead unborn child who died as a result of a spontaneous abortion. The term  
 6575 'abortion' also shall not include the prescription or use of contraceptives.

6576 (2) 'Proper identification' means any document issued by a governmental agency  
 6577 containing a description of the person, the person's photograph, or both, including, but  
 6578 not limited to, a driver's license, an identification card authorized under Code Sections  
 6579 40-5-100 through 40-5-104 or similar identification card issued by another state, a  
 6580 military identification card, a passport, or an appropriate work authorization issued by the

6581 United States Immigration and Customs Enforcement Division of the Department of  
 6582 Homeland Security.

6583 (3) 'Unemancipated minor' means any person under the age of 18 who is not or has not  
 6584 been married or who is under the care, custody, and control of such person's parent or  
 6585 parents, guardian, or the juvenile court of competent jurisdiction.

6586 15-11-682.

6587 (a) No physician or other person shall perform an abortion upon an unemancipated minor  
 6588 under the age of 18 years unless:

6589 (1)(A) The minor seeking an abortion shall be accompanied by a parent or guardian  
 6590 who shall show proper identification and state that the parent or guardian is the lawful  
 6591 parent or guardian of the minor and that the parent or guardian has been notified that  
 6592 an abortion is to be performed on the minor;

6593 (B) The physician or the physician's qualified agent gives at least 24 hours' actual  
 6594 notice, in person or by telephone, to a parent or guardian of the pending abortion and  
 6595 the name and address of the place where the abortion is to be performed; provided,  
 6596 however, that, if the person so notified indicates that he or she has been previously  
 6597 informed that the minor was seeking an abortion or if the person so notified has not  
 6598 been previously informed and he or she clearly expresses that he or she does not wish  
 6599 to consult with the minor, then in either event the abortion may proceed in accordance  
 6600 with Chapter 9A of Title 31; or

6601 (C) The physician or a physician's qualified agent gives written notice of the pending  
 6602 abortion and the address of the place where the abortion is to be performed, sent by  
 6603 registered or certified mail or statutory overnight delivery, return receipt requested with  
 6604 delivery confirmation, addressed to a parent or guardian at the usual place of abode of  
 6605 the parent or guardian. Unless proof of delivery is otherwise sooner established, such  
 6606 notice shall be deemed delivered 48 hours after mailing. The time of mailing shall be  
 6607 recorded by the physician or agent in the minor's file. The abortion may be performed  
 6608 24 hours after the delivery of the notice; provided, however, that, if the person so  
 6609 notified certifies in writing that he or she has been previously informed that the minor  
 6610 was seeking an abortion or if the person so notified has not been previously informed  
 6611 and he or she certifies in writing that he or she does not wish to consult with the minor,  
 6612 then in either event the abortion may proceed in accordance with Chapter 9A of Title  
 6613 31; and

6614 (2) The minor signs a consent form stating that she consents, freely and without  
 6615 coercion, to the abortion.

6616 (b) If the unemancipated minor or the physician or a physician's qualified agent, as the  
 6617 case may be, elects not to comply with any one of the requirements of subparagraph  
 6618 (a)(1)(A), (a)(1)(B), or (a)(1)(C) of this Code section, or if the parent or legal guardian of  
 6619 the minor cannot be located, the minor may petition, on the minor's own behalf or by next  
 6620 friend, any juvenile court in the state for a waiver of such requirement pursuant to the  
 6621 procedures provided for in Code Section 15-11-684. The juvenile court shall assist the  
 6622 minor or next friend in preparing the petition and notices required pursuant to this Code  
 6623 section. Venue shall be lawful in any county, notwithstanding Code Section 15-11-30.

6624 (c) No abortion shall be performed unless the requirements of subparagraph (a)(1)(A),  
 6625 (a)(1)(B), or (a)(1)(C) of this Code section have been met or the minor has obtained a court  
 6626 order waiving such requirements.

6627 15-11-683.

6628 Notwithstanding Code Sections 15-11-40, 15-11-150, 15-11-152, 15-11-160, 15-11-281,  
 6629 15-11-424, and 15-11-531, the unemancipated minor or next friend shall be notified of the  
 6630 date, time, and place of the hearing in such proceedings at the time of filing the petition.  
 6631 The hearing shall be held within three days of the date of filing, excluding weekends and  
 6632 legal holidays. The parent, guardian, or legal custodian of the unemancipated minor shall  
 6633 not be served with the petition or with a summons or otherwise notified of the proceeding.  
 6634 If a hearing is not held within the time prescribed in this Code section, the petition shall be  
 6635 deemed granted.

6636 15-11-684.

6637 (a) An unemancipated minor may participate in proceedings in the court on such minor's  
 6638 own behalf and the court shall advise such minor of the right to court appointed counsel  
 6639 and shall provide such minor with such counsel upon request or if such minor is not already  
 6640 adequately represented.

6641 (b) All court proceedings under this Code section shall be conducted in a manner to  
 6642 preserve the complete anonymity of the parties and shall be given such precedence over  
 6643 other pending matters as is necessary to ensure that a decision is reached by the court as  
 6644 expeditiously as is possible under the circumstances of the case. In no event shall the  
 6645 name, address, birth date, or social security number of such minor be disclosed.

6646 (c) The requirement of subparagraph (a)(1)(A), (a)(1)(B), or (a)(1)(C) of Code Section  
 6647 15-11-682 shall be waived if the court finds either:

6648 (1) That the unemancipated minor is mature enough and well enough informed to make  
 6649 the abortion decision in consultation with her physician, independently of the wishes of  
 6650 such minor's parent or guardian; or

6651 (2) That the notice to a parent or, if the minor is subject to guardianship, the legal  
6652 guardian pursuant to Code Section 15-11-682 would not be in the best interests of the  
6653 minor.

6654 (d) A court that conducts proceedings under this Code section shall issue written and  
6655 specific factual findings and legal conclusions supporting its decision and shall order that  
6656 a record of the evidence be maintained. The juvenile court shall render its decision within  
6657 24 hours of the conclusion of the hearing and a certified copy of same shall be furnished  
6658 immediately to the minor. If the juvenile court fails to render its decision within 24 hours  
6659 after the conclusion of the hearing, then the petition shall be deemed granted. All juvenile  
6660 court records shall be sealed in a manner which will preserve anonymity.

6661 (e) An expedited appeal completely preserving the anonymity of the parties shall be  
6662 available to any unemancipated minor to whom the court denies a waiver of notice. The  
6663 appellate courts are authorized and requested to issue promptly such rules as are necessary  
6664 to preserve anonymity and to ensure the expeditious disposition of procedures provided by  
6665 this Code section. In no event shall the name, address, birth date, or social security number  
6666 of such minor be disclosed during the expedited appeal or thereafter.

6667 (f) No filing fees shall be required of any unemancipated minor who uses the procedures  
6668 provided by this Code section.

6669 15-11-685.

6670 The requirements and procedures of this article shall apply to all unemancipated minors  
6671 within this state whether or not such persons are residents of this state.

6672 15-11-686.

6673 This article shall not apply when, in the best clinical judgment of the attending physician  
6674 on the facts of the case before him or her, a medical emergency exists that so complicates  
6675 the condition of the minor as to require an immediate abortion. A person who performs an  
6676 abortion as a medical emergency under the provisions of this Code section shall certify in  
6677 writing the medical indications on which this judgment was based when filing such reports  
6678 as are required by law.

6679 15-11-687.

6680 Any physician or any person employed or connected with a physician, hospital, or health  
6681 care facility performing abortions who acts in good faith shall be justified in relying on the  
6682 representations of the unemancipated minor or of any other person providing the  
6683 information required under this article. No physician or other person who furnishes  
6684 professional services related to an act authorized or required by this article and who relies

6685 upon the information furnished pursuant to this article shall be held to have violated any  
 6686 criminal law or to be civilly liable for such reliance, provided that the physician or other  
 6687 person acted in good faith.

6688 15-11-688.

6689 Any person who violates the provisions of this article shall be guilty of a misdemeanor and  
 6690 any person who intentionally encourages another to provide false information pursuant to  
 6691 this article shall be guilty of a misdemeanor.

6692 ARTICLE 10

6693 15-11-700.

6694 (a) As used in this Code section, the term 'dependency proceeding' means a court  
 6695 proceeding stemming from a petition alleging that a child is a dependent child.

6696 (b) The general public shall be admitted to:

6697 (1) An adjudicatory hearing involving an allegation of a designated felony;

6698 (2) An adjudicatory hearing involving an allegation of delinquency brought in the  
 6699 interest of any child who has previously been adjudicated delinquent; provided, however,  
 6700 the court shall close any delinquency hearing on an allegation of sexual assault or any  
 6701 delinquency hearing at which any party expects to introduce substantial evidence related  
 6702 to matters of dependency;

6703 (3) Any child support hearing;

6704 (4) Any hearing in a legitimation action filed pursuant to Code Section 19-7-22;

6705 (5) At the court's discretion, any dispositional hearing involving any proceeding under  
 6706 this article; or

6707 (6) Any hearing in a dependency proceeding, except as otherwise provided in subsection  
 6708 (c) of this Code section.

6709 (c) The court may close the hearing in a dependency proceeding only upon making a  
 6710 finding upon the record and issuing a signed order as to the reason or reasons for closing  
 6711 all or part of a hearing in such proceeding and stating that:

6712 (A) The proceeding involves an allegation of an act which, if done by an adult, would  
 6713 constitute a sexual offense under Chapter 6 of Title 16; or

6714 (B) It is in the best interests of the child. In making such a determination, the court  
 6715 shall consider such factors as:

6716 (i) The age of the child;

6717 (ii) The nature of the allegations;

- 6718 (iii) The effect that an open court proceeding will have on the court's ability to reunite  
 6719 and rehabilitate the family unit; and
- 6720 (iv) Whether the closure is necessary to protect the privacy of a child, of a foster  
 6721 parent or other caretaker of a child, or of a victim of domestic violence.
- 6722 (d) The court may close a hearing or exclude a person from a hearing in any proceeding  
 6723 on its own motion, by motion of a party to the proceeding, or by motion of a child who is  
 6724 the subject of the proceeding or the child's attorney or guardian ad litem.
- 6725 (e) Only the parties, their counsel, witnesses, persons accompanying a party for his or her  
 6726 assistance, the victim, and any other persons as the court finds have a proper interest in the  
 6727 proceeding or in the work of the court may be admitted by the court to hearings from which  
 6728 the public is excluded; provided, however, that when the conduct alleged in the dependency  
 6729 proceeding could give rise to a criminal or delinquent prosecution, attorneys for the  
 6730 prosecution and the defense shall be admitted.
- 6731 (f) The court may refuse to admit a person to a hearing in any proceeding upon making a  
 6732 finding upon the record and issuing a signed order that the person's presence at the hearing  
 6733 would:
- 6734 (1) Be detrimental to the best interests of a child who is a party to the proceeding;  
 6735 (2) Impair the fact-finding process; or  
 6736 (3) Be otherwise contrary to the interest of justice.
- 6737 (g) The court may temporarily exclude any child from a termination of parental rights  
 6738 hearing except while allegations of his or her delinquency or unruly conduct are being  
 6739 heard.
- 6740 (h) Any request for installation and use of electronic recording, transmission, videotaping,  
 6741 or motion picture or still photography of any judicial proceeding shall be made to the court  
 6742 at least two days in advance of the hearing. The request shall be evaluated by the court  
 6743 pursuant to the standards set forth in Code Section 15-1-10.1.
- 6744 (i) The judge may order the media not to release identifying information concerning any  
 6745 child or family members or foster parent or other caretaker of a child involved in hearings  
 6746 open to the public.
- 6747 (j) The general public shall be excluded from proceedings in juvenile court unless such  
 6748 hearing has been specified as one in which the general public shall be admitted to pursuant  
 6749 to this Code section.
- 6750 15-11-701.
- 6751 (a) Upon dismissal of a petition or complaint alleging delinquency or that a child is a child  
 6752 in need of services or completion of the process in a case handled through informal

6753 adjustment, mediation, or other nonadjudicatory procedure, the court shall order the sealing  
 6754 of the files and records in the case.

6755 (b) On application of a person who has been adjudicated delinquent or a child in need of  
 6756 services or on the court's own motion, and after a hearing, the court shall order the sealing  
 6757 of the files and records in the proceeding if the court finds that:

6758 (1) Two years have elapsed since the final discharge of the person;

6759 (2) Since the final discharge of the person he or she has not been convicted of a felony  
 6760 or of a misdemeanor involving moral turpitude or adjudicated a delinquent child or a  
 6761 child in need of services and no proceeding seeking conviction or adjudication is pending  
 6762 against the person; and

6763 (3) The person has been rehabilitated.

6764 (c) Reasonable notice of the hearing required by subsection (b) of this Code section shall  
 6765 be given to:

6766 (1) The district attorney;

6767 (2) DJJ, when appropriate;

6768 (3) The authority granting the discharge if the final discharge was from an institution or  
 6769 from parole; and

6770 (4) The law enforcement officers or department having custody of the files and records  
 6771 if the files and records specified in Code Sections 15-11-702 and 15-11-708 are included  
 6772 in the application or motion.

6773 (d) Upon the entry of the order the proceeding shall be treated as if it had never occurred.  
 6774 All index references shall be deleted and the person, the court, the law enforcement  
 6775 officers, and the departments shall properly reply that no record exists with respect to the  
 6776 person upon inquiry in any matter. Copies of the order shall be sent to each agency or  
 6777 designated official and shall also be sent to the deputy director of the Georgia Crime  
 6778 Information Center. Inspection of the sealed files and records thereafter may be permitted  
 6779 by an order of the court upon petition by the person who is the subject of the records and  
 6780 otherwise only by those persons named in the order or to criminal justice officials upon  
 6781 petition to the court for official judicial enforcement or criminal justice purposes.

6782 (e) The court may seal any record containing information identifying a victim of an act  
 6783 which, if done by an adult, would constitute a sexual offense under Chapter 6 of Title 16.

6784 15-11-702.

6785 (a)(1) Every child charged with an offense which would be a felony if committed by an  
 6786 adult, shall be fingerprinted and photographed upon being taken into custody.

6787 (2) Fingerprints and photographs of children shall be taken and filed separately from  
 6788 those of adults by law enforcement officials to be used in investigating the commission

6789 of crimes and to be made available as provided in this article and as may be directed by  
6790 the court.

6791 (b) Fingerprint files and photographs of children may be inspected by law enforcement  
6792 officers when necessary for criminal justice purposes and for the discharge of their official  
6793 duties. Other inspections may be authorized by the court in individual cases upon a  
6794 showing that it is necessary in the public interest.

6795 (c) If a child has been charged with an offense that if committed by an adult would be a  
6796 felony or if the case is transferred to another court for prosecution, the child's fingerprints,  
6797 personal identification data, and other pertinent information shall be forwarded to the  
6798 Georgia Crime Information Center of the Georgia Bureau of Investigation. The center  
6799 shall create a juvenile fingerprint file and enter the data into the computerized criminal  
6800 history files. The Georgia Bureau of Investigation shall act as the official state repository  
6801 for juvenile history data and shall be authorized to disseminate such data for the purposes  
6802 specified in Code Section 15-11-708.

6803 (d) Upon application of a child, fingerprints and photographs of the child shall be removed  
6804 from the file and destroyed if a petition alleging delinquency is not filed or the proceedings  
6805 are dismissed after either such petition is filed or the case is transferred to the juvenile court  
6806 or the child is adjudicated not to be a delinquent child. The court shall notify the deputy  
6807 director of the Georgia Crime Information Center when fingerprints and photographs are  
6808 destroyed, and the Georgia Bureau of Investigation shall treat such records in the same  
6809 manner as expunged records pursuant to subsection (c) of Code Section 35-3-37.

6810 (e) Except as provided in subsection (a) of this Code section, without the consent of the  
6811 judge, a child shall not be photographed after he or she is taken into custody unless the case  
6812 is transferred to another court for prosecution.

6813 (f) Upon request, the judge or his or her designee shall release the name of any child with  
6814 regard to whom a petition has been filed alleging the child committed a designated felony  
6815 or alleging the child committed a delinquent act if the child has previously been  
6816 adjudicated delinquent or if the child has previously been before the court on a delinquency  
6817 charge and adjudication was withheld.

6818 15-11-703.

6819 Except as provided in subsection (d) of Code Section 24-6-609, the disposition of a child  
6820 and evidence adduced in a hearing in the juvenile court may not be used against such child  
6821 in any proceeding in any court other than for a proceeding for delinquency or a child in  
6822 need of services, whether before or after reaching majority, except in the establishment of  
6823 conditions of bail, plea negotiations, and sentencing in felony offenses; and, in such  
6824 excepted cases, such records of dispositions and evidence shall be available to prosecuting

6825 attorneys and superior court judges and the accused and may be used in the same manner  
6826 as adult records.

6827 15-11-704.

6828 (a) Except as provided in subsection (b) of this Code section and Code Sections 15-11-705  
6829 and 15-11-706, all files and records of the court in a proceeding under this chapter shall be  
6830 open to inspection only upon order of the court.

6831 (b) The general public shall be allowed to inspect court files and records for any  
6832 proceeding that was open to the public pursuant to paragraphs (1) through (5) of subsection  
6833 (b) of Code Section 15-11-700.

6834 (c) The judge may permit authorized representatives of recognized organizations  
6835 compiling statistics for proper purposes to inspect and make abstracts from official records  
6836 under whatever conditions upon their use and distribution the judge may deem proper and  
6837 may punish by contempt any violation of those conditions.

6838 (d) The judge shall permit authorized representatives of DJJ, the Governor's Office for  
6839 Children and Families, and the Council of Juvenile Court Judges to inspect and extract data  
6840 from any court files and records for the purpose of obtaining statistics on children and to  
6841 make copies pursuant to the order of the court.

6842 (e) Except as otherwise provided in Code Sections 15-11-701 and 15-11-703, the  
6843 complaint, petition, order of adjudication, and order of disposition in any delinquency case  
6844 shall be disclosed upon request of the prosecuting attorney or the accused for use  
6845 preliminarily to or in conjunction with a subsequent juvenile or criminal proceeding in a  
6846 court of record.

6847 15-11-705.

6848 (a) Notwithstanding other provisions of this article, the court records of proceedings under  
6849 Article 6 of this chapter shall be withheld from public inspection but shall be open to  
6850 inspection by the child, juvenile probation and parole officers, a parent, guardian, or legal  
6851 custodian, the child's attorney, and others entrusted with the supervision of the child.  
6852 Additional access to court records may be granted by court order.

6853 (b) It shall be unlawful for any person to disclose court records, or any part thereof, to  
6854 persons other than those entitled to access under subsection (a) of this Code section, except  
6855 by court order. Any person who knowingly violates this subsection shall be guilty of  
6856 contempt and the court may enter any order authorized by the provisions of Code Section  
6857 15-11-31.

6858 15-11-706.

6859 (a) When a decision is made to handle a case through informal adjustment, mediation, or  
6860 other nonadjudicatory procedure, the juvenile court intake officer shall file with the court  
6861 in the county in which the child legally resides all of the following information:

6862 (1) The child's name, address, and date of birth;

6863 (2) The act or offense for which the child was apprehended;

6864 (3) The diversion decision made;

6865 (4) The nature of the child's compliance with an informal adjustment agreement; and

6866 (5) If an informal adjustment agreement is revoked, the fact of and reasons for the  
6867 revocation.

6868 (b) Notwithstanding subsection (a) of Code Section 15-11-701, the court in the county in  
6869 which the child resides shall keep a separate record for that child which shall be open to  
6870 the court, the prosecuting attorney, or an officer designated by the court only for the  
6871 purpose of deciding whether to handle a subsequent case through informal adjustment,  
6872 mediation, or other nonadjudicatory procedure or for use in disposition of a subsequent  
6873 proceeding. Any person who knowingly violates this subsection shall be guilty of  
6874 contempt and the court may enter any order authorized by the provisions of Code Section  
6875 15-11-31.

6876 15-11-707.

6877 Within 30 days of any proceeding in which a child is adjudicated delinquent for a second  
6878 or subsequent time or is found to have committed a designated felony act, the court shall  
6879 provide written notice to the school superintendent of the school in which the child is  
6880 enrolled or his or her designee or, if the information is known, of the school in which such  
6881 child plans to be enrolled at a future date. Such notice shall include the specific delinquent  
6882 act or designated felony that the child committed.

6883 15-11-708.

6884 (a) Law enforcement records and files concerning a child shall be kept separate from the  
6885 records and files of arrests of adults.

6886 (b) Unless a charge of delinquency is transferred for criminal prosecution or the interest  
6887 of national security requires or the case is one in which the general public may not be  
6888 excluded from the hearings or the court otherwise orders in the best interests of the child,  
6889 the records and files shall not be open to public inspection nor shall their contents be  
6890 disclosed to the public.

6891 (c) Inspection of the records and files shall be permitted by:

6892 (1) A juvenile court having the child before it in any proceeding;

- 6893 (2) The attorney for a party to the proceedings, with the consent of the court;  
6894 (3) The officers of public institutions or agencies to whom the child is committed;  
6895 (4) Law enforcement officers of this state, the United States, or any other jurisdiction  
6896 when necessary for the discharge of their official duties;  
6897 (5) A court in which the child is convicted of a criminal offense, for the purpose of a  
6898 presentence report or other disposition proceeding;  
6899 (6) Officials of penal institutions and other penal facilities to which the child is  
6900 committed; or  
6901 (7) A parole board in considering the child's parole or discharge or in exercising  
6902 supervision over the child.
- 6903 (d) The court shall allow authorized representatives of DJJ, the Governor's Office for  
6904 Children and Families, and the Council of Juvenile Court Judges to inspect and copy law  
6905 enforcement records for the purpose of obtaining statistics on children.
- 6906 (e) Access to fingerprint records submitted to the Georgia Bureau of Investigation shall  
6907 be limited to the administration of criminal justice purposes as defined in Code Section  
6908 15-11-2.
- 6909 15-11-709.
- 6910 (a) Subject to the earlier sealing of certain records pursuant to Code Section 15-11-701,  
6911 the juvenile court shall make and keep records of all cases brought before it and shall  
6912 preserve the records pertaining to a child in accordance with the common records retention  
6913 schedules for courts approved by the State Records Committee pursuant to Code Section  
6914 50-18-92.
- 6915 (b) Thereafter, the court may destroy such records, except that the records of cases in  
6916 which a court terminates the parental rights of a parent and the records of cases involving  
6917 a petition for legitimation of a child shall be preserved permanently.
- 6918 (c) The juvenile court shall make official minutes consisting of all petitions and orders  
6919 filed in a case and any other pleadings, certificates, proofs of publication, summonses,  
6920 warrants, and other writs which may be filed and shall make social records consisting of  
6921 records of investigation and treatment and other confidential information.
- 6922 (d) Identification data shall be maintained and shall be disseminated to criminal justice  
6923 officials for official judicial enforcement or criminal justice purposes as provided in Code  
6924 Section 35-3-33.
- 6925 (e) Nothing in this chapter shall restrict or otherwise prohibit a juvenile court clerk from  
6926 electing to store for computer retrieval any or all records, dockets, indexes, or files; nor  
6927 shall a juvenile court clerk be prohibited from combining or consolidating any books,  
6928 dockets, files, or indexes in connection with the filing for record of papers of the kind

6929 specified in this chapter or any other law, provided that any automated or computerized  
 6930 record-keeping method or system shall provide for the systematic and safe preservation and  
 6931 retrieval of all books, dockets, records, or indexes. When the clerk of a juvenile court  
 6932 elects to store for computer retrieval any or all records, the same data elements used in a  
 6933 manual system shall be used, and the same integrity and security shall be maintained.

6934 15-11-710.

6935 (a) As used in this Code section, the term 'governmental entity' shall mean the court,  
 6936 superior court, the DJJ, DBHDD, DFACS, county departments of family and children  
 6937 services, or public school, as such term is defined in Code Section 16-11-35.

6938 (b) Governmental entities and state, county, municipal, or consolidated government  
 6939 departments, boards, or agencies shall exchange with each other all information not held  
 6940 as confidential pursuant to federal law and relating to a child which may aid a  
 6941 governmental entity in the assessment, treatment, intervention, or rehabilitation of a child,  
 6942 notwithstanding Code Section 15-1-15, 15-11-40, 15-11-105, 15-11-170, 15-11-264,  
 6943 15-11-541, 15-11-542, 15-11-603, 15-11-708, 15-11-709, 15-11-744, 20-2-751.2,  
 6944 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,  
 6945 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,  
 6946 49-5-45, 49-5-183, 49-5-184, 49-5-185, or 49-5-186, in order to serve the best interests of  
 6947 the child. Information which is shared pursuant to this subsection shall not be utilized to  
 6948 assist in the prosecution of the child in juvenile court or superior court or utilized to the  
 6949 detriment of the child.

6950 (c) Information released pursuant to this Code section shall not change or rescind the  
 6951 confidential nature of such information and such information shall not be subject to public  
 6952 disclosure or inspection unless otherwise provided by law.

6953 ARTICLE 11

6954 15-11-720.

6955 (a) Emancipation may occur by operation of law or pursuant to a petition filed with the  
 6956 court as provided in this article by a child who is at least 16 years of age.

6957 (b) An emancipation occurs by operation of law:

6958 (1) When a child is validly married;

6959 (2) When a child reaches the age of 18 years; or

6960 (3) During the period when the child is on active duty with the armed forces of the  
 6961 United States.

6962 (c) An emancipation occurs by court order pursuant to a petition filed by a child with the  
 6963 juvenile court.

6964 15-11-721.

6965 A child seeking emancipation shall file a petition for emancipation in the juvenile court in  
 6966 the county where the child resides. The petition shall be signed and verified by the child,  
 6967 and shall include:

6968 (1) The child's full name and birth date and the county and state where the child was  
 6969 born;

6970 (2) A certified copy of the child's birth certificate;

6971 (3) The name and last known address of the child's parent, guardian, or legal custodian  
 6972 and, if no parent, guardian, or legal custodian can be found, the name and address of the  
 6973 child's nearest living relative residing within this state;

6974 (4) The child's present address and length of residency at that address;

6975 (5) A declaration by the child demonstrating the ability to manage his or her financial  
 6976 affairs together with any information necessary to support the declaration;

6977 (6) A declaration by the child demonstrating the ability to manage his or her personal and  
 6978 social affairs together with any information necessary to support the declaration; and

6979 (7) The names of individuals who have personal knowledge of the child's circumstances  
 6980 and believe that under those circumstances emancipation is in the best interests of the  
 6981 child. Such individuals may include any of the following:

6982 (A) A licensed physician or osteopath;

6983 (B) A registered professional nurse or licensed practical nurse;

6984 (C) A licensed psychologist;

6985 (D) A licensed professional counselor, social worker, or marriage and family therapist;

6986 (E) A school guidance counselor, school social worker, or school psychologist;

6987 (F) A school administrator, school principal, or school teacher;

6988 (G) A member of the clergy;

6989 (H) A law enforcement officer; or

6990 (I) An attorney.

6991 15-11-722.

6992 (a) Upon filing the petition, a copy of the petition for emancipation and a summons to  
 6993 appear at the hearing shall be served on all persons named in the petition and upon any  
 6994 individual who provided an affidavit for the emancipation.

6995 (b) A person served with a petition may file an answer in the juvenile court in which the  
 6996 petition was filed within 30 days of being served.

6997 15-11-723.

6998 (a) After a petition for emancipation is filed, the court may:

6999 (1) Appoint a guardian ad litem to investigate the allegations of the petition and to file  
7000 a report with the court, including a recommendation as to whether it is in the best  
7001 interests of the child that the petition for emancipation be granted;

7002 (2) Appoint an attorney for the child; and

7003 (3) Appoint an attorney for the child's parent, guardian, or legal custodian if he or she is  
7004 an indigent person and if he or she opposes the petition.

7005 (b) After a petition for emancipation is filed, the court shall seek an affidavit from each  
7006 person identified in the petition pursuant to paragraph (7) of Code Section 15-11-721 which  
7007 describes why that person believes the child should be emancipated.

7008 15-11-724.

7009 A child who petitions the court for emancipation shall have the burden of showing that  
7010 emancipation should be ordered by a preponderance of evidence.

7011 15-11-725.

7012 (a) The court shall issue an emancipation order if, after a hearing, it determines that  
7013 emancipation is in the best interests of the child and the child has established:

7014 (1) That the child's parent, guardian, or legal custodian does not object to the petition;  
7015 or, if a parent, guardian, or legal custodian objects to the petition, that the best interests  
7016 of the child are served by allowing the emancipation to occur by court order;

7017 (2) That the child is a resident of this state;

7018 (3) That the child has demonstrated the ability to manage his or her financial affairs,  
7019 including proof of employment or other means of support. 'Other means of support' shall  
7020 not include general assistance or aid received from means-tested public assistance  
7021 programs such as Temporary Assistance for Needy Families as provided in Article 9 of  
7022 Chapter 4 of Title 49 or similar programs under Title IV-A of the federal Social Security  
7023 Act;

7024 (4) That the child has the ability to manage his or her personal and social affairs,  
7025 including, but not limited to, proof of housing; and

7026 (5) That the child understands his or her rights and responsibilities under this article as  
7027 an emancipated child.

7028 (b) If the court issues an emancipation order, the court shall retain a copy of the order until  
7029 the emancipated child becomes 25 years of age.

7030 (c) An emancipation obtained by fraud is voidable. Voiding an emancipation order shall  
 7031 not affect an obligation, responsibility, right, or interest that arose during the period of time  
 7032 the order was in effect.

7033 (d) The child or the child's parent, guardian, or legal custodian may appeal the court's grant  
 7034 or denial of an emancipation petition.

7035 15-11-726.

7036 (a) A child emancipated by court order may petition the juvenile court that issued the  
 7037 emancipation order to rescind such order.

7038 (b) A copy of the petition for rescission and a summons shall be served on the child's  
 7039 parent, guardian, or legal custodian.

7040 (c) The court shall grant the petition and rescind the order of emancipation if it finds:

7041 (1) That the child is an indigent person and has no means of support;

7042 (2) That the child and the child's parent, guardian, or legal custodian agree that the order  
 7043 should be rescinded; or

7044 (3) That there is a resumption of family relations inconsistent with the existing  
 7045 emancipation order.

7046 (d) If a petition for rescission is granted, the court shall issue an order rescinding the  
 7047 emancipation order and retain a copy of the order until the child becomes 25 years of age.

7048 (e) Rescission of an emancipation order shall not alter any contractual obligations or rights  
 7049 or any property rights or interests that arose during the period of time that the emancipation  
 7050 order was in effect.

7051 (f) The child or a parent, guardian, or legal custodian of the child may appeal the court's  
 7052 grant or denial of a petition for rescission of an emancipation order. The appeal shall be  
 7053 filed in the Court of Appeals.

7054 15-11-727.

7055 (a) A child emancipated by operation of law or by court order shall be considered to have  
 7056 the rights and responsibilities of an adult, except for those specific constitutional and  
 7057 statutory age requirements regarding voting, use of alcoholic beverages, and other health  
 7058 and safety regulations relevant to the child because of his or her age. The rights of a child  
 7059 to receive any transfer of property or money pursuant to 'The Georgia Transfers to Minors  
 7060 Act' under Article 5 of Chapter 5 of Title 44; under the Uniform Transfers to Minors Act,  
 7061 the Uniform Gift to Minors Act, or other substantially similar act of another state; or  
 7062 pursuant to a trust agreement shall not be affected by a declaration of an emancipation  
 7063 under this article.

7064 (b) A child shall be considered emancipated for the purposes of, but not limited to:

- 7065 (1) The right to enter into enforceable contracts, including apartment leases;  
 7066 (2) The right to sue or be sued in his or her own name;  
 7067 (3) The right to retain his or her own earnings;  
 7068 (4) The right to establish a separate domicile;  
 7069 (5) The right to act autonomously, and with the rights and responsibilities of an adult, in  
 7070 all business relationships, including, but not limited to, property transactions and  
 7071 obtaining accounts for utilities, except for those estate or property matters that the court  
 7072 determines may require a conservator or guardian ad litem;  
 7073 (6) The right to earn a living, subject only to the health and safety regulations designed  
 7074 to protect those under the age of 18 regardless of their legal status;  
 7075 (7) The right to authorize his or her own preventive health care, medical care, dental  
 7076 care, and mental health care, without parental knowledge or liability;  
 7077 (8) The right to apply for a driver's license or other state licenses for which he or she  
 7078 might be eligible;  
 7079 (9) The right to register for school;  
 7080 (10) The right to apply for medical assistance programs and for other welfare assistance,  
 7081 if needed;  
 7082 (11) The right, if a parent, to make decisions and give authority in caring for his or her  
 7083 own minor child; and  
 7084 (12) The right to make a will.  
 7085 (c) The parent, guardian, or legal custodian of a child emancipated by court order shall not  
 7086 be liable for any debts incurred by the child during the period of emancipation.

7087 15-11-728.

- 7088 (a) The duty to provide support for a child shall continue until an emancipation order is  
 7089 granted.  
 7090 (b) A child emancipated under this article shall not be considered a dependent child.  
 7091 (c) The provisions set forth in Code Section 19-3-2 regarding age limitations to contract  
 7092 for marriage shall apply to a child who has become emancipated under this article.

7093 ARTICLE 12

7094 15-11-740.

- 7095 (a) This article shall be known and may be cited as the 'Georgia Child Advocate for the  
 7096 Protection of Children Act.'  
 7097 (b) In keeping with this article's purpose of assisting, protecting, and restoring the security  
 7098 of children whose well-being is threatened, it is the intent of the General Assembly that the

7099 mission of protection of the children of this state should have the greatest legislative and  
 7100 executive priority. Recognizing that the needs of children must be attended to in a timely  
 7101 manner and that more aggressive action should be taken to protect children from abuse and  
 7102 neglect, the General Assembly creates the Office of the Child Advocate for the Protection  
 7103 of Children to provide independent oversight of persons, organizations, and agencies  
 7104 responsible for providing services to or caring for children who are victims of child abuse  
 7105 and neglect, or whose domestic situation requires intervention by the state. The Office of  
 7106 the Child Advocate for the Protection of Children will provide children with an avenue  
 7107 through which to seek relief when their rights are violated by state officials and agents  
 7108 entrusted with their protection and care.

7109 15-11-741.

7110 As used in this article, the term:

7111 (1) 'Advocate' or 'child advocate' means the Child Advocate for the Protection of  
 7112 Children established under Code Section 15-11-742.

7113 (2) 'Agency' shall have the same meaning and application as provided for in paragraph  
 7114 (1) of subsection (a) of Code Section 50-14-1.

7115 (3) 'Child' or 'children' means an individual receiving protective services from DFCS, for  
 7116 whom DFCS has an open case file, or who has been, or whose siblings, parents, or other  
 7117 caretakers have been the subject of a report to DFCS within the previous five years.

7118 15-11-742.

7119 (a) There is created the Office of the Child Advocate for the Protection of Children. The  
 7120 Governor, by executive order, shall create a nominating committee which shall consider  
 7121 nominees for the position of the advocate and shall make a recommendation to the  
 7122 Governor. Such person shall have knowledge of the child welfare system, the juvenile  
 7123 justice system, and the legal system and shall be qualified by training and experience to  
 7124 perform the duties of the office as set forth in this article.

7125 (b) The advocate shall be appointed by the Governor from a list of at least three names  
 7126 submitted by the nominating committee for a term of three years and until his or her  
 7127 successor is appointed and qualified and may be reappointed. The salary of the advocate  
 7128 shall not be less than \$60,000.00 per year, shall be fixed by the Governor, and shall come  
 7129 from funds appropriated for the purposes of the advocate.

7130 (c) The Office of the Child Advocate for the Protection of Children shall be assigned to  
 7131 the Office of Planning and Budget for administrative purposes only, as described in Code  
 7132 Section 50-4-3.

7133 (d) The advocate may appoint such staff as may be deemed necessary to effectively fulfill  
 7134 the purposes of this article, within the limitations of the funds available for the purposes  
 7135 of the advocate. The duties of the staff may include the duties and powers of the advocate  
 7136 if performed under the direction of the advocate. The advocate and his or her staff shall  
 7137 receive such reimbursement for travel and other expenses as is normally allowed to state  
 7138 employees from funds appropriated for the purposes of the advocate.

7139 (e) The advocate shall have the authority to contract with experts in fields including but  
 7140 not limited to medicine, psychology, education, child development, juvenile justice, mental  
 7141 health, and child welfare, as needed to support the work of the advocate, utilizing funds  
 7142 appropriated for the purposes of the advocate.

7143 (f) Notwithstanding any other provision of state law, the advocate shall act independently  
 7144 of any state official, department, or agency in the performance of his or her duties.

7145 (g) The advocate or his or her designee shall be an ex officio member of the State-wide  
 7146 Child Abuse Prevention Panel.

7147 15-11-743.

7148 The advocate shall perform the following duties:

7149 (1) Identify, receive, investigate, and seek the resolution or referral of complaints made  
 7150 by or on behalf of children concerning any act, omission to act, practice, policy, or  
 7151 procedure of an agency or any contractor or agent thereof that may adversely affect the  
 7152 health, safety, or welfare of the children;

7153 (2) Refer complaints involving abused children to appropriate regulatory and law  
 7154 enforcement agencies;

7155 (3) Coordinate and supervise the work of the Georgia Child Fatality Review Panel  
 7156 created by Code Section 19-15-4 and provide such staffing and administrative support to  
 7157 the panel as may be necessary to enable the panel to carry out its statutory duties;

7158 (4) Report the death of any child to the chairperson of the child fatality review  
 7159 subcommittee of the county in which such child resided at the time of death, unless the  
 7160 advocate has knowledge that such death has been reported by the county medical  
 7161 examiner or coroner, pursuant to Code Section 19-15-3, and to provide such  
 7162 subcommittee access to any records of the advocate relating to such child;

7163 (5) Provide periodic reports on the work of the Office of the Child Advocate for the  
 7164 Protection of Children, including but not limited to an annual written report for the  
 7165 Governor and the General Assembly and other persons, agencies, and organizations  
 7166 deemed appropriate. Such reports shall include recommendations for changes in policies  
 7167 and procedures to improve the health, safety, and welfare of children and shall be made  
 7168 expeditiously in order to timely influence public policy;

7169 (6) Establish policies and procedures necessary for the Office of the Child Advocate for  
 7170 the Protection of Children to accomplish the purposes of this article including without  
 7171 limitation providing DFCS with a form of notice of availability of the Office of the Child  
 7172 Advocate for the Protection of Children. Such notice shall be posted prominently, by  
 7173 DFCS, in DFCS offices and in facilities receiving public moneys for the care and  
 7174 placement of children and shall include information describing the Office of the Child  
 7175 Advocate for the Protection of Children and procedures for contacting that office; and  
 7176 (7) Convene quarterly meetings with organizations, agencies, and individuals who work  
 7177 in the area of child protection to seek opportunities to collaborate and improve the status  
 7178 of children in Georgia.

7179 15-11-744.

7180 (a) The advocate shall have the following rights and powers:

7181 (1) To communicate privately, by mail or orally, with any child and with each child's  
 7182 parent, guardian, or legal custodian;

7183 (2) To have access to all records and files of DFCS concerning or relating to a child, and  
 7184 to have access, including the right to inspect, copy, and subpoena records held by clerks  
 7185 of the various courts, law enforcement agencies, service providers, including medical and  
 7186 mental health, and institutions, public or private, with whom a particular child has been  
 7187 either voluntarily or otherwise placed for care or from whom the child has received  
 7188 treatment within the state. To the extent any such information provides the names and  
 7189 addresses of individuals who are the subject of any confidential proceeding or statutory  
 7190 confidentiality provisions, such names and addresses or related information which has the  
 7191 effect of identifying such individuals shall not be released to the public without the  
 7192 consent of such individuals. The Office of the Child Advocate for the Protection of  
 7193 Children shall be bound by all confidentiality safeguards provided in Code Sections  
 7194 49-5-40 and 49-5-44. Anyone wishing to obtain records held by the Office of the Child  
 7195 Advocate shall petition the original agency of record where such records exist;

7196 (3) To enter and inspect any and all institutions, facilities, and residences, public and  
 7197 private, where a child has been placed by a court or DFCS and is currently residing.  
 7198 Upon entering such a place, the advocate shall notify the administrator or, in the absence  
 7199 of the administrator, the person in charge of the facility, before speaking to any children.  
 7200 After notifying the administrator or the person in charge of the facility, the advocate may  
 7201 communicate privately and confidentially with children in the facility, individually or in  
 7202 groups, or the advocate may inspect the physical plant. To the extent possible, entry and  
 7203 investigation provided by this Code section shall be conducted in a manner which will  
 7204 not significantly disrupt the provision of services to children;

7205 (4) To apply to the Governor to bring legal action in the nature of a writ of mandamus  
 7206 or application for injunction pursuant to Code Section 45-15-18 to require an agency to  
 7207 take or refrain from taking any action required or prohibited by law involving the  
 7208 protection of children;

7209 (5) To apply for and accept grants, gifts, and bequests of funds from other states, federal  
 7210 and interstate agencies, independent authorities, private firms, individuals, and  
 7211 foundations for the purpose of carrying out the lawful responsibilities of the Office of the  
 7212 Child Advocate for the Protection of Children;

7213 (6) When less formal means of resolution do not achieve appropriate results, to pursue  
 7214 remedies provided by this article on behalf of children for the purpose of effectively  
 7215 carrying out the provisions of this article; and

7216 (7) To engage in programs of public education and legislative advocacy concerning the  
 7217 needs of children requiring the intervention, protection, and supervision of courts and  
 7218 state and county agencies.

7219 (b)(1) Upon issuance by the advocate of a subpoena in accordance with this article for  
 7220 law enforcement investigative records concerning an ongoing investigation, the  
 7221 subpoenaed party may move a court with appropriate jurisdiction to quash said subpoena.

7222 (2) The court shall order a hearing on the motion to quash within five days of the filing  
 7223 of the motion to quash, which hearing may be continued for good cause shown by any  
 7224 party or by the court on its own motion. Subject to any right to an open hearing in  
 7225 contempt proceedings, such hearing shall be closed to the extent necessary to prevent  
 7226 disclosure of the identity of a confidential source; disclosure of confidential investigative  
 7227 or prosecution material which would endanger the life or physical safety of any person  
 7228 or persons; or disclosure of the existence of confidential surveillance, investigation, or  
 7229 grand jury materials or testimony in an ongoing criminal investigation or prosecution.  
 7230 Records, motions, and orders relating to a motion to quash shall be kept sealed by the  
 7231 court to the extent and for the time necessary to prevent public disclosure of such matters,  
 7232 materials, evidence, or testimony.

7233 (c) The court shall, at or before the time specified in the subpoena for compliance  
 7234 therewith, enter an order:

7235 (1) Enforcing the subpoena as issued;

7236 (2) Quashing or modifying the subpoena if it is unreasonable and oppressive; or

7237 (3) Conditioning enforcement of the subpoena on the advocate maintaining confidential  
 7238 any evidence, testimony, or other information obtained from law enforcement or  
 7239 prosecution sources pursuant to the subpoena until the time the criminal investigation and  
 7240 prosecution are concluded. Unless otherwise ordered by the court, an investigation or  
 7241 prosecution shall be deemed to be concluded when the information becomes subject to

7242 public inspection pursuant to Code Section 50-18-72. The court shall include in its order  
 7243 written findings of fact and conclusions of law.

7244 15-11-745.

7245 (a) No person shall discriminate or retaliate in any manner against any child, parent,  
 7246 guardian, or legal custodian of a child, employee of a facility, agency, institution or other  
 7247 type of provider, or any other person because of the making of a complaint or providing  
 7248 of information in good faith to the advocate or willfully interfere with the advocate in the  
 7249 performance of his or her official duties.

7250 (b) Any person violating subsection (a) of this Code section shall be guilty of a  
 7251 misdemeanor.

7252 15-11-746.

7253 The advocate shall be authorized to request an investigation by the Georgia Bureau of  
 7254 Investigation of any complaint of criminal misconduct involving a child.

7255 15-11-747.

7256 (a) There is established a Child Advocate Advisory Committee. The advisory committee  
 7257 shall consist of:

7258 (1) One representative of a not for profit children's agency appointed by the Governor;

7259 (2) One representative of a for profit children's agency appointed by the Lieutenant  
 7260 Governor;

7261 (3) One pediatrician appointed by the Speaker of the House of Representatives;

7262 (4) One social worker with experience and knowledge of child protective services who  
 7263 is not employed by the state appointed by the Governor;

7264 (5) One psychologist appointed by the Lieutenant Governor;

7265 (6) One attorney appointed by the Speaker of the House of Representatives from the  
 7266 Children and the Courts Committee of the State Bar of Georgia; and

7267 (7) One juvenile court judge appointed by the Chief Justice of the Supreme Court of  
 7268 Georgia.

7269 Each member of the advisory committee shall serve a two-year term and until the  
 7270 appointment and qualification of such member's successor. Appointments to fill vacancies  
 7271 in such offices shall be filled in the same manner as the original appointment.

7272 (b) The advisory committee shall meet a minimum of three times a year with the advocate  
 7273 and his or her staff to review and assess the following:

7274 (1) Patterns of treatment and service for children;

7275 (2) Policy implications; and

7276 (3) Necessary systemic improvements.

7277 The advisory committee shall also provide for an annual evaluation of the effectiveness of  
7278 the Office of the Child Advocate for the Protection of Children.

7279 ARTICLE 13

7280 15-11-760.

7281 (a) There is created the Georgia Juvenile Code Commission for the purpose of conducting  
7282 periodic comprehensive reviews of this chapter. The Georgia Juvenile Code Commission  
7283 shall be responsible for studying and collecting information and data relating to the efficacy  
7284 of this chapter, current best practices in the field of juvenile law, and all matters relevant  
7285 to maintaining an effective and efficient Juvenile Code that will promote public safety and  
7286 serve the best interests of Georgia's children.

7287 (b) As used in this article, the term 'commission' means the Georgia Juvenile Code  
7288 Commission.

7289 15-11-761.

7290 (a) The commission shall be composed of 13 members, as follows:

7291 (1) The Governor shall appoint five members as follows:

7292 (A) One member who shall be a judge in a superior court;

7293 (B) Two members who shall be judges in a juvenile court;

7294 (C) One member who shall be a Justice of the Supreme Court or a Judge of the Court  
7295 of Appeals or the Justice's or Judge's designee; and

7296 (D) One other member;

7297 (2) The Lieutenant Governor shall appoint one member who shall be a member of the  
7298 Senate;

7299 (3) The Speaker of the House of Representatives shall appoint one member who shall be  
7300 a member of the House of Representatives;

7301 (4) The commissioner of juvenile justice or his or her designee;

7302 (5) The commissioner of human services or his or her designee;

7303 (6) The commissioner of behavioral health and developmental disabilities or his or her  
7304 designee;

7305 (7) The director of the Division of Family and Children Services within the Department  
7306 of Human Services or his or her designee;

7307 (8) The director of the Georgia Public Defender Standards Council shall appoint one  
7308 member who shall be a criminal defense attorney who routinely defends juvenile  
7309 offenders; and

7310 (9) The chairperson of the Prosecuting Attorneys' Council of the State of Georgia shall  
 7311 appoint a prosecuting attorney who routinely prosecutes juvenile offenders.

7312 (b) Each member of the commission shall be appointed to serve for a term of four years  
 7313 or until his or her successor is duly appointed, except the members of the General  
 7314 Assembly, who shall serve until completion of their current terms of office. A member  
 7315 may be appointed to succeed himself or herself on the commission. If a member of the  
 7316 commission is an elected or appointed official, the member, or his or her designee, shall  
 7317 be removed from the commission if the member no longer serves as such elected or  
 7318 appointed official.

7319 (c) The Governor shall designate the chairperson of the commission. The commission  
 7320 may elect other officers as it deems necessary. The chairperson of the commission may  
 7321 designate and appoint committees from among the membership of the commission as well  
 7322 as appoint other persons to perform such functions as he or she may determine to be  
 7323 necessary as relevant to and consistent with this article. The chairperson shall only vote  
 7324 to break a tie.

7325 (d) The commission shall be attached for administrative purposes only to the Governor's  
 7326 Office for Children and Family Services. The Governor's Office for Children and Family  
 7327 Services shall provide staff support for the commission. The Governor's Office for  
 7328 Children and Family Services shall use any funds specifically appropriated to it to support  
 7329 the work of the commission.

7330 15-11-762.

7331 (a) The commission may conduct such meetings at such places and at such times as it may  
 7332 deem necessary or convenient to enable it to exercise fully and effectively its powers,  
 7333 perform its duties, and accomplish the objectives and purposes of this article. The  
 7334 commission shall hold meetings at the call of the chairperson. The commission shall meet  
 7335 not less than once every year.

7336 (b) A quorum for transacting business shall be a majority of the members of the  
 7337 commission.

7338 (c) Any legislative members of the commission shall receive the allowances provided for  
 7339 in Code Section 28-1-8. Citizen members shall receive a daily expense allowance in the  
 7340 amount specified in subsection (b) of Code Section 45-7-21 as well as the mileage or  
 7341 transportation allowance authorized for state employees. Members of the commission who  
 7342 are state officials, other than legislative members, or state employees shall receive no  
 7343 compensation for their services on the commission, but they shall be reimbursed for  
 7344 expenses incurred by them in the performance of their duties as members of the  
 7345 commission in the same manner as they are reimbursed for expenses in their capacities as

7346 state officials or state employees. The funds necessary for the reimbursement of the  
 7347 expenses of state officials, other than legislative members, and state employees shall come  
 7348 from funds appropriated to or otherwise available to their respective departments. All other  
 7349 funds necessary to carry out the provisions of this article shall come from funds  
 7350 appropriated to the House of Representatives and the Senate.

7351 15-11-763.

7352 (a) The commission shall have the following duties:

7353 (1) To periodically, and at least every two years, review the conditions, needs, issues,  
 7354 and problems related to this chapter; issue a report on the same to the Executive Council  
 7355 of the Governor, the Governor's Office of Planning and Budget, and the chairpersons of  
 7356 the House Committee on Appropriations, the Senate Appropriations Committee, the  
 7357 House Committee on Judiciary, and the Senate Judiciary Committee; and recommend any  
 7358 action or proposed legislation which the commission deems necessary or appropriate.  
 7359 Nothing contained in the commission's report shall be considered to authorize or require  
 7360 a change in this chapter or any law affecting juveniles without action by the General  
 7361 Assembly;

7362 (2) To evaluate and consider the best practices, experiences, and results of legislation in  
 7363 other states with regard to children and families involved in the juvenile court or  
 7364 equivalent systems; and

7365 (3) To identify and recommend whether and when this chapter or any other state law  
 7366 should be modified to conform, whenever desirable, to federal legislation regarding  
 7367 juvenile law.

7368 (b) The commission shall have the following powers:

7369 (1) To evaluate how the laws and programs contained in this chapter are working;

7370 (2) To request and receive data from and review the records of appropriate agencies to  
 7371 the greatest extent allowed by state and federal law;

7372 (3) To accept public or private grants, devises, and bequests;

7373 (4) To authorize entering into contracts or agreements through the commission's  
 7374 chairperson necessary or incidental to the performance of its duties;

7375 (5) To establish rules and procedures for conducting the business of the commission; and

7376 (6) To conduct studies, hold public meetings, collect data, or take any other action the  
 7377 commission deems necessary to fulfill its responsibilities.

7378 (c) The commission shall be authorized to retain the services of attorneys, consultants,  
 7379 subject matter experts, economists, budget analysts, data analysts, statisticians, and other  
 7380 individuals or firms as determined appropriate by the commission.

7381 15-11-764.

7382 This article shall be repealed effective June 30, 2024, unless continued in effect by the  
7383 General Assembly prior to that date."

7384

## PART II

7385

### CHILDREN AND YOUTH SERVICES

7386

#### SECTION 2-1.

7387 Article 1 of Chapter 5 of Title 49 of the Official Code of Georgia Annotated, relating to  
7388 children and youth services, is amended by adding two new Code sections to read as follows:

7389 "49-5-24.

7390 (a) The department shall adopt a procedure by which a child or young adult as such terms  
7391 are defined in Code Sections 15-11-2 and 15-11-351, respectively, formerly in foster care  
7392 may appeal an eligibility determination or the failure of the Division of Family and  
7393 Children Services of the department to provide aftercare or transitional support services,  
7394 as set forth in Article 5 Chapter 11 of Title 15, or the termination of such services.

7395 (b) The appeal procedure developed by the department shall be readily available to a child  
7396 or a young adult formerly in foster care, shall provide timely decisions, and shall provide  
7397 for an administrative appeal and judicial review of the administrative decision.

7398 49-5-25.

7399 The department shall develop outcome and other performance measures for the  
7400 independent living skills program, as set forth in Article 5 Chapter 11 of Title 15, in order  
7401 to maintain oversight of such program."

7402

## PART III

7403

### CROSS REFERENCES

7404

#### SECTION 3-1.

7405 Code Section 1-2-8 of the Official Code of Georgia Annotated, relating to rights of minors,  
7406 is revised as follows:

7407 "1-2-8.

7408 The law prescribes certain ages at which persons shall be considered of sufficient maturity  
7409 to discharge certain civil functions, to make contracts, and to dispose of property. Prior to  
7410 those ages they are minors and are, on account of that disability, unable to exercise these  
7411 rights as citizens unless such minor becomes emancipated by operation of law or pursuant  
7412 to Article 6 11 of Chapter 11 of Title 15."

7413 **SECTION 3-2.**

7414 Code Section 5-7-1 of the Official Code of Georgia Annotated, relating to orders, decisions,  
7415 or judgments appealable by the state, is amended by revising paragraph (6) of subsection (a)  
7416 as follows:

7417 "(6) From an order, decision, or judgment of a superior court transferring a case to the  
7418 juvenile court pursuant to ~~subparagraph (b)(2)(B) of Code Section 15-11-28~~ 15-11-567;"

7419 **SECTION 3-3.**

7420 Code Section 13-3-20 of the Official Code of Georgia Annotated, relating to minors and  
7421 contracts for property or valuable consideration and contracts for necessities, is revised as  
7422 follows:

7423 "13-3-20.

7424 (a) Generally the contract of a minor is voidable. If in a contractual transaction a minor  
7425 receives property or other valuable consideration and, after arrival at the age of 18, retains  
7426 possession of such property or continues to enjoy the benefit of such other valuable  
7427 consideration, the minor shall have thereby ratified or affirmed the contract and it shall be  
7428 binding on him or her. Such contractual transaction shall also be binding upon any minor  
7429 who becomes emancipated by operation of law or pursuant to Article ~~6~~ 11 of Chapter 11  
7430 of Title 15.

7431 (b) The contract of a minor for necessities shall be binding on the minor as if the minor  
7432 were 18 years of age except that the party furnishing them to the minor shall prove that the  
7433 parent or guardian of such minor had failed or refused to supply sufficient necessities for  
7434 the minor, that the minor was emancipated by operation of law, or the minor was  
7435 emancipated pursuant to Article ~~6~~ 11 of Chapter 11 of Title 15."

7436 **SECTION 3-4.**

7437 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by revising  
7438 subsection (e) of Code Section 15-23-7, relating to collection of additional legal costs in civil  
7439 actions for purposes of providing court-connected or court-referred alternative dispute  
7440 resolution programs, as follows:

7441 "(e) Juvenile court supervision fees collected pursuant to Code Section ~~15-11-71~~ 15-11-37  
7442 may be used for mediation services provided by court programs pursuant to this chapter."

7443 **SECTION 3-5.**

7444 Said title is further amended by revising Code Section 15-23-10, relating to the determination  
7445 of need as prerequisite to establishment of program, as follows:

7446 "15-23-10.

7447 No alternative dispute resolution program shall be established for any court unless the  
 7448 judge or a majority of the judges of such court determine that there is a need for such  
 7449 program in that court. The funding mechanism set forth in this chapter shall be available  
 7450 to any court, including the juvenile court, which, having determined that a court-annexed  
 7451 or court-referred alternative dispute resolution program would make a positive contribution  
 7452 to the ends of justice in that court, has developed a program meeting the standards of the  
 7453 Georgia Supreme Court's Uniform Rule for Alternative Dispute Resolution Programs.  
 7454 Pursuant to the standards set forth in the Georgia Supreme Court's Uniform Rule for  
 7455 Alternative Dispute Resolutions Programs, the funding mechanism set forth in this chapter  
 7456 shall be available to court programs in which cases are screened by the judge or by the  
 7457 program director under the supervision of the judge on a case-by-case basis to determine  
 7458 whether:

- 7459 (1) The case is appropriate for the process;  
 7460 (2) The parties are able to compensate the neutral if compensation is required; and  
 7461 (3) A need for emergency relief makes referral inappropriate until the request for relief  
 7462 is heard by the court."

7463 **SECTION 3-6.**

7464 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is  
 7465 amended by revising paragraphs (1) and (3) of subsection (a) of Code Section 16-5-45,  
 7466 relating to interference with custody, as follows:

7467 "(1) 'Child' means any individual who is under the age of 17 years or any individual who  
 7468 is under the age of 18 years who is alleged to be a ~~deprived dependent~~ child or ~~an unruly~~  
 7469 ~~child~~ a child in need of services as such terms are defined in Code Section 15-11-2."

7470 "(3) 'Lawful custody' means that custody inherent in the natural parents, that custody  
 7471 awarded by proper authority as provided in Code Section ~~15-11-45~~ 15-11-133, or that  
 7472 custody awarded to a parent, guardian, or other person by a court of competent  
 7473 jurisdiction."

7474 **SECTION 3-7.**

7475 Said title is further amended by revising paragraph (3) of subsection (a) of Code Section  
 7476 16-10-52, relating to escape, as follows:

7477 "(3) Having been adjudicated of a delinquent ~~or unruly~~ act or a juvenile traffic offense,  
 7478 or as a child in need of services subject to lawful custody or lawful confinement,  
 7479 intentionally escapes from lawful custody or from any place of lawful confinement;"

7480 **SECTION 3-8.**

7481 Said title is further amended by revising paragraph (3) of subsection (c) of Code Section  
 7482 16-11-101.1, relating to furnishing a pistol or revolver to a person under the age of 18 years,  
 7483 as follows:

7484 "(3) In addition to any other act which violates this subsection, a parent or legal guardian  
 7485 shall be deemed to have violated this subsection if such parent or legal guardian furnishes  
 7486 to or permits possession of a pistol or revolver by any minor who has been convicted of  
 7487 a forcible felony or forcible misdemeanor, as defined in Code Section 16-1-3, or who has  
 7488 been adjudicated delinquent under the provisions of Article ~~7~~ of Chapter 11 of Title 15  
 7489 for an offense which would constitute a forcible felony or forcible misdemeanor, as  
 7490 defined in Code Section 16-1-3, if such minor were an adult."

7491 **SECTION 3-9.**

7492 Said title is further amended by revising subsection (b) of Code Section 16-11-127.1, relating  
 7493 to carrying weapons within school safety zones, at school functions, or on school property,  
 7494 as follows:

7495 "(b)(1) Except as otherwise provided in subsection (c) of this Code section, it shall be  
 7496 unlawful for any person to carry to or to possess or have under such person's control  
 7497 while within a school safety zone or at a school building, school function, or school  
 7498 property or on a bus or other transportation furnished by the school any weapon or  
 7499 explosive compound, other than fireworks the possession of which is regulated by  
 7500 Chapter 10 of Title 25.

7501 (2) Any license holder who violates this subsection shall be guilty of a misdemeanor.  
 7502 Any person who is not a license holder who violates this subsection shall be guilty of a  
 7503 felony and, upon conviction thereof, be punished by a fine of not more than \$10,000.00,  
 7504 by imprisonment for not less than two nor more than ten years, or both.

7505 (3) Any person convicted of a violation of this subsection involving a dangerous weapon  
 7506 or machine gun, as such terms are defined in Code Section 16-11-121, shall be punished  
 7507 by a fine of not more than \$10,000.00 or by imprisonment for a period of not less than  
 7508 five nor more than ten years, or both.

7509 (4) A child who violates this subsection may be subject to the provisions of Code Section  
 7510 ~~15-11-63~~ 15-11-601."

7511 **SECTION 3-10.**

7512 Said title is further amended by revising subsection (d) of Code Section 16-11-132, relating  
 7513 to possession of a pistol or revolver by a person under the age of 18 years, as follows:

7514 "(d) Subsection (c) of this Code section shall not apply to any person under the age of 18  
 7515 years who has been convicted of a forcible felony or forcible misdemeanor, as defined in  
 7516 Code Section 16-1-3, or who has been adjudicated delinquent under the provisions of  
 7517 Article ~~7~~ of Chapter 11 of Title 15 for an offense which would constitute a forcible felony  
 7518 or forcible misdemeanor, as defined in Code Section 16-1-3, if such person were an adult."

### 7519 SECTION 3-11.

7520 Said title is further amended by revising paragraph (3) of subsection (a) and subsections (b)  
 7521 and (c) of Code Section 16-12-1, relating to contributing to the delinquency, unruliness, or  
 7522 deprivation of a minor, as follows:

7523 "(3) 'Minor' means any individual who is under the age of 17 years who is alleged to have  
 7524 committed a delinquent act or any individual under the age of 18 years ~~who is alleged to~~  
 7525 ~~be a deprived child or an unruly child as such terms are defined in Code Section 15-11-2."~~

7526 "(b) A person commits the offense of contributing to the delinquency, ~~unruliness,~~ or  
 7527 ~~deprivation~~ dependency of a minor or causing a child to be in need of services when such  
 7528 person:

7529 (1) Knowingly and willfully encourages, causes, abets, connives, or aids a minor in  
 7530 committing a delinquent act;

7531 (2) Knowingly and willfully encourages, causes, abets, connives, or aids a minor in  
 7532 committing an act which would cause such minor to be ~~found to be an unruly~~ a child in  
 7533 need of services as such term is defined in Code Section 15-11-2; provided, however, that  
 7534 this paragraph shall not apply to a service provider that notifies the minor's parent,  
 7535 guardian, or legal custodian of the minor's location and general state of ~~well-being~~  
 7536 well-being as soon as possible but not later than 72 hours after the minor's acceptance of  
 7537 services; provided, further, that such notification shall not be required if:

7538 (A) The service provider has reasonable cause to believe that the minor has been  
 7539 abused or neglected and makes a child abuse report pursuant to Code Section 19-7-5;

7540 (B) The minor will not disclose the name of the minor's parent, guardian, or legal  
 7541 custodian, and the Division of Family and Children Services within the Department of  
 7542 Human Services is notified within 72 hours of the minor's acceptance of services; or

7543 (C) The minor's parent, guardian, or legal custodian cannot be reached, and the  
 7544 Division of Family and Children Services within the Department of Human Services  
 7545 is notified within 72 hours of the minor's acceptance of services;

7546 (3) Willfully commits an act or acts or willfully fails to act when such act or omission  
 7547 would cause a minor to be found to be a ~~deprived~~ dependant child as such term is defined  
 7548 in Code Section 15-11-2;

7549 (4) Knowingly and willfully hires, solicits, engages, contracts with, conspires with,  
 7550 encourages, abets, or directs any minor to commit any felony which encompasses force  
 7551 or violence as an element of the offense or delinquent act which would constitute a felony  
 7552 which encompasses force or violence as an element of the offense if committed by an  
 7553 adult;

7554 (5) Knowingly and willfully provides to a minor any weapon as defined in paragraph (2)  
 7555 of subsection (a) of Code Section 16-11-127.1 or any weapon as defined in Code Section  
 7556 16-11-121 to commit any felony which encompasses force or violence as an element of  
 7557 the offense or delinquent act which would constitute a felony which encompasses force  
 7558 or violence as an element of the offense if committed by an adult; or

7559 (6) Knowingly and willfully hires, solicits, engages, contracts with, conspires with,  
 7560 encourages, abets, or directs any minor to commit any smash and grab burglary which  
 7561 would constitute a felony if committed by an adult.

7562 (c) It shall not be a defense to the offense provided for in this Code section that the minor  
 7563 has not been formally adjudged to have committed a delinquent act or has not been found  
 7564 to be ~~unruly or deprived~~ dependent or a child in need of services."

7565 **SECTION 3-12.**

7566 Said title is further amended by revising subsections (c), (e), and (g) of Code Section  
 7567 16-12-141.1, relating to disposal of aborted fetuses, as follows:

7568 "(c) Within 90 days after May 10, 2005, the Department of Human Resources (now known  
 7569 as the Department of Public Health for these purposes) shall prepare a reporting form for  
 7570 physicians which shall include:

7571 (1) The number of females whose parent or guardian was provided the notice required  
 7572 in paragraph (1) of subsection (a) of Code Section ~~15-11-112~~ 15-11-682 by the physician  
 7573 or such physician's agent; of that number, the number of notices provided personally  
 7574 under subparagraphs (a)(1)(A) and (a)(1)(B) of Code Section ~~15-11-112~~ 15-11-682 and  
 7575 the number of notices provided by mail under subparagraph (a)(1)(C) of Code Section  
 7576 ~~15-11-112~~ 15-11-682; and, of each of those numbers, the number of females who, to the  
 7577 best of the reporting physician's information and belief, went on to obtain the abortion;  
 7578 (2) The number of females upon whom the physician performed an abortion without  
 7579 providing to the parent or guardian of a minor the notice required by subsection (a) of  
 7580 Code Section ~~15-11-112~~ 15-11-682; and of that number, the number of females for which  
 7581 subsection (b) of Code Section ~~15-11-112~~ 15-11-682 and Code Section ~~15-11-116~~  
 7582 15-11-686 were applicable;

7583 (3) The number of abortions performed upon a female by the physician after receiving  
 7584 judicial authorization pursuant to subsection (b) of Code Section ~~15-11-112~~ 15-11-682  
 7585 and Code Section ~~15-11-114~~ 15-11-684; and

7586 (4) The same information described in paragraphs (1), (2), and (3) of this subsection with  
 7587 respect to females for whom a guardian or conservator has been appointed."

7588 "(e) By February 28 of each year following a calendar year in any part of which this  
 7589 subsection was in effect, each physician who provided, or whose agent provided, the notice  
 7590 described in subsection (a) of Code Section ~~15-11-112~~ 15-11-682 and any physician who  
 7591 knowingly performed an abortion upon a female or upon a female for whom a guardian or  
 7592 conservator had been appointed because of a finding of incompetency during the previous  
 7593 calendar year shall submit to the Department of Public Health a copy of the form described  
 7594 in subsection (c) of this Code section with the requested data entered accurately and  
 7595 completely."

7596 "(g) By June 30 of each year, the Department of Public Health shall issue a public report  
 7597 providing statistics for the previous calendar year compiled from all the reports covering  
 7598 that year submitted in accordance with this Code section for each of the items listed in  
 7599 subsection (c) of this Code section. The report shall also include statistics which shall be  
 7600 obtained by the Administrative Office of the Courts giving the total number of petitions or  
 7601 motions filed under subsection (b) of Code Section ~~15-11-112~~ 15-11-682 and, of that  
 7602 number, the number in which the court appointed a guardian ad litem, the number in which  
 7603 the court appointed counsel, the number in which the judge issued an order authorizing an  
 7604 abortion without notification, the number in which the judge denied such an order, and, of  
 7605 the last, the number of denials from which an appeal was filed, the number of such appeals  
 7606 that resulted in the denials being affirmed, and the number of such appeals that resulted in  
 7607 reversals of such denials. Each report shall also provide the statistics for all previous  
 7608 calendar years for which such a public statistical report was required to be issued, adjusted  
 7609 to reflect any additional information from late or corrected reports. The Department of  
 7610 Public Health shall ensure that none of the information included in the public reports could  
 7611 reasonably lead to the identification of any individual female or of any female for whom  
 7612 a guardian or conservator has been appointed."

7613 **SECTION 3-13.**

7614 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is  
 7615 amended by revising subsection (a) of Code Section 17-7-50.1, relating to time for  
 7616 presentment of child's case to a grand jury, as follows:

7617 "(a) Any child who is charged with a crime that is within the jurisdiction of the superior  
 7618 court, as provided in Code Section ~~15-11-28~~ 15-11-560 or ~~15-11-30.2~~ 15-11-561, who is

7619 detained shall within 180 days of the date of detention be entitled to have the charge  
 7620 against him or her presented to the grand jury. The superior court shall, upon motion for  
 7621 an extension of time and after a hearing and good cause shown, grant one extension to the  
 7622 original 180 day period, not to exceed 90 additional days."

7623 **SECTION 3-14.**

7624 Said title is further amended by revising paragraph (1) of subsection (a) of Code Section  
 7625 17-7-130, relating to proceedings upon a plea of mental incompetency to stand trial, as  
 7626 follows:

7627 "(1) 'Child' means an accused person under the jurisdiction of the superior court pursuant  
 7628 to Code Section ~~15-11-28~~ 15-11-560."

7629 **SECTION 3-15.**

7630 Said title is further amended by revising subsection (e) of Code Section 17-10-1, relating to  
 7631 fixing of sentence, as follows:

7632 "(e) In any case involving a felony in which the defendant previously appeared before a  
 7633 juvenile court, the records of the dispositions of the defendant as well as any evidence used  
 7634 in any juvenile court hearing shall be available to the district attorney, the defendant, and  
 7635 the superior court judge in determining sentencing as provided in Code Section ~~15-11-79.1~~  
 7636 15-11-703."

7637 **SECTION 3-16.**

7638 Said title is further amended by revising Code Section 17-10-14, relating to committal of  
 7639 person under 17 convicted of a felony, as follows:

7640 "17-10-14.

7641 (a) Notwithstanding any other provisions of this article and except as otherwise provided  
 7642 in ~~subsections (b) and (c)~~ subsection (b) of this Code section, in any case where a person  
 7643 under the age of 17 years is convicted of a felony and sentenced as an adult to life  
 7644 imprisonment or to a certain term of imprisonment, such person shall be committed to the  
 7645 Department of Juvenile Justice to serve such sentence in a detention center of such  
 7646 department until such person is 17 years of age at which time such person shall be  
 7647 transferred to the Department of Corrections to serve the remainder of the sentence. This  
 7648 Code section shall apply to any person convicted on or after July 1, 1987, and to any person  
 7649 convicted prior to such date who has not been committed to an institution operated by the  
 7650 Department of Corrections.

7651 (b) If a child is transferred to superior court according to subsection (b) of Code Section  
 7652 ~~15-11-30.2~~ 15-11-561 and convicted of aggravated assault as defined in Chapter 5 of Title

7653 16, the court may sentence such child to the Department of Corrections. Such child shall  
 7654 be housed in a designated youth confinement unit until such person is 17 years of age, at  
 7655 which time such person may be housed in any other unit designated by the Department of  
 7656 Corrections.

7657 ~~(c) In any case where a child 13 to 17 years of age is convicted of a felony provided under~~  
 7658 ~~subparagraph (b)(2)(A) of Code Section 15-11-28, such child shall be committed to the~~  
 7659 ~~custody of the Department of Corrections and shall be housed in a designated youth~~  
 7660 ~~confinement unit until such person is 17 years of age, at which time such person may be~~  
 7661 ~~housed in any other unit designated by the Department of Corrections."~~

7662 **SECTION 3-17.**

7663 Said title is further amended by revising paragraph (5) of Code Section 17-14-2, relating to  
 7664 definitions regarding restitution, as follows:

7665 "(5) 'Parent' means a person who is the legal mother as defined in ~~paragraph (10.2) of~~  
 7666 Code Section 15-11-2, the legal father as defined in ~~paragraph (10.1) of~~ Code Section  
 7667 15-11-2, or the legal guardian. Such term shall not include a foster parent."

7668 **SECTION 3-18.**

7669 Said title is further amended by revising subsection (d) of Code Section 17-15-13, relating  
 7670 to debt to state created, as follows:

7671 "(d) When a child is adjudicated delinquent in a juvenile court proceeding involving a  
 7672 crime upon which a claim under this chapter can be made, the juvenile court in its  
 7673 discretion may order that the child pay the debt to the state as an adult would have to pay  
 7674 had an adult committed the crime. Any assessments so ordered may be made a condition  
 7675 of probation as provided in ~~paragraph (2) of subsection (a) of Code Section 15-11-66~~  
 7676 15-11-601."

7677 **SECTION 3-19.**

7678 Said title is further amended by revising subsection (c) of Code Section 17-16-2, relating to  
 7679 applicability of rules of discovery, as follows:

7680 "(c) This article shall be deemed to have been automatically invoked, without the written  
 7681 notice provided for in subsection (a) of this Code section, when a defendant has sought  
 7682 discovery pursuant to Chapter 11 of Title 9, the 'Georgia Civil Practice Act,' pursuant to  
 7683 ~~Code Section 15-11-75~~ Part 8 of Article 7 of Chapter 11 of Title 15, or pursuant to the  
 7684 Uniform Rules for the Juvenile Courts of Georgia where such discovery material is the  
 7685 same as the discovery material that may be provided under this article when a written  
 7686 notice is filed pursuant to subsection (a) of this Code section."

7687 **SECTION 3-20.**

7688 Said title is further amended by revising subsection (d) of Code Section 19-7-22, relating to  
7689 petition for legitimation of a child, as follows:

7690 "(d) A legitimation petition may be filed, pursuant to ~~paragraph (2) of subsection (e) of~~  
7691 Code Section ~~15-11-28~~ 15-11-11, in the juvenile court of the county in which a ~~deprivation~~  
7692 dependency proceeding regarding the child is pending."

7693 **SECTION 3-21.**

7694 Said title is further amended by revising paragraph (4) of subsection (a) of Code Section  
7695 19-8-10, relating to when surrender or termination of parental rights not required, as follows:

7696 "(4) Parent has failed to exercise proper parental care or control due to misconduct or  
7697 inability, as set out in paragraph ~~(2)~~, (3), ~~or (4)~~, or (5) of subsection ~~(b)~~ (a) of Code  
7698 Section ~~15-11-94~~ 15-11-310,"

7699 **SECTION 3-22.**

7700 Said title is further amended by revising subparagraph (a)(3)(D) of Code Section 19-8-11,  
7701 relating to petitioning superior court to terminate parental rights, as follows:

7702 "(D) Parent has failed to exercise proper parental care or control due to misconduct or  
7703 inability, as set out in paragraph ~~(2)~~, (3), ~~or (4)~~, or (5) of subsection ~~(b)~~ (a) of Code  
7704 Section ~~15-11-94~~ 15-11-310,"

7705 **SECTION 3-23.**

7706 Said title is further amended by revising subsection (g) of Code Section 19-8-13, relating to  
7707 petition for adoption, as follows:

7708 "(g) Notwithstanding the provisions of Code Sections 19-8-5 and 19-8-7 and this Code  
7709 section which require obtaining and attaching a written voluntary surrender and  
7710 acknowledgment thereof and affidavits of the legal mother and a representative of the  
7711 petitioner, where the adoption is sought under subsection (a) of Code Section 19-8-5 or  
7712 19-8-7 following the termination of parental rights and the placement of the child by the  
7713 juvenile court pursuant to ~~paragraph (1) of subsection (a) of Code Section 15-11-103~~  
7714 15-11-321, obtaining and attaching to the petition a certified copy of the order terminating  
7715 parental rights of the parent shall take the place of obtaining and attaching those otherwise  
7716 required surrenders, acknowledgments, and affidavits."

7717 **SECTION 3-24.**

7718 Said title is further amended by revising Code Section 19-10A-4, relating to no criminal  
7719 prosecution for leaving a child in the custody of a medical facility, as follows:

7720 "19-10A-4.

7721 A mother shall not be prosecuted for ~~the crimes of cruelty to a child, violating~~ Code  
 7722 Section 16-5-70, ~~contributing to the delinquency, unruliness, or deprivation of a child,~~  
 7723 ~~Code Section 16-12-1; or abandonment of a dependent child, or Code Section 19-10-1;~~  
 7724 because of the act of leaving her newborn child in the physical custody of an employee,  
 7725 agent, or member of the staff of a medical facility who is on duty, whether there in a paid  
 7726 or volunteer position, provided that the newborn child is no more than one week old and  
 7727 the mother shows proof of her identity, if available, to the person with whom the newborn  
 7728 is left and provides her name and address."

7729 **SECTION 3-25.**

7730 Said title is further amended by revising Code Section 19-10A-6, relating to reimbursement  
 7731 of medical costs, as follows:

7732 "19-10A-6.

7733 A medical facility which accepts for inpatient admission a child left pursuant to Code  
 7734 Section 19-10A-4 shall be reimbursed by the Department of Human Services for all  
 7735 reasonable medical and other reasonable costs associated with the child prior to the child  
 7736 being placed in the care of the department. A medical facility shall notify the Department  
 7737 of Human Services at such time as the child is left and at the time the child is medically  
 7738 ready for discharge. Upon notification that the child is medically ready for discharge, the  
 7739 Department of Human Services shall take physical custody of the child within six hours.  
 7740 The Department of Human Services upon taking physical custody shall promptly bring the  
 7741 child before the juvenile court as required by Code Section ~~15-11-47~~ 15-11-145."

7742 **SECTION 3-26.**

7743 Said title is further amended by revising Code Section 19-13-20, relating to definitions  
 7744 regarding family violence shelters, as follows:

7745 "(5) 'Family violence shelter' means a facility approved by the department for the purpose  
 7746 of receiving, on a temporary basis, persons who are subject to family violence. Family  
 7747 violence shelters are distinguished from shelters operated for detention or placement of  
 7748 children only, as provided in subsection (a) of Code Section ~~15-11-48~~ 15-11-504 and  
 7749 subsection (c) of Code Section 15-11-135."

7750 **SECTION 3-27.**

7751 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by  
 7752 revising paragraph (3) of Code Section 20-1A-30, relating to definitions for background  
 7753 checks, as follows:

7754 "(3) 'Crime' means any felony; a violation of Code Section 16-5-23, ~~relating to simple~~  
 7755 ~~battery~~, when the victim is a minor; a violation of Code Section 16-12-1, ~~relating to~~  
 7756 ~~contributing to the delinquency of a minor~~; a violation of Chapter 6 of Title 16, ~~relating~~  
 7757 ~~to sexual offenses~~; a violation of Code Section 16-4-1, ~~relating to criminal attempt~~ when  
 7758 the crime attempted is any of the crimes specified by this paragraph; or any other offenses  
 7759 committed in another jurisdiction which, if committed in this state, would be one of the  
 7760 enumerated crimes listed in this paragraph."

7761 **SECTION 3-28.**

7762 Said title is further amended by revising subsection (b) of Code Section 20-2-670, relating  
 7763 to requirements for transferring students beyond sixth grade, as follows:

7764 "(b) In lieu of complying with the provision of subsection (a) of this Code section, a  
 7765 transferring student may be admitted on a conditional basis if he or she and his or her  
 7766 parent or legal guardian executes a document providing the name and address of the school  
 7767 last attended and authorizing the release of all academic and disciplinary records to the  
 7768 school administration. The parent or guardian shall be notified of the transfer of such  
 7769 records and shall, upon written request made within ten days of such notice, be entitled to  
 7770 receive a copy of such records. Within five days of the receipt of a copy of such records,  
 7771 the parent or guardian may make a written request for and shall be entitled to a hearing  
 7772 before the principal of the school or his or her designee which is the custodian of such  
 7773 records for the purpose of challenging the content of the records. The student or his or her  
 7774 parent or legal guardian shall also disclose on the same document as the release whether  
 7775 the child has ever been adjudicated guilty of the commission of a designated felony act as  
 7776 defined in Code Section ~~15-11-63~~ 15-11-2 and, if so, the date of such adjudication, the  
 7777 offense committed, the jurisdiction in which such adjudication was made, and the sentence  
 7778 imposed. Any form document to authorize the release of records which is provided by a  
 7779 school to a transferring student or such student's parent or legal guardian shall include a list  
 7780 of designated felony acts. The student or his or her parent or legal guardian shall also  
 7781 disclose on the document whether the student is currently serving a suspension or expulsion  
 7782 from another school, the reason for such discipline, and the term of such discipline. If a  
 7783 student so conditionally admitted is found to be ineligible for enrollment pursuant to the  
 7784 provisions of Code Section 20-2-751.2, or is subsequently found to be so ineligible, he or  
 7785 she shall be dismissed from enrollment until such time as he or she becomes so eligible."

7786 **SECTION 3-29.**

7787 Said title is further amended by revising Code Section 20-2-671, relating to transfer students  
 7788 who have committed felony acts, as follows:

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7789 "20-2-671.

7790 If any school administrator determines from the information obtained pursuant to Code  
7791 Section ~~15-11-63~~ 15-11-602 or 20-2-670 or from any other source that a student has  
7792 committed a designated felony act, such administrator shall so inform all teachers to whom  
7793 the student is assigned that they may review the information in the student's file provided  
7794 pursuant to subsection (b) of Code Section 20-2-670 received from other schools or from  
7795 the juvenile courts. Such information shall be kept confidential."

7796 **SECTION 3-30.**

7797 Said title is further amended by revising paragraph (14) of subsection (c) and subsection (g)  
7798 of Code Section 20-2-690.2, relating to establishment of student attendance protocol  
7799 committee, membership and protocol, summary of penalties for failure to comply, and  
7800 reporting, as follows:

7801 "(14) The court approved community based risk reduction program established by the  
7802 juvenile court in accordance with Code Section ~~15-11-10~~ 15-11-38, if such a program has  
7803 been established."

7804 "(g) The committee shall write the summary of possible consequences and penalties for  
7805 failing to comply with compulsory attendance under Code Section 20-2-690.1 for children  
7806 and their parents, guardians, or other persons who have control or charge of children for  
7807 distribution by schools in accordance with Code Section 20-2-690.1. The summary of  
7808 possible consequences for children shall include possible dispositions for ~~unruly~~ children  
7809 in need of services and possible denial or suspension of a driver's license for a child in  
7810 accordance with Code Section 40-5-22."

7811 **SECTION 3-31.**

7812 Said title is further amended by revising Code Section 20-2-699, relating to the disposition  
7813 of children taken into custody, as follows:

7814 "20-2-699.

7815 Any person assuming temporary custody of a child pursuant to Code Section 20-2-698  
7816 shall immediately deliver the child either to the parent, guardian, or other person having  
7817 control or charge of the child or to the school from which the child is absent, or if the child  
7818 is found to have been adjudged a delinquent or ~~unruly~~ in need of services, ~~he~~ the person  
7819 shall cause the child to be brought before the probation officer of the county having  
7820 jurisdiction over such child."

**SECTION 3-32.**

7821  
7822 Said title is further amended by revising subsection (d) of Code Section 20-2-751.2, relating  
7823 to students subject to disciplinary orders of other school systems, as follows:

7824 "(d) If any school administrator determines from the information obtained pursuant to this  
7825 Code section or from Code Section ~~15-11-28~~ or ~~15-11-80~~ 15-11-599, 15-11-602, or  
7826 15-11-707 that a student has been convicted of or has been adjudicated to have committed  
7827 an offense which is a designated felony act under Code Section ~~15-11-63~~ 15-11-2, such  
7828 administrator shall so inform all teachers to whom the student is assigned and other school  
7829 personnel to whom the student is assigned. Such teachers and other certificated  
7830 professional personnel as the administrator deems appropriate may review the information  
7831 in the student's file provided pursuant to this Code section that has been received from  
7832 other schools or from the juvenile courts or superior courts. Such information shall be kept  
7833 confidential."

**SECTION 3-33.**

7834  
7835 Said title is further amended by revising Code Section 20-2-766.1, relating to proceeding  
7836 against parents for failure to cooperate in educational programs, as follows:

7837 "20-2-766.1.

7838 The local board of education may, by petition to the juvenile court, proceed against a parent  
7839 or guardian as provided in this Code section. If the court finds that the parent or guardian  
7840 has willfully and unreasonably failed to attend a conference requested by a principal  
7841 pursuant to Code Section 20-2-765 or 20-2-766, the court may order the parent or guardian  
7842 to attend such a conference, order the parent or guardian to participate in such programs  
7843 or such treatment as the court deems appropriate to improve the student's behavior, or both.  
7844 After notice and opportunity for hearing, the court may impose a fine, not to exceed  
7845 \$500.00, on a parent or guardian who willfully disobeys an order of the court entered under  
7846 this Code section. The court may use its contempt and other powers specified in Code  
7847 Section ~~15-11-5~~ 15-11-31 to enforce any order entered under this Code section."

**SECTION 3-34.**

7848  
7849 Said title is further amended by revising subsection (a) of Code Section 20-2-768, relating  
7850 to expulsion or suspension of students for felonies, as follows:

7851 "(a) Each local board of education is authorized to refuse to readmit or enroll any student  
7852 who has been suspended or expelled for being convicted of, being adjudicated to have  
7853 committed, being indicted for, or having information filed for the commission of any  
7854 felony or any delinquent act under Code Section ~~15-11-28~~ Sections 15-11-602 and  
7855 15-11-707 which would be a felony if committed by an adult. If refused readmission or

7856 enrollment, the student or the student's parent or legal guardian has the right to request a  
7857 hearing pursuant to the procedures provided for in Code Section 20-2-754."

7858 **SECTION 3-35.**

7859 Said title is further amended by revising subparagraph (B) of paragraph (1) of Code Section  
7860 20-3-660, relating to program of grants for foster children created, as follows:

7861 "(B) The student is currently committed to the Division of Family and Children  
7862 Services within the Department of Human Services under Code Section ~~15-11-55~~  
7863 15-11-212 and placed in a family foster home or is placed in accordance with  
7864 subparagraph (a)(2)(C) of Code Section ~~15-11-2~~ 15-11-212;"

7865 **SECTION 3-36.**

7866 Title 24 of the Official Code of Georgia Annotated, relating to evidence, is amended by  
7867 revising subsection (b) of Code Section 24-6-603, relating to oath or affirmation, as follows:

7868 "(b) Notwithstanding the provisions of subsection (a) of this Code section, in all  
7869 proceedings involving ~~deprivation~~ dependency as defined by Code Section 15-11-2 and in  
7870 all criminal proceedings in which a child was a victim of or witness to any crime, the child  
7871 shall be competent to testify, and the child's credibility shall be determined as provided in  
7872 this chapter."

7873 **SECTION 3-37.**

7874 Said title is further amended by revising subsection (q) of Code Section 24-12-21, relating  
7875 to disclosure of AIDS confidential information, as follows:

7876 "(q) A public safety agency or prosecuting attorney may obtain the results from an HIV  
7877 test to which the person named in the request has submitted under Code Section ~~15-11-66.1~~  
7878 15-11-603, 17-10-15, 42-5-52.1, or 42-9-42.1, notwithstanding that the results may be  
7879 contained in a sealed record."

7880 **SECTION 3-38.**

7881 Code Section 31-22-9.2 of the Official Code of Georgia Annotated, relating to HIV tests and  
7882 reports of positive results, is amended by revising subsection (c) as follows:

7883 "(c) Unless exempted under this Code section, each health care provider who orders an  
7884 HIV test for any person shall do so only after counseling the person to be tested. Unless  
7885 exempted under this subsection, the person to be tested shall have the opportunity to refuse  
7886 the test. The provisions of this subsection shall not be required if the person is required to  
7887 submit to an HIV test pursuant to Code Section ~~15-11-66.1~~ 15-11-603, 17-10-15,  
7888 31-17-4.2, 31-17A-3, 42-5-52.1, or 42-9-42.1. The provisions of this subsection shall not

7889 be required if the person is a minor or incompetent and the parent or guardian thereof  
 7890 permits the test after compliance with this subsection. The provisions of this subsection  
 7891 shall not be required if the person is unconscious, temporarily incompetent, or comatose  
 7892 and the next of kin permits the test after compliance with this subsection. The provisions  
 7893 of this subsection shall not apply to emergency or life-threatening situations. The  
 7894 provisions of this subsection shall not apply if the physician ordering the test is of the  
 7895 opinion that the person to be tested is in such a medical or emotional state that disclosure  
 7896 of the test would be injurious to the person's health. The provisions of this subsection shall  
 7897 only be required prior to drawing the body fluids required for the HIV test and shall not be  
 7898 required for each test performed upon that fluid sample."

7899

### **SECTION 3-39.**

7900 Title 35 of the Official Code of Georgia Annotated, relating to law enforcement officers and  
 7901 agencies, is amended by revising subsection (c) of Code Section 35-3-33, relating to powers  
 7902 and duties of the Georgia Crime Information Center, as follows:

7903 "(c) The provisions of this article notwithstanding, information and records of children  
 7904 shall only be inspected and disclosed as provided in Code Sections ~~15-11-82~~ 15-11-702 and  
 7905 ~~15-11-83~~ 15-11-708. Such records and information shall be sealed or destroyed according  
 7906 to the procedures outlined in Code Sections ~~15-11-79.2~~ 15-11-701 and ~~15-11-81~~  
 7907 15-11-709."

7908

### **SECTION 3-40.**

7909 Said title is further amended by revising subparagraph (B) of paragraph (7) of Code Section  
 7910 35-8-2, relating to definitions regarding peace officers, as follows:

7911 "(B) The Office of Permits and Enforcement of the Department of Transportation, the  
 7912 Department of Juvenile Justice and its institutions and facilities for the purpose of  
 7913 personnel who are authorized to exercise the power of arrest and who are employed or  
 7914 appointed by said department or institutions, and the office or section in the Department  
 7915 of Juvenile Justice in which persons are assigned who have been designated by the  
 7916 commissioner to investigate and apprehend ~~unruly and~~ delinquent children and any  
 7917 child with a pending juvenile court case alleging the child to be in need of services;  
 7918 and"

7919

### **SECTION 3-41.**

7920 Code Section 36-32-10 of the Official Code of Georgia Annotated, relating to jurisdiction  
 7921 in cases of furnishing alcoholic beverages, is amended by revising subsection (e) as follows:

7922 "(e) Nothing in this Code section shall affect the original and exclusive jurisdiction of the  
7923 juvenile court as set forth in Code Section ~~15-11-28~~ 15-11-10."

7924 **SECTION 3-42.**

7925 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is  
7926 amended by revising subsection (g) of Code Section 40-5-75, relating to suspension of  
7927 licenses by operation of law, as follows:

7928 "(g) Notwithstanding the provisions of Code Section ~~15-11-72~~ 15-11-606 and except as  
7929 provided in subsection (c) of this Code section, an adjudication of a minor child as a  
7930 delinquent child ~~or an unruly child~~ for any offense listed in subsection (a) of this Code  
7931 section shall be deemed a conviction for purposes of this Code section."

7932 **SECTION 3-43.**

7933 Said title is further amended by revising subsection (l) of Code Section 40-6-391, relating  
7934 to driving under the influence of alcohol, drugs, or other intoxicating substances, as follows:

7935 "(l) A person who violates this Code section while transporting in a motor vehicle a child  
7936 under the age of 14 years is guilty of the separate offense of endangering a child by driving  
7937 under the influence of alcohol or drugs. The offense of endangering a child by driving  
7938 under the influence of alcohol or drugs shall not be merged with the offense of driving  
7939 under the influence of alcohol or drugs for the purposes of prosecution and sentencing. An  
7940 offender who is convicted of a violation of this subsection shall be punished in accordance  
7941 with the provisions of subsection (d) of Code Section 16-12-1, ~~relating to the offense of~~  
7942 ~~contributing to the delinquency, unruliness, or deprivation of a child.~~"

7943 **SECTION 3-44.**

7944 Code Section 44-5-41 of the Official Code of Georgia Annotated, relating to voidance and  
7945 ratification of conveyance to or by a minor, is revised as follows:

7946 "44-5-41.

7947 A deed, security deed, bill of sale to secure debt, or any other conveyance of property or  
7948 interest in property to or by a minor is voidable unless such minor has become emancipated  
7949 by operation of law or pursuant to Article ~~6~~ 11 of Chapter 11 of Title 15. If a minor has  
7950 conveyed property or an interest in property, the minor may void the conveyance upon  
7951 arrival at the age of 18; and, if the minor makes another conveyance at that time, it will  
7952 void the first conveyance without reentry or repossession. If property or an interest in  
7953 property has been conveyed to a minor and, after arrival at the age of 18, the minor retains  
7954 the possession or benefit of the property or interest in property, the minor shall have  
7955 thereby ratified or affirmed the conveyance."

**SECTION 3-45.**

7956  
 7957 Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees,  
 7958 is amended by revising paragraph (7) of Code Section 45-9-81, relating to definitions  
 7959 regarding certain indemnification, as follows:

7960 "(7) 'Law enforcement officer' means any agent or officer of this state, a political  
 7961 subdivision or municipality of this state, or an authority of this state or a political  
 7962 subdivision of this state who, as a full-time or part-time employee, is vested either  
 7963 expressly by law or by virtue of public employment or service with authority to enforce  
 7964 the criminal or traffic laws with the power of arrest and whose duties include the  
 7965 preservation of public order, the protection of life and property, or the prevention,  
 7966 detection, or investigation of crime. Such term also includes the employees designated  
 7967 by the commissioner of juvenile justice ~~of the Department of Juvenile Justice~~ pursuant  
 7968 to paragraph (2) of subsection (i) of Code Section 49-4A-8, which employees have the  
 7969 duty to investigate and apprehend delinquent ~~and unruly~~ children and any child with a  
 7970 pending juvenile court case alleging the child to be in need of services who ~~have~~ has  
 7971 escaped from a facility under the jurisdiction of the Department of Juvenile Justice or  
 7972 who ~~have~~ has broken the conditions of supervision. Such term also includes members  
 7973 of the Georgia National Guard, the composition of which is set forth in Code Section  
 7974 38-2-3, who have been called into active state service by the Governor."

**SECTION 3-46.**

7975  
 7976 Said title is further amended by revising paragraph (7) of Code Section 45-9-101, relating  
 7977 to definitions regarding certain compensation, as follows:

7978 "(7) 'Law enforcement officer' means any agent or officer of this state, or a political  
 7979 subdivision or municipality thereof, who, as a full-time or part-time employee, is vested  
 7980 either expressly by law or by virtue of public employment or service with authority to  
 7981 enforce the criminal or traffic laws and whose duties include the preservation of public  
 7982 order, the protection of life and property, or the prevention, detection, or investigation of  
 7983 crime. Such term also includes the employees designated by the commissioner of  
 7984 juvenile justice ~~of the Department of Juvenile Justice~~ pursuant to paragraph (2) of  
 7985 subsection (i) of Code Section 49-4A-8, which employees have the duty to investigate  
 7986 and apprehend delinquent ~~and unruly~~ children and any child with a pending juvenile court  
 7987 case alleging the child to be in need of services who ~~have~~ has escaped from a facility  
 7988 under the jurisdiction of the Department of Juvenile Justice or who ~~have~~ has broken the  
 7989 conditions of supervision. Such term also includes members of the Georgia National  
 7990 Guard, the composition of which is set forth in Code Section 38-2-3, who have been  
 7991 called into active state service by the Governor."

**SECTION 3-47.**

7992

7993 Said title is further amended by revising subsection (a) of Code Section 45-20-1, relating to  
7994 purposes and principles of personnel administration, as follows:

7995 "(a) It is the purpose of this article to establish in the state a system of personnel  
7996 administration which will attract, select, and retain the best employees based on merit, free  
7997 from coercive political influences, with incentives in the form of equal opportunities for  
7998 all; which will provide technically competent and loyal personnel to render impartial  
7999 service to the public at all times and to render such service according to the dictates of  
8000 ethics and morality; and which will remove unnecessary and inefficient employees. It is  
8001 specifically the intent of the General Assembly to promote this purpose by allowing  
8002 agencies greater flexibility in personnel management so as to promote the overall  
8003 effectiveness and efficiency of state government. To this end, and in accordance with Code  
8004 Sections 45-20-2 and 45-20-6, all positions filled after July 1, 1996, shall be included in  
8005 the unclassified service of the State Personnel Administration, except as provided in Code  
8006 Section ~~15-11-24.3~~ 15-11-68. It is also specifically the intent of the General Assembly that  
8007 employees in the classified service prior to July 1, 1996, shall continue to be employees in  
8008 the classified service so long as they remain in classified positions or as otherwise provided  
8009 by law. It is further specifically the intent of the General Assembly that state government  
8010 operate within a framework of consistent core personnel policies and practices across all  
8011 state agencies and entities and that the state's most valued resource, its employees, be  
8012 managed in a manner to promote work force productivity and sound business practices."

**SECTION 3-48.**

8013

8014 Said title is further amended by revising subsection (a) of Code Section 45-20-6, relating to  
8015 composition of classified and unclassified service, as follows:

8016 "(a) The classified service as defined by Code Section 45-20-2 shall consist of only those  
8017 employees who were in the classified service on June 30, 1996, and who have remained  
8018 in a classified position without a break in service since that date. Any officer or employee  
8019 who occupies a classified position under the State Personnel Administration prior to July  
8020 1, 1996, or as provided in Code Section ~~15-11-24.3~~ 15-11-68 shall remain in the classified  
8021 service so long as such officer or employee shall remain in a classified position or as  
8022 otherwise provided by law. Employees in the classified service shall have, upon  
8023 completing a working test period, appeal rights as provided in Code Sections 45-20-8 and  
8024 45-20-9."

**SECTION 3-49.**

8025

8026 Title 49 of the Official Code of Georgia Annotated, relating to social services, is amended  
 8027 by revising paragraph (3) of Code Section 49-4A-1, relating to definitions regarding the  
 8028 Department of Juvenile Justice, as follows:

8029 "(3) '~~Delinquent or unruly~~ child or youth or a child in need of services' means any person  
 8030 so adjudged under Article ~~± 6 or 7~~ of Chapter 11 of Title 15."

**SECTION 3-50.**

8031

8032 Said title is further amended by revising subsection (b) of Code Section 49-4A-2, relating to  
 8033 the creation of the Board of Juvenile Justice, as follows:

8034 "(b) The board shall provide leadership in developing programs to successfully rehabilitate  
 8035 ~~juvenile delinquents and unruly~~ children adjudicated delinquent or in need of services  
 8036 committed to the state's custody and to provide technical assistance to private and public  
 8037 entities for prevention programs for children at risk."

**SECTION 3-51.**

8038

8039 Said title is further amended by revising Code Section 49-4A-4, relating to purpose of  
 8040 chapter, as follows:

8041 "49-4A-4.

8042 It is the purpose of this chapter to establish the department as the agency to administer,  
 8043 supervise, and manage juvenile detention facilities. Except for the purposes of  
 8044 administration, supervision, and management as provided in this chapter, juvenile detention  
 8045 facilities shall continue to be detention care facilities for delinquent ~~and unruly~~ children and  
 8046 youth and children in need of services who have violated a valid court order for the  
 8047 purposes of Article ~~± 6 or 7~~ of Chapter 11 of Title 15, ~~relating to juvenile courts and~~  
 8048 ~~juvenile proceedings.~~"

**SECTION 3-52.**

8049

8050 Said title is further amended by revising paragraphs (1) and (2) of subsection (a) and the  
 8051 introductory language of subsection (b) of Code Section 49-4A-7, relating to powers and  
 8052 duties of the department, as follows:

8053 "(1) Accept for detention in a youth development center or other juvenile detention  
 8054 facility any child who is committed to the department under Article ~~± 7~~ of Chapter 11 of  
 8055 Title 15;

8056 (2) Provide probation and parole and other court services for children and youth pursuant  
 8057 to a request from a court under Article ~~± 7~~ of Chapter 11 of Title 15;"

8058 "(b) When given legal custody over a child or youth for detention in a youth development  
8059 center or other facility under court order under Article † 7 of Chapter 11 of Title 15, the  
8060 department shall have:"

8061

**SECTION 3-53.**

8062 Said title is further amended by revising Code Section 49-4A-8, relating to commitment of  
8063 delinquent or unruly children, as follows:

8064 "49-4A-8.

8065 (a) When any child or youth is adjudged to be in a state of delinquency ~~or unruliness~~ or  
8066 a child in need of services who has violated a valid court order under Article † 6 or 7 of  
8067 Chapter 11 of Title 15 and the court does not release such child or youth unconditionally  
8068 or place him or her on probation or in a suitable public or private institution or agency, the  
8069 court may commit ~~him~~ such child to the department as provided in said Article † 6 or 7 of  
8070 Chapter 11 of Title 15; provided, however, that no delinquent ~~or unruly~~ child or youth or  
8071 child in need of services who has violated a valid court order shall be committed to the  
8072 department until the department certifies to the Governor that it has facilities available and  
8073 personnel ready to assume responsibility for delinquent ~~or unruly~~ children and youths and  
8074 children in need of services who have violated a valid court order.

8075 (b) When the court commits a delinquent ~~or unruly~~ child or a child in need of services who  
8076 has violated a valid court order to the department, it may order the child conveyed  
8077 forthwith to any facility designated by the department or direct that the child be left at  
8078 liberty until otherwise ordered by the department under such conditions as will ensure his  
8079 or her availability and submission to any orders of the department. If such delinquent ~~or~~  
8080 ~~unruly~~ child or child in need of services who has violated a valid court order is ordered  
8081 conveyed to the department, the court shall assign an officer or other suitable person to  
8082 convey such child to any facility designated by the department, provided that the person  
8083 assigned to convey a girl must be a female. The cost of conveying such child committed  
8084 to the department to the facility designated by the department shall be paid by the county  
8085 from which such child is committed, provided that no compensation shall be allowed  
8086 beyond the actual and necessary expenses of the party conveying and the child conveyed.

8087 (c) When a court commits a delinquent ~~or unruly~~ child or a child in need of services who  
8088 has violated a valid court order to the department, the court shall at once forward to the  
8089 department a certified copy of the order of commitment and the court, the probation officer,  
8090 the prosecuting and police authorities, the school authorities, and other public officials shall  
8091 make available to the department all pertinent information in their possession with respect  
8092 to the case. Such reports shall, if the department so requests, be made upon forms  
8093 furnished by the department or according to an outline provided by the department.

8094 (d)(1) When a delinquent ~~or unruly~~ child or a child in need of services who has violated  
 8095 a valid court order has been committed to the department, the department shall, under  
 8096 rules and regulations established by the board, forthwith examine and study the child and  
 8097 investigate all pertinent circumstances of his or her life and behavior. The department  
 8098 shall make periodic reexaminations of all ~~delinquent or unruly~~ such children within its  
 8099 control, except those on release under supervision of the department. Such  
 8100 reexaminations may be made as frequently as the department considers desirable and  
 8101 shall be made with respect to every child at intervals not exceeding one year. Failure of  
 8102 the department to examine a ~~delinquent or unruly child~~ such a child committed to it or to  
 8103 reexamine him or her within one year of a previous examination shall not of itself entitle  
 8104 the child to discharge from control of the department but shall entitle the child to petition  
 8105 the committing court for an order of discharge; and the court shall discharge him or her  
 8106 unless the department, upon due notice, satisfies the court of the necessity of further  
 8107 control.

8108 (2) The department shall keep written records of all examinations and reexaminations,  
 8109 of conclusions based thereon, and of all orders concerning the disposition or treatment  
 8110 of every delinquent ~~or unruly~~ child and every child in need of services who has violated  
 8111 a valid court order subject to its control. Records as may be maintained by the  
 8112 department with respect to a delinquent ~~or unruly~~ child or a child in need of services who  
 8113 has violated a valid court order committed to the department shall not be public records  
 8114 but shall be privileged records and may be disclosed by direction of the commissioner  
 8115 pursuant to federal law in regard to disseminating juvenile criminal history records only  
 8116 to those persons having a legitimate interest therein; provided, however, that the  
 8117 commissioner shall permit the Council of Juvenile Court Judges to inspect and copy such  
 8118 records for the purposes of obtaining statistics on juveniles.

8119 (e) Except as provided by subsection (e.1) of this Code section and subsection ~~(b)~~ (c) of  
 8120 Code Section ~~15-11-70~~ 15-11-602, when a delinquent ~~or unruly~~ child or a child in need of  
 8121 services who has violated a valid court order has been committed to the department for  
 8122 detention and a diagnostic study for the purpose of determining the most satisfactory plan  
 8123 for the child's care and treatment has been completed, the department may:

- 8124 (1) Permit the child liberty under supervision and upon such conditions as the department  
 8125 may believe conducive to acceptable behavior;
- 8126 (2) Order the child's confinement under such conditions as the department may believe  
 8127 best designed to serve the child's welfare and as may be in the best interest of the public;
- 8128 (3) Order reconfinement or renewed release as often as conditions indicate to be  
 8129 desirable;

- 8130 (4) Revoke or modify any order of the department affecting the child, except an order  
 8131 of final discharge, as often as conditions indicate to be desirable; or
- 8132 (5) Discharge the child from control of the department pursuant to Code Section  
 8133 15-11-32 and subsection ~~(a)~~ (c) of Code Section ~~15-11-70~~ 15-11-607 when it is satisfied  
 8134 that such discharge will best serve the child's welfare and the protection of the public.
- 8135 (e.1)(1) When a child who has been adjudicated delinquent for the commission of a  
 8136 designated felony act as defined in Code Section ~~15-11-63~~ 15-11-2 is released from  
 8137 confinement or custody of the department, it shall be the responsibility of the department  
 8138 to provide notice to any person who was the victim of the child's delinquent acts that the  
 8139 child is being released from confinement or custody.
- 8140 (2) As long as a good faith attempt to comply with paragraph (1) of this subsection has  
 8141 been made, the department and employees of the department shall not be liable for  
 8142 damages incurred by reason of the department's failure to provide the notice required by  
 8143 paragraph (1) of this subsection.
- 8144 (3) When a child convicted of a felony offense in a superior court is released from  
 8145 confinement or custody of the department, the department shall provide written notice,  
 8146 including the delinquent or designated felony act committed, to the superintendent of the  
 8147 school system in which such child was enrolled or, if the information is known, the  
 8148 school in which such child was enrolled or plans to be enrolled.
- 8149 (4) As long as a good faith attempt to comply with paragraph (3) of this subsection has  
 8150 been made, the department and employees of the department shall not be liable for  
 8151 damages incurred by reason of the department's failure to provide notice required by  
 8152 paragraph (3) of this subsection.
- 8153 (f) As a means of correcting the socially harmful tendencies of a delinquent ~~or unruly~~ child  
 8154 or a child in need of services who has violated a valid court order committed to it, the  
 8155 department may:
- 8156 (1) Require participation by youth in moral, academic, vocational, physical, and  
 8157 correctional training and activities, and provide youth the opportunity for religious  
 8158 activities where practicable in the institutions under the control and supervision of the  
 8159 department;
- 8160 (2) Require such modes of life and conduct as may seem best adapted to fit and equip  
 8161 him or her for return to full liberty without danger to the public;
- 8162 (3) Provide such medical, psychiatric, or casework treatment as is necessary; or
- 8163 (4) Place him or her, if physically fit, in a park, maintenance camp, or forestry camp or  
 8164 on a ranch owned by the state or by the United States and require any child so housed to  
 8165 perform suitable conservation and maintenance work, provided that the children shall not

8166 be exploited and that the dominant purpose of such activities shall be to benefit and  
8167 rehabilitate the children rather than to make the camps self-sustaining.

8168 (g) When funds are available, the department may:

8169 (1) Establish and operate places for detention and diagnosis of all delinquent ~~or unruly~~  
8170 children or children in need of services who have violated a valid court order committed  
8171 to it;

8172 (2) Establish and operate additional treatment and training facilities, including parks,  
8173 forestry camps, maintenance camps, ranches, and group residences necessary to classify  
8174 and handle juvenile delinquents of different ages and habits and different mental and  
8175 physical conditions, according to their needs; and

8176 (3) Establish parole or aftercare supervision to aid children given conditional release to  
8177 find homes and employment and otherwise to assist them to become reestablished in the  
8178 community and to lead socially acceptable lives.

8179 (h) Whenever the department finds that any ~~delinquent or unruly~~ child committed to the  
8180 department is mentally ill or ~~mentally retarded~~ developmentally disabled, the department  
8181 shall have the power to return such ~~delinquent or unruly~~ child to the court of original  
8182 jurisdiction for appropriate disposition by that court or may, if it so desires, request the  
8183 court having jurisdiction in the county in which the youth development center or other  
8184 facility is located to take such action as the condition of the child may require.

8185 (i)(1) A child who has been committed to the department ~~as a delinquent or unruly child~~  
8186 for detention in a youth development center or who has been otherwise taken into custody  
8187 and who has escaped therefrom or who has been placed under supervision and broken the  
8188 conditions thereof may be taken into custody without a warrant by a sheriff, deputy  
8189 sheriff, constable, police officer, probation officer, parole officer, or any other officer of  
8190 this state authorized to serve criminal process, upon a written request made by an  
8191 employee of the department having knowledge of the escape or of the violation of  
8192 conditions of supervision. Before a child may be taken into custody for violation of the  
8193 conditions of supervision, the written request mentioned above must be reviewed by the  
8194 commissioner or his or her designee. If the commissioner or his or her designee finds  
8195 that probable cause exists to believe that the child has violated his or her conditions of  
8196 supervision, he or she may issue an order directing that the child be picked up and  
8197 returned to custody.

8198 (2) The commissioner may designate as a peace officer who is authorized to exercise the  
8199 power of arrest any employee of the department whose full-time duties include the  
8200 preservation of public order, the protection of life and property, the detection of crime,  
8201 or the supervision of delinquent ~~and unruly~~ children or children in need of services who  
8202 have violated a valid court order in its institutions, facilities, or programs, or any

8203 employee who is a line supervisor of any such employee. The commissioner also may  
8204 designate as a peace officer who is authorized to exercise the power of arrest any  
8205 employee of a person or organization which contracts with the department pertaining to  
8206 the management, custody, care, and control of delinquent children or children in need of  
8207 services who have violated a valid court order retained by the person or organization, if  
8208 that employee's full-time duties include the preservation of public order, the protection  
8209 of life and property, the detection of crime, or the supervision of delinquent ~~and unruly~~  
8210 children or children in need of services who have violated a valid court order in the  
8211 department's institutions, facilities, or programs, or any employee who is a line supervisor  
8212 of such employee. The commissioner may designate one or more employees of the  
8213 department to investigate and apprehend delinquent ~~and unruly~~ children or children in  
8214 need of services who have violated a valid court order who have escaped from an  
8215 institution or facility or who have broken the conditions of supervision; provided,  
8216 however, that the employees so designated shall only be those with primary responsibility  
8217 for the security functions of youth development centers or whose primary duty consists  
8218 of the apprehension of youths who have escaped from such institutions or facilities or  
8219 who have broken the conditions of supervision. An employee of the department so  
8220 designated shall have the police power to investigate, to apprehend such children, and to  
8221 arrest any person physically interfering with the proper apprehension of such children.  
8222 An employee of the department so designated in the investigative section of the  
8223 department shall have the power to obtain a search warrant for the purpose of locating  
8224 and apprehending such children. Additionally, such employee, while on the grounds or  
8225 in the buildings of the department's institutions or facilities, shall have the same law  
8226 enforcement powers, including the power of arrest, as a law enforcement officer of the  
8227 local government with police jurisdiction over such institutions or facilities. Such  
8228 employee shall be authorized to carry weapons, upon written approval of the  
8229 commissioner, notwithstanding Code Sections 16-11-126 and 16-11-129. The  
8230 commissioner shall also be authorized to designate any person or organization with whom  
8231 the department contracts for services pertaining to the management, custody, care, and  
8232 control of delinquent ~~and unruly~~ children or children in need of services who have  
8233 violated a valid court order detained by the person or organization as a law enforcement  
8234 unit under paragraph (7) of Code Section 35-8-2. Any employee or person designated  
8235 under this subsection shall be considered to be a peace officer within the meaning of  
8236 Chapter 8 of Title 35 and must be certified under that chapter.

8237 (3) For the purposes of investigation of delinquent ~~or unruly~~ children or children in need  
8238 of services who have violated a valid court order who have escaped from institutions or  
8239 facilities of the department or of delinquent ~~or unruly~~ children or children in need of

8240 services who have violated a valid court order who are alleged to have broken the  
 8241 conditions of supervision, the department is empowered and authorized to request and  
 8242 receive from the Georgia Crime Information Center, established by Chapter 3 of Title 35,  
 8243 any information in the files of the Georgia Crime Information Center which will aid in  
 8244 the apprehension of such children.

8245 (4) An employee designated pursuant to paragraph (2) of this subsection may take a child  
 8246 into custody without a warrant upon personal knowledge or written request of a person  
 8247 having knowledge of the escape or violation of conditions of supervision, or a child may  
 8248 be taken into custody pursuant to Code Section ~~15-11-45~~ 15-11-501. When taking a child  
 8249 into custody pursuant to this paragraph, a designated employee of the department shall  
 8250 have the power to use all force reasonably necessary to take the child into custody.

8251 (5) The child shall be kept in custody in a suitable place designated by the department  
 8252 and there detained until such child may be returned to the custody of the department.

8253 (6) Such taking into custody shall not be termed an arrest; provided, however, that any  
 8254 person taking a child into custody pursuant to this subsection shall have the same  
 8255 immunity from civil and criminal liability as a peace officer making an arrest pursuant  
 8256 to a valid warrant.

8257 (j) The department shall ensure that each delinquent ~~or unruly~~ child or child in need of  
 8258 services who has violated a valid court order it releases under supervision or otherwise has  
 8259 suitable clothing, transportation to his or her home or to the county in which a suitable  
 8260 home or employment has been found for him or her, and such an amount of money as the  
 8261 rules and regulations of the board may authorize. The expenditure for clothing and for  
 8262 transportation and the payment of money to a delinquent ~~or unruly~~ child or a child in need  
 8263 of services who has violated a valid court order released may be made from funds for  
 8264 support and maintenance appropriated by the General Assembly to the department or to the  
 8265 institution from which such child is released or from local funds.

8266 (k) Every child committed to the department as delinquent ~~or unruly~~, if not already  
 8267 discharged, shall be discharged from custody of the department when he reaches his or her  
 8268 twenty-first birthday.

8269 (l) Commitment of a delinquent ~~or unruly~~ child to the custody of the department shall not  
 8270 operate to disqualify such child in any future examination, appointment, or application for  
 8271 public service under the government either of the state or of any political subdivision  
 8272 thereof.

8273 (m) A commitment to the department shall not be received in evidence or used in any way  
 8274 in any proceedings in any court, except in subsequent proceedings for delinquency or  
 8275 ~~unruliness~~ being in need of services involving the same child and except in imposing  
 8276 sentence in any criminal proceeding against the same person.

8277 (n) The department shall conduct a continuing inquiry into the effectiveness of treatment  
 8278 methods it employs in seeking the rehabilitation of maladjusted children. To this end, the  
 8279 department shall maintain a statistical record of arrests and commitments of its wards  
 8280 subsequent to their discharge from the jurisdiction and control of the department and shall  
 8281 tabulate, analyze, and publish in print or electronically annually these data so that they may  
 8282 be used to evaluate the relative merits of methods of treatment. The department shall  
 8283 cooperate with courts and public and private agencies in the collection of statistics and  
 8284 information regarding juvenile delinquency; arrests made; complaints, informations, and  
 8285 petitions filed; the disposition made thereof; and other information useful in determining  
 8286 the amount and causes of juvenile delinquency in this state. In order to facilitate the  
 8287 collection of such information, the department shall be authorized to inspect and copy all  
 8288 records of the court and law enforcement agencies pertaining to juveniles.

8289 (o) When a child who is committed to the department is under court order to make certain  
 8290 restitution as a part of his or her treatment by the court, the requirement that the restitution  
 8291 be paid in full shall not cease with the order of commitment. The provision of the order  
 8292 requiring restitution shall remain in force and effect during the period of commitment and  
 8293 the department is empowered to enforce said restitution requirement and to direct that  
 8294 payment of funds or notification of service completed be made to the clerk of the juvenile  
 8295 court or another employee of that court designated by the judge."

8296 **SECTION 3-54.**

8297 Said title is further amended by revising subsection (b) of Code Section 49-4A-9, relating to  
 8298 sentence of youthful offenders, as follows:

8299 "(b) Any final order of judgment by the court in the case of any such child shall be subject  
 8300 to such modification from time to time as the court may consider to be for the welfare of  
 8301 such child. No commitment of any child to any institution or other custodial agency shall  
 8302 deprive the court of jurisdiction to change the form of the commitment or transfer the  
 8303 custody of the child to some other institution or agency on such conditions as the court may  
 8304 see fit to impose, the duty being constant upon the court to give to all children subject to  
 8305 its jurisdiction such oversight and control in the premises as will be conducive to the  
 8306 welfare of the child and the best interests of the state; provided, however, that the release  
 8307 or parole of any child committed to the department for detention in any of its institutions  
 8308 under the terms of this chapter during the period of one year from the date of commitment  
 8309 shall be had only with the concurrence and recommendation of the commissioner or the  
 8310 commissioner's designated representative; provided, further, that upon releasing or paroling  
 8311 any child adjudicated delinquent for the commission of a designated felony act as defined  
 8312 in Code Section ~~15-11-63~~ 15-11-2 and committed to the department for detention in any

8313 of its institutions under the terms of this chapter, the department shall provide notice to any  
 8314 person who was the victim of the child's delinquent acts that the child is being released or  
 8315 paroled. As long as a good faith attempt to comply with the notice requirement of this  
 8316 subsection has been made, the department and employees of the department shall not be  
 8317 liable for damages incurred by reason of the department's failure to provide the notice  
 8318 required by this subsection."

8319 **SECTION 3-55.**

8320 Said title is further amended by revising paragraphs (3), (5), (12), and (16) of Code Section  
 8321 49-5-3, relating to definitions regarding services for children and youth, as follows:

8322 "(3) 'Child welfare and youth services' means duties and functions authorized or required  
 8323 by this article to be provided by the department with respect to:

8324 (A) Establishment and enforcement of standards for social services and facilities for  
 8325 children and youths which supplement or substitute for parental care and supervision  
 8326 for the purpose of preventing or remedying or assisting in the solution of problems  
 8327 which may result in neglect, abuse, exploitation, or delinquency of children and youths;

8328 (B) Protecting and caring for ~~deprived~~ dependent children and youths;

8329 (C) Protecting and promoting the welfare of children of working mothers;

8330 (D) Providing social services to children and youths and their parents and care for  
 8331 children and youths born out of wedlock and their mothers;

8332 (E) Promotion of coordination and cooperation among organizations, agencies, and  
 8333 citizen groups in community planning, organization, development, and implementation  
 8334 of such services; and

8335 (F) Otherwise protecting and promoting the welfare of children and youths, including  
 8336 the strengthening of their homes where possible or, where needed, the provision of  
 8337 adequate care of children and youths away from their homes in foster family homes or  
 8338 day-care or other child care facilities."

8339 "(5) '~~Deprived~~ Dependent child or youth' means any person so adjudged under Chapter  
 8340 11 of Title 15."

8341 "(12) 'Legal custody' means a legal status created by court order embodying the  
 8342 following rights and responsibilities:

8343 (A) The right to have the physical possession of the child;

8344 (B) The right and the duty to protect, train, and discipline the child;

8345 (C) The responsibility to provide the child with food, clothing, shelter, education, and  
 8346 ordinary medical care; and

8347 (D) The right to determine where and with whom the child shall live,

8348 provided that these rights and responsibilities shall be exercised subject to the powers,  
 8349 rights, duties, and responsibilities of the guardian of the person of the child and subject  
 8350 to any residual parental rights and responsibilities. These rights shall be subject to  
 8351 judicial oversight and review pursuant to Code Section ~~15-11-55~~ 15-11-212."

8352 "(16) 'Protective supervision' means a legal status created by court order following  
 8353 adjudication in a ~~deprivation~~ dependency case, whereby a child's place of abode is not  
 8354 changed but assistance directed at correcting the ~~deprivation~~ dependency is provided  
 8355 through the court or an agency designated by the court."

8356 **SECTION 3-56.**

8357 Said title is further amended by revising paragraphs (1) and (2) of subsection (a) of Code  
 8358 Section 49-5-8, relating to powers and duties of the department, as follows:

8359 "(1) Preventive services as follows:

8360 (A) Collecting and disseminating information about the problems of children and  
 8361 youths and providing consultative assistance to groups, public and private, interested  
 8362 in developing programs and services for the prevention, control, and treatment of  
 8363 dependency, ~~deprivation~~, and delinquency among the children of this state; and

8364 (B) Research and demonstration projects designed to add to the store of information  
 8365 about the social and emotional problems of children and youths and improve the  
 8366 methods for dealing with these problems;

8367 (2) Child welfare services as follows:

8368 (A) Casework services for children and youths and for mothers bearing children out  
 8369 of wedlock, whether living in their own homes or elsewhere, to help overcome  
 8370 problems that result in dependency, ~~deprivation~~, or delinquency;

8371 (B) Protective services that will investigate complaints of ~~deprivation~~, abuse, or  
 8372 abandonment of children and youths by parents, guardians, custodians, or persons  
 8373 serving in loco parentis and, on the basis of the findings of such investigation, offer  
 8374 social services to such parents, guardians, custodians, or persons serving in loco  
 8375 parentis in relation to the problem or bring the situation to the attention of a law  
 8376 enforcement agency, an appropriate court, or another community agency;

8377 (C) Supervising and providing required services and care involved in the interstate  
 8378 placement of children;

8379 (D) Homemaker service, or payment of the cost of such service, when needed due to  
 8380 the absence or incapacity of the mother;

8381 (E) Boarding care, or payment of maintenance costs, in foster family homes or in  
 8382 group-care facilities for children and youths who cannot be adequately cared for in their  
 8383 own homes;

- 8384 (F) Boarding care or payment of maintenance costs for mothers bearing children out  
 8385 of wedlock prior to, during, and for a reasonable period after childbirth; and  
 8386 (G) Day-care services for the care and protection of children whose parents are absent  
 8387 from the home or unable for other reasons to provide parental supervision;"

8388 **SECTION 3-57.**

8389 Said title is further amended by revising subsection (e) of Code Section 49-5-41, relating to  
 8390 persons and agencies permitted access to records, as follows:

8391 "(e) Notwithstanding any other provisions of law, with the exception of medical and  
 8392 mental health records made confidential by other provisions of law, child abuse and  
 8393 ~~deprivation~~ dependency records applicable to a child who at the time of his or her fatality  
 8394 or near fatality was:

- 8395 (1) In the custody of a state department or agency or foster parent;  
 8396 (2) A child as defined in paragraph (3) of Code Section ~~15-11-171~~ 15-11-741; or  
 8397 (3) The subject of an investigation, report, referral, or complaint under Code Section  
 8398 ~~15-11-173~~ 15-11-743

8399 shall not be confidential and shall be subject to Article 4 of Chapter 18 of Title 50, relating  
 8400 to open records; provided, however, that any identifying information, including but not  
 8401 limited to the child or caretaker's name, race, ethnicity, address, or telephone numbers and  
 8402 any other information that is privileged or confidential, shall be redacted to preserve the  
 8403 confidentiality of the child, other children in the household, and the child's parents,  
 8404 guardians, custodians, or caretakers. Upon the release of documents pursuant to this  
 8405 subsection, the department may comment publicly on the case."

8406 **SECTION 3-58.**

8407 Said title is further amended by revising paragraph (3) of Code Section 49-5-60, relating to  
 8408 definitions for employee record checks for day-care centers, as follows:

8409 "(3) 'Crime' means any felony; a violation of Code Section 16-5-23, ~~relating to simple~~  
 8410 ~~battery~~, when the victim is a minor; a violation of Code Section 16-12-1, ~~relating to~~  
 8411 ~~contributing to the delinquency of a minor~~; a violation of Chapter 6 of Title 16, ~~relating~~  
 8412 ~~to sexual offenses~~; excluding the offenses of bigamy or marrying a bigamist; a violation  
 8413 of Code Section 16-4-1, ~~relating to criminal attempt~~ when the crime attempted is any of  
 8414 the crimes specified by this paragraph; or any other offenses committed in another  
 8415 jurisdiction which, if committed in this state, would be one of the enumerated crimes  
 8416 listed in this paragraph."

**SECTION 3-59.**

8417  
8418 Said title is further amended by revising paragraph (2) of Code Section 49-5-110, relating  
8419 to definitions for record checks for persons supervising children, as follows:

8420 "(2) 'Crime' means a violation of Code Section 16-5-23, ~~relating to simple battery~~, when  
8421 the victim is a minor; a violation of Code Section 16-5-24, ~~relating to aggravated battery~~,  
8422 when the victim is a minor; a violation of Code Section 16-5-70, ~~relating to cruelty to~~  
8423 ~~children~~; a violation of Code Section 16-12-1, ~~relating to contributing to the delinquency~~  
8424 ~~of a minor~~; a violation of Chapter 6 of Title 16, ~~relating to sexual offenses~~; excluding the  
8425 offenses of bigamy or marrying a bigamist; a felony violation of Chapter 13 of Title 16;  
8426 a violation of Code Section 16-5-1, ~~relating to murder and felony murder~~; a violation of  
8427 Code Section 16-4-1, ~~relating to criminal attempt~~ as it concerns attempted murder; or any  
8428 other offense committed in another jurisdiction which, if committed in this state, would  
8429 be deemed to be one of the enumerated crimes listed in this paragraph."

**SECTION 3-60.**

8430  
8431 Said title is further amended by revising paragraph (2) of Code Section 49-5-131, relating  
8432 to definitions, as follows:

8433 "(2) 'Child' means a person under the age of 17 years who is alleged to have committed  
8434 a delinquent act or a person under the age of 18 years who is alleged to be ~~deprived~~  
8435 dependent or is alleged to be a ~~status offender~~ child in need of services as those terms are  
8436 defined by Code Section 15-11-2."

**SECTION 3-61.**

8437  
8438 Said title is further amended by revising paragraphs (15) and (18) of subsection (a) of Code  
8439 Section 49-5-281, relating to bill of rights for foster parents, as follows:

8440 "(15) The right to participate in the case planning and decision-making process with the  
8441 Division of Family and Children Services regarding the child as provided in Code Section  
8442 ~~15-11-58~~ 15-11-201;"

8443 "(18) The right to be notified in advance, in writing, by the Division of Family and  
8444 Children Services or the court of any hearing or review where the case plan or  
8445 permanency of the child is an issue, including initial and periodic reviews held by the  
8446 court in accordance with Code Section 15-11-216 or by the Judicial Citizen Review Panel  
8447 in accordance with Code Section 15-11-217, hearings following revocation of the license  
8448 of an agency which has permanent custody of a child in accordance with Code Section  
8449 31-2-6, and permanency plan hearings, ~~and motions to extend custody, in accordance~~  
8450 ~~with Code Section 15-11-58~~ in accordance with Code Section 15-11-230;"

**SECTION 3-62.**

8451

8452 Code Section 52-7-12 of the Official Code of Georgia Annotated, relating to operation of  
8453 watercraft while under the influence of alcohol or drugs, is amended by revising subsection  
8454 (l) as follows:

8455 "(l) A person who violates this Code section while transporting in a moving vessel or  
8456 personal watercraft or towing on water skis, an aquaplane, a surfboard or similar device a  
8457 child under the age of 14 years is guilty of the separate offense of endangering a child by  
8458 operating a moving vessel or personal watercraft under the influence of alcohol or drugs.  
8459 The offense of endangering a child by operating a moving vessel or personal watercraft  
8460 under the influence of alcohol or drugs shall not be merged with the offense of operating  
8461 a vessel under the influence of alcohol or drugs for the purposes of prosecution and  
8462 sentencing. An offender who is convicted of a violation of this subsection shall be  
8463 punished in accordance with the provisions of subsection (d) of Code Section 16-12-1;  
8464 ~~relating to the offense of contributing to the delinquency, unruliness, or deprivation of a~~  
8465 ~~child."~~

**PART IV**

8466

**EFFECTIVE DATE, APPLICABILITY, AND REPEALER**

8467

**SECTION 4-1.**

8468

8469 This Act shall become effective on July 1, 2013, and shall apply to all juvenile proceedings  
8470 commenced on and after such date. The enactment of this Act shall not affect any  
8471 prosecutions for acts occurring before July 1, 2013, and shall not act as an abatement of any  
8472 such prosecutions.

**SECTION 4-2.**

8473

8474 All laws and parts of laws in conflict with this Act are repealed.