

House Bill 242

By: Representatives Willard of the 51st, Coomer of the 14th, Hatchett of the 150th, Nimmer of the 178th, Oliver of the 82nd, 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 and enact comprehensive juvenile justice reforms recommended by the Governor's Special
4 Council on Justice Reform in Georgia; to provide for purpose statements; to provide for
5 definitions; to provide for general provisions; to provide for juvenile court administration;
6 to provide for dependency proceedings; to provide for venue; to provide for taking children
7 into care; to provide for preliminary protective hearings; to provide for petitions alleging
8 dependency; to provide for summons and service; to provide for preadjudication procedures;
9 to provide for adjudication; to provide for predisposition social study; to provide for family
10 reunification determinations; to provide for disposition of dependent children; to provide for
11 permanency plan hearings for dependent children; to provide for permanent guardianship;
12 to provide for termination of parental rights; to provide for petitions to terminate parental
13 rights and summons; to provide for hearings on such petitions; to provide for grounds for
14 terminating parental rights; to provide for disposition of children whose parental rights have
15 been terminated; to provide for children in need of services; to provide for formal court
16 proceedings for children in need of services; to provide for preadjudication custody and
17 release of children in need of services; to provide for a petition seeking an adjudication that
18 a child is a child in need of services; to provide for adjudication, disposition, and reviews;
19 to provide for a permanency plan for children in need of services; to provide for children
20 with mental health issues; to provide for delinquency; to provide for custody and release of
21 a child including the use of detention assessments; to provide for intake and arraignment; to
22 provide for informal adjustment; to provide for a petition alleging delinquency and summons;
23 to provide for preadjudication procedures for delinquency proceedings; to provide for
24 transfers to superior court; to revise designated felony acts; to provide for adjudication of
25 delinquency; to provide for predisposition investigation and risk assessments; to provide for
26 disposition hearings for delinquent children; to provide for permanency plans for delinquent
27 children; to provide for traffic offenses; to prohibit secure confinement under certain
28 circumstances; to provide for competency in delinquency cases; to provide for parental

29 notification of abortions; to provide for access to hearings and records; to provide for
 30 emancipation of minors; to provide for the Office of the Child Advocate for the Protection
 31 of Children; to amend Code Section 42-5-52 of the Official Code of Georgia Annotated,
 32 relating to classification and separation of inmates generally and the placement of inmates,
 33 so as to provide for the detention of children in the Department of Corrections under certain
 34 circumstances; to amend Chapter 4A of Title 49 of the Official Code of Georgia Annotated,
 35 relating to the Department of Juvenile Justice, so as change provisions relating to the duties
 36 of the Board of Juvenile Justice; to change provisions relating to the duties of the DJJ; to
 37 amend the Official Code of Georgia Annotated so as to conform provisions to the new
 38 Chapter 11 of Title 15 and correct cross-references; to provide for related matters; to provide
 39 for an effective date and applicability; to repeal conflicting laws; and for other purposes.

40 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

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

46 "CHAPTER 11
 47 ARTICLE 1

48 15-11-1.

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

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

64 15-11-2.

65 As used in this chapter, the term:

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

68 Intent to forgo parental duties or relinquish parental claims may be evidenced by:

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

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

73 (C) Leaving a child with another person without provision for his or her support for a
 74 period of at least six months;

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

78 (E) Leaving a child without affording means of identifying such child or his or her
 79 parent, guardian, or legal custodian and:

80 (i) The identity of such child's parent, guardian, or legal custodian cannot be
 81 ascertained despite diligent searching; and

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

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

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

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

90 (2) 'Abuse' means:

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

94 (B) Emotional abuse;

95 (C) Sexual abuse or sexual exploitation;

96 (D) Prenatal abuse; or

- 97 (E) The commission of an act of family violence as defined in Code Section 19-13-1
98 in the presence of a child. An act includes a single act, multiple acts, or a continuing
99 course of conduct. As used in this subparagraph, the term 'presence' means physically
100 present or able to see or hear.
- 101 (3) 'Adult' means any individual who is not a child as defined in paragraph (10) of this
102 Code section.
- 103 (4) 'Affiliate court appointed special advocate program' means a locally operated
104 program operating with the approval of the local juvenile court which screens, trains, and
105 supervises volunteers to advocate for the best interests of an abused or neglected child in
106 dependency proceedings.
- 107 (5) 'Aggravated circumstances' means the parent has:
- 108 (A) Abandoned an infant;
109 (B) Attempted, conspired to attempt, or has subjected a child or his or her sibling to
110 death or great bodily harm;
111 (C) Attempted, conspired to attempt, or has subjected a child or his or her sibling to
112 torture, chronic abuse, sexual abuse, or sexual exploitation; or
113 (D) Committed the murder or voluntary manslaughter of his or her child's other parent
114 or has been convicted of aiding or abetting, attempting, or soliciting the murder or
115 voluntary manslaughter of his or her child's other parent.
- 116 (6) 'Biological father' means the male who impregnated the biological mother resulting
117 in the birth of a child.
- 118 (7) 'Business day' means Mondays through Fridays and shall not include weekends or
119 legal holidays.
- 120 (8) 'Caregiver' means any person providing a residence for a child or any person legally
121 obligated to provide or secure adequate care for a child, including his or her parent,
122 guardian, or legal custodian.
- 123 (9) 'Case plan' means a plan which is designed to ensure that a child receives protection,
124 proper care, and case management and may include services for a child, his or her parent,
125 guardian, or legal custodian, and other caregivers.
- 126 (10) 'Child' means any individual who is:
- 127 (A) Under the age of 18 years;
128 (B) Under the age of 17 years when alleged to have committed a delinquent act;
129 (C) Under the age of 22 years and in the care of DFCS;
130 (D) Under the age of 23 years and eligible for and receiving independent living
131 services through DFCS; or

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

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

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

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

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

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

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

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

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

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

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

156 (12) 'Class A designated felony act' means a delinquent act committed by a child 13
 157 years of age or older which, if committed by an adult, would be one or more of the
 158 following crimes:

159 (A) Aggravated assault in violation of paragraph (1) or (3) of subsection (a) or
 160 subsection (c), (d), (e), (i), or (l) of Code Section 16-5-21 or assault with a deadly
 161 weapon or with any object, device, or instrument which, when used offensively against
 162 a person, actually does result in serious bodily injury;

163 (B) Aggravated battery;

164 (C) Armed robbery not involving a firearm;

165 (D) Arson in the first degree;

166 (E) Attempted murder;

167 (F) Escape in violation of Code Section 16-10-52, if such child has previously been
 168 adjudicated to have committed a class A designated felony act or class B designated
 169 felony act;
 170 (G) Hijacking a motor vehicle;
 171 (H) Kidnapping;
 172 (I) Participating in criminal gang activity, as defined in subparagraphs (A) through (G)
 173 and (J) of paragraph (1) of Code Section 16-15-3, in violation of Code Section 16-15-4;
 174 (J) Trafficking of substances in violation of Code Section 16-13-31 or 16-13-31.1;
 175 (K) Any other act which, if committed by an adult, would be a felony in violation of
 176 Chapter 5 or 6 of Title 16, if such child has three times previously been adjudicated for
 177 delinquent acts, provided that the prior adjudications of delinquency shall not have
 178 arisen out of the same transaction or occurrence or series of events related in time and
 179 location; or
 180 (L) Any other act which, if committed by an adult, would be a felony, if such child has
 181 three times previously been adjudicated for delinquent acts, one of which, if committed
 182 by an adult, would have been a felony in violation of Chapter 5 or 6 of Title 16,
 183 provided that the prior adjudications of delinquency shall not have arisen out of the
 184 same transaction or occurrence or series of events related in time and location.

185 (13) 'Class B designated felony act' means a delinquent act committed by a child 13
 186 years of age or older which, if committed by an adult, would be one or more of the
 187 following crimes:

188 (A) Aggravated assault in violation of subsection (f), (g), or (j) of Code Section
 189 16-5-21 or assault with a deadly weapon or with any object, device, or instrument
 190 which, when used offensively against a person, would be likely to result in serious
 191 bodily injury but which did not result in serious bodily injury;
 192 (B) Arson in the second degree;
 193 (C) Attempted kidnapping;
 194 (D) Battery in violation of Code Section 16-5-23.1, if the victim is a teacher or other
 195 school personnel;
 196 (E) Racketeering in violation of Code Section 16-14-4;
 197 (F) Robbery;
 198 (G) Participating in criminal gang activity, as defined in subparagraph (H) of paragraph
 199 (1) of Code Section 16-15-3, in violation of Code Section 16-15-4;
 200 (H) Smash and grab burglary;
 201 (I) Possessing, manufacturing, transporting, distributing, possessing with the intent to
 202 distribute, or offering to distribute a destructive device in violation of Code Section
 203 16-7-82;

- 204 (J) Distributing certain materials to persons under the age of 21 in violation of Code
205 Section 16-7-84;
- 206 (K) Any subsequent violation of Code Sections 16-8-2 through 16-8-5 or 16-8-5.2
207 through 16-8-9, if the property which was the subject of the theft was a motor vehicle
208 and such child has had one or more separate, prior adjudications of delinquency based
209 upon a violation of Code Sections 16-8-2 through 16-8-5 or 16-8-5.2 through 16-8-9,
210 provided that the prior adjudications of delinquency shall not have arisen out of the
211 same transaction or occurrence or series of events related in time and location;
- 212 (L) Any subsequent violation of Code Section 16-7-85 or 16-7-87, if such child has
213 had one or more separate, prior adjudications of delinquency based upon a violation of
214 Code Section 16-7-85 or 16-7-87, provided that the prior adjudications of delinquency
215 shall not have arisen out of the same transaction or occurrence or series of events
216 related in time and location;
- 217 (M) Any subsequent violation of subsection (b) of Code Section 16-11-132, if such
218 child has had one or more separate, prior adjudications of delinquency based upon a
219 violation of subsection (b) of Code Section 16-11-132, provided that the prior
220 adjudications of delinquency shall not have arisen out of the same transaction or
221 occurrence or series of events related in time and location;
- 222 (N) An act which constitutes a second or subsequent adjudication of delinquency based
223 on a violation of Code Section 16-11-127.1 or which is a first violation of Code Section
224 16-11-127.1 involving:
- 225 (i) A firearm, as defined in paragraph (2) of subsection (a) of Code Section
226 16-11-131;
- 227 (ii) A dangerous weapon or machine gun, as defined in Code Section 16-11-121; or
228 (iii) Any weapon, as defined in Code Section 16-11-127.1, together with an assault;
229 or
- 230 (O) Any other act which, if committed by an adult, would be a felony in violation of
231 any chapter of Title 16 other than Chapter 5 or 6 of Title 16, if such child has three
232 times previously been adjudicated for delinquent acts, all of which, if committed by an
233 adult, would have been felonies in violation of any chapter of Title 16 other than
234 Chapter 5 or 6 of Title 16, provided that the prior adjudications of delinquency shall not
235 have arisen out of the same transaction or occurrence or series of events related in time
236 and location.
- 237 (14) 'Complaint' is the initial document setting out the circumstances that resulted in a
238 child being brought before the court.
- 239 (15) 'Court' means the juvenile court or the court exercising jurisdiction over juvenile
240 matters.

- 241 (16) 'Court appointed special advocate' or 'CASA' means a community volunteer who:
242 (A) Has been screened and trained regarding child abuse and neglect, child
243 development, and juvenile court proceedings;
244 (B) Has met all the requirements of an affiliate court appointed special advocate
245 program;
246 (C) Is being actively supervised by an affiliate court appointed special advocate
247 program; and
248 (D) Has been sworn in by a judge of the juvenile court in the court or circuit in which
249 he or she wishes to serve.
- 250 (17) 'Criminal justice purposes' means the performance of any activity directly involving:
251 (A) The investigation, detection, apprehension, detention, pretrial release, post-trial
252 release, prosecution, adjudication, correctional supervision, or rehabilitation of children
253 or adults who are accused of, convicted of, adjudicated of, or charged with crimes or
254 delinquent acts; or
255 (B) The collection, storage, and dissemination of criminal history record information.
- 256 (18) 'DBHDD' means the Department of Behavioral Health and Developmental
257 Disabilities.
- 258 (19) 'Delinquent act' means:
259 (A) An act committed by a child designated a crime by the laws of this state, or by the
260 laws of another state if the act occurred in that state, under federal laws, or by local
261 ordinance, and the act is not an offense applicable only to a child or a juvenile traffic
262 offense;
263 (B) The act of disobeying the terms of supervision contained in a court order which has
264 been directed to a child who has been adjudicated to have committed a delinquent act;
265 or
266 (C) Failing to appear as required by a citation issued for an act that would be a crime
267 if committed by an adult.
- 268 (20) 'Delinquent child' means a child who has committed a delinquent act and is in need
269 of treatment or rehabilitation.
- 270 (21) 'Department' means the Department of Human Services.
- 271 (22) 'Dependent child' means a child who:
272 (A) Has been abused or neglected and is in need of the protection of the court;
273 (B) Has been placed for care or adoption in violation of law; or
274 (C) Is without his or her parent, guardian, or legal custodian.
- 275 (23) 'Detention assessment' shall have the same meaning as set forth in Code Section
276 49-4A-1.

- 277 (24) 'Developmental disability' shall have the same meaning as set forth in Code Section
278 37-1-1.
- 279 (25) 'Developmental level' is a child's ability to understand and communicate, taking into
280 account such factors as age, maturity, mental capacity, level of education, cultural
281 background, and degree of language acquisition.
- 282 (26) 'DFCS' means the Division of Family and Children Services of the department.
- 283 (27) 'Diligent search' means the efforts of DFCS to identify and locate a parent whose
284 identity or location is unknown or a relative or other person who has demonstrated an
285 ongoing commitment to a child.
- 286 (28) 'DJJ' means the Department of Juvenile Justice.
- 287 (29) 'Emancipation' means termination of the rights of a parent to the custody, control,
288 services, and earnings of a child.
- 289 (30) 'Emotional abuse' means acts or omissions by a person responsible for the care of
290 a child that cause any mental injury to such child's intellectual or psychological capacity
291 as evidenced by an observable and significant impairment in such child's ability to
292 function within a child's normal range of performance and behavior or that create a
293 substantial risk of impairment, if the impairment or substantial risk of impairment is
294 diagnosed and confirmed by a licensed mental health professional or physician qualified
295 to render such diagnosis.
- 296 (31) 'Evaluation' means a comprehensive, individualized examination of a child by an
297 examiner that may include the administration of one or more assessment instruments,
298 diagnosing the type and extent of a child's behavioral health disorders and needs, if any,
299 making specific recommendations, and assessing a child's legal competencies.
- 300 (32) 'Examiner' means a licensed psychologist, psychiatrist, or clinical social worker who
301 has expertise in child development specific to severe or chronic disability of children
302 attributable to intellectual impairment or mental illness and has received training in
303 forensic evaluation procedures through formal instruction, professional supervision, or
304 both.
- 305 (33) 'Fictive kin' means a person who is known to a child as a relative, but is not, in fact,
306 related by blood or marriage to such child and with whom such child has resided or had
307 significant contact.
- 308 (34) 'Foster care' means placement in foster family homes, child care institutions, or
309 another substitute care setting approved by the department. Such term shall exclude
310 secure residential facilities, nonsecure residential facilities, or other facilities operated
311 primarily for the purpose of detention of a child adjudicated for delinquent acts.
- 312 (35) 'Guardian ad litem' means an individual appointed to assist the court in determining
313 the best interests of a child.

314 (36) 'Guardianship order' means the court judgment that establishes a permanent
 315 guardianship and enumerates a permanent guardian's rights and responsibilities
 316 concerning the care, custody, and control of a child.

317 (37) 'Identification data' means the fingerprints, name, race, sex, date of birth, and any
 318 other unique identifiers of a child.

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

324 (39) 'Informal adjustment' means the disposition of case other than by formal
 325 adjudication and disposition.

326 (40) 'Judge' means the judge of the court exercising jurisdiction over juvenile matters.

327 (41) 'Juvenile court intake officer' means the juvenile court judge, associate juvenile
 328 court judge, court service worker, DJJ staff member serving as an intake officer, or
 329 person employed as a juvenile probation or intake officer designated by the juvenile court
 330 judge or, where there is none, the superior court judge, who is on duty for the purpose of
 331 determining whether any child taken into custody should be released or detained and, if
 332 detained, the appropriate place of detention.

333 (42) 'Legal custodian' means:

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

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

338 (43) 'Legal father' means a male who has not surrendered or had terminated his rights to
 339 a child and who:

340 (A) Has legally adopted a child;

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

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

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

349 (E) Has legitimated a child by a final order pursuant to Code Section 19-7-22; or

350 (F) Has legitimated a child pursuant to Code Section 19-7-22.1.

351 (44) 'Legal mother' means the female who is the biological or adoptive mother of a child
 352 and who has not surrendered or had terminated her rights to such child.

353 (45) 'Mediation' means the procedure in which a mediator facilitates communication
 354 between the parties concerning the matters in dispute and explores possible solutions to
 355 promote reconciliation, understanding, and settlement.

356 (46) 'Mediator' means a neutral third party who attempts to focus the attention of the
 357 parties upon their needs and interests rather than upon their rights and positions and who
 358 lacks the authority to impose any particular agreement upon the parties or to recommend
 359 any particular disposition of the case to the court.

360 (47) 'Mentally ill' means having a disorder of thought or mood which significantly
 361 impairs judgment, behavior, capacity to recognize reality, or ability to cope with the
 362 ordinary demands of life.

363 (48) 'Neglect' means:

364 (A) The failure to provide proper parental care or control, subsistence, education as
 365 required by law, or other care or control necessary for a child's physical, mental, or
 366 emotional health or morals;

367 (B) The failure to provide a child with adequate supervision necessary for such child's
 368 well-being; or

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

370 (49) 'Nonsecure residential facility' means community residential locations operated by
 371 or on behalf of DJJ and may include group homes, emergency shelters, wilderness or
 372 outdoor therapeutic programs, or other facilities that provide 24 hour care in a residential
 373 setting.

374 (50) 'Other persons who have demonstrated an ongoing commitment to a child' includes
 375 fictive kin and other individuals, including but not limited to neighbors, teachers, scout
 376 masters, caregivers, or parents of friends of such child and with whom such child has
 377 resided or had significant contact.

378 (51) 'Parent' means either the legal father or the legal mother of a child.

379 (52) 'Party' means the state, a child, parent, guardian, legal custodian, or other person
 380 subject to any judicial proceeding under this chapter; provided, however, that for
 381 purposes of Article 6 of this chapter, only a child and the state shall be a party.

382 (53) 'Permanency plan' means a specific written plan prepared by DFCS designed to
 383 ensure that a child is reunified with his or her family or ensure that such child quickly
 384 attains a substitute long-term home when return to such child's family is not possible or
 385 is not in such child's best interests.

386 (54) 'Permanent placement' means:

387 (A) Return of the legal custody of a child to his or her parent;

- 388 (B) Placement of a child with an adoptive parent pursuant to a final order of adoption;
389 or
390 (C) Placement of a child with a permanent guardian.
- 391 (55) 'Person responsible for the care of a child' means:
392 (A) An adult member of a child's household;
393 (B) A person exercising supervision over a child for any part of the 24 hour day; or
394 (C) Any adult who, based on his or her relationship to the parent, guardian, or legal
395 custodian or a member of a child's household, has access to such child.
- 396 (56) 'Prenatal abuse' means exposure to chronic or severe use of alcohol or the unlawful
397 use of any controlled substance, as such term is defined in Code Section 16-13-21, which
398 results in:
399 (A) Symptoms of withdrawal in a newborn or the presence of a controlled substance
400 or a metabolite thereof in a newborn's body, blood, urine, or meconium that is not the
401 result of medical treatment; or
402 (B) Medically diagnosed and harmful effects in a newborn's physical appearance or
403 functioning.
- 404 (57) 'Probation and intake officer' means any probation officer and any personnel of a
405 juvenile court to whom are delegated the duties of an intake officer under this chapter,
406 other than a juvenile court judge, associate juvenile court judge, or court service worker.
- 407 (58) 'Probation officer' means any personnel of a juvenile court or staff of DJJ to whom
408 are delegated the duties of a probation officer under this chapter, other than a juvenile
409 court judge or associate juvenile court judge.
- 410 (59) 'Prosecuting attorney' means the attorney designated by the district attorney of the
411 judicial circuit in which juvenile proceedings are instituted, but if the district attorney
412 declines to make such designation, then the attorney appointed by the court.
- 413 (60) 'Putative father registry' means the registry established and maintained pursuant to
414 subsections (d) and (e) of Code Section 19-11-9.
- 415 (61) 'Reasonable efforts' means due diligence and the provision of appropriate services.
- 416 (62) 'Relative' means a person related to a child by blood, marriage, or adoption,
417 including the spouse of any of those persons even if the marriage was terminated by death
418 or dissolution.
- 419 (63) 'Restitution' means any property, lump sum, or periodic payment ordered to be made
420 to any victim. Restitution may also be in the form of services ordered to be performed
421 by a child.
- 422 (64) 'Restrictive custody' means in the custody of DJJ for purposes of housing in a secure
423 residential facility or nonsecure residential facility.
- 424 (65) 'Risk assessment' shall have the same meaning as set forth in Code Section 49-4A-1.

425 (66) 'Screening' means a relatively brief process to identify a child who potentially may
426 have mental health or substance abuse needs, through administration of a formal
427 screening instrument, to identify a child who may warrant immediate attention or
428 intervention or a further, more comprehensive evaluation.

429 (67) 'Secure residential facility' means a hardware secure residential institution operated
430 by or on behalf of DJJ and shall include a youth development center or a regional youth
431 detention center.

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

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

437 (A) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or
438 oral-anal, whether between persons of the same or opposite sex;

439 (B) Bestiality;

440 (C) Masturbation;

441 (D) Lewd exhibition of the genitals or pubic area of any person;

442 (E) Flagellation or torture by or upon a person who is nude;

443 (F) The condition of being fettered, bound, or otherwise physically restrained on the
444 part of a person who is nude;

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

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

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

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

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

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

456 (71) 'Sibling' means a person with whom a child shares one or both parents in common
457 by blood, adoption, or marriage, even if the marriage was terminated by death or
458 dissolution.

459 (72) 'Staffing' means a meeting held periodically to develop and review progress on
460 plans for meeting the identified needs of a child.

461 (73) 'Statutory overnight delivery' means delivery of notice as provided in Code Section
462 9-10-12.

463 (74) 'Unsupervised probation' means a period of probation or community supervision
464 prior to the termination of a child's disposition in which:

465 (A) All of the conditions and limitations imposed by the court in placing such child on
466 probation remain intact;

467 (B) Such child may have reduced reporting requirements; and

468 (C) A probation officer shall not actively supervise such child.

469 (75) 'Visitation' means a period of access to a child by a parent, guardian, legal
470 custodian, sibling, other relative, or any other person who has demonstrated an ongoing
471 commitment to a child in order to maintain parental and familial involvement in a child's
472 life when he or she is not residing with such person.

473 (76) 'Weekend' means Saturday or Sunday.

474 15-11-3.

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

477 15-11-4.

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

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

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

482 15-11-5.

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

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

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

494 15-11-6.

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

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

499 15-11-7.

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

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

514 15-11-8.

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

517 15-11-9.

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

522 15-11-10.

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

525 (1) Concerning any child who:

526 (A) Is alleged to be a delinquent child;

- 527 (B) Is alleged to be a child in need of services;
 528 (C) Is alleged to be a dependent child;
 529 (D) Is alleged to be in need of treatment or commitment as a mentally ill or
 530 developmentally disabled child;
 531 (E) Is alleged to have committed a juvenile traffic offense as defined in Code Section
 532 15-11-630;
 533 (F) Has been placed under the supervision of the court or on probation to the court;
 534 provided, however, that such jurisdiction shall be for the purpose of completing,
 535 effectuating, and enforcing such supervision or a probation begun prior to such child's
 536 seventeenth birthday;
 537 (G) Has remained in foster care after such child's eighteenth birthday or who is
 538 receiving independent living services from DFCS after such child's eighteenth birthday;
 539 provided, however, that such jurisdiction shall be for the purpose of reviewing the
 540 status of such child and the services being provided to such child as a result of such
 541 child's independent living plan or status as a child in foster care; or
 542 (H) Requires a comprehensive services plan in accordance with Code Section
 543 15-11-658; or
 544 (2) Involving any proceedings:
 545 (A) For obtaining judicial consent to the marriage, employment, or enlistment in the
 546 armed services of any child if such consent is required by law;
 547 (B) For permanent guardianship brought pursuant to the provisions of Article 3 of this
 548 chapter;
 549 (C) Under Code Section 39-3-2, the Interstate Compact on Juveniles, or any
 550 comparable law, enacted or adopted in this state;
 551 (D) For the termination of the legal parent-child relationship and the rights of the
 552 biological father who is not the legal father of a child, other than that in connection with
 553 adoption proceedings under Article 1 of Chapter 8 of Title 19, in which the superior
 554 courts shall have concurrent jurisdiction to terminate the legal parent-child relationship
 555 and the rights of the biological father who is not the legal father of a child;
 556 (E) For emancipation brought pursuant to the provisions of Article 10 of this chapter;
 557 (F) Under Article 8 of this chapter, relating to prior notice to a parent, guardian, or
 558 legal custodian relative to an unemancipated minor's decision to seek an abortion; or
 559 (G) Brought by a local board of education pursuant to Code Section 20-2-766.1,
 560 relating to court orders requiring that a parent, guardian, or legal custodian attend a
 561 conference or participate in programs or treatment to improve a student's behavior.

562 15-11-11.

563 The juvenile court shall have concurrent jurisdiction to hear:

564 (1) Any legitimation petition filed pursuant to Code Section 19-7-22 concerning a child
565 alleged to be dependent;

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

568 (3) The issue of custody and support when the issue is transferred by proper order of the
569 superior court; provided, however, that if a demand for a jury trial as to support has been
570 properly filed by either parent, then the case shall be transferred to superior court for the
571 jury trial; and

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

574 15-11-12.

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

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

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

585 15-11-13.

586 The court shall have jurisdiction to appoint a guardian of the person of any child in any
587 proceeding authorized by this chapter. Any such appointment shall be made pursuant to
588 the same requirements of notice and hearing as are provided for appointments of guardians
589 of the persons of any child by the probate court. In the event a conservator for a child's
590 property needs to be appointed, the court shall refer that matter to the probate court.

591 15-11-14.

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

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

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

599 (2) That the temporary guardianship be terminated if the court determines it is in the best
600 interests of a child. A child shall be returned to his or her parent unless the court
601 determines that there is probable cause to believe that he or she will be abused, neglected,
602 or abandoned in the custody of his or her parent.

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

605 (1) That it is in the best interests of a child that the temporary guardianship not be
606 established or that the temporary guardianship be terminated but there is probable cause
607 to believe that he or she will be abused, neglected, or abandoned if returned to his or her
608 parent; or

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

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

613 15-11-15.

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

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

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

624 15-11-16.

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

626 (1) By an order of transfer of a case from another court as provided in Code Section
627 15-11-11 or 15-11-567, subsection (f) of Code Section 29-2-6, or subsection (b) of Code
628 Section 29-2-8;

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

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

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

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

640 15-11-17.

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

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

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

648 (d) A juvenile court judge, an associate juvenile court judge, a judge pro tempore of the
649 juvenile court, or any person sitting as a juvenile court judge may conduct hearings in
650 connection with any proceeding under this chapter in any county within the judicial circuit.
651 When a superior court judge sits as a juvenile court judge, hearings in connection with any
652 proceeding under this chapter may be heard before such judge in any county within the
653 judicial circuit over which the judge presides.

654 15-11-18.

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

659 15-11-19.

660 (a) A party has the right to be present, to be heard, to present evidence material to the
661 proceedings, to cross-examine witnesses, to examine pertinent court files and records, and
662 to appeal the orders of the court; provided, however, that the court shall retain the

663 discretion to exclude a child from any part or parts of any proceeding under Article 3 of
664 this chapter if the court determines that it is not in such child's best interests to be present.
665 An attorney for an excluded child shall not be excluded from the proceedings.
666 (b) A person afforded rights under this chapter shall be advised of such rights at that
667 person's first appearance before the court.

668 15-11-20.

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

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

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

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

679 15-11-21.

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

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

685 15-11-22.

686 (a) The parties shall sign and date a written agreement to mediate. The agreement to
687 mediate shall identify the controversies between the parties, affirm the parties' intent to
688 resolve such controversies through mediation, and specify the circumstances under which
689 mediation may continue. The agreement to mediate shall specify the confidentiality
690 requirements of mediation and the exceptions to confidentiality in mediation as such are
691 set forth in the Supreme Court of Georgia Alternative Dispute Resolution Rules and
692 appendices.

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

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

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

700 15-11-23.

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

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

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

705 15-11-24.

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

708 (b) A mediator shall terminate mediation when:

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

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

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

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

715 15-11-25.

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

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

720 15-11-26.

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

724 (1) The physical safety and welfare of such child, including food, shelter, health, and
725 clothing;

726 (2) The love, affection, bonding, and emotional ties existing between such child and each
727 parent or person available to care for such child;

- 728 (3) The love, affection, bonding, and emotional ties existing between such child and his
 729 or her siblings, half siblings, and stepsiblings and the residence of such other children;
 730 (4) Such child's need for permanence, including such child's need for stability and
 731 continuity of relationships with his or her parent, siblings, other relatives, and any other
 732 person who has provided significant care to such child;
 733 (5) Such child's sense of attachments, including his or her sense of security and
 734 familiarity, and continuity of affection for such child;
 735 (6) The capacity and disposition of each parent or person available to care for such child
 736 to give him or her love, affection, and guidance and to continue the education and rearing
 737 of such child;
 738 (7) The home environment of each parent or person available to care for such child
 739 considering the promotion of such child's nurturance and safety rather than superficial or
 740 material factors;
 741 (8) The stability of the family unit and the presence or absence of support systems within
 742 the community to benefit such child;
 743 (9) The mental and physical health of all individuals involved;
 744 (10) The home, school, and community record and history of such child, as well as any
 745 health or educational special needs of such child;
 746 (11) Such child's community ties, including church, school, and friends;
 747 (12) Such child's background and ties, including familial, cultural, and religious;
 748 (13) The least disruptive placement alternative for such child;
 749 (14) The uniqueness of every family and child;
 750 (15) The risks attendant to entering and being in substitute care;
 751 (16) Such child's wishes and long-term goals;
 752 (17) The preferences of the persons available to care for such child;
 753 (18) Any evidence of family violence, substance abuse, criminal history, or sexual,
 754 mental, or physical child abuse in any current, past, or considered home for such child;
 755 (19) Any recommendation by a court appointed custody evaluator or guardian ad litem;
 756 and
 757 (20) Any other factors considered by the court to be relevant and proper to its
 758 determination.

759 15-11-27.

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

- 761 (1) A child to be examined by outside parties or private providers at a suitable place by
 762 a physician or psychologist; provided, however, that orders to perform an evaluation shall

763 not be imposed upon any state agency unless a state agency has funds available for such
 764 evaluation; and
 765 (2) Medical or surgical treatment of a child suffering from a serious physical condition
 766 or illness which, in the opinion of a licensed physician, requires prompt treatment, even
 767 if the parent, guardian, or legal custodian has not been given notice of a hearing, is not
 768 available, or without good cause informs the court of his or her refusal to consent to the
 769 treatment.

770 15-11-28.

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

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

785 15-11-29.

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

- 791 (1) To stay away from a person's home or a child;
 792 (2) To permit a parent to visit his or her child at stated periods;
 793 (3) To abstain from offensive conduct against a child, his or her parent, or any person to
 794 whom custody of such child is awarded;
 795 (4) To give proper attention to the care of his or her home;
 796 (5) To cooperate in good faith with an agency to which custody of a child is entrusted
 797 by the court or with an agency or association to which a child is referred by the court;

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

800 (7) To ensure that a child attends school pursuant to any valid law relating to compulsory
801 attendance;

802 (8) To participate with a child in any counseling or treatment deemed necessary after
803 consideration of employment and other family needs; and

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

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

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

814 15-11-30.

815 A legal custodian has the right to physical custody of a child, the right to determine the
816 nature of the care and treatment of such child, including ordinary medical care, and the
817 right and duty to provide for the care, protection, training, and education and the physical,
818 mental, and moral welfare of such child, subject to the conditions and limitations of the
819 order and to the remaining rights and duties of such child's parent or guardian.

820 15-11-31.

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

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

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

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

830 (2) Less restrictive alternatives have been considered and are unavailable or
831 inappropriate or if such child has already been ordered to serve a less restrictive
832 alternative sanction but failed to comply with the sanction.

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

837 (1) Require a child's parent, guardian, or legal custodian to make restitution as provided
838 in Code Section 17-14-5;

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

840 (3) Require a child's parent, guardian, or legal custodian to participate in a court
841 approved educational or counseling program designed to contribute to the ability to
842 provide proper parental care and supervision of such child, including, but not limited to,
843 parenting classes; or

844 (4) Require a child's parent, guardian, or legal custodian to enter into a contract or plan
845 as a part of the disposition of any charges against such child so as to provide for the
846 supervision and control of such child by his or her parent, guardian, or legal custodian
847 and reunification with such child.

848 15-11-32.

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

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

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

852 (3) Newly discovered evidence so requires.

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

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

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

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

867 15-11-33.

868 (a) Whenever an order of disposition incorporates a reunification plan and the residence
869 of the parent is not in the county of the court with jurisdiction or the residence of the parent
870 changes to a county other than the county of the court with jurisdiction, the court may
871 transfer jurisdiction to the juvenile court of the residence of the parent to whom the
872 reunification plan is directed.

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

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

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

881 15-11-34.

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

885 15-11-35.

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

891 15-11-36.

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

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

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

899 (3) Reasonable compensation for services and related expenses of an attorney appointed
 900 by the court, when appointed by the court to represent a child and when appointed by the
 901 court to conduct the proceedings;

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

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

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

908 (b) If, after due notice to the parent or other person legally obligated to care for and
 909 support a child and after affording such person an opportunity to be heard, the court finds
 910 that such person is financially able to pay all or part of the costs and expenses outlined in
 911 subsection (a) of this Code section, the court may order such person to pay the same and
 912 prescribe the manner of payment. In addition, the court may order payment from a child's
 913 parent or other legally obligated person or entity to reimburse all or part of the costs and
 914 expenses of the department or DJJ for treatment, care, and support of a child. Unless
 915 otherwise ordered, payment shall be made to the clerk of the court for remittance to the
 916 person or agency, including the department or DJJ, to whom compensation is due or, if the
 917 costs and expenses have been paid by the county, to the appropriate officer of the county.

918 15-11-37.

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

922 (1) Housing in nonsecure facilities;

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

924 (3) Counseling and diagnostic testing;

925 (4) Mediation;

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

927 (6) Truancy intervention services;

928 (7) Restitution programs;

929 (8) Job development or work experience programs;

930 (9) Community services; and

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

933 (b)(1) The juvenile court may order each delinquent child or child in need of services
 934 who receives supervision to pay to the clerk of the court:

935 (A) An initial court supervision user's fee of not less than \$10.00 nor more than
 936 \$200.00; and

937 (B) A court supervision user's fee of not less than \$2.00 nor more than \$30.00 for each
 938 month that a child receives supervision.

939 (2) A child and his or her parent, guardian, or legal custodian may be jointly and
 940 severally liable for the payment of fees set forth in paragraph (1) of this subsection and
 941 shall be subject to the enforcement procedure in subsection (b) of Code Section 15-11-36.

942 The judge shall provide that any such fees shall be imposed on such terms and conditions
 943 as shall assure that the funds for the payment are from moneys earned by such child. All
 944 moneys collected by the clerk under this subsection shall be transferred to the county
 945 treasurer, or such other county official or employee who performs duties previously
 946 performed by the treasurer, who shall deposit the moneys into a county supplemental
 947 juvenile services fund. The governing authority of the county shall appropriate moneys
 948 from the county supplemental juvenile services fund to the juvenile court for the court's
 949 discretionary use in providing community services described in subsection (a) of this
 950 Code section to child offenders. These funds shall be administered by the county and the
 951 court may draw upon them by submitting invoices to the county. The county
 952 supplemental juvenile services fund may be used only for these services. Any moneys
 953 remaining in the fund at the end of the county fiscal year shall not revert to any other fund
 954 but shall continue in the county supplemental juvenile services fund. The county
 955 supplemental juvenile services fund may not be used to replace other funding of services.

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

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

960 15-11-38.

961 (a) Any court may order the establishment of a community based risk reduction program,
 962 within the geographical jurisdiction of the court, for the purpose of utilizing available
 963 community resources in assessment and intervention in cases of delinquency, dependency,
 964 or children in need of services so long as the court determines that sufficient funds are
 965 available for such programs. Subject to the procedures, requirements, and supervision
 966 established in the order creating such program, any individual and any public or private
 967 agency or entity may participate in the program.

968 (b) As part of a risk reduction program, a court may implement or adopt an early
 969 intervention program designed to identify children and families who are at risk of
 970 becoming involved with the court. Such early intervention program shall be for the

971 purpose of developing and implementing intervention actions or plans to divert the children
972 and their families from becoming involved in future cases in the court. The court's
973 involvement shall be for the limited purpose of facilitating the development of the program
974 and for the purpose of protecting the confidentiality of the children and families
975 participating in the program.

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

985 (d) When any agency or entity participating in a protocol agreement identifies a child who
986 is at risk of becoming a delinquent child, dependent child, or child in need of services, the
987 agency or entity shall refer the case to a multiagency staffing panel. The panel shall
988 develop a multiagency intervention plan for such child. Such child or his or her parent, or
989 both, may be present during any review of such child's case by the panel. A child's parent,
990 guardian, or legal custodian shall be notified of the intervention plan by the agency making
991 the referral or by a person or entity designated by the panel to administer the program. The
992 staff of the court, other than the judge, shall work with the other agencies involved to
993 educate a child's parent, guardian, or legal custodian and such child on the importance of
994 following the intervention plan and on the consequences if anyone is referred to the court.
995 If an intervention plan is developed for a child and his or her parent, guardian, or legal
996 custodian consents to such plan, the failure to comply with the plan or any portion thereof
997 may constitute the basis for a referral to DFCS.

998 15-11-39.

999 (a) In any jurisdiction within which a risk reduction program has been established, when
1000 a child comes before the court for disposition, the court may order that a risk assessment
1001 or risk and needs assessment, as defined in Code Section 49-4A-1, be made of such child
1002 and the circumstances resulting in such child being before the court.

1003 (b) If the results of a risk assessment or risk and needs assessment, as defined in Code
1004 Section 49-4A-1, demonstrates a need for a case plan, the court may order that a case plan
1005 be developed by a panel representing community agencies as authorized by the court. A

1006 case plan shall contain the proposed actions and alternatives for the proper and efficient use
1007 of available community resources to assist a child.

1008 (c) A case plan shall be served on a child and his or her parent, guardian, or legal
1009 custodian. A case plan shall also include a cover letter which contains the following
1010 information:

1011 (1) Sources to explain the process, procedures, and penalties for not responding to the
1012 court order in the prescribed time frame; and

1013 (2) The deadline for responding to the court order and stating objections to the case plan
1014 or any portion thereof is ten days from the date of service.

1015 (d) If no objection is made or if a child and his or her parent, guardian, or legal custodian
1016 consents to the case plan, the case plan shall be incorporated into and made a part of the
1017 disposition order entered in the case by entry of a supplemental order. The case plan may
1018 be modified by the court at any time such child is under the jurisdiction of the court.

1019 (e) If a child or his or her parent, guardian, or legal custodian objects to the case plan, the
1020 court shall conduct a hearing. The court may decline to adopt the case plan or may confirm
1021 or modify the case plan. In implementing a case plan, the court shall have available all of
1022 the protective powers set forth in Code Section 15-11-29, without the necessity of a show
1023 cause hearing, unless objection is made to the case plan.

1024 15-11-40.

1025 (a) Notwithstanding any provision contained in this chapter or in any rule or regulation
1026 adopted by any department, board, or agency of the state to the contrary, the court and any
1027 individual, public or private agency, or other entity participating in a community based risk
1028 reduction program may exchange, as necessary, information, medical records, school
1029 records, immigration records, records of adjudication, treatment records, and any other
1030 records or information which may aid in the assessment of and intervention with the
1031 children and families in such program if such exchange of information is ordered by the
1032 court or consented to by the parties. Such information shall be used by such individuals
1033 and agencies only for the purposes provided in this chapter and as authorized by the court
1034 for the purpose of implementing the case plan and for the purposes permitted under each
1035 agency's own rules and regulations. Such information shall not be released to any other
1036 individual or agency except as may be necessary to effect the appropriate treatment or
1037 intervention as provided in the case plan. Such information shall otherwise remain
1038 confidential as required by state and federal law and the court may punish any violations
1039 of confidentiality as contempt of court.

1040 (b) Any person who authorizes or permits any unauthorized person or agency to have
1041 access to confidential records or reports of child abuse shall be guilty of a misdemeanor.

1042 Any person who knowingly and under false pretenses obtains or attempts to obtain
1043 confidential records or reports of child abuse or information contained therein shall be
1044 guilty of a misdemeanor.

1045 (c) Confidential records or reports of child abuse and information obtained from such
1046 records may not be made a part of any record which is open to the public except that a
1047 prosecuting attorney may use and make public that record or information in the course of
1048 any criminal prosecution for any offense which constitutes or results from child abuse.

1049 (d) This Code section shall not abridge the provisions relating to confidentiality of patient
1050 or client records and shall not serve to destroy or in any way abridge the confidential or
1051 privileged character thereof.

1052 15-11-41.

1053 (a) Except as otherwise provided in Code Section 15-11-710, entities governed by federal
1054 or state privacy laws may require the following before sharing confidential information:

1055 (1) For release of child abuse records by the department, a subpoena and subsequent
1056 order of the court requiring the release of such information in accordance with Code
1057 Section 49-5-41;

1058 (2) For release of information relating to diagnosis, prognosis, or treatment of drug and
1059 alcohol abuse:

1060 (A) If the person is 18 or has been emancipated, consent from the person to whom such
1061 information relates;

1062 (B) If the person is under the age of 18 years and has not been emancipated, valid
1063 consent from such person's parent, guardian, or legal custodian or consent by a parent,
1064 guardian, or legal custodian to a confidentiality agreement between the health care
1065 provider and the unemancipated minor; provided, however, that consent from an
1066 unemancipated minor shall be sufficient for the release of such information if the
1067 unemancipated minor is allowed by law to consent to the health care service to which
1068 the records relate without the consent of a parent, guardian, or legal custodian and has
1069 not designated anyone as a personal representative; or

1070 (C) A subpoena requiring the release of such information and protective order of the
1071 court regarding the release of such information; and

1072 (3) For release of confidential health, mental health, or education records:

1073 (A) If the person is 18 or has been emancipated, consent from the person to whom such
1074 information relates;

1075 (B) If the person is under the age of 18 years and has not been emancipated, valid
1076 consent from such person's parent, guardian, or legal custodian or consent by a parent,
1077 guardian, or legal custodian to a confidentiality agreement between the health care

1078 provider and the unemancipated minor; provided, however, that consent from an
 1079 unemancipated minor shall be sufficient for the release of such information if the
 1080 unemancipated minor is allowed by law to consent to the health care service to which
 1081 the records relate without the consent of a parent, guardian, or legal custodian and has
 1082 not designated anyone as a personal representative;

1083 (C) A subpoena requiring the release of such information; or

1084 (D) An order of the court requiring the release of such information.

1085 (b) In issuing an order for the release of information under this Code section, the court
 1086 may:

1087 (1) Include protections against further disclosure of the information;

1088 (2) Limit the purposes for which the information may be used; and

1089 (3) Require records to be redacted so that only relevant information is shared.

1090 (c) Nothing in this Code section shall be deemed to replace the responsibility of entities
 1091 governed by federal and state privacy laws to comply with such laws.

1092 ARTICLE 2

1093 15-11-50.

1094 (a) There is created a juvenile court in every county in the state.

1095 (b) Except where election is provided by local law, the judge or a majority of the judges
 1096 of the superior court in each circuit in the state may appoint one or more qualified persons
 1097 as judge of the juvenile courts of the circuit. Such superior court judge or judges shall
 1098 establish the total number of circuit-wide juvenile court judges and shall establish whether
 1099 the judge or judges shall be full time or part time, or a combination of full time and part
 1100 time. Each circuit-wide judge appointed shall have the authority to act as judge of each
 1101 juvenile court in each county of the circuit.

1102 (c) If no person is appointed as a juvenile court judge for a circuit, then a superior court
 1103 judge of the circuit shall as part of the duties of the superior court judge assume the duties
 1104 of the juvenile court judge in all counties in the circuit in which a separate juvenile court
 1105 judgeship has not been established.

1106 (d) All juvenile court judgeships established on or before October 1, 2000, and their
 1107 methods of compensation, selection, and operation shall continue until such time as one or
 1108 more circuit-wide juvenile court judges are appointed. However, in any circuit where a
 1109 superior court judge assumes the duties of the juvenile court judge, such circuit shall not
 1110 be entitled to the state funds provided for in Code Section 15-11-52.

1111 (e) When one or more circuit-wide juvenile court judges are appointed or elected, any
 1112 juvenile court judge in office at that time shall be authorized to fulfill his or her term of
 1113 office. The jurisdiction of each judge shall be circuit wide.

1114 (f) After the initial appointments and prior to any subsequent appointment or
 1115 reappointment of any part-time or full-time juvenile court judge, the judge or judges
 1116 responsible for making the appointment shall publish notice of the vacancy of the juvenile
 1117 court judgeship once a month for three months prior to such appointment or reappointment.
 1118 Such notice shall be published in the official legal organ of each of the counties in the
 1119 circuit where the juvenile court judge has venue. The expense of such publication shall be
 1120 paid by the county governing authority in the county where such notice is published.

1121 (g) In the event that more than one juvenile court judge is appointed, one judge shall be
 1122 designated presiding judge.

1123 (h) In any case in which action under this Code section is to be taken by a superior court
 1124 judge of the circuit, such action shall be taken as follows:

1125 (1) Where there are one or two superior court judges, such action shall be taken by the
 1126 chief judge of the circuit; and

1127 (2) Where there are more than two superior court judges, such action shall be taken by
 1128 a majority vote of the judges of the circuit.

1129 15-11-51.

1130 (a) No person shall be judge of the juvenile court unless, at the time of his or her
 1131 appointment, he or she has attained the age of 30 years, has been a citizen of this state for
 1132 three years, is a member of the State Bar of Georgia, and has practiced law for five years.

1133 (b) A juvenile court judge shall be eligible for reappointment or reelection.

1134 15-11-52.

1135 (a) Each appointed juvenile court judge shall serve for a term of four years.

1136 (b) The compensation of the full-time or part-time juvenile court judges shall be set by the
 1137 superior court with the approval of the governing authority or governing authorities of the
 1138 county or counties for which the juvenile court judge is appointed.

1139 (c) Out of funds appropriated to the judicial branch of government, the state shall
 1140 contribute toward the salary of the judges on a per circuit basis in the following amounts:

1141 (1) Each circuit with one or more juvenile court judges who are not superior court judges
 1142 assuming the duties of juvenile court judges shall receive a state base grant of
 1143 \$85,000.00;

1144 (2) In addition to this base amount, each circuit which has more than four superior court
 1145 judges shall be eligible for additional state grants. For each superior court judge who

1146 exceeds the base of four judges, the circuit shall be eligible for an additional grant in an
 1147 amount equal to one-fourth of the base amount of the state grant;

1148 (3) In circuits where the superior court judges elect to use the state grant for one or more
 1149 part-time judges, the amount of the state grant shall be as follows:

1150 (A) For each part-time judge who works one day weekly \$17,000.00

1151 (B) For each part-time judge who works two days weekly 34,000.00

1152 (C) For each part-time judge who works three days weekly 51,000.00

1153 (D) For each part-time judge who works four days weekly 68,000.00;

1154 provided, however, that a grant for one or more part-time judges shall not exceed the
 1155 amount the circuit is eligible for in accordance with paragraphs (1) and (2) of this
 1156 subsection; and

1157 (4) All state grants provided by this subsection shall be spent solely on salaries for
 1158 juvenile court judges and shall not be used for any other purposes.

1159 15-11-53.

1160 (a) It shall be unlawful for any full-time juvenile court judge to engage in any practice of
 1161 law outside his or her role as a juvenile court judge.

1162 (b) It shall be unlawful for a part-time judge of any juvenile court to engage directly or
 1163 indirectly in the practice of law in his or her own name or in the name of another as a
 1164 partner in any manner in any case, proceeding, or matter of any kind in the court to which
 1165 he or she is assigned or in any other court in any case, proceeding, or any other matters of
 1166 which it has pending jurisdiction or has had jurisdiction.

1167 (c) It shall be unlawful for any juvenile court judge, full time or part time, to give advice
 1168 or counsel to any person on any matter of any kind whatsoever which has arisen directly
 1169 or indirectly in court, except such advice or counsel as a judge is called upon to give while
 1170 performing the duties of a juvenile court judge.

1171 15-11-54.

1172 (a) Each juvenile court shall be assigned and attached to the superior court of the county
 1173 for administrative purposes.

1174 (b) The governing authority of the county of residence of each juvenile court judge shall
 1175 offer the juvenile court judge insurance benefits and any other benefits except retirement
 1176 or pension benefits equivalent to those offered to employees of the county, with a right to
 1177 contribution from other counties in the circuit for a pro rata contribution toward the costs
 1178 of such benefits, based on county population. Counties shall continue to provide
 1179 membership in retirement plans available to county employees for any juvenile court judge

1180 in office before July 1, 1998, who did not become a member of the Georgia Judicial
1181 Retirement System provided by Chapter 23 of Title 47.

1182 (c) Except for state base grants provided by Code Section 15-11-52, all expenditures of the
1183 court are declared to be an expense of the court and payable out of the county treasury with
1184 the approval of the governing authority or governing authorities of the county or counties
1185 for which the juvenile court judge is appointed.

1186 15-11-55.

1187 (a) To the extent that the provisions of this article conflict with a local constitutional
1188 amendment authorizing the election of a juvenile court judge and with the provisions of a
1189 local Act authorized by such local constitutional amendment to provide for the term of
1190 office, vacancies in office, qualifications, compensation, and full-time or part-time status
1191 of a juvenile court judge or judges, the provisions of such local constitutional amendment
1192 and such local Act shall govern.

1193 (b) The state grants provided by Code Section 15-11-52 shall be provided to any circuit
1194 encompassing a juvenile court governed by the provisions of a local constitutional
1195 amendment and a local Act in the same manner as other circuits, except that, in any circuit
1196 with one or more elected juvenile court judges, the elected juvenile court judge who is
1197 senior in duration of service as a juvenile court judge shall establish, subject to other
1198 applicable provisions of law, the total number of circuit-wide juvenile court judges,
1199 whether the judge or judges shall be full time or part time or a combination of full time and
1200 part time, and the compensation of any part-time juvenile court judge or judges.

1201 15-11-56.

1202 (a) No person who is serving as a full-time juvenile court judge shall at the same time hold
1203 the office of judge of any other class of court of this state.

1204 (b) No person serving as a juvenile court judge after being elected juvenile court judge
1205 pursuant to a local law authorized by a constitutional amendment shall at the same time
1206 hold the office of judge of any other class of court of this state.

1207 (c) Nothing in this Code section shall prevent any duly appointed or elected juvenile court
1208 judge from sitting by designation as a superior court judge pursuant to Code Section
1209 15-1-9.1.

1210 15-11-57.

1211 (a) Whenever a juvenile court judge is appointed it shall be the duty of the clerk of the
1212 superior court to forward to the Secretary of State and to the Council of Juvenile Court
1213 Judges a certified copy of the order of appointment. The order of appointment shall set out

1214 the name of the person appointed, the term of office, the effective date of the appointment,
1215 the name of the person being succeeded, if any, and whether the office was vacated by
1216 resignation, death, or otherwise. Upon receipt of such order, the Secretary of State shall
1217 issue a commission as for superior court judges.

1218 (b) Whenever an associate juvenile court judge is appointed to serve in a juvenile court,
1219 the clerk of the juvenile court shall forward a certified copy of the order of appointment to
1220 the Council of Juvenile Court Judges.

1221 15-11-58.

1222 (a) All of the judges and associate judges of the courts exercising jurisdiction over children
1223 shall constitute a Council of Juvenile Court Judges. The council shall annually elect from
1224 among its members a judge to serve as presiding judge and chairperson of the council.

1225 (b) The Council of Juvenile Court Judges:

1226 (1) Shall meet at stated times to be fixed by it or on call of the chairperson;

1227 (2) May establish general policies for the conduct of courts exercising jurisdiction over
1228 children;

1229 (3) May promulgate uniform rules and forms governing procedures and practices of the
1230 courts;

1231 (4) Shall publish in print or electronically an annual report of the work of the courts
1232 exercising jurisdiction over children, which shall include statistical and other data on the
1233 courts' work and services, research studies the council may make of the problems of
1234 children and families dealt with by the courts, and any recommendations for legislation;
1235 and

1236 (5) Shall be authorized to inspect and copy records of the courts, law enforcement
1237 agencies, the department, and DJJ for the purpose of compiling statistical data on
1238 children.

1239 (c) Subject to the approval of the Council of Juvenile Court Judges, the presiding judge
1240 of the council shall appoint a chief administrative and executive officer for the council who
1241 shall have the title of director of the Council of Juvenile Court Judges. Under the general
1242 supervision of the presiding judge of the council and within the policies established by the
1243 council, the director shall:

1244 (1) Provide consultation to the courts regarding the administration of court services and
1245 the recruitment and training of personnel;

1246 (2) Make recommendations to the council for improvement in court services;

1247 (3) With the approval of the presiding judge, appoint consultants and necessary clerical
1248 personnel to perform the duties assigned to the council and the director;

1249 (4) Collect necessary statistics and prepare an annual report of the work of the courts;

1250 (5) Promulgate in cooperation with DJJ standard procedures for coordinating DJJ and
1251 county juvenile probation services throughout this state; and
1252 (6) Perform such other duties as the presiding judge of the council shall specify.

1253 15-11-59.

1254 (a) The Council of Juvenile Court Judges, in conjunction with the Institute of Continuing
1255 Judicial Education of Georgia, shall establish seminars for all judges and associate juvenile
1256 court judges exercising juvenile court jurisdiction and may make provisions relative to such
1257 seminars by court rules properly adopted.

1258 (b) Seminars shall offer instruction and training in juvenile law and procedure, child
1259 development and psychology, sociological theories relative to delinquency and breakdown
1260 of the family structure, and such other training and activities as the council may determine
1261 would promote the quality of justice in the juvenile court system.

1262 (c) Expenses of administration of seminar programs and actual expenses incurred by the
1263 judges or associate juvenile court judges in attending such seminars shall be paid from state
1264 funds appropriated for the council for such purpose, from federal funds available to the
1265 council for such purpose, or from other sources. Judges and associate juvenile court judges
1266 shall receive the same expense and travel allowances which members of the General
1267 Assembly receive for attending meetings of legislative interim committees.

1268 (d) Each judge and associate juvenile court judge exercising juvenile jurisdiction shall
1269 receive training appropriate to the role and participate in at least 12 hours of continuing
1270 legal education or continuing judicial education established or approved by the council
1271 each year and meet such rules as established by the council pertaining to such training.
1272 Superior court judges may meet this requirement by attending seminars held in conjunction
1273 with the seminars for superior court judges provided by the Institute of Continuing Judicial
1274 Education of Georgia. Judges and associate juvenile court judges shall not exercise
1275 juvenile court jurisdiction unless the council certifies that annual training has been
1276 accomplished or unless the judge is in the first year of his or her initial appointment;
1277 provided, however, that the council may in hardship cases extend deadlines for compliance
1278 with this Code section.

1279 15-11-60.

1280 (a) A judge may appoint one or more persons to serve as associate juvenile court judges
1281 in juvenile matters on a full-time or part-time basis. The associate juvenile court judge
1282 shall serve at the pleasure of the judge, and his or her salary shall be fixed by the judge
1283 with the approval of the governing authority or governing authorities of the county or

1284 counties for which the associate juvenile court judge is appointed. The salary of each
1285 associate juvenile court judge shall be paid from county funds.

1286 (b) Each associate juvenile court judge shall have the same qualifications as required for
1287 a judge of the juvenile court as provided in Code Section 15-11-51; provided, however, that
1288 any person serving as an associate juvenile court judge on July 1, 2007, shall be qualified
1289 for appointment thereafter to serve as an associate juvenile court judge.

1290 15-11-61.

1291 (a) The judge may appoint one or more persons to serve at the pleasure of the judge as
1292 associate juvenile court traffic judges on a full-time or part-time basis.

1293 (b) An associate juvenile court traffic judge shall be a member of the State Bar of Georgia.

1294 (c) The compensation of associate juvenile court traffic judges shall be fixed by the judge
1295 with the approval of the governing authority of the county and shall be paid in equal
1296 monthly installments from county funds, unless otherwise provided by law.

1297 15-11-62.

1298 (a) In the event of the disqualification, illness, or absence of the judge of the juvenile
1299 court, the judge of the juvenile court may appoint any member of the State Bar of Georgia
1300 who is resident in the judicial circuit in which the court lies and has practiced law for five
1301 years, any judge or senior judge of the superior courts, or any duly appointed juvenile court
1302 judge to serve as judge pro tempore of the juvenile court. In the event the judge of the
1303 juvenile court is absent or unable to make such appointment, the judge of the superior court
1304 of that county may so appoint.

1305 (b) The person appointed shall have the authority to preside in the stead of the disqualified,
1306 ill, or absent judge and shall be paid from the county treasury such emolument as the
1307 appointing judge shall prescribe; provided, however, that the emolument shall not exceed
1308 the compensation received by the regular juvenile court judge for such services.

1309 15-11-63.

1310 (a) The judge of the juvenile court shall have the authority to appoint clerks and any other
1311 personnel necessary for the execution of the purposes of this chapter.

1312 (b) The salary, tenure, compensation, and all other conditions of employment of such
1313 employees shall be fixed by the judge, with the approval of the governing authority of the
1314 county. The salaries of the employees shall be paid out of county funds.

1315 (c) Any employee of the court may be removed for cause by the judge of the court, the
1316 reasons therefor to be assigned in writing.

1317 15-11-64.

1318 Each clerk of the juvenile court shall collect the following information for each child in
1319 need of services, delinquent child, and child accused of a class A designated felony act or
1320 class B designated felony act and provide such information to DJJ as frequently as
1321 requested by DJJ:

1322 (1) Name;

1323 (2) Date of birth;

1324 (3) Sex;

1325 (4) Race;

1326 (5) Offense charged;

1327 (6) Location of the offense, including the name of the school if the offense occurred in
1328 a school safety zone, as defined in Code Section 16-11-127.1;

1329 (7) The name of the referral source, including the name of the school if the referring
1330 source was a school;

1331 (8) Disposition of the case; and

1332 (9) Date of and authority for commitment, if applicable.

1333 15-11-65.

1334 (a) Any person who is appointed as or is performing the duties of a clerk of the juvenile
1335 court shall satisfactorily complete 20 hours of training in the performance of the duties of
1336 a clerk of the juvenile court within the first 12 months following such appointment or the
1337 first performance of such duties.

1338 (b) In each year after the initial appointment, any person who is appointed as or is
1339 performing the duties of a clerk of the juvenile court shall satisfactorily complete in that
1340 year 12 hours of additional training in the performance of such person's duties as clerk.

1341 (c) Training pursuant to this Code section shall be provided by the Institute of Continuing
1342 Judicial Education of Georgia. Upon satisfactory completion of such training, a certificate
1343 issued by the institute shall be placed into the minutes of the juvenile court record in the
1344 county in which such person serves as a clerk of the juvenile court. All reasonable
1345 expenses of such training including, but not limited to, any tuition fixed by such institution
1346 shall be paid from county funds by the governing authority of the county for which the
1347 person serves as a clerk of the juvenile court, unless funding is provided from other
1348 sources.

1349 (d) A judge of the juvenile court shall appoint a clerk pro tempore for that court in order
1350 for the regular clerk to attend required training. Such clerk pro tempore shall not be
1351 required to meet the training requirements for performing the clerk's duties.

1352 (e) The provisions of this Code section shall not apply to clerks of juvenile courts who also
1353 act as clerks of superior courts and who already have mandatory training requirements in
1354 such capacity.

1355 15-11-66.

1356 (a) The judge may appoint one or more probation and intake officers.

1357 (b) The salaries of the probation and intake officers shall be fixed by the judge with the
1358 approval of the governing authority of the county or counties for which he or she is
1359 appointed and shall be payable from county funds.

1360 15-11-67.

1361 (a) A county juvenile probation officer or DJJ staff member serving as a juvenile probation
1362 officer:

1363 (1) Shall make investigations, reports, and recommendations to the court as directed by
1364 this chapter;

1365 (2) Shall supervise and assist a child placed on probation or under the protective
1366 supervision or care of such probation officer by order of the court or other authority of
1367 law;

1368 (3) May, unless otherwise ordered by the court, determine if a child should be placed on
1369 unsupervised probation and, if so, place a child on unsupervised probation;

1370 (4) Shall make appropriate referrals to other private or public agencies of the community
1371 if such assistance appears to be needed or desirable;

1372 (5) May take into custody and detain a child who is under the supervision or care of such
1373 probation officer if the probation officer has reasonable cause to believe that such child's
1374 health or safety or that of another is in imminent danger or that such child may abscond
1375 or be removed from the jurisdiction of the court, or when so ordered by the court pursuant
1376 to this chapter;

1377 (6) May not conduct accusatory proceedings against a child who is or may be under such
1378 probation officer's care or supervision;

1379 (7) Shall perform all other functions designated by this chapter or by order of the court
1380 pursuant to this chapter. Any of the functions specified in this Code section may be
1381 performed in another state if authorized by the court located in this state and permitted
1382 by the laws of the other state; and

1383 (8) Other laws to the contrary notwithstanding, no probation officer shall be liable for
1384 the acts of a child not detained or taken into custody when, in the judgment of such
1385 officer, such detention or custody is not warranted.

1386 (b) Notwithstanding subsection (a) of this Code section, DJJ, as the employer, shall
1387 maintain sole authority over the duties and responsibilities of all DJJ staff members serving
1388 as probation officers.

1389 15-11-68.

1390 (a) A juvenile court intake officer:

1391 (1) Shall receive and examine complaints and charges of delinquency, of dependency,
1392 or that a child is a child in need of services for the purpose of considering the
1393 commencement of proceedings under this chapter;

1394 (2) Shall make appropriate referrals to other private or public agencies of the community
1395 if such assistance appears to be needed or desirable;

1396 (3) Shall compile on a regular basis the case files or a report on those cases that were
1397 informally adjusted for review by the judge;

1398 (4) May not conduct accusatory proceedings against a child or draft judicial orders,
1399 official charges, or any other document which is required to be drafted by an attorney;

1400 (5) Shall perform all other functions designated by this chapter or by order of the court
1401 pursuant to this chapter; and

1402 (6) Except as provided in Article I, Section II, Paragraph IX(d) of the Constitution, no
1403 county juvenile court intake officer, or DJJ staff member serving as a juvenile court
1404 intake officer, shall be liable for the acts of a child not detained or taken into custody
1405 when, in the judgment of such officer, such detention or custody is not warranted.

1406 (b) Notwithstanding subsection (a) of this Code section, DJJ, as the employer, shall
1407 maintain sole authority over the duties and responsibilities of all DJJ staff members serving
1408 as juvenile court intake officers.

1409 15-11-69.

1410 (a) The probation and intake services of the juvenile court of each county may be
1411 transferred to and become a part of the state-wide juvenile and intake services and be fully
1412 funded through DJJ. The probation and intake officers of juvenile courts of those counties
1413 whose probation and intake services are transferred pursuant to this Code section shall
1414 become DJJ employees on the date of such transfer and on and after that date such
1415 employees shall be subject to the salary schedules and other DJJ personnel policies, except
1416 that the salaries of such employees shall not be reduced as a result of becoming DJJ
1417 employees.

1418 (b) The probation and intake services of the juvenile court of a county may be transferred
1419 to DJJ by a local Act of the General Assembly that approves such transfer.

1420 (c) Persons who were probation and intake officers of the juvenile court of a county on
1421 June 30, 1996, but who were transferred as probation and intake officers to and became a
1422 part of the state-wide juvenile and intake services system fully funded through DJJ before
1423 January 1, 1999, shall be covered employees in the classified service as defined in Code
1424 Section 45-20-2.

1425 ARTICLE 3

1426 Part 1

1427 15-11-100.

1428 The purpose of this article is:

1429 (1) To assist and protect children whose physical or mental health and welfare is
1430 substantially at risk of harm from abuse, neglect, or exploitation and who may be further
1431 threatened by the conduct of others by providing for the resolution of dependency
1432 proceedings in juvenile court;

1433 (2) To ensure that dependency proceedings are conducted expeditiously to avoid delays
1434 in permanency plans for children;

1435 (3) To provide the greatest protection as promptly as possible for children; and

1436 (4) To ensure that the health, safety, and best interests of a child be the paramount
1437 concern in all dependency proceedings.

1438 15-11-101.

1439 (a) If necessary, the investigator of a report of child abuse and neglect may apply to the
1440 court for certain medical examinations and evaluations of a child or other children in the
1441 household.

1442 (b) Upon a showing of probable cause in an affidavit executed by the applicant, the court
1443 may order a physical examination and evaluation of a child or other children in the
1444 household by a physician. Such order may be granted ex parte.

1445 (c) Upon a showing of probable cause in an affidavit executed by the applicant and after
1446 a hearing, the court may order a psychological or psychiatric examination and evaluation
1447 of a child or other children in the household by a psychologist, psychiatrist, or other
1448 licensed mental health professional.

1449 (d) Upon a showing of probable cause in an affidavit executed by the applicant and after
1450 a hearing, the court may order a forensic examination and evaluation of a child or other
1451 children in the household by a psychologist, psychiatrist, or other licensed mental health
1452 professional.

1453 (e) Upon a showing of probable cause in an affidavit executed by the applicant and after
1454 a hearing, the court may order a physical, psychological, or psychiatric examination of a
1455 child's parent, guardian, or legal custodian.

1456 15-11-102.

1457 (a) A preliminary protective hearing shall be held promptly and no later than 72 hours after
1458 a child is placed in foster care, provided that, if the 72 hour time frame expires on a
1459 weekend or legal holiday, such hearing shall be held on the next day which is not a
1460 weekend or legal holiday.

1461 (b) If a child was not taken into protective custody or is released from foster care at a
1462 preliminary protective hearing, the following time frames apply:

1463 (1) A petition for dependency shall be filed within 30 days of the child's preliminary
1464 protective hearing;

1465 (2) Summons shall be served at least 72 hours before the dependency adjudication
1466 hearing;

1467 (3) The dependency adjudication hearing shall be held no later than 60 days after the
1468 filing of a petition for dependency; and

1469 (4) If the child's dispositional hearing is not held in conjunction with the dependency
1470 adjudication hearing, it shall be held and completed within 30 days after the conclusion
1471 of the dependency adjudication hearing.

1472 (c) If a child is not released from foster care at the preliminary protective hearing, the
1473 following time frames apply:

1474 (1) A petition for dependency shall be filed within five days of the child's preliminary
1475 protective hearing;

1476 (2) Summons shall be served at least 72 hours before the dependency adjudication
1477 hearing;

1478 (3) The dependency adjudication hearing shall be held no later than ten days after the
1479 filing of a petition for dependency;

1480 (4) DFCS shall submit to the court its written report within 30 days of the date a child
1481 who is placed in the custody of DFCS is removed from the home and at each subsequent
1482 review of the disposition order. If the DFCS report does not contain a plan for
1483 reunification services, a nonreunification hearing shall be held no later than 30 days from
1484 the time the report is filed; and

1485 (5) If a dispositional hearing is not held in conjunction with the dependency adjudication
1486 hearing, it shall be held and completed within 30 days after the conclusion of the
1487 dependency adjudication hearing.

1488 (d) An initial periodic review hearing shall be held within 75 days following a child's
1489 removal from his or her home. An additional periodic review shall be held within four
1490 months following such initial review.

1491 (e) Permanency plan hearings shall be held no later than 30 days after DFCS has submitted
1492 a written report to the court which does not provide a plan for reunification services or:

1493 (1) For children under seven years of age at the time a petition for dependency is filed,
1494 no later than nine months after such child is considered to have entered foster care,
1495 whichever comes first. Thereafter a permanency plan hearing shall be held every six
1496 months while such child continues in DFCS custody or more frequently as deemed
1497 necessary by the court until the court determines that such child's permanency plan and
1498 goal have been achieved; or

1499 (2) For children seven years of age and older at the time a petition is filed, no later than
1500 12 months after such child is considered to have entered foster care, whichever comes
1501 first. Thereafter a permanency plan hearing shall be held every six months while such
1502 child continues in DFCS custody or more frequently as deemed necessary by the court
1503 until the court determines that such child's permanency plan and goal have been achieved.

1504 (f) A supplemental order of the court adopting a child's permanency plan shall be entered
1505 within 30 days after the court has determined that reunification efforts need not be made
1506 by DFCS.

1507 15-11-103.

1508 (a) A child and any other party to a proceeding under this article shall have the right to an
1509 attorney at all stages of the proceedings under this article.

1510 (b) The court shall appoint an attorney for an alleged dependent child. The appointment
1511 shall be made as soon as practicable to ensure adequate representation of such child and,
1512 in any event, before the first court hearing that may substantially affect the interests of such
1513 child.

1514 (c) A child's attorney owes to his or her client the duties imposed by the law of this state
1515 in an attorney-client relationship.

1516 (d) If an attorney has been appointed to represent a child in a prior proceeding under this
1517 chapter, the court, when possible, shall appoint the same attorney to represent such child
1518 in any subsequent proceeding.

1519 (e) An attorney appointed to represent a child in a dependency proceeding shall continue
1520 the representation in any subsequent appeals unless excused by the court.

1521 (f) Neither a child nor a representative of a child may waive a child's right to an attorney
1522 in a dependency proceeding.

1523 (g) A party other than a child shall be informed of his or her right to an attorney prior to
1524 any hearing. A party other than a child shall be given an opportunity to:

1525 (1) Obtain and employ an attorney of such party's own choice;

1526 (2) Obtain a court appointed attorney if the court determines that such party is an
1527 indigent person; or

1528 (3) Waive the right to an attorney.

1529 15-11-104.

1530 (a) The court shall appoint a guardian ad litem for an alleged dependent child.

1531 (b) An attorney for an alleged dependent child may serve as such child's guardian ad litem
1532 unless or until there is conflict of interest between the attorney's duty to such child as such
1533 child's attorney and the attorney's considered opinion of such child's best interests as
1534 guardian ad litem.

1535 (c) A party to the proceeding, the employee or representative of a party to the proceeding,
1536 or any other individual with a conflict of interest shall not be appointed as guardian ad
1537 litem.

1538 (d) A court shall appoint a CASA to act as guardian ad litem whenever possible, and a
1539 CASA may be appointed in addition to an attorney who is serving as a guardian ad litem.

1540 (e) A lay guardian shall not engage in activities which could reasonably be construed as
1541 the practice of law.

1542 (f) Before the appointment as a guardian ad litem, such person shall have received training
1543 appropriate to the role as guardian ad litem which is administered or approved by the
1544 Office of the Child Advocate for the Protection of Children. For attorneys, preappointment
1545 guardian ad litem training shall be satisfied within the attorney's existing continuing legal
1546 education obligations and shall not require the attorney to complete additional training
1547 hours in addition to the hours required by the State Bar of Georgia.

1548 (g) Any volunteer guardian ad litem authorized and acting in good faith, in the absence of
1549 fraud or malice and in accordance with the duties required by this Code section, shall have
1550 immunity from any liability, civil or criminal, that might otherwise be incurred or imposed
1551 as a result of taking or failing to take any action pursuant to this Code section.

1552 (h) The court may remove a guardian ad litem from a case upon finding that the guardian
1553 ad litem acted in a manner contrary to a child's best interests, has not appropriately
1554 participated in the case, or if the court otherwise deems continued service as inappropriate
1555 or unnecessary.

1556 (i) A guardian ad litem shall not engage in ex parte contact with the court except as
1557 otherwise provided by law.

1558 (j) The court, a child, or any other party may compel a guardian ad litem for a child to
1559 attend a trial or hearing relating to such child and to testify, if appropriate, as to the proper
1560 disposition of a proceeding.

1561 (k) The court shall ensure that parties have the ability to challenge recommendations made
1562 by the guardian ad litem or the factual basis for the recommendations in accordance with
1563 the rules of evidence applicable to the specific proceeding.

1564 (l) A guardian ad litem's report shall not be admissible into evidence prior to the
1565 disposition hearing except in accordance with the rules of evidence applicable to the
1566 specific proceeding.

1567 (m) A guardian ad litem who is not also serving as attorney for a child may be called as
1568 a witness for the purpose of cross-examination regarding the guardian ad litem's report
1569 even if the guardian ad litem is not identified as a witness by a party.

1570 15-11-105.

1571 (a) A guardian ad litem shall advocate for a child's best interests in the proceeding for
1572 which the guardian ad litem has been appointed.

1573 (b) In determining a child's best interests, a guardian ad litem shall consider and evaluate
1574 all of the factors affecting the best interests of a child in the context of a child's age and
1575 developmental needs. Such factors shall include:

1576 (1) The physical safety and welfare of such child, including food, shelter, health, and
1577 clothing;

1578 (2) The mental and physical health of all individuals involved;

1579 (3) Evidence of domestic violence in any current, past, or considered home for such
1580 child;

1581 (4) Such child's background and ties, including familial, cultural, and religious;

1582 (5) Such child's sense of attachments, including his or her sense of security and
1583 familiarity and continuity of affection for the child;

1584 (6) The least disruptive placement alternative for such child;

1585 (7) The child's wishes and long-term goals;

1586 (8) The child's community ties, including church, school, and friends;

1587 (9) The child's need for permanence, including his or her need for stability and continuity
1588 of relationships with a parent, siblings, and other relatives;

1589 (10) The uniqueness of every family and child;

1590 (11) The risks attendant to entering and being in substitute care;

1591 (12) The preferences of the persons available to care for such child; and

1592 (13) Any other factors considered by the guardian ad litem to be relevant and proper to
1593 his or her determination.

- 1594 (c) Unless a child's circumstances render the following duties and responsibilities
1595 unreasonable, a guardian ad litem shall at a minimum:
- 1596 (1) Maintain regular and sufficient in-person contact with the child and, in a manner
1597 appropriate to his or her developmental level, meet with and interview such child prior
1598 to custody hearings, adjudication hearings, disposition hearings, judicial reviews, and any
1599 other hearings scheduled in accordance with the provisions of this chapter;
- 1600 (2) In a manner appropriate to such child's developmental level, ascertain such child's
1601 needs, circumstances, and views;
- 1602 (3) Conduct an independent assessment to determine the facts and circumstances
1603 surrounding the case;
- 1604 (4) Consult with the child's attorney, if appointed separately, regarding the issues in the
1605 proceeding;
- 1606 (5) Communicate with health care, mental health care, and other professionals involved
1607 with such child's case;
- 1608 (6) Review case study and educational, medical, psychological, and other relevant
1609 reports relating to such child and the respondents;
- 1610 (7) Review all court related documents;
- 1611 (8) Attend all court hearings and other proceedings to advocate for such child's best
1612 interests;
- 1613 (9) Advocate for timely court hearings to obtain permanency for such child;
- 1614 (10) Protect the cultural needs of such child;
- 1615 (11) Contact the child prior to any proposed change in such child's placement;
- 1616 (12) Contact the child after changes in such child's placement;
- 1617 (13) Request a judicial citizen review panel or judicial review of the case;
- 1618 (14) Attend citizen panel review hearings concerning such child and if unable to attend
1619 the hearings, forward to the panel a letter setting forth such child's status during the
1620 period since the last citizen panel review and include an assessment of the DFCS
1621 permanency and treatment plans;
- 1622 (15) Provide written reports to the court and the parties on the child's best interests,
1623 including, but not limited to, recommendations regarding placement of such child,
1624 updates on such child's adjustment to placement, DFCS's and respondent's compliance
1625 with prior court orders and treatment plans, such child's degree of participation during
1626 visitations, and any other recommendations based on the best interests of the child;
- 1627 (16) When appropriate, encourage settlement and the use of any alternative forms of
1628 dispute resolution and participate in such processes to the extent permitted; and
- 1629 (17) Monitor compliance with the case plan and all court orders.

1630 (d)(1) Except as provided in Article 11 of this chapter, a guardian ad litem shall receive
1631 notices, pleadings, or other documents required to be provided to or served upon a party
1632 and shall be notified of all court hearings, judicial reviews, judicial citizen review panels,
1633 and other significant changes of circumstances of a child's case which he or she is
1634 appointed to the same extent and in the same manner as the parties to the case are notified
1635 of such matters.

1636 (2) A guardian ad litem shall be notified of the formulation of any case plan of a child's
1637 case which he or she is appointed and may be given the opportunity to be heard by the
1638 court about such plans.

1639 (e) Upon presentation of an order appointing a guardian ad litem, such guardian ad litem
1640 shall have access to all records and information relevant to a child's case to which he or she
1641 is appointed when such records and information are not otherwise protected from
1642 disclosure pursuant to Code Section 19-7-5. Such records and information shall not
1643 include records and information provided under Article 11 of this chapter or provided
1644 under Chapter 4A of Title 49.

1645 (f) All records and information acquired or reviewed by a guardian ad litem during the
1646 course of his or her appointment shall be deemed confidential and shall not be disclosed
1647 except as ordered by the court.

1648 (g) Except as provided in Code Section 49-5-41, regarding access to records, any guardian
1649 ad litem who discloses confidential information obtained during the course of his or her
1650 appointment, in violation of law, shall be guilty of a misdemeanor. A guardian ad litem
1651 shall maintain all information and records regarding mental health, developmental
1652 disability, and substance abuse according to the confidentiality requirements contained in
1653 Code Section 37-3-166, 37-4-125, or 37-7-166, as applicable.

1654 (h) In the event of a change of venue, the original guardian ad litem shall, as soon as
1655 possible, communicate with the appointed guardian ad litem in the new venue and shall
1656 forward all pertinent information to the new guardian ad litem.

1657 15-11-106.

1658 (a)(1) Before executing duties as a CASA, and upon completion of all the requirements
1659 of an affiliate court appointed special advocate program, a CASA shall be sworn in by
1660 a judge of the juvenile court in the court or circuit in which he or she wishes to serve. A
1661 CASA shall not be assigned a case prior to being sworn in by a juvenile court judge as
1662 set forth in this paragraph.

1663 (2) If a juvenile court judge determines that a child involved in a dependency proceeding
1664 needs a CASA, the judge shall have the authority to appoint a CASA, and in such
1665 circumstance shall sign an order appointing a CASA at the earliest possible stage of the

1666 proceedings. Such order shall impose on a CASA all the duties, rights, and
 1667 responsibilities set forth in this Code section and Code Sections 15-11-104 and
 1668 15-11-105.

1669 (b) The role of a CASA in juvenile court dependency proceedings shall be to advocate for
 1670 the best interests of the child.

1671 (c) In addition to the reasons stated in subsection (h) of Code Section 15-11-104, the court
 1672 may discharge a CASA upon finding that the CASA has acted in a manner contrary to the
 1673 mission and purpose of the affiliate court appointed special advocate program.

1674 15-11-107.

1675 (a) A parent, guardian, or legal custodian's reliance on prayer or other religious
 1676 nonmedical means for healing in lieu of medical care, in the exercise of religious beliefs,
 1677 shall not be the sole basis for considering his or her child to be a dependent child; provided,
 1678 however, that the religious rights of a parent, guardian, or legal custodian shall not limit the
 1679 access of a child to medical care in a life-threatening situation or when the condition will
 1680 result in serious disability.

1681 (b) In order to make a determination as to whether a child is in a life-threatening situation
 1682 or that a child's condition will result in serious disability, the court may order a medical
 1683 evaluation of a child.

1684 (c) If the court determines, on the basis of any relevant evidence before the court,
 1685 including the court ordered medical evaluation and the affidavit of the attending physician,
 1686 that a child is in a life-threatening situation or that a child's condition will result in serious
 1687 disability, the court may order that medical treatment be provided for such child.

1688 (d) A child whose parent, guardian, or legal custodian inhibits or interferes with the
 1689 provision of medical treatment in accordance with a court order shall be considered to be
 1690 a dependent child and the court may find the parent, guardian, or legal custodian in
 1691 contempt and enter any order authorized by and in accordance with the provisions of Code
 1692 Section 15-11-31.

1693 15-11-108.

1694 (a) The court shall give to all parties written notice of the date, time, place, and purpose
 1695 of the following postadjudication hearings or reviews:

1696 (1) Nonreunification hearings;

1697 (2) Disposition hearings;

1698 (3) Periodic review hearings;

1699 (4) Periodic reviews by judicial citizen review panel;

1700 (5) Permanency plan hearings;

1701 (6) Termination of parental rights hearings; and
1702 (7) Posttermination of parental rights review hearings.
1703 (b) Issuance and service of summons, when appropriate, shall comply with the
1704 requirements of Code Sections 15-11-160 and 15-11-161.
1705 (c) Unless otherwise provided in this chapter, written notice shall be delivered to the
1706 recipient at least 72 hours before the hearing or review by United States mail, e-mail, or
1707 hand delivery.

1708 15-11-109.
1709 (a) In advance of each hearing or review, DFCS shall give written notice of the date, time,
1710 place, and purpose of the review or hearing, including the right to be heard, to the caregiver
1711 of a child, the foster parent of a child, any preadoptive parent, or any relative providing
1712 care for a child. The written notice shall be delivered to the recipient at least 72 hours
1713 before the review or hearing, except in the case of preliminary protective hearings or
1714 emergency hearings when such notice is not possible, by United States mail, e-mail, or
1715 hand delivery.
1716 (b) Notice of a hearing or review shall not be construed to require a legal custodian, foster
1717 parent, preadoptive parent, or relative caring for a child to be made a party to the hearing
1718 or review solely on the basis of such notice and opportunity to be heard.

1719 15-11-110.
1720 (a) Upon request of an attorney for a party, the court may continue any hearing under this
1721 article beyond the time limit within which the hearing is otherwise required to be held;
1722 provided, however, that no continuance shall be granted that is contrary to the interests of
1723 the child. In considering a child's interests, the court shall give substantial weight to a
1724 child's need for prompt resolution of his or her custody status, the need to provide a child
1725 with a stable environment, and the damage to a child of prolonged temporary placements.
1726 (b) Continuances shall be granted only upon a showing of good cause and only for that
1727 period of time shown to be necessary by the evidence presented at the hearing on the
1728 motion. Whenever any continuance is granted, the facts proved which require the
1729 continuance shall be entered in the court record.
1730 (c) A stipulation between attorneys or the convenience of the parties shall not constitute
1731 good cause. Except as otherwise provided by judicial rules governing attorney conflict
1732 resolution, a pending criminal prosecution or family law matter shall not constitute good
1733 cause. The need for discovery shall not constitute good cause.
1734 (d) In any case in which a child or his or her parent, guardian, or legal custodian is
1735 represented by an attorney and no objection is made to an order continuing any such

1736 hearing beyond the time limit, the absence of such an objection shall be deemed a consent
1737 to the continuance; provided, however, that even with consent, the court shall decide
1738 whether to grant the continuance in accordance with subsection (a) of this Code section.

1739 15-11-111.

1740 (a) At any hearing held with respect to a child, the court in its discretion, and based upon
1741 the evidence, may enter an order:

1742 (1) Accepting or rejecting any DFCS report;

1743 (2) Ordering an additional evaluation; or

1744 (3) Undertaking such other review as it deems necessary and appropriate to determine
1745 the disposition that is in the child's best interests.

1746 (b) The court's order:

1747 (1) May incorporate all or part of the DFCS report; and

1748 (2) Shall include findings of fact which reflect the court's consideration of the oral and
1749 written testimony offered by all parties, as well as nonparties, who are required to be
1750 provided with notice and a right to be heard in any hearing to be held with respect to a
1751 child, and DFCS.

1752 15-11-112.

1753 (a) When a child is removed from his or her home, the court shall order reasonable
1754 visitation that is consistent with the age and developmental needs of a child if the court
1755 finds that it is in a child's best interests. The court's order shall specify the frequency,
1756 duration, and terms of visitation including whether or not visitation shall be supervised or
1757 unsupervised.

1758 (b) There shall be a presumption that visitation shall be unsupervised unless the court finds
1759 that unsupervised visitation is not in a child's best interests.

1760 (c) Within 30 days of the court finding that there is a lack of substantial progress towards
1761 completion of a case plan, the court shall review the terms of visitation and determine
1762 whether the terms continue to be appropriate for a child or whether the terms need to be
1763 modified.

1764 15-11-113.

1765 When a child is alleged to be a dependent child, the date such child is considered to have
1766 entered foster care shall be the date of the first judicial finding that such child has been
1767 subjected to child abuse or neglect or the date that is 60 days after the date on which such
1768 child is removed from his or her home, whichever is earlier.

1769 Part 2

1770 15-11-125.

1771 (a) A proceeding under this article may be commenced:

1772 (1) In the county in which a child legally resides; or

1773 (2) In the county in which a child is present when the proceeding is commenced if such
 1774 child is present without his or her parent, guardian, or legal custodian or the acts
 1775 underlying the dependency allegation are alleged to have occurred in that county.

1776 (b) For the convenience of the parties, the court may transfer the proceeding to the county
 1777 in which a child legally resides. If the proceeding is transferred, certified copies of all legal
 1778 and social documents and records pertaining to the proceeding on file with the clerk of
 1779 court shall accompany the transfer.

1780 Part 3

1781 15-11-130.

1782 (a) Notwithstanding Code Sections 15-11-133 and 15-11-135, DFCS shall be authorized
 1783 to provide emergency care and supervision to any child without seeking a court order for
 1784 a period not to exceed seven days when:

1785 (1) As a result of an emergency or illness, the person who has physical and legal custody
 1786 of a child is unable to provide for the care and supervision of such child, and such person
 1787 or a law enforcement officer, emergency personnel employed by a licensed ambulance
 1788 provider, fire rescue personnel, or a hospital administrator or his or her designee requests
 1789 that DFCS exercise such emergency custody; and

1790 (2) A child is not at imminent risk of abuse or neglect, other than the risks arising from
 1791 being without a caretaker.

1792 (b) During the period when a child is in the temporary care and supervision of DFCS,
 1793 DFCS shall endeavor to place such child with a relative of such child's parent, guardian,
 1794 or legal custodian, in foster care, or in emergency foster care or shall make other
 1795 appropriate placement arrangements. DFCS shall have the same rights and powers with
 1796 regard to such child as does his or her parent, guardian, or legal custodian including the
 1797 right to consent to medical treatment.

1798 (c) Immediately upon receiving custody of a child, DFCS shall begin a diligent search for
 1799 a relative or other designee of a child's parent who can provide for the care and supervision
 1800 of such child.

1801 (d) At any time during such seven-day period, and upon notification to DFCS that a child's
 1802 parent, guardian, or legal custodian or an expressly authorized relative, or designee thereof,

1803 is able to provide care to and exercise control over a child, DFCS shall release such child
 1804 to the person having custody of such child at the time such child was taken into DFCS
 1805 custody or to such person's authorized relative or designee.

1806 (e) Upon the expiration of such seven-day period, if a child has not been released or if
 1807 DFCS determines that there is an issue of neglect, abandonment, or abuse, DFCS shall
 1808 promptly contact a juvenile court intake officer or bring such child before the juvenile
 1809 court. If, upon making an investigation, the juvenile court intake officer finds that foster
 1810 care is warranted for such child, then, for purposes of this chapter, such child shall be
 1811 deemed to have been placed in foster care at the time such finding was made and DFCS
 1812 may file a dependency petition.

1813 (f) DFCS and its successors, agents, assigns, and employees shall be immune from any and
 1814 all liability for providing care and supervision in accordance with this Code section, for
 1815 consenting to medical treatment for a child, and for releasing a child.

1816 15-11-131.

1817 (a) Notwithstanding Code Section 15-11-133, a physician licensed to practice medicine
 1818 in this state who is treating a child may take or retain temporary protective custody of such
 1819 child, without a court order and without the consent of his or her parent, guardian, or legal
 1820 custodian, provided that:

1821 (1) A physician has reasonable cause to believe that such child is in a circumstance or
 1822 condition that presents an imminent danger to such child's life or health as a result of
 1823 suspected abuse or neglect; or

1824 (2) There is reasonable cause to believe that such child has been abused or neglected and
 1825 there is not sufficient time for a court order to be obtained for temporary custody of such
 1826 child before such child may be removed from the presence of the physician.

1827 (b) A physician holding a child in temporary protective custody shall:

1828 (1) Make reasonable and diligent efforts to inform the child's parents, guardian, or legal
 1829 custodian of the whereabouts of such child;

1830 (2) As soon as possible, make a report of the suspected abuse or neglect which caused
 1831 him or her to take temporary custody of the child and inform DFCS that such child has
 1832 been held in temporary custody; and

1833 (3) Not later than 24 hours after such child is held in temporary custody:

1834 (A) Contact a juvenile court intake officer, and inform such intake officer that such
 1835 child is in imminent danger to his or her life or health as a result of suspected abuse or
 1836 neglect; or

1837 (B) Contact a law enforcement officer who shall take such child and promptly bring
 1838 such child before a juvenile court intake officer.

1839 (c) A child who meets the requirements for inpatient admission shall be retained in a
1840 hospital or institution until such time as such child is medically ready for discharge. Upon
1841 notification by the hospital or institution to DFCS that a child who is not eligible for
1842 inpatient admission or who is medically ready for discharge has been taken into custody
1843 by a physician and such child has been placed in DFCS custody, DFCS shall take physical
1844 custody of such child within six hours of being notified.

1845 (d) If a juvenile court intake officer determines that a child is to be placed in foster care
1846 and the court orders that such child be placed in DFCS custody, then:

1847 (1) If such child remains in the physical care of the physician, DFCS shall take physical
1848 possession of such child within six hours of being notified by the physician, unless such
1849 child meets the criteria for admission to a hospital or other medical institution or facility;
1850 or

1851 (2) If such child has been brought before the court by a law enforcement officer, DFCS
1852 shall promptly take physical possession of such child.

1853 (e) If a juvenile court intake officer determines that a child should not be placed in foster
1854 care, such child shall be released.

1855 (f) If a child is placed in foster care, then the court shall notify such child's parents,
1856 guardian, or legal custodian, the physician, and DFCS of the preliminary protective hearing
1857 which is to be held within 72 hours.

1858 (g) If after the preliminary protective hearing a child is not released, DFCS shall file a
1859 petition alleging dependency in accordance with this article, provided that there is a
1860 continued belief that such child's life or health is in danger as a result of suspected abuse
1861 or neglect.

1862 (h) Any hospital or physician authorized and acting in good faith and in accordance with
1863 acceptable medical practice in the treatment of a child under this Code section shall have
1864 immunity from any liability, civil or criminal, that might otherwise be incurred or imposed
1865 as a result of taking or failing to take any action pursuant to this Code section. This Code
1866 section shall not be construed as imposing any additional duty not already otherwise
1867 imposed by law.

1868 15-11-132.

1869 (a) The facts supporting the issuance of an order of removal may be relayed orally,
1870 including telephonically, to the judge or a designated juvenile court intake officer, and the
1871 order directing that a child be taken into custody may be issued orally or electronically.

1872 (b) When a child is taken into custody under exceptional circumstances, an affidavit or
1873 sworn complaint containing the information previously relayed orally, including
1874 telephonically, shall be filed with the clerk of the court the next business day, and a written

1875 order shall be issued if not previously issued. The written order shall include the court's
1876 findings of fact supporting the necessity for such child's removal from the custody of his
1877 or her parent, guardian, or legal custodian in order to safeguard such child's welfare and
1878 shall designate a child's legal custodian.

1879 (c) The affidavit or sworn complaint filed after a child has been placed shall indicate
1880 whether the child was released to such child's parent, guardian, or legal custodian or
1881 remains removed.

1882 (d) DFCS shall promptly notify the parent, guardian, or legal custodian of the nature of the
1883 allegations forming the basis for taking a child into custody and, if such child is not
1884 released, of the time and place of the preliminary protective hearing.

1885 15-11-133.

1886 (a) A child may be removed from his or her home, without the consent of his or her
1887 parents, guardian, or legal custodian:

1888 (1) Pursuant to an order of the court under this article; or

1889 (2) By a law enforcement officer or duly authorized officer of the court if a child is in
1890 imminent danger of abuse or neglect if he or she remains in the home.

1891 (b) Upon removing a child from his or her home, a law enforcement officer or duly
1892 authorized officer of the court shall:

1893 (1) Immediately deliver such child to a medical facility if such child is believed to suffer
1894 from a serious physical condition or illness which requires prompt treatment, and, upon
1895 delivery, shall promptly contact DFCS;

1896 (2) Bring such child immediately before the juvenile court or promptly contact a juvenile
1897 court intake officer; and

1898 (3) Promptly give notice to the court and such child's parents, guardian, or legal
1899 custodian that such child is in protective custody, together with a statement of the reasons
1900 for taking such child into protective custody.

1901 (c) The removal of a child from his or her home by a law enforcement officer shall not be
1902 deemed an arrest.

1903 (d) A law enforcement officer removing a child from his or her home has all the privileges
1904 and immunities of a law enforcement officer making an arrest.

1905 (e) A law enforcement officer shall promptly contact a juvenile court intake officer for
1906 issuance of a court order once such officer has taken a child into protective custody and
1907 delivered such child to a medical facility.

1908 (f) A juvenile court intake officer shall immediately determine if a child should be
1909 released, remain in protective custody, or be brought before the court upon being contacted

1910 by a law enforcement officer, duly authorized officer of the court, or DFCS that a child has
 1911 been taken into protective custody.

1912 15-11-134.

1913 (a) Any order authorizing the removal of a child from his or her home shall be based on
 1914 a finding by the court that continuation in his or her home would be contrary to his or her
 1915 welfare.

1916 (b) Any order continuing a child's placement outside of the physical custody of his or her
 1917 parent, guardian, or legal custodian shall be based on a finding by the court that return of
 1918 such child to such custody would be contrary to his or her welfare.

1919 (c) Findings under this Code section shall be made on an individualized case-by-case basis
 1920 and shall be documented in the court's written order.

1921 15-11-135.

1922 (a) A child taken into custody shall not be placed in foster care prior to the hearing on a
 1923 petition for dependency unless:

1924 (1) Foster care is required to protect the child;

1925 (2) The child has no parent, guardian, or legal custodian or other person able to provide
 1926 supervision and care and return him or her to the court when required; or

1927 (3) An order for the child's foster care has been made by the court.

1928 (b) No child alleged to be or adjudicated as a dependent child shall be detained in any jail,
 1929 adult lockup, or adult detention facility, nor shall a child be detained in a secure residential
 1930 facility or nonsecure residential facility unless a child is also alleged to have committed a
 1931 delinquent act or adjudicated to be a delinquent child and the court determines that the
 1932 requirements for detention under Article 6 of this chapter are met.

1933 (c) An alleged dependent child may be placed in foster care only in:

1934 (1) A licensed or approved foster home or a home approved by the court which may be
 1935 a public or private home or the home of the child's noncustodial parent or of a relative;

1936 (2) A facility operated by a licensed child welfare agency; or

1937 (3) A licensed shelter care facility approved by the court.

1938 (d) The actual physical placement of a child pursuant to this Code section shall require the
 1939 approval of the judge of the juvenile court or his or her designee.

1940 (e) In any case in which a child is taken into protective custody of DFCS, such child shall
 1941 be placed together with his or her siblings who are also in protective custody or DFCS shall
 1942 include a statement in its report and case plan of continuing efforts to place the siblings
 1943 together or why such efforts are not appropriate. If siblings are not placed together, DFCS
 1944 shall provide for frequent visitation or other ongoing interaction between siblings, unless

1945 DFCS documents that such frequent visitation or other ongoing interaction would be
 1946 contrary to the safety or well-being of any of the siblings.

1947 Part 4

1948 15-11-145.

1949 (a) If an alleged dependent child is removed from his or her home and is not returned
 1950 home, the preliminary protective hearing shall be held promptly and not later than 72 hours
 1951 after such child is placed in foster care; provided, however, that if the 72 hour time frame
 1952 expires on a weekend or legal holiday, the hearing shall be held on the next day which is
 1953 not a weekend or legal holiday.

1954 (b) Reasonable oral or written notice of the preliminary protective hearing, stating the
 1955 time, place, and purpose of the hearing, shall be given to the child who is a party in such
 1956 hearing and, if such person can be found, to his or her parent, guardian, or legal custodian.

1957 (c) If an alleged dependent child's parent, guardian, or legal custodian has not been notified
 1958 of the preliminary protective hearing and did not appear or waive appearance at such
 1959 hearing and thereafter files an affidavit showing such facts, the court shall rehear the matter
 1960 without unnecessary delay and shall order such child's release unless it appears from such
 1961 hearing that such child's foster care is warranted or required.

1962 (d) The following persons shall have the right to participate in the preliminary protective
 1963 hearing:

1964 (1) A child's parent, guardian, or legal custodian, unless such person cannot be located
 1965 or fails to appear in response to the notice;

1966 (2) A child's attorney and guardian ad litem if a guardian ad litem has been appointed;

1967 (3) A child who was removed from his or her home, unless the court finds, after
 1968 considering evidence of harm to such child that will result from such child's presence at
 1969 the proceeding, that being present is not in such child's best interests;

1970 (4) A parent's attorney if an attorney has been retained or appointed;

1971 (5) The assigned DFCS caseworker; and

1972 (6) The attorney for DFCS.

1973 (e) The court may allow the following parties to be present at the preliminary protective
 1974 hearing, if the court finds it is in the best interests of the child:

1975 (1) Any relative or other persons who have demonstrated an ongoing commitment to a
 1976 child with whom a child might be placed;

1977 (2) DFCS employees involved in the case;

1978 (3) An advocate as requested by an alleged dependent child's parent, guardian, or legal
 1979 custodian; and

1980 (4) Other persons who have knowledge of or an interest in the welfare of the child who
 1981 is alleged to be dependent.

1982 (f) At the commencement of a preliminary protective hearing, the court shall inform the
 1983 parties of:

1984 (1) The contents of the complaint in terms understandable to the parties;

1985 (2) The nature of the proceedings in terms understandable to the parties; and

1986 (3) The parties' due process rights, including the parties' right to an attorney and to an
 1987 appointed attorney if they are indigent persons, the right to call witnesses and to
 1988 cross-examine all witnesses, the right to present evidence, and the right to a trial by the
 1989 court on the allegations in the complaint or petition.

1990 (g) If a child is not released at the preliminary protective hearing, a petition for
 1991 dependency shall be made and presented to the court within five days of such hearing.

1992 15-11-146.

1993 (a) At the preliminary protective hearing, the court shall determine:

1994 (1) Whether there is probable cause to believe a child is a dependent child; and

1995 (2) Whether protective custody of a child is necessary to prevent abuse or neglect
 1996 pending the hearing on the dependency petition.

1997 (b) The court:

1998 (1) On finding that the complainant has not proved either of the required elements
 1999 prescribed in subsection (a) of this Code section, shall dismiss the case and shall return
 2000 the child before the court to his or her parent, guardian, or legal custodian;

2001 (2) On finding that the complainant has not met the burden of proving that protective
 2002 custody is necessary, shall return the child before the court to his or her parent, guardian,
 2003 or legal custodian pending the hearing on the dependency petition; or

2004 (3) On finding that the complainant has met the burden prescribed in subsection (a) of
 2005 this Code section, may place the child before the court in the temporary custody of DFCS
 2006 pending the hearing on the dependency petition.

2007 (c) A court's order removing a child from his or her home shall be based upon a finding
 2008 that:

2009 (1) Continuation in his or her home would be contrary to such child's welfare; and

2010 (2) Removal is in such child's best interests.

2011 (d) The court shall make written findings as to whether DFCS has made reasonable efforts
 2012 to prevent or eliminate the need for removal of a child from his or her home and to make
 2013 it possible for such child to safely return home. If the court finds that no services were
 2014 provided but that reasonable services would not have eliminated the need for protective
 2015 custody, the court shall consider DFCS to have made reasonable efforts to prevent or

2016 eliminate the need for protective custody. The court shall include in the written findings
2017 a brief description of what preventive and reunification efforts were made by DFCS.

2018 (e) In determining whether a child shall be removed or continued out of his or her home,
2019 the court shall consider whether reasonable efforts can prevent or eliminate the need to
2020 separate the family. The court shall make a written finding in every order of removal that
2021 describes why it is in the best interests of the child that he or she be removed from his or
2022 her home or continued in foster care.

2023 (f) To aid the court in making the required written findings, DFCS shall present evidence
2024 to the court outlining the reasonable efforts made to prevent taking a child into protective
2025 custody and to provide services to make it possible for such child to safely return to his or
2026 her home and why protective custody is in the best interests of the child.

2027 Part 5

2028 15-11-150.

2029 A DFCS employee, a law enforcement officer, or any person who has actual knowledge
2030 of the abuse, neglect, or abandonment of a child or is informed of the abuse, neglect, or
2031 abandonment of a child that he or she believes to be truthful may make a petition alleging
2032 dependency.

2033 15-11-151.

2034 (a) If a child was removed from his or her home, a petition alleging dependency shall be
2035 filed within five days of the preliminary protective hearing.

2036 (b) If a child was not removed from his or her home or if a child was removed from his or
2037 her home but was released from protective custody at the preliminary protective hearing,
2038 a petition alleging dependency shall be filed within 30 days of the preliminary protective
2039 hearing.

2040 (c) Upon a showing of good cause and notice to all parties, the court may grant a requested
2041 extension of time for filing a petition alleging dependency in accordance with the best
2042 interests of the child. The court shall issue a written order reciting the facts justifying the
2043 extension.

2044 (d) If a petition alleging dependency is not filed within the required time frame, the
2045 complaint shall be dismissed without prejudice.

2046 15-11-152.

2047 A petition alleging dependency shall be verified and may rely on information and belief
2048 and shall set forth plainly and with particularity:

- 2049 (1) The facts which bring a child within the jurisdiction of the court, with a statement
2050 that it is in the best interests of the child and the public that the proceeding be brought;
2051 (2) The name, date of birth, and residence address of the child named in the petition;
2052 (3) The name and residence address of the parent, guardian, or legal custodian of the
2053 child named in the petition; or, if such child's parent, guardian, or legal custodian does
2054 not reside or cannot be found within the state or if such place of residence address is
2055 unknown, the name of any known adult relative of such child residing within the county
2056 or, if there is none, the known adult relative of such child residing nearest to the location
2057 of the court;
2058 (4) Whether the child named in the petition is in protective custody and, if so, the place
2059 of his or her foster care and the time such child was taken into protective custody; and
2060 (5) Whether any of the information required by this Code section is unknown.

2061 15-11-153.

2062 (a) The petitioner may amend the petition alleging dependency at any time:

2063 (1) To cure defects of form; and

2064 (2) Prior to the adjudication hearing, to include new allegations of fact or requests for
2065 adjudication.

2066 (b) When the petition is amended after the initial service to include new allegations of fact
2067 or requests for adjudication, the amended petition shall be served on the parties and
2068 provided to the attorneys of record.

2069 (c) The court shall grant the parties additional time to prepare only as may be required to
2070 ensure a full and fair hearing; provided, however, that when a child is in protective custody
2071 or in detention, an adjudication hearing shall not be delayed more than ten days beyond the
2072 time originally fixed for the hearing.

2073 Part 6

2074 15-11-160.

2075 (a) The court shall direct the issuance of a summons to a child if such child is 14 years of
2076 age or older, such child's parent, guardian, or legal custodian, such child's attorney, such
2077 child's guardian ad litem, if any, and any other persons who appear to the court to be proper
2078 or necessary parties to the proceeding, requiring them to appear before the court at the time
2079 fixed to answer the allegations of the petition alleging dependency. A copy of the petition
2080 alleging dependency shall accompany the summons unless the summons is served by
2081 publication, in which case the published summons shall indicate the general nature of the
2082 allegations and where a copy of the petition alleging dependency can be obtained.

2083 (b) A summons shall state that a party is entitled to an attorney in the proceedings and that
2084 the court will appoint an attorney if the party is an indigent person.

2085 (c) The court may endorse upon the summons an order directing a child's parent, guardian,
2086 or legal custodian to appear personally at the hearing and directing the person having the
2087 physical custody or control of a child to bring such child to the hearing.

2088 (d) A party other than a child may waive service of summons by written stipulation or by
2089 voluntary appearance at the hearing.

2090 15-11-161.

2091 (a) If a party to be served with a summons is within this state and can be found, the
2092 summons shall be served upon him or her personally as soon as possible and at least 72
2093 hours before the adjudication hearing.

2094 (b) If a party to be served is within this state and cannot be found but his or her address is
2095 known or can be ascertained with due diligence, the summons shall be served upon such
2096 party at least five days before the adjudication hearing by mailing him or her a copy by
2097 registered or certified mail or statutory overnight delivery, return receipt requested.

2098 (c) If a party to be served is outside this state but his or her address is known or can be
2099 ascertained with due diligence, service of the summons shall be made at least five days
2100 before the adjudication hearing either by delivering a copy to such party personally or by
2101 mailing a copy to him or her by registered or certified mail or statutory overnight delivery,
2102 return receipt requested.

2103 (d) If, after due diligence, a party to be served with a summons cannot be found and such
2104 party's address cannot be ascertained, whether he or she is within or outside this state, the
2105 court may order service of the summons upon him or her by publication. The adjudication
2106 hearing shall not be earlier than five days after the date of the last publication.

2107 (e)(1) Service by publication shall be made once a week for four consecutive weeks in
2108 the official organ of the county where the petition alleging dependency has been filed.
2109 Service shall be deemed complete upon the date of the last publication.

2110 (2) When served by publication, the notice shall contain the names of the parties, except
2111 that the anonymity of a child shall be preserved by the use of appropriate initials, and the
2112 date the petition alleging dependency was filed. The notice shall indicate the general
2113 nature of the allegations and where a copy of the petition alleging dependency can be
2114 obtained and require the party to be served by publication to appear before the court at
2115 the time fixed to answer the allegations of the petition alleging dependency.

2116 (3) Within 15 days after the filing of the order of service by publication, the clerk of
2117 court shall mail a copy of the notice, a copy of the order of service by publication, and

2118 a copy of the petition alleging dependency to the last known address of the party being
2119 served by publication.

2120 (f) Service of the summons may be made by any suitable person under the direction of the
2121 court.

2122 (g) The court may authorize the payment from county funds of the costs of service and of
2123 necessary travel expenses incurred by persons summoned or otherwise required to appear
2124 at the hearing.

2125 15-11-162.

2126 (a) In the event a parent, guardian, or legal custodian of a child named in a petition
2127 alleging dependancy is brought willfully fails to appear personally at a hearing after being
2128 ordered to so appear or willfully fails to bring such child to a hearing after being so
2129 directed, the court may issue an order against the person directing the person to appear
2130 before the court to show cause why he or she should not be held in contempt of court.

2131 (b) If a parent, guardian, or legal custodian of a child named in a petition alleging
2132 dependancy is brought fails to appear in response to an order to show cause, the court may
2133 issue a bench warrant directing that such parent, guardian, or legal custodian be brought
2134 before the court without delay to show cause why he or she should not be held in contempt
2135 and the court may enter any order authorized by and in accordance with the provisions of
2136 Code Section 15-11-31.

2137 15-11-163.

2138 (a) If service of summons upon a party is made by publication, the court may conduct a
2139 provisional hearing upon the allegations of the petition alleging dependency and enter an
2140 interlocutory order of disposition if:

2141 (1) The petition alleges dependency of a child;

2142 (2) The summons served upon any party:

2143 (A) States that prior to the final hearing on such petition a provisional hearing will be
2144 held at a specified time and place;

2145 (B) Requires the party who is served other than by publication to appear and answer
2146 the allegations of the petition alleging dependency at the provisional hearing;

2147 (C) States further that findings of fact and orders of disposition made pursuant to the
2148 provisional hearing will become final at the final hearing unless the party served by
2149 publication appears at the final hearing; and

2150 (D) Otherwise conforms to the requirements of Code Section 15-11-160; and

2151 (3) A child named in a petition alleging dependancy is brought is personally before the
2152 court at the provisional hearing.

2153 (b) Findings of fact and orders of disposition shall have only interlocutory effect pending
 2154 final hearing on the petition alleging dependency.
 2155 (c) If a party served by publication fails to appear at the final hearing on the petition
 2156 alleging dependency, the findings of fact and interlocutory orders made shall become final
 2157 without further evidence. If a party appears at the final hearing, the findings and orders
 2158 shall be vacated and disregarded and the hearing shall proceed upon the allegations of such
 2159 petition without regard to this Code section.

2160 Part 7

2161 15-11-170.

2162 (a) In all cases under this article, any party shall, upon written request to the party having
 2163 actual custody, control, or possession of the material to be produced, have full access to the
 2164 following for inspection, copying, or photographing:

2165 (1) The names and telephone numbers of each witness likely to be called to testify at the
 2166 hearing by another party;

2167 (2) A copy of any formal written statement made by the alleged dependent child or any
 2168 witness that relates to the subject matter concerning the testimony of the witness that a
 2169 party intends to call as a witness at the hearing;

2170 (3) Except as otherwise provided in subsection (b) of this Code section, any scientific or
 2171 other report which is intended to be introduced at any hearing or that pertains to physical
 2172 evidence which is intended to be introduced;

2173 (4) Any drug screen concerning the alleged dependent child or his or her parent,
 2174 guardian, or legal custodian;

2175 (5) Any case plan concerning the alleged dependent child or his or her parent, guardian,
 2176 or legal custodian;

2177 (6) Any visitation schedule related to the alleged dependent child;

2178 (7) Photographs and any physical evidence which are intended to be introduced at any
 2179 hearing;

2180 (8) Copies of any police incident reports regarding an occurrence which forms part or
 2181 all of the basis of the petition; and

2182 (9) Any other relevant evidence not requiring consent or a court order under
 2183 subsection (b) of this Code section.

2184 (b) Upon presentation of a court order or written consent from the appropriate person or
 2185 persons permitting access to the party having actual custody, control, or possession of the
 2186 material to be produced, any party shall have access to the following for inspection,
 2187 copying, or photographing:

2188 (1) Any psychological, developmental, physical, mental or emotional health, or other
2189 assessments of the alleged dependent child or his or her family, parent, guardian, or legal
2190 custodian;
2191 (2) Any school record concerning the alleged dependent child;
2192 (3) Any medical record concerning the alleged dependent child;
2193 (4) Transcriptions, recordings, and summaries of any oral statement of the alleged
2194 dependent child or of any witness, except child abuse reports that are confidential
2195 pursuant to Code Section 19-7-5 and work product of counsel;
2196 (5) Any family team meeting report or multidisciplinary team meeting report concerning
2197 the alleged dependent child or his or her parent, guardian, or legal custodian;
2198 (6) Supplemental police reports, if any, regarding an occurrence which forms part of all
2199 of the basis of the petition; and
2200 (7) Immigration records concerning the alleged dependent child.
2201 (c) If a party requests disclosure of information pursuant to subsection (a) or (b) of this
2202 Code section, it shall be the duty of such party to promptly make the following available
2203 for inspection, copying, or photographing to every other party:
2204 (1) The names and last known addresses and telephone numbers of each witness to the
2205 occurrence which forms the basis of the party's defense or claim;
2206 (2) Any scientific or other report which is intended to be introduced at the hearing or that
2207 pertains to physical evidence which is intended to be introduced;
2208 (3) Photographs and any physical evidence which are intended to be introduced at the
2209 hearing; and
2210 (4) A copy of any written statement made by any witness that relates to the subject
2211 matter concerning the testimony of the witness that the party intends to call as a witness.
2212 (d) A request for discovery or reciprocal discovery shall be complied with promptly and
2213 not later than five days after the request is received or 72 hours prior to any hearing except
2214 when later compliance is made necessary by the timing of such request. If such request for
2215 discovery is made fewer than 48 hours prior to an adjudicatory hearing, the discovery
2216 response shall be produced in a timely manner. If, subsequent to providing a discovery
2217 response in compliance with this Code section, the existence of additional evidence is
2218 found, it shall be promptly provided to the party making the discovery request.
2219 (e) If a request for discovery or consent for release is refused, application may be made to
2220 the court for a written order granting discovery. Motions for discovery shall certify that
2221 a request for discovery or consent was made and was unsuccessful despite good faith
2222 efforts made by the requesting party. An order granting discovery shall require reciprocal
2223 discovery. Notwithstanding the provisions of subsection (a) or (b) of this Code section, the
2224 court may deny, in whole or in part, or otherwise limit or set conditions concerning a

2225 discovery response upon a sufficient showing by a person or entity to whom a request for
2226 discovery is made that disclosure of the information would:

2227 (1) Jeopardize the safety of a party, witness, or confidential informant;
2228 (2) Create a substantial threat of physical or economic harm to a witness or other person;
2229 (3) Endanger the existence of physical evidence;
2230 (4) Disclose privileged information; or
2231 (5) Impede the criminal prosecution of a minor who is being prosecuted as an adult or
2232 the prosecution of an adult charged with an offense arising from the same transaction or
2233 occurrence.

2234 (f) No deposition shall be taken of an alleged dependent child unless the court orders the
2235 deposition, under such conditions as the court may order, on the ground that the deposition
2236 would further the purposes of this part.

2237 (g) If at any time during the course of the proceedings it is brought to the attention of the
2238 court that a person or entity has failed to comply with an order issued pursuant to this Code
2239 section, the court may grant a continuance, prohibit the party from introducing in evidence
2240 the information not disclosed, or enter such other order as the court deems just under the
2241 circumstances.

2242 (h) Nothing contained in this Code section shall prohibit the court from ordering the
2243 disclosure of any information that the court deems necessary for proper adjudication.

2244 (i) Any material or information furnished to a party pursuant to this Code section shall
2245 remain in the exclusive custody of the party and shall only be used during the pendency of
2246 the case and shall be subject to such other terms and conditions as the court may provide.

2247 Part 8

2248 15-11-180.

2249 The petitioner shall have the burden of proving the allegations of a dependency petition by
2250 clear and convincing evidence.

2251 15-11-181.

2252 (a) The court shall fix a time for an adjudication hearing. If the alleged dependent child
2253 is in foster care, the hearing shall be scheduled for no later than ten days after the filing of
2254 the petition alleging dependency. If the alleged dependent child is not in foster care, the
2255 adjudication hearing shall be held no later than 60 days after the filing of the petition
2256 alleging dependency. If adjudication is not completed within 60 days from the date such
2257 child was taken into protective custody, the petition alleging dependency may be dismissed
2258 without prejudice.

- 2259 (b) The following persons shall have the right to participate in the adjudication hearing:
- 2260 (1) The parent, guardian, or legal custodian of the alleged dependent child, unless such
- 2261 person cannot be located or fails to appear in response to the notice;
- 2262 (2) The attorney and guardian ad litem of the alleged dependent child;
- 2263 (3) The alleged dependent child, unless the court finds, after considering evidence of
- 2264 harm to such child that will result from his or her presence at the proceeding, that being
- 2265 present is not in the child's best interests;
- 2266 (4) The attorneys for the parent, guardian, or legal custodian of the alleged dependent
- 2267 child if attorneys have been retained or appointed;
- 2268 (5) The assigned DFCS caseworker; and
- 2269 (6) The attorney for DFCS.
- 2270 (c) If the court finds it is in the best interests of the alleged dependent child, the court may
- 2271 allow the following to be present at the adjudication hearing:
- 2272 (1) Any relative or other persons who have demonstrated an ongoing commitment to a
- 2273 child alleged to be a dependent child with whom he or she might be placed;
- 2274 (2) DFCS employees involved with the case;
- 2275 (3) An advocate as requested by the parent, guardian, or legal custodian of the alleged
- 2276 dependent child; and
- 2277 (4) Other persons who have knowledge of or an interest in the welfare of such child.
- 2278 (d) Except as provided in this subsection, the adjudication hearing shall be conducted in
- 2279 accordance with Title 24. Testimony or other evidence relevant to the dependency of a
- 2280 child or the cause of such condition may not be excluded on any ground of privilege,
- 2281 except in the case of:
- 2282 (1) Communications between a party and his or her attorney; and
- 2283 (2) Confessions or communications between a priest, rabbi, or duly ordained minister or
- 2284 similar functionary and his or her confidential communicant.
- 2285 (e) After hearing the evidence, the court shall make and file specific written findings as
- 2286 to whether a child is a dependent child.
- 2287 (f) If the court finds that a child is not a dependent child, it shall dismiss the petition
- 2288 alleging dependency and order such child discharged from foster care or other restriction
- 2289 previously ordered.
- 2290 (g) If the court adjudicates a child as a dependent child, the court shall proceed
- 2291 immediately or at a postponed hearing to make a proper disposition of the case.
- 2292 (h) If the court adjudicates a child as a dependent child, the court shall also make and file
- 2293 a finding whether such dependency is the result of substance abuse by such child's parent,
- 2294 guardian, or legal custodian.

2295 (i) If the disposition hearing is held on the same day as the adjudication hearing, the court
2296 shall schedule the dates and times for the first periodic review hearing and for the
2297 permanency plan hearing.

2298 Part 9

2299 15-11-190.

2300 If the allegations of the petition alleging dependency are admitted or after an adjudication
2301 hearing the court has adjudicated a child as a dependent child, the court may direct that a
2302 written social study and report be made by a person designated by the court.

2303 15-11-191.

2304 Each social study shall include, but not be limited to, a factual discussion of each of the
2305 following subjects:

2306 (1) What plan, if any, for the return of the child adjudicated to be a dependent child to
2307 his or her parent and for achieving legal permanency for such child if efforts to reunify
2308 fail is recommended to the court;

2309 (2) Whether the best interests of the child will be served by granting reasonable visitation
2310 rights to his or her other relatives in order to maintain and strengthen the child
2311 adjudicated to be a dependent child's family relationships;

2312 (3) Whether the child adjudicated to be a dependent child has siblings under the court's
2313 jurisdiction, and, if so:

2314 (A) The nature of the relationship between such child and his or her siblings;

2315 (B) Whether the siblings were raised together in the same home and whether the
2316 siblings have shared significant common experiences or have existing close and strong
2317 bonds;

2318 (C) Whether the child adjudicated to be a dependent child expresses a desire to visit
2319 or live with his or her siblings and whether ongoing contact is in such child's best
2320 interests;

2321 (D) The appropriateness of developing or maintaining sibling relationships;

2322 (E) If siblings are not placed together in the same home, why the siblings are not
2323 placed together and what efforts are being made to place siblings together or why those
2324 efforts are not appropriate;

2325 (F) If siblings are not placed together, the frequency and nature of the visits between
2326 siblings; and

2327 (G) The impact of the sibling relationship on the child adjudicated to be a dependent
2328 child's placement and planning for legal permanence;

- 2329 (4) The appropriateness of any placement with a relative of the child adjudicated to be
 2330 a dependent child; and
 2331 (5) Whether a caregiver desires and is willing to provide legal permanency for a child
 2332 adjudicated to be a dependent child if reunification is unsuccessful.

2333 Part 10

2334 15-11-200.

2335 (a) Within 30 days of the date a child who is placed in DFCS custody is removed from his
 2336 or her home and at each subsequent review of the disposition order, DFCS shall submit a
 2337 written report to the court which shall either:

2338 (1) Include a case plan for a reunification of the family; or

2339 (2) Include a statement of the factual basis for determining that a plan for reunification
 2340 is not appropriate.

2341 (b) The report submitted by DFCS shall become a discrete part of the case record in a
 2342 format determined by DFCS and shall be made available to a child who is placed in DFCS
 2343 custody if such child is 14 years of age or older, his or her attorney, his or her guardian ad
 2344 litem, if any, and the parent, guardian, or legal custodian of such child. The contents of the
 2345 report shall be determined at a meeting to be held by DFCS in consultation with the parent,
 2346 guardian, or legal custodian and child who was placed in DFCS custody, when appropriate.
 2347 The parent, guardian, or legal custodian, the child who was placed in DFCS custody if such
 2348 child is 14 years of age or older, his or her attorney, and guardian ad litem, if any, shall be
 2349 given written notice of the meeting at least five days in advance of such meeting and shall
 2350 be advised that the report will be submitted to the court for consideration as an order of the
 2351 court. The report submitted to the court shall also contain any dissenting recommendations
 2352 of the judicial citizen review panel, if applicable, and any recommendations of the parent,
 2353 guardian, or legal custodian of the child who was placed in DFCS custody, if such are
 2354 available.

2355 (c) If the court adopts a report that contains a case plan for reunification services, it shall
 2356 be in effect until modification by the court. A case plan shall address each reason requiring
 2357 removal of a child from his or her home and shall, at a minimum, comply with the
 2358 requirements of Code Section 15-11-201.

2359 (d) If the submitted DFCS report contains a proposed case plan for reunification services:
 2360 (1) DFCS shall provide the caregiver, the foster parent, and any preadoptive parent or
 2361 relative providing care for the child who was placed in DFCS custody with a copy of
 2362 those portions of the court approved case plan that involve the permanency goal and the
 2363 services to be provided to the child;

2364 (2) A copy of the DFCS report and case plan shall be delivered to the parent, guardian,
 2365 or legal custodian by United States mail, e-mail, or hand delivery at the same time the
 2366 report and case plan are transmitted to the court, along with written notice that such report
 2367 will be considered by the court without a hearing unless, within five days from the date
 2368 the copy of such report and case plan were delivered, the parent, guardian, or legal
 2369 custodian of the child who was placed in DFCS custody requests a hearing before the
 2370 court to review such report and case plan; and

2371 (3) If no hearing is requested, the court shall enter a disposition order or supplemental
 2372 order incorporating all elements of the case plan for reunification services which the court
 2373 finds essential to reunification, specifying what shall be accomplished by all parties
 2374 before reunification of the family can be achieved.

2375 (e) When DFCS recommends that reunification services are not appropriate and should not
 2376 be allowed, the DFCS report shall address each reason requiring removal of a child from
 2377 his or her home and shall contain at least the following:

2378 (1) The purpose for which the child in DFCS custody was placed in foster care, including
 2379 a statement of the reasons why such child cannot be adequately and safely protected at
 2380 his or her home and the harm which may occur if such child remains in his or her home
 2381 and a description of the services offered and the services provided to prevent removal of
 2382 such child from his or her home;

2383 (2) A clear statement describing all of the reasons supporting a finding that reunification
 2384 of a child with his or her parent will be detrimental to such child and that reunification
 2385 services therefore need not be provided, including specific findings as to whether any of
 2386 the grounds for terminating parental rights exist; and

2387 (3) The statements, provisions, and requirements found in paragraphs (11) and (12) of
 2388 subsection (b) of Code Section 15-11-201.

2389 15-11-201.

2390 (a) A case plan shall be designed to achieve placement in the most appropriate, least
 2391 restrictive, and most family-like setting available and in close proximity to the alleged
 2392 dependent child's parent's home, consistent with the best interests and special needs of such
 2393 child, and shall consider the placement's proximity to the school in which such child is
 2394 enrolled at the time of placement.

2395 (b) A case plan shall be developed by DFCS and the parent, guardian, or legal custodian
 2396 of the alleged dependent child and, when appropriate, such child. A case plan shall
 2397 include, but not be limited to, all of the following:

2398 (1) A description of the circumstances that resulted in such child being placed under the
 2399 jurisdiction of the court and in foster care;

- 2400 (2) An assessment of such child's and his or her family's strengths and needs and the type
2401 of placement best equipped to meet those needs;
- 2402 (3) A description of the type of home or institution in which such child is to be placed,
2403 including a discussion of the safety and appropriateness of the placement;
- 2404 (4) Specific time-limited goals and related activities designed to enable the safe return
2405 of such child to his or her home, or, in the event that return to his or her home is not
2406 possible, activities designed to result in permanent placement or emancipation;
- 2407 (5) Assignment of specific responsibility for accomplishing the planned activities;
- 2408 (6) The projected date of completion of the case plan objectives;
- 2409 (7) The date time-limited services will be terminated;
- 2410 (8) A schedule of visits between such child and his or her siblings and other appropriate
2411 family members and an explanation if no visits are scheduled;
- 2412 (9) When placement is made in a foster family home, group home, or other child care
2413 institution that is either a substantial distance from the home of such child's parent,
2414 guardian, or legal custodian or out of state, the case plan shall specify the reasons why
2415 the placement is the most appropriate and is in the best interests of the child;
- 2416 (10) When an out-of-state group home placement is recommended or made, the case plan
2417 shall comply with Code Section 39-4-4, the Interstate Compact on the Placement of
2418 Children. In addition, documentation of the recommendation of the multidisciplinary
2419 team and the rationale for such particular placement shall be included. The case plan
2420 shall also address what in-state services or facilities were used or considered and why
2421 they were not recommended;
- 2422 (11) If applicable, a statement that reasonable efforts have been made and a requirement
2423 that reasonable efforts shall be made for so long as such child remains in the custody of
2424 the department:
- 2425 (A) To place siblings removed from their home in the same foster care, kinship care,
2426 guardianship, or adoptive placement, unless DFCS documents that such a joint
2427 placement would be contrary to the safety or well-being of any of the siblings; and
- 2428 (B) In the case of siblings removed from their home who are not so jointly placed, for
2429 frequent visitation or other ongoing interaction between the siblings, unless DFCS
2430 documents that such frequent visitation or other ongoing interaction would be contrary
2431 to the safety or well-being of any of the siblings;
- 2432 (12) Provisions ensuring the educational stability of such child while in foster care,
2433 including:
- 2434 (A) An assurance that the placement of such child in foster care takes into account the
2435 appropriateness of the current educational setting and the proximity to the school in
2436 which such child is enrolled at the time of placement;

2437 (B) An assurance that the state agency has coordinated with appropriate local
 2438 educational agencies to ensure that such child remains in the school in which such child
 2439 is enrolled at the time of placement; or

2440 (C) If remaining in such school is not in the best interests of the child, an assurance by
 2441 DFCS that DFCS and the local educational agencies have cooperated to assure the
 2442 immediate and appropriate enrollment in a new school, with all of the educational
 2443 records of such child provided to such new school;

2444 (13) An account of health and education information about such child including school
 2445 records, immunizations, known medical problems, any known medications he or she may
 2446 be taking, names and addresses of his or her health and educational providers; such
 2447 child's grade level performance; assurances that such child's placement in foster care
 2448 takes into account proximity to the school in which he or she was enrolled at the time of
 2449 placement; and other relevant health and educational information;

2450 (14) A recommendation for a permanency plan for such child. If, after considering
 2451 reunification, adoptive placement, or permanent guardianship, DFCS recommends
 2452 placement in another planned permanent living arrangement, the case plan shall include
 2453 documentation of a compelling reason or reasons why termination of parental rights is
 2454 not in the child's best interests. For purposes of this paragraph, a 'compelling reason' shall
 2455 have the same meaning as in paragraph (2) of subsection (b) of Code Section 15-11-233;

2456 (15) A statement that the parent, guardian, or legal custodian of such child and the child
 2457 have had an opportunity to participate in the development of the case plan, to review the
 2458 case plan, to sign the case plan, and to receive a copy of the plan, or an explanation about
 2459 why such persons were not able to participate or sign the case plan;

2460 (16) A requirement that the DFCS case manager and staff and, as appropriate, other
 2461 representatives of such child provide him or her with assistance and support in
 2462 developing a transition plan that is personalized at the direction of such child, including
 2463 specific options on housing, health insurance, education, local opportunities for mentors
 2464 and continuing support services, and work force supports and employment services, and
 2465 is as detailed as such child may elect. The transition plan shall be completed in the 90
 2466 day period:

2467 (A) Immediately prior to the date on which such child will attain 18 years of age; or

2468 (B) If such child remains in the care of DFCS past his or her eighteenth birthday,
 2469 before his or her planned exit from DFCS care.

2470 (17) For such child in out-of-home care who is 14 years of age or older, a written
 2471 description of the programs and services which will help him or her prepare for the
 2472 transition from foster care to independent living; and

2473 (18) The identity of the person within DFCS or other agency who is directly responsible
 2474 for ensuring that the case plan is implemented.

2475 15-11-202.

2476 (a) Except as provided in subsection (a) of Code Section 15-11-203, reasonable efforts
 2477 shall be made to preserve or reunify families:

2478 (1) Prior to the placement of an alleged dependent child in DFCS custody to prevent the
 2479 need for removing him or her from his or her home; or

2480 (2) To eliminate the need for removal and make it possible for a child alleged to be or
 2481 adjudicated as a dependent child to return safely to his or her home at the earliest possible
 2482 time.

2483 (b) In determining the type of reasonable efforts to be made to a child alleged to be or
 2484 adjudicated as a dependent child and in making such reasonable efforts, such child's health
 2485 and safety shall be the paramount concern.

2486 (c) Appropriate services to meet the needs of a child alleged to be or adjudicated as a
 2487 dependent child and his or her family may include those provided by DFCS and other
 2488 services available in the community.

2489 (d) The court shall be required to review the appropriateness of DFCS's reasonable efforts
 2490 at each stage of the proceedings.

2491 (e)(1) At the preliminary protective hearing, DFCS has the burden of demonstrating that:

2492 (A) It has made reasonable efforts to prevent placement of an alleged dependent child
 2493 in foster care;

2494 (B) There are no appropriate services or efforts which could allow an alleged
 2495 dependent child to safely remain in the home given the particular circumstances of such
 2496 child and his or her family at the time of his or her removal and so the absence of such
 2497 efforts was justifiable; or

2498 (C) Reasonable efforts to prevent placement and to reunify an alleged dependent child
 2499 with his or her family are not required because of the existence of one or more of the
 2500 circumstances enumerated in subsection (a) of Code Section 15-11-203.

2501 (2) At the adjudication hearing, DFCS has the burden of demonstrating that:

2502 (A) It has made reasonable efforts to eliminate the need for removal of an alleged
 2503 dependent child from his or her home and to reunify such child with his or her family
 2504 at the earliest possible time; or

2505 (B) Reasonable efforts to prevent placement and to reunify an alleged dependent child
 2506 with his or her family are not required because of the existence of one or more of the
 2507 circumstances enumerated in subsection (a) of Code Section 15-11-203.

2508 (3) At each other hearing, DFCS has the burden of demonstrating that:

- 2509 (A) It has made reasonable efforts to eliminate the need for removal of a child alleged
2510 to be or adjudicated as a dependent child from his or her home and to reunify such child
2511 with his or her family at the earliest possible time; or
- 2512 (B) It has made reasonable efforts to finalize an alternative permanent home for a child
2513 alleged to be or adjudicated as a dependent child.
- 2514 (f) When determining whether reasonable efforts have been made, the court shall consider
2515 whether services to the child alleged to be or adjudicated as a dependent child and his or
2516 her family were:
- 2517 (1) Relevant to the safety and protection of such child;
2518 (2) Adequate to meet the needs of such child and his or her family;
2519 (3) Culturally and linguistically appropriate;
2520 (4) Available and accessible;
2521 (5) Consistent and timely; and
2522 (6) Realistic under the circumstances.
- 2523 (g) A finding that reasonable efforts have not been made shall not preclude the entry of an
2524 order authorizing a child alleged to be or adjudicated as a dependent child's placement
2525 when the court finds that placement is necessary for the protection of such child.
- 2526 (h) When efforts to prevent the need for a child alleged to be or adjudicated as a dependent
2527 child's placement were precluded by an immediate threat of harm to such child, the court
2528 may make a finding that reasonable efforts were made if it finds that the placement of such
2529 child in the absence of such efforts was justifiable.
- 2530 (i) Reasonable efforts to place a child adjudicated as a dependent child for adoption or
2531 with a guardian or legal custodian may be made concurrently with reasonable efforts to
2532 reunify. When DFCS decides to concurrently make reasonable efforts for both
2533 reunification and permanent placement away from the parent, guardian, or legal custodian
2534 of a child adjudicated as a dependent child, DFCS shall disclose its decision and both plans
2535 to all parties and obtain approval from the court. When DFCS proceeds on both plans, the
2536 court's review of reasonable efforts shall include efforts under both plans.
- 2537 (j) An order placing or continuing the placement of a child alleged to be or adjudicated as
2538 a dependent child in DFCS custody shall contain, but not be limited to, written findings of
2539 facts stating:
- 2540 (1) That such child's continuation in or return to his or her home would be contrary to
2541 his or her welfare;
2542 (2) Whether reasonable efforts have been made to prevent or eliminate the need for
2543 placement of such child, unless the court has determined that such efforts are not required
2544 or shall cease; and

2545 (3) Whether reasonable efforts should continue to be made to prevent or eliminate the
2546 need for placement of such child, unless the court has previously determined that such
2547 efforts are not required or shall cease.

2548 15-11-203.

2549 (a) The court may direct that reasonable efforts to eliminate the need for placement of an
2550 alleged dependent child shall not be required or shall cease if the court determines and
2551 makes written findings of fact that a parent of an alleged dependent child:

2552 (1) Has subjected his or her child to aggravated circumstances;

2553 (2) Has been convicted of the murder of another child of such parent;

2554 (3) Has been convicted of the voluntary manslaughter of another child of such parent;

2555 (4) Has been convicted of aiding or abetting, attempting, conspiring, or soliciting to
2556 commit murder or voluntary manslaughter of another child of such parent;

2557 (5) Has been convicted of committing a felony assault that results in serious bodily
2558 injury to the child or another child of such parent;

2559 (6) Has been convicted of rape, sodomy, aggravated sodomy, child molestation,
2560 aggravated child molestation, incest, sexual battery, or aggravated sexual battery of the
2561 alleged dependent child or another child of the parent;

2562 (7) Is required to register as a sex offender and that preservation of a parent-child
2563 relationship is not in the alleged dependent child's best interests; or

2564 (8) Has had his or her rights to a sibling of the alleged dependent child terminated
2565 involuntarily and the circumstances leading to such termination of parental rights to that
2566 sibling have not been resolved.

2567 (b) If the court determines that one or more of the circumstances enumerated in
2568 subsection (a) of this Code section exist or DFCS has submitted a written report to the
2569 court which does not contain a plan for reunification services, then:

2570 (1) A permanency plan hearing shall be held for a child adjudicated as a dependent child
2571 within 30 days; and

2572 (2) Reasonable efforts shall be made to place a child adjudicated as a dependent child in
2573 a timely manner in accordance with the permanency plan and to complete whatever steps
2574 are necessary to finalize the permanent placement of such child.

2575 15-11-204.

2576 (a) If the DFCS report does not contain a plan for reunification services, the court shall
2577 hold a nonreunification hearing to review the report and the determination that a plan for
2578 reunification services is not appropriate.

2579 (b) The nonreunification hearing shall be held no later than 30 days from the time the
 2580 DFCS report is filed. Notice of the nonreunification hearing shall be provided, by
 2581 summons, to the child adjudicated as a dependent child if he or she is 14 years of age or
 2582 older, his or her parent, guardian, or legal custodian, attorney, guardian ad litem, if any, and
 2583 specified nonparties entitled to notice.

2584 (c) At the nonreunification hearing:

2585 (1) DFCS shall notify the court whether and when it intends to proceed with termination
 2586 of parental rights; and

2587 (2) The court shall also hold a permanency plan hearing, at which the court shall
 2588 consider in-state and out-of-state permanent placement options for the child adjudicated
 2589 as a dependent child and shall incorporate a permanency plan for such child in its order.

2590 (d) DFCS shall have the burden of demonstrating by clear and convincing evidence that
 2591 a reunification plan is not appropriate considering the health and safety of the child
 2592 adjudicated as a dependent child and such child's need for permanence. There shall be a
 2593 presumption that reunification is detrimental to a child adjudicated as a dependent child and
 2594 reunification services should not be provided if the court finds by clear and convincing
 2595 evidence that:

2596 (1) Such child's parent has unjustifiably failed to comply with a previously ordered plan
 2597 designed to reunite the family;

2598 (2) An alleged dependent child has been removed from his or her home on at least two
 2599 previous occasions and reunification services were made available on those occasions;

2600 (3) A ground for terminating parental rights exists; or

2601 (4) Any of the circumstances set out in subsection (a) of Code Section 15-11-203 exist,
 2602 making it unnecessary to provide reasonable efforts to reunify.

2603 (e) If the court has entered an order finding that reasonable efforts to reunify a child
 2604 adjudicated as a dependent child with his or her family are not required but the court finds
 2605 further that referral for termination of parental rights and adoption is not in the best
 2606 interests of such child, the court may, upon proper petition, place such child in the custody
 2607 of a permanent guardian pursuant to the provisions of this article.

2608 Part 11

2609 15-11-210.

2610 (a) If not held in conjunction with an adjudication hearing, a disposition hearing shall be
 2611 held and completed within 30 days after the conclusion of an adjudication hearing.

2612 (b) The court may consider any evidence, including hearsay evidence, that the court finds
2613 to be relevant, reliable, and necessary to determine the needs of a child adjudicated as a
2614 dependent child and the most appropriate disposition.

2615 (c) Before determining the appropriate disposition, the court shall receive in evidence:

2616 (1) The social study report, if applicable, made by DFCS and the child adjudicated as a
2617 dependent child's proposed written case plan. The social study report and case plan shall
2618 be filed with the court not less than 48 hours before the disposition hearing;

2619 (2) Any study or evaluation made by a guardian ad litem appointed by the court;

2620 (3) Any psychological, medical, developmental, or educational study or evaluation of the
2621 child adjudicated as a dependent child; and

2622 (4) Other relevant and material evidence as may be offered, including, but not limited
2623 to, the willingness of the caregiver to provide legal permanency for the child adjudicated
2624 as a dependent child if reunification is unsuccessful.

2625 (d) Prior to a disposition hearing, and upon request, the parties and their attorneys shall be
2626 afforded an opportunity to examine any written reports received by the court.

2627 (e)(1) Portions of written reports received by the court which are not relied on by the
2628 court in reaching its decision, which if revealed would be prejudicial to the interests of
2629 any party to the proceeding, or which reveal confidential sources, may be withheld in the
2630 court's discretion.

2631 (2) Parties and their attorneys shall be given the opportunity to controvert written reports
2632 received by the court and to cross-examine individuals making such reports.

2633 (f) At the conclusion of the disposition hearing, the court shall set the time and date for the
2634 first periodic review hearing and the permanency plan hearing.

2635 15-11-211.

2636 (a) A diligent search shall be initiated at the outset of a case under this article and shall be
2637 conducted throughout the duration of a case, when appropriate.

2638 (b) A diligent search shall include at a minimum:

2639 (1) Interviews with the child's parent during the course of an investigation, while child
2640 protective services are provided, and while such child is in care;

2641 (2) Interviews with the child;

2642 (3) Interviews with identified relatives throughout the case;

2643 (4) Interviews with any other person who is likely to have information about the identity
2644 or location of the person being sought;

2645 (5) Comprehensive searches of data bases available to DFCS including, but not limited
2646 to, searches of employment, residence, utilities, vehicle registration, child support

2647 enforcement, law enforcement, corrections records, and any other records likely to result
2648 in identifying and locating the person being sought;

2649 (6) Appropriate inquiry during the course of hearings in the case; and

2650 (7) Any other reasonable means that are likely to identify relatives or other persons who
2651 have demonstrated an ongoing commitment to the child.

2652 (c) A diligent search shall be completed by DFCS before final disposition.

2653 (d) All adult relatives of the alleged dependent child identified in a diligent search required
2654 by this Code section, subject to exceptions due to family or domestic violence, shall be
2655 provided with notice:

2656 (1) Specifying that an alleged dependent child has been or is being removed from his or
2657 her parental custody;

2658 (2) Explaining the options a relative has to participate in the care and placement of the
2659 alleged dependent child and any options that may be lost by failing to respond to the
2660 notice;

2661 (3) Describing the process for becoming an approved foster family home and the
2662 additional services and supports available for children placed in approved foster homes;
2663 and

2664 (4) Describing any financial assistance for which a relative may be eligible.

2665 (e) The diligent search required by this Code section and the notification required by
2666 subsection (d) of this Code section shall be completed, documented in writing, and filed
2667 with the court within 30 days from the date on which the alleged dependent child was
2668 removed from his or her home.

2669 (f) After the completion of the diligent search required by this Code section, DFCS shall
2670 have a continuing duty to search for relatives or other persons who have demonstrated an
2671 ongoing commitment to a child and with whom it may be appropriate to place the alleged
2672 dependent child until such relatives or persons are found or until such child is placed for
2673 adoption unless the court excuses DFCS from conducting a diligent search.

2674 15-11-212.

2675 (a) The court may make any of the following orders of disposition or a combination of
2676 those best suited to the protection and physical, emotional, mental, and moral welfare of
2677 a child adjudicated as a dependent child:

2678 (1) Permit such child to remain with his or her parent, guardian, or legal custodian
2679 subject to conditions and limitations as the court prescribes, including supervision as
2680 directed by the court for the protection of such child;

2681 (2) Grant or transfer temporary legal custody to any of these persons or entities:

2682 (A) Any individual, including a biological parent, who, after study by the probation
2683 officer or other person or agency designated by the court, is found by the court to be
2684 qualified to receive and care for such child;

2685 (B) An agency or other private organization licensed or otherwise authorized by law
2686 to receive and provide care for such child;

2687 (C) Any public agency authorized by law to receive and provide care for such child;
2688 provided, however, that for the purpose of this Code section, the term 'public agency'
2689 shall not include DJJ; or

2690 (D) An individual in another state with or without supervision by an appropriate officer
2691 pursuant to the requirements of Code Section 39-4-4, the Interstate Compact on the
2692 Placement of Children;

2693 (3) Transfer jurisdiction over such child in accordance with the requirements of Code
2694 Section 39-4-4, the Interstate Compact on the Placement of Children;

2695 (4) Order such child and his or her parent, guardian, or legal custodian to participate in
2696 counseling or in counsel and advice as determined by the court. Such counseling and
2697 counsel and advice may be provided by the court, court personnel, probation officers,
2698 professional counselors or social workers, psychologists, physicians, physician assistants,
2699 qualified volunteers, or appropriate public, private, or volunteer agencies as directed by
2700 the court and shall be designed to assist in deterring future conditions of dependency or
2701 other conduct or conditions which would be harmful to a child or society;

2702 (5) Order the parent, guardian, or legal custodian of such child to participate in a court
2703 approved educational or counseling program designed to contribute to the ability of such
2704 parent, guardian, or legal custodian to provide proper parental care and supervision of
2705 such child, including, but not limited to, parenting classes;

2706 (6) Order DFCS to implement and such child's parent, guardian, or legal custodian to
2707 cooperate with any plan approved by the court; or

2708 (7) Order temporary child support for such child to be paid by that person or those
2709 persons determined to be legally obligated to support such child. In determining such
2710 temporary child support, the court shall apply the child support guidelines provided in
2711 Code Section 19-6-15 and the implementation and any review of the order shall be held
2712 as provided in Code Section 19-6-15. Where there is an existing order of a superior court
2713 or other court of competent jurisdiction, the court may order the child support obligor in
2714 the existing order to make payments to such child's caretaker on a temporary basis but
2715 shall not otherwise modify the terms of the existing order. A copy of the juvenile court's
2716 order shall be filed in the clerk's office of the court that entered the existing order.
2717 Temporary child support orders entered pursuant to this paragraph shall be enforceable

2718 by the court's contempt powers so long as the court is entitled to exercise jurisdiction over
2719 the dependency case.

2720 (b) The transfer of temporary legal custody may be subject to conditions and limitations
2721 the court may prescribe. Such conditions and limitations shall include a provision that the
2722 court shall approve or direct the return of the physical custody of a child adjudicated as a
2723 dependent child to his or her parent, guardian, or legal custodian either upon the occurrence
2724 of specified circumstances or at the direction of the court. The return of physical custody
2725 of a child adjudicated as a dependent child to his or her parent, guardian, or legal custodian
2726 may be made subject to conditions and limitations the court may prescribe, including, but
2727 not limited to, supervision for the protection of such child.

2728 (c) A child adjudicated as a dependent child shall not be committed to or confined in an
2729 institution or other facility designed or operated for the benefit of delinquent children
2730 unless such child is also adjudicated to be a delinquent child and such child's detention is
2731 warranted under the requirements of Article 6 of this chapter.

2732 (d) After transferring temporary legal custody of a child adjudicated as a dependent child
2733 to DFCS, the court may at any time conduct sua sponte a judicial review of the current
2734 placement plan being provided to such child. After its review, the court may order DFCS
2735 to comply with the current placement plan, order DFCS to devise a new placement plan,
2736 or make any other order relative to placement or custody outside DFCS as the court finds
2737 to be in the best interests of such child. Placement or a change of custody by the court
2738 outside DFCS shall relieve DFCS of further responsibility for such child except for any
2739 provision of services ordered by the court to ensure the continuation of reunification
2740 services to such child's family when appropriate.

2741 (e) A court shall not be required to make an order of disposition regarding a child who is
2742 discharged from a facility in which such child was hospitalized or habilitated pursuant to
2743 Chapter 3, 4, or 7 of Title 37 unless such child is to be discharged into the physical custody
2744 of any person who had such custody when the court made its most recent adjudication that
2745 the child was a dependent child.

2746 (f) If a child is adjudicated as a dependent child and the dependency is found to have been
2747 the result of substance abuse by his or her parent, guardian, or legal custodian and the court
2748 orders transfer of temporary legal custody of such child, the court shall be authorized to
2749 further order that legal custody of such child may not be transferred back to his or her
2750 parent, guardian, or legal custodian unless such parent, guardian, or legal custodian
2751 undergoes substance abuse treatment and random substance abuse screenings and those
2752 screenings remain negative for a period of no less than six consecutive months.

2753 (g) If the court finds that DFCS preventive or reunification efforts have not been
2754 reasonable but that further efforts could not permit a child adjudicated as a dependent child

2755 to safely remain at home, the court may nevertheless authorize or continue the removal of
2756 such child.

2757 (h) When the case plan requires a concurrent permanency plan, the court shall review the
2758 reasonable efforts of DFCS to recruit, identify, and make a placement in a home in which
2759 a relative of a child adjudicated as a dependent child, foster parent, or other persons who
2760 have demonstrated an ongoing commitment to the child has agreed to provide a legally
2761 permanent home for such child in the event reunification efforts are not successful.

2762 15-11-213.

2763 Any order of disposition shall contain written findings of fact to support the disposition and
2764 case plan ordered. Before making an order of disposition, the court shall consider the
2765 following:

2766 (1) Why the best interests and safety of a child adjudicated as a dependent child are
2767 served by the disposition and case plan ordered, including but not limited to:

2768 (A) The interaction and interrelationship of such child with his or her parent, siblings,
2769 and any other person who may significantly affect the child's best interests;

2770 (B) Such child's adjustment to his or her home, school, and community;

2771 (C) The mental and physical health of all individuals involved;

2772 (D) The wishes of such child as to his or her placement;

2773 (E) The wishes of such child's parent, guardian, or legal custodian as to such child's
2774 custody;

2775 (F) Whether there exists a relative of such child or other individual who, after study by
2776 DFCS, is found to be qualified to receive and care for such child; and

2777 (G) The ability of a parent, guardian, or legal custodian of a child adjudicated as a
2778 dependent child to care for such child in the home so that no harm will result to such
2779 child;

2780 (2) The availability of services recommended in the case plan;

2781 (3) What alternative dispositions or services under the case plan were considered by the
2782 court and why such dispositions or services were not appropriate in the instant case;

2783 (4) The appropriateness of the particular placement made or to be made by the placing
2784 agency; and

2785 (5) Whether reasonable efforts were made to prevent or eliminate the necessity of a child
2786 adjudicated as a dependent child's removal and to reunify his or her family after removal
2787 from the custody of his or her family unless reasonable efforts were not required. The
2788 court's findings should include a brief description of what preventive and reunification
2789 efforts were made and why further efforts could not have prevented or eliminated the
2790 necessity of such removal.

2791 15-11-214.

2792 (a) An order of disposition in a dependency proceeding shall continue in force until the
2793 purposes of the order have been accomplished.

2794 (b) The court may terminate an order of disposition of a child adjudicated as a dependent
2795 child on or without an application of a party if it appears to the court that the purposes of
2796 the order have been accomplished.

2797 (c) Unless a child remains in DFCS care or continues to receive services from DFCS,
2798 when a child adjudicated as a dependent child reaches 18 years of age, all orders affecting
2799 him or her then in force terminate and he or she shall be discharged from further obligation
2800 or control.

2801 15-11-215.

2802 (a) Not less than five days in advance of any placement change, DFCS shall notify the
2803 court, a child who is 14 years of age or older, the child's parent, guardian, or legal
2804 custodian, the person or agency with physical custody of the child, the child's attorney, the
2805 child's guardian ad litem, if any, and any other attorney of record of such change in the
2806 location of the child's placement while the child is in DFCS custody.

2807 (b) If a child's health or welfare may be endangered by any delay in changing his or her
2808 placement, the court and all attorneys of record shall be notified of such placement change
2809 within 24 hours of such change.

2810 (c) A child adjudicated as a dependent child who is 14 years of age or older, his or her
2811 parent, guardian, or legal custodian, the person or agency with physical custody of the
2812 child, such child's attorney, such child's guardian ad litem, if any, and any attorney of
2813 record may request a hearing pertaining to such child's case plan or the permanency plan
2814 in order for the court to consider the change in the location of such child's placement and
2815 any changes to the case plan or permanency plan resulting from such child's change in
2816 placement location. The hearing shall be held within five days of receiving notice of a
2817 change in the location of such child's placement and prior to any such placement change,
2818 unless such child's health or welfare may be endangered by any delay in changing such
2819 child's placement.

2820 (d) At the hearing to consider a child adjudicated as a dependent child's case plan and
2821 permanency plan, the court shall consider the case plan and permanency plan
2822 recommendations made by DFCS, including a recommendation as to the location of the
2823 placement of such child, and shall make findings of fact upon which the court relied in
2824 determining to reject or accept the case plan or permanency plan and the recommendations
2825 made by DFCS, including the location of such child's placement.

2826 (e) If the court rejects DFCS recommendations, the court shall demonstrate that DFCS
2827 recommendations were considered and explain why it did not follow such
2828 recommendations. If the court rejects the DFCS case plan and permanency plan
2829 recommendations, including the change in the location of the placement of a child
2830 adjudicated as a dependent child, the court may order DFCS to devise a new case plan and
2831 permanency plan recommendation, including a new recommendation as to the location of
2832 such child within the resources of the department, or make any other order relative to
2833 placement or custody outside the department as the court finds to be in the best interests
2834 of such child and consistent with the policy that children in DFCS custody should have
2835 stable placements.

2836 (f) Placement or a change of legal custody by the court outside DFCS shall relieve DFCS
2837 of further responsibility for a child adjudicated as a dependent child except for any
2838 provision of services ordered by the court to ensure the continuation of reunification
2839 services to such child's family when appropriate.

2840 15-11-216.

2841 (a) All cases of children in DFCS custody shall be initially reviewed within 75 days
2842 following a child adjudicated as a dependent child's removal from his or her home and shall
2843 be conducted by the court. An additional periodic review shall be held within four months
2844 following the initial review and shall be conducted by the court or by judicial citizen
2845 review panels established by the court, as the court directs, meeting such standards and
2846 using such procedures as are established by court rule by the Supreme Court, with the
2847 advice and consent of the Council of Juvenile Court Judges. The court shall have the
2848 discretion to schedule any subsequent review hearings as necessary.

2849 (b) At any periodic review hearing, the paramount concern shall be a child adjudicated as
2850 a dependent child's health and safety.

2851 (c) At the initial 75 day periodic review, the court shall approve the completion of the
2852 relative search, schedule the subsequent four-month review to be conducted by the court
2853 or a citizen judicial review panel, and shall determine:

2854 (1) Whether a child adjudicated as a dependent child continues to be a dependent child;

2855 (2) Whether the existing case plan is still the best case plan for such child and his or her
2856 family and whether any changes need to be made to the case plan, including whether a
2857 concurrent case plan for nonreunification is appropriate;

2858 (3) The extent of compliance with the case plan by all participants;

2859 (4) The appropriateness of any recommended changes to such child's placement;

2860 (5) Whether appropriate progress is being made on the permanency plan;

2861 (6) Whether all legally required services are being provided to a child adjudicated as a
2862 dependent child, his or her foster parents if there are foster parents, and his or her parent,
2863 guardian, or legal custodian;

2864 (7) Whether visitation is appropriate and, if so, approve and establish a reasonable
2865 visitation schedule consistent with the age and developmental needs of a child
2866 adjudicated as a dependent child;

2867 (8) Whether, for a child adjudicated as a dependent child who is 14 years of age or older,
2868 the services needed to assist such child to make a transition from foster care to
2869 independent living are being provided; and

2870 (9) Whether reasonable efforts continue to be made to prevent or eliminate the necessity
2871 of such child's removal from his or her home and to reunify the family after removal of
2872 a child adjudicated as a dependent child, unless reasonable efforts were not required.

2873 (d) If at any review subsequent to the initial 75 day review the court finds that there is a
2874 lack of substantial progress towards completion of the case plan, the court shall order
2875 DFCS to develop a case plan for nonreunification or a concurrent case plan contemplating
2876 nonreunification.

2877 (e) At the time of each review of a child adjudicated as a dependent child in DFCS
2878 custody, DFCS shall notify the court whether and when it intends to proceed with the
2879 termination of parental rights.

2880 15-11-217.

2881 (a) In the event the periodic review of a case is conducted by a judicial citizen review
2882 panel, the panel shall transmit its report and that of DFCS, including its findings and
2883 recommendations together with DFCS proposed revised plan for reunification or other
2884 permanency plan, if necessary, to the court and the parent within five days after the review.

2885 (b) DFCS shall provide the caregiver of a child adjudicated as a dependent child, his or her
2886 foster parents if there are foster parents, and any preadoptive parents or relatives providing
2887 care for such child with a copy of those portions of the report of the judicial citizen review
2888 panel that involve the recommended permanency goal and the recommended services to
2889 be provided to such child.

2890 (c) Any party may request a hearing on the proposed revised plan in writing within five
2891 days after receiving a copy of the plan.

2892 (d) If no hearing is requested or scheduled by the court on its own motion, the court shall
2893 review the proposed revised plan and enter a supplemental order incorporating the revised
2894 plan as part of its disposition in the case. In the event that a hearing is held, the court shall,
2895 after hearing evidence, enter a supplemental order incorporating all elements that the court
2896 finds essential in the proposed revised plan.

2897 (e) Notwithstanding subsections (c) and (d) of this Code section, if the judicial citizen
 2898 review panel finds that there is a lack of substantial progress towards completion of the
 2899 case plan, the court shall schedule a hearing within 30 days of such finding to determine
 2900 whether a case plan for nonreunification is appropriate.

2901 (f) If the judicial citizen review panel determines that a parent of a child adjudicated as a
 2902 dependent child has unjustifiably failed to comply with the ordered plan designed to reunite
 2903 such child's family and that such failure is significant enough to warrant consideration of
 2904 the parent's termination of parental rights, the panel may make a recommendation to DFCS
 2905 and the attorney for such child that a petition for termination of parental rights should be
 2906 prepared.

2907 15-11-218.

2908 (a) At the conclusion of a periodic review hearing, or upon review of a report by a judicial
 2909 citizen review panel, the court shall issue written findings of fact that include:

2910 (1) Why a child adjudicated as a dependent child continues to be a dependent child;

2911 (2) Whether the existing case plan is still the best case plan for a child adjudicated as a
 2912 dependent child and his or her family and whether any changes need to be made to the
 2913 case plan including whether a concurrent case plan for nonreunification is appropriate;

2914 (3) The extent of compliance with the case plan by all participants;

2915 (4) The basis for any changes to the placement of a child adjudicated as a dependent
 2916 child;

2917 (5) Whether visitation is or continues to be appropriate;

2918 (6) A description of progress being made on the permanency plan;

2919 (7) Whether all legally required services are being provided to a child adjudicated as a
 2920 dependent child, his or her foster parents if there are foster parents, and his or her parent,
 2921 guardian, or legal custodian;

2922 (8) Whether, for a child adjudicated as a dependent child who is 14 years of age or older,
 2923 the services needed to assist such child to make a transition from foster care to
 2924 independent living are being provided; and

2925 (9) Whether reasonable efforts continue to be made to prevent or eliminate the necessity
 2926 of the removal of a child adjudicated as a dependent child and to reunify his or her family
 2927 after removal, unless reasonable efforts were not required.

2928 (b) At the conclusion of a periodic review hearing, or upon review of a report by a judicial
 2929 citizen review panel, the court shall order one of the following dispositions:

2930 (1) Return a child adjudicated as a dependent child to his or her parent, guardian, or legal
 2931 custodian's home with or without court imposed conditions;

- 2932 (2) Allow a child adjudicated as a dependent child to continue in the current custodial
 2933 placement because the current placement is appropriate for such child's needs;
 2934 (3) Allow a child adjudicated as a dependent child to continue in the current custodial
 2935 placement although the current placement is no longer appropriate for such child's needs
 2936 and direct DFCS to devise another plan which shall:
 2937 (A) Be submitted within ten days for court approval;
 2938 (B) Be furnished to all parties after court approval of the revised plan; and
 2939 (C) Be provided to the caregiver of a child adjudicated as a dependent child, his or her
 2940 foster parents if there are foster parents, and any preadoptive parents or relative
 2941 providing care for such child with a copy of those portions of the court approved
 2942 revised plan that involve the permanency goal and the services to be provided to such
 2943 child; or
 2944 (4) Make additional orders regarding the treatment plan or placement of a child
 2945 adjudicated as a dependent child to protect such child's best interests if the court
 2946 determines DFCS has failed in implementing any material provision of the case plan or
 2947 abused its discretion in the placement or proposed placement of such child.

2948 Part 12

2949 15-11-230.

- 2950 (a) The court shall hold a permanency plan hearing to determine the future permanent legal
 2951 status of each child in DFCS custody.
 2952 (b) A permanency plan hearing, which considers in-state and out-of-state placement
 2953 options for a child adjudicated as a dependent child, shall be held:
 2954 (1) No later than 30 days after DFCS has submitted a written report to the court which
 2955 does not contain a plan for reunification services;
 2956 (2) For children under seven years of age at the time a petition is filed, no later than nine
 2957 months after such child has entered foster care;
 2958 (3) For children seven years of age and older at the time a petition is filed, no later than
 2959 12 months after such child has entered foster care; or
 2960 (4) For a child in a sibling group whose members were removed from the home at the
 2961 same time and in which one member of the sibling group was under seven years of age
 2962 at the time a petition for dependency was filed, the permanency plan hearing shall be held
 2963 no later than nine months after such child has entered foster care.
 2964 (c) After the initial permanency plan hearing has occurred, a permanency plan hearing
 2965 shall be held not less frequently than every six months during the time a child adjudicated
 2966 as a dependent child continues in DFCS custody or more frequently as deemed necessary

2967 by the court until the court determines that such child's permanency plan and goal have
2968 been achieved.

2969 (d) A child adjudicated as a dependent child, his or her parent, guardian, or legal
2970 custodian, attorney, guardian ad litem, if any, foster parents if there are foster parents, any
2971 preadoptive parent or relatives providing care for such child, and other parties shall be
2972 given written notice of a permanency plan hearing at least five days in advance of such
2973 hearing and shall be advised that the permanency plan recommended by DFCS will be
2974 submitted to the court for consideration as the order of the court.

2975 (e) The court shall consult with the child adjudicated as a dependent child, in an
2976 age-appropriate manner, regarding the proposed permanency plan for such child.

2977 15-11-231.

2978 At least five days prior to the permanency plan hearing, DFCS shall submit for the court's
2979 consideration a report recommending a permanency plan for a child adjudicated as a
2980 dependent child. The report shall include documentation of the steps to be taken by DFCS
2981 to finalize the permanent placement for such child and shall include, but not be limited to:

2982 (1) The name, address, and telephone number of such child's parent, guardian, or legal
2983 custodian;

2984 (2) The date on which such child was removed from his or her home and the date on
2985 which such child was placed in foster care;

2986 (3) The location and type of home or facility in which such child is currently held or
2987 placed and the location and type of home or facility in which such child will be placed;

2988 (4) The basis for the decision to hold such child in protective custody or to place such
2989 child outside of his or her home;

2990 (5) A statement as to the availability of a safe and appropriate placement with a fit and
2991 willing relative of such child or other persons who have demonstrated an ongoing
2992 commitment to a child or a statement as to why placement with the relative or other
2993 person is not safe or appropriate;

2994 (6) If as a result of the placement such child has been or will be transferred from the
2995 school in which such child is or most recently was enrolled, documentation that a
2996 placement that would maintain such child in that school is unavailable, inappropriate, or
2997 that such child's transfer to another school would be in such child's best interests;

2998 (7) A plan for ensuring the safety and appropriateness of the placement and a description
2999 of the services provided to meet the needs of such child and his or her family, including
3000 a discussion of services that have been investigated and considered and are not available
3001 or likely to become available within a reasonable time to meet the needs of such child or,
3002 if available, why such services are not safe or appropriate;

- 3003 (8) The goal of the permanency plan which shall include:
- 3004 (A) Whether and, if applicable, when such child shall be returned to his or her parent;
- 3005 (B) Whether and, if applicable, when such child shall be referred for termination of
- 3006 parental rights and adoption;
- 3007 (C) Whether and, if applicable, when such child shall be placed with a permanent
- 3008 guardian; or
- 3009 (D) In the case in which DFCS has documented a compelling reason that none of the
- 3010 foregoing options would be in the best interests of the child, whether, and if applicable,
- 3011 when such child shall be placed in another planned permanent living arrangement;
- 3012 (9) If a child adjudicated as a dependent child is 14 years of age or older, a description
- 3013 of the programs and services that are or will be provided to assist such child in preparing
- 3014 for the transition from foster care to independent living. The description shall include all
- 3015 of the following:
- 3016 (A) The anticipated age at which such child will be discharged from foster care;
- 3017 (B) The anticipated amount of time available in which to prepare such child for the
- 3018 transition from foster care to independent living;
- 3019 (C) The anticipated location and living situation of such child on discharge from foster
- 3020 care;
- 3021 (D) A description of the assessment processes, tools, and methods that have been or
- 3022 will be used to determine the programs and services that are or will be provided to
- 3023 assist such child in preparing for the transition from foster care to independent living;
- 3024 and
- 3025 (E) The rationale for each program or service that is or will be provided to assist such
- 3026 child in preparing for the transition from foster care to independent living, the time
- 3027 frames for delivering such programs or services, and the intended outcome of such
- 3028 programs or services; and
- 3029 (10) When the recommended permanency plan is referral for termination of parental
- 3030 rights and adoption or placement in another home, a description of specific recruitment
- 3031 efforts such as the use of state, regional, and national adoption exchanges, including
- 3032 electronic exchange systems, to facilitate orderly and timely in-state and interstate
- 3033 placements.
- 3034 15-11-232.
- 3035 (a) At the permanency plan hearing, the court shall make written findings of fact that
- 3036 include the following:
- 3037 (1) Whether DFCS has made reasonable efforts to finalize the permanency plan which
- 3038 is in effect at the time of the hearing;

- 3039 (2) The continuing necessity for and the safety and appropriateness of the placement;
3040 (3) Compliance with the permanency plan by DFCS, parties, and any other service
3041 providers;
3042 (4) Efforts to involve appropriate service providers in addition to DFCS staff in planning
3043 to meet the special needs of a child adjudicated as a dependent child and his or her parent,
3044 guardian, or legal custodian;
3045 (5) Efforts to eliminate the causes for the placement of a child adjudicated as a dependent
3046 child outside of his or her home and toward returning such child safely to his or her home
3047 or obtaining a permanent placement for such child;
3048 (6) The date by which it is likely that a child adjudicated as a dependent child will be
3049 returned to his or her home, placed for adoption, or placed with a permanent guardian or
3050 in some other alternative permanent placement;
3051 (7) Whether, in the case of a child adjudicated as a dependent child placed out of state,
3052 the out-of-state placement continues to be appropriate and in the best interests of such
3053 child; and
3054 (8) In the case of a child adjudicated as a dependent child who is 14 years of age or
3055 older, the services needed to assist such child to make a transition from foster care to
3056 independent living.
- 3057 (b) The permanency plan incorporated in the court's order shall include:
- 3058 (1) Whether and, if applicable, when a child adjudicated as a dependent child shall be
3059 returned to his or her parent;
3060 (2) Whether and, if applicable, when a child adjudicated as a dependent child shall be
3061 referred for termination of parental rights and adoption;
3062 (3) Whether and, if applicable, when a child adjudicated as a dependent child shall be
3063 placed with a permanent guardian; or
3064 (4) Whether there is a safe and appropriate placement with a fit and willing relative of
3065 a child adjudicated as a dependent child or other persons who have demonstrated an
3066 ongoing commitment to a child or a statement as to why placement with such relative or
3067 other person is not safe or appropriate.
- 3068 (c) If the court finds that there is a compelling reason that it would not be in a child's best
3069 interests to be returned to his or her parent, referred for termination of parental rights and
3070 adoption, or placed with a permanent guardian, then the court's order shall document the
3071 compelling reason and provide that such child should be placed in another planned
3072 permanent living arrangement as defined in the court's order.
- 3073 (d) A supplemental order of the court adopting the permanency plan including all
3074 requirements of the permanency plan as provided in Code Section 15-11-231 shall be
3075 entered following the permanency hearing and in no case later than 30 days after the court

3076 has determined that reunification efforts shall not be made by DFCS. The supplemental
 3077 order shall include a requirement that the DFCS case manager and staff and, as appropriate,
 3078 other representatives of a child adjudicated as a dependent child provide such child with
 3079 assistance and support in developing a transition plan that is personalized at the direction
 3080 of such child; includes specific options on housing, health insurance, education, local
 3081 opportunities for mentors and continuing support services, and work force supports and
 3082 employment services; and is as detailed as such child may elect in the 90 day period
 3083 immediately prior to the date on which he or she will attain 18 years of age.

3084 15-11-233.

3085 (a) Except as provided in subsection (b) of this Code section, DFCS shall file a petition to
 3086 terminate the parental rights of a parent of a child adjudicated as a dependent child or, if
 3087 such a petition has been filed by another party, seek to be joined as a party to the petition,
 3088 and, concurrently, to identify, recruit, process, and approve a qualified family for an
 3089 adoption if:

3090 (1) A child adjudicated as a dependent child has been in foster care under the
 3091 responsibility of DFCS for 15 of the most recent 22 months;

3092 (2) The court has made a determination that the parent has subjected his or her child to
 3093 aggravated circumstances; or

3094 (3) The court has made a determination that the parent of a child adjudicated as a
 3095 dependent child has been convicted of:

3096 (A) The murder of another child of such parent;

3097 (B) Voluntary manslaughter of another child of such parent;

3098 (C) Voluntary manslaughter of the other parent of such child;

3099 (D) Aiding or abetting, attempting, conspiring, or soliciting to commit murder or
 3100 voluntary manslaughter of another child of such parent;

3101 (E) Aiding or abetting, attempting, conspiring, or soliciting to commit murder or
 3102 voluntary manslaughter of the other parent of such child; or

3103 (F) Committing felony assault that has resulted in serious bodily injury to such child
 3104 or to another child of such parent.

3105 (b) Termination of parental rights may not be in the best interests of a child adjudicated
 3106 as a dependent child when:

3107 (1) Such child is being cared for by his or her relative;

3108 (2) The case plan documents a compelling reason for determining that filing such a
 3109 petition would not be in the best interests of such child. Such compelling reasons may
 3110 include, but not be limited to:

- 3111 (A) A parent of such child is successfully participating in services that will make it
3112 possible for his or her child to safely return home;
- 3113 (B) Another permanency plan is better suited to meet the health and safety needs of
3114 such child. Documentation that another permanent plan is better suited to meet the
3115 health and safety needs of such child may include documentation that:
- 3116 (i) Such child is 14 years of age or older and objects to termination of parental rights.
3117 Prior to accepting a child's objection, the court shall personally question such child
3118 in chambers to determine whether the objection is a voluntary and knowing choice;
- 3119 (ii) Such child is 16 years of age or older and specifically requests that emancipation
3120 be established as his or her permanent plan;
- 3121 (iii) The parent of such child and such child have a significant bond, but such parent
3122 is unable to care for such child because of an emotional or physical disability and
3123 such child's caregiver has committed to raising such child to the age of majority and
3124 facilitating visitation with such disabled parent; or
- 3125 (iv) Such child is in a residential treatment facility that provides services specifically
3126 designed to address his or her treatment needs and the court determines that his or her
3127 needs could not be served by a less restrictive placement;
- 3128 (C) Such child is living with his or her relative who is unable or unwilling to adopt
3129 such child, but who is willing and capable of providing such child with a stable and
3130 permanent home environment and the removal of such child from the physical custody
3131 of his or her relative would be detrimental to such child's emotional well-being;
- 3132 (D) The court or judicial citizen review panel, in a prior hearing or review, determined
3133 that while the case plan was to reunify the family, DFCS did not make reasonable
3134 efforts; or
- 3135 (E) Such child is an unaccompanied refugee or there are international legal obligations
3136 or foreign policy reasons that would preclude terminating parental rights; or
- 3137 (3) DFCS has not provided to the family of such child services deemed necessary for his
3138 or her safe return to his or her home, consistent with the specific time frames for the
3139 accomplishment of the case plan goals.
- 3140 (c) The recommendation by DFCS that termination of parental rights is not in the best
3141 interests of a child shall be based on the present family circumstances of such child and
3142 shall not preclude a different recommendation at a later date if the family circumstances
3143 of a child adjudicated as a dependent child change.

Part 13

3144

3145 15-11-240.

3146 (a) In addition to the jurisdiction to appoint guardians pursuant to Code Section 15-11-13,
 3147 the juvenile court shall be vested with jurisdiction to appoint a permanent guardian for a
 3148 child adjudicated as a dependent child in accordance with this article. Prior to the entry of
 3149 such an order, the court shall:

3150 (1) Find that reasonable efforts to reunify such child with his or her parents would be
 3151 detrimental to such child or find that the living parents of such child have consented to
 3152 the permanent guardianship;

3153 (2) Find that termination of parental rights and adoption is not in the best interests of
 3154 such child;

3155 (3) Find that the proposed permanent guardian can provide a safe and permanent home
 3156 for such child;

3157 (4) Find that the appointment of a permanent guardian for such child is in the best
 3158 interests of such child and that the individual chosen as such child's permanent guardian
 3159 is the individual most appropriate to be such child's permanent guardian taking into
 3160 consideration the best interests of the child; and

3161 (5) If such child is 14 years of age or older, find that the appointment of a permanent
 3162 guardian for such child is in the best interests of such child and that the individual chosen
 3163 by such child as the child's permanent guardian is the individual most appropriate to be
 3164 such child's permanent guardian taking into consideration the best interests of the child.

3165 (b) The court may enter an order of support on behalf of a child against the parents of such
 3166 child in accordance with paragraph (7) of subsection (a) of Code Section 15-11-212.

3167 15-11-241.

3168 The petition for the appointment of a permanent guardian pursuant to this part shall set
 3169 forth:

3170 (1) The facts upon which the court's jurisdiction is based;

3171 (2) The name and date of birth of the child adjudicated as a dependent child;

3172 (3) The name, address, and county of domicile of the petitioner and the petitioner's
 3173 relationship to such child, if any, and, if different from the petitioner, the name, address,
 3174 and county of domicile of the individual nominated by the petitioner to serve as guardian
 3175 and that individual's relationship to such child, if any;

3176 (4) A statement that:

3177 (A) Reasonable efforts to reunify such child with his or her parents would be
 3178 detrimental to such child;

- 3179 (B) Termination of parental rights and adoption is not in the best interests of such
 3180 child;
- 3181 (C) The proposed guardian can provide a safe and permanent home for such child;
- 3182 (D) The appointment of a permanent guardian for such child is in the best interests of
 3183 such child and that the individual chosen as such child's guardian is the individual most
 3184 appropriate to be such child's permanent guardian taking into consideration the best
 3185 interests of the child; and
- 3186 (E) If such child is 14 years of age or older, that the appointment of a permanent
 3187 guardian for such child is in the best interests of the child and that the individual chosen
 3188 by such child as the child's permanent guardian is the most appropriate individual to be
 3189 such child's permanent guardian taking into consideration the best interests of the child;
- 3190 (5) Whether such child was born out of wedlock and, if so, the name and address of the
 3191 biological father, if known;
- 3192 (6) Whether, to the petitioner's knowledge, there exists any notarized or witnessed
 3193 document made by a parent of such child that deals with the guardianship of such child
 3194 and the name and address of any designee named in the document;
- 3195 (7) In addition to the petitioner and the nominated guardian and, if the parent of such
 3196 child has not consented to the permanent guardianship, the names and addresses of the
 3197 following relatives of such child whose whereabouts are known:
- 3198 (A) The adult siblings of such child; provided, however, that not more than three adult
 3199 siblings need to be listed;
- 3200 (B) If there is no adult sibling of such child, the grandparents of such child; provided,
 3201 however, that not more than three grandparents need to be listed; or
- 3202 (C) If there is no grandparent of such child, any three of the nearest adult relatives of
 3203 such child determined according to Code Section 53-2-1;
- 3204 (8) Whether a temporary guardian has been appointed for such child or a petition for the
 3205 appointment of a temporary guardian has been filed or is being filed; and
- 3206 (9) The reason for any omission in the petition for appointment of a permanent guardian
 3207 for such child in the event full particulars are lacking.
- 3208 15-11-242.
- 3209 (a) Permanent guardianship orders entered pursuant to Code Section 15-11-240 shall:
- 3210 (1) Remain in effect until the child adjudicated as a dependent child reaches the age of
 3211 18 or becomes emancipated;
- 3212 (2) Not be subject to review by the court except as provided in Code Section 15-11-244;
 3213 and

3214 (3) Establish a reasonable visitation schedule which allows the child adjudicated as a
3215 dependent child to maintain meaningful contact with his or her parents through personal
3216 visits, telephone calls, letters, or other forms of communication or specifically include
3217 any restriction on a parent's right to visitation.

3218 (b) A permanent guardian shall have the rights and duties of a permanent guardian as
3219 provided in Code Sections 29-2-21, 29-2-22, and 29-2-23 and shall take the oath required
3220 of a guardian as provided in Code Section 29-2-24.

3221 15-11-243.

3222 (a) Notice of a guardianship petition pursuant to this part shall be given in accordance with
3223 subsection (c) of Code Section 29-2-17 except that, if the parents have consented to the
3224 guardianship, notice of the petition shall not be required to be given to:

3225 (1) The adult siblings of the child who was adjudicated as a dependent child;

3226 (2) The grandparents of the child who was adjudicated as a dependent child; or

3227 (3) The nearest adult relatives of the child who was adjudicated as a dependent child as
3228 determined in accordance with Code Section 53-2-1.

3229 (b) The hearing shall be conducted in accordance with Code Section 29-2-18 to determine
3230 the best interests of the child who was adjudicated as a dependent child, and in reaching
3231 its determination the court shall consider Code Section 15-11-240.

3232 15-11-244.

3233 (a) The court shall retain jurisdiction over a guardianship action under this part for the sole
3234 purpose of entering an order following the filing of a petition to modify, vacate, or revoke
3235 the guardianship and appoint a new guardian.

3236 (b) The superior courts shall have concurrent jurisdiction for enforcement or modification
3237 of any child support or visitation order entered pursuant to Code Section 15-11-240.

3238 (c) The guardianship shall be modified, vacated, or revoked based upon a finding, by clear
3239 and convincing evidence, that there has been a material change in the circumstances of the
3240 child who was adjudicated as a dependent child or the guardian and that such modification,
3241 vacation, or revocation of the guardianship order and the appointment of a new guardian
3242 is in the best interests of the child. Appointment of a new guardian shall be subject to the
3243 provisions of Code Sections 15-11-240 and 15-11-241.

ARTICLE 4

Part 1

3246 15-11-260.

3247 (a) The purpose of this article is:

3248 (1) To protect a child who has been adjudicated as a dependent child from his or her
 3249 parent who is unwilling or unable to provide safety and care adequate to meet such child's
 3250 physical, emotional, and mental health needs by providing a judicial process for the
 3251 termination of all parental rights and responsibilities;

3252 (2) To eliminate the need for a child who has been adjudicated as a dependent child to
 3253 wait unreasonable periods of time for his or her parent to correct the conditions which
 3254 prevent his or her return to the family;

3255 (3) To ensure that the continuing needs of a child who has been alleged or adjudged to
 3256 be a dependent child for proper physical, mental, and emotional growth and development
 3257 are the decisive considerations in all proceedings;

3258 (4) To ensure that the constitutional rights of all parties are recognized and enforced in
 3259 all proceedings conducted pursuant to this article while ensuring that the fundamental
 3260 needs of a child are not subjugated to the interests of others; and

3261 (5) To encourage stability in the life of a child who has been adjudicated as a dependent
 3262 child and has been removed from his or her home by ensuring that all proceedings are
 3263 conducted expeditiously to avoid delays in resolving the status of the parent and in
 3264 achieving permanency for such child.

3265 (b) Nothing in this article shall be construed as affecting the rights of a parent who is not
 3266 the subject of the proceedings.

3267 15-11-261.

3268 (a) An order terminating the parental rights of a parent shall be without limit as to duration
 3269 and shall divest the parent and his or her child of all legal rights, powers, privileges,
 3270 immunities, duties, and obligations with respect to each other, except:

3271 (1) The right of such child to receive child support from his or her parent until a final
 3272 order of adoption is entered;

3273 (2) The right of such child to inherit from and through his or her parent. The right of
 3274 inheritance of such child shall be terminated only by a final order of adoption; and

3275 (3) The right of such child to pursue any civil action against his or her parent.

3276 (b) When an order terminating the parent and child relationship has been issued, the parent
 3277 whose right has been terminated shall not thereafter be entitled to notice of proceedings for

3278 the adoption of his or her child by another, nor has the parent any right to object to the
3279 adoption or otherwise to participate in such proceedings.

3280 (c) The relationship between a child and his or her siblings shall not be severed until that
3281 relationship is terminated by final order of adoption.

3282 (d) A relative whose relationship to a child is derived through the parent whose parental
3283 rights are terminated shall be considered to be a relative of such child for purposes of
3284 placement of, and permanency plan for, such child until such relationship is terminated by
3285 final order of adoption.

3286 15-11-262.

3287 (a) A child and any other party to a proceeding under this article shall have the right to an
3288 attorney at all stages of the proceedings under this article.

3289 (b) The court shall appoint an attorney for a child in a termination of parental rights
3290 proceeding. The appointment shall be made as soon as practicable to ensure adequate
3291 representation of such child and, in any event, before the first court hearing that may
3292 substantially affect the interests of such child.

3293 (c) A child's attorney owes to a child the duties imposed by the law of this state in an
3294 attorney-client relationship.

3295 (d) The court may appoint a guardian ad litem for a child in a termination proceeding at
3296 the request of such child's attorney or upon the court's own motion if it determines that a
3297 guardian ad litem is necessary to assist the court in determining the best interests of such
3298 child; provided, however, that such guardian ad litem may be the same person as the child's
3299 attorney unless or until there is a conflict of interest between the attorney's duty to such
3300 child as such child's attorney and the attorney's considered opinion of such child's best
3301 interests as guardian ad litem.

3302 (e) The role of a guardian ad litem in a termination of parental rights proceeding shall be
3303 the same role as provided for in all dependency proceedings under Article 3 of this chapter.

3304 (f) If an attorney has been appointed to represent a child in a prior proceeding under this
3305 chapter, the court, when possible, shall appoint the same attorney to represent such child
3306 in any subsequent proceeding.

3307 (g) An attorney appointed to represent a child in a termination proceeding shall continue
3308 the representation in any subsequent appeals unless excused by the court.

3309 (h) Unless authorized by the court, neither a child or a representative of a child may waive
3310 the right to any attorney in a termination proceeding.

3311 (i) A party other than a child shall be informed of his or her right to an attorney prior to
3312 the adjudication hearing and prior to any other hearing at which a party could be subjected

3313 to the loss of residual parental rights. A party other than a child shall be given an
 3314 opportunity to:

3315 (1) Obtain and employ an attorney of the party's own choice;

3316 (2) To obtain a court appointed attorney if the court determines that the party is an
 3317 indigent person; or

3318 (3) Waive the right to an attorney.

3319 15-11-263.

3320 (a) Upon motion of any party or the court, the court may require a physical or mental
 3321 evaluation of a child adjudicated as a dependent child or his or her parent, stepparent,
 3322 guardian, or legal custodian.

3323 (b) The cost of any ordered evaluation shall be paid by the moving party unless
 3324 apportioned by the court, in its discretion, to any other party or parties.

3325 15-11-264.

3326 (a) In all cases under this article, any party shall, upon written request to the party having
 3327 actual custody, control, or possession of the material to be produced, have full access to the
 3328 following for inspection, copying, or photographing:

3329 (1) The names and telephone numbers of each witness likely to be called to testify at the
 3330 hearing by another party;

3331 (2) A copy of any formal written statement made by the child adjudicated as a dependent
 3332 child or any witness that relates to the subject matter concerning the testimony of the
 3333 witness that a party intends to call as a witness at the hearing;

3334 (3) Except as otherwise provided in subsection (b) of this Code section, any scientific or
 3335 other report which is intended to be introduced at any hearing or that pertains to physical
 3336 evidence which is intended to be introduced;

3337 (4) Any drug screen concerning the child adjudicated as a dependent child or his or her
 3338 parent, guardian, or legal custodian;

3339 (5) Any case plan concerning the child adjudicated as a dependent child or his or her
 3340 parent, guardian, or legal custodian;

3341 (6) Any visitation schedule related to the child who is adjudicated as a dependent child;

3342 (7) Photographs and any physical evidence which are intended to be introduced at any
 3343 hearing;

3344 (8) Copies of the police incident report regarding an occurrence which forms part or all
 3345 of the basis of the petition; and

3346 (9) Any other relevant evidence not requiring consent or a court order under
 3347 subsection (b) of this Code section.

3348 (b) Upon presentation of a court order or written consent from the appropriate person or
3349 persons permitting access to the party having actual custody, control, or possession of the
3350 material to be produced, any party shall have access to the following for inspection,
3351 copying, or photographing:

3352 (1) Any psychological, developmental, physical, mental or emotional health, or other
3353 assessments of the child adjudicated as a dependent child or the family, parent, guardian,
3354 or legal custodian of such child;

3355 (2) Any school record concerning the child adjudicated as a dependent child;

3356 (3) Any medical record concerning the child adjudicated as a dependent child;

3357 (4) Transcriptions, recordings, and summaries of any oral statement of the child
3358 adjudicated as a dependent child or of any witness, except child abuse reports that are
3359 confidential pursuant to Code Section 19-7-5 and work product of counsel;

3360 (5) Any family team meeting report or multidisciplinary team meeting report concerning
3361 the child adjudicated as a dependent child or his or her parent, guardian, or legal
3362 custodian;

3363 (6) Supplemental police reports, if any, regarding an occurrence which forms part of all
3364 of the basis of the petition; and

3365 (7) Immigration records concerning the child adjudicated as a dependent child.

3366 (c) If a party requests disclosure of information pursuant to subsection (a) or (b) of this
3367 Code section, it shall be the duty of such party to promptly make the following available
3368 for inspection, copying, or photographing to every other party:

3369 (1) The names and last known addresses and telephone numbers of each witness to the
3370 occurrence which forms the basis of the party's defense or claim;

3371 (2) Any scientific or other report which is intended to be introduced at the hearing or that
3372 pertains to physical evidence which is intended to be introduced;

3373 (3) Photographs and any physical evidence which are intended to be introduced at the
3374 hearing; and

3375 (4) A copy of any written statement made by any witness that relates to the subject
3376 matter concerning the testimony of the witness that the party intends to call as a witness.

3377 (d) A request for discovery or reciprocal discovery shall be complied with promptly and
3378 not later than five days after the request is received or 72 hours prior to any hearing except
3379 when later compliance is made necessary by the timing of the request. If the request for
3380 discovery is made fewer than 48 hours prior to an adjudicatory hearing, the discovery
3381 response shall be produced in a timely manner. If, subsequent to providing a discovery
3382 response in compliance with this Code section, the existence of additional evidence is
3383 found, it shall be promptly provided to the party making the discovery request.

3384 (e) If a request for discovery or consent for release is refused, application may be made to
3385 the court for a written order granting discovery. Motions for discovery shall certify that
3386 a request for discovery or consent was made and was unsuccessful despite good faith
3387 efforts made by the requesting party. An order granting discovery shall require reciprocal
3388 discovery. Notwithstanding the provisions of subsection (a) or (b) of this Code section, the
3389 court may deny, in whole or in part, or otherwise limit or set conditions concerning the
3390 discovery response upon a sufficient showing by a person or entity to whom a request for
3391 discovery is made that disclosure of the information would:

3392 (1) Jeopardize the safety of a party, witness, or confidential informant;
3393 (2) Create a substantial threat of physical or economic harm to a witness or other person;
3394 (3) Endanger the existence of physical evidence;
3395 (4) Disclose privileged information; or
3396 (5) Impede the criminal prosecution of a minor who is being prosecuted as an adult or
3397 the prosecution of an adult charged with an offense arising from the same transaction or
3398 occurrence.

3399 (f) No deposition shall be taken of a child adjudicated as a dependent child unless the court
3400 orders the deposition, under such conditions as the court may order, on the ground that the
3401 deposition would further the purposes of this part.

3402 (g) If at any time during the course of the proceedings it is brought to the attention of the
3403 court that a person or entity has failed to comply with an order issued pursuant to this Code
3404 section, the court may grant a continuance, prohibit the party from introducing in evidence
3405 the information not disclosed, or enter such other order as the court deems just under the
3406 circumstances.

3407 (h) Nothing contained in this Code section shall prohibit the court from ordering the
3408 disclosure of any information that the court deems necessary for proper adjudication.

3409 (i) Any material or information furnished to a party pursuant to this Code section shall
3410 remain in the exclusive custody of the party and shall only be used during the pendency of
3411 the case and shall be subject to such other terms and conditions as the court may provide.

3412 15-11-265.

3413 Once a petition to terminate parental rights has been filed, the parent of a child adjudicated
3414 as a dependent child shall thereafter be without authority to execute an act of surrender or
3415 otherwise to affect the custody of his or her child except such parent may:

3416 (1) Execute an act of surrender in favor of the department; and
3417 (2) Consent to a judgment terminating his or her parental rights.

Part 2

3418

3419 15-11-270.

3420 (a) A proceeding under this article shall be commenced in the county that has jurisdiction
 3421 over the related dependency proceedings.

3422 (b) For the convenience of the parties, the court may transfer proceedings to the county in
 3423 which the parent of a child adjudicated as a dependent child legally resides. If a proceeding
 3424 is transferred, certified copies of all legal and social documents and records pertaining to
 3425 the proceeding on file with the clerk of court shall accompany the transfer.

Part 3

3426

3427 15-11-280.

3428 (a) A petition to terminate parental rights and all subsequent court documents in such
 3429 proceeding shall be entitled 'In the interest of _____, a child.', except upon appeal, in which
 3430 event the anonymity of a child shall be preserved by use of appropriate initials. The
 3431 petition shall be in writing.

3432 (b) The petition to terminate parental rights shall be made, verified, and endorsed by the
 3433 court as provided in Article 3 of this chapter for a petition alleging dependency.

3434 (c) A petition to terminate parental rights shall:

3435 (1) State clearly that an order for termination of parental rights is requested and that the
 3436 effect of the order will conform to Code Section 15-11-261;

3437 (2) State the statutory ground, as provided in Code Section 15-11-310, on which the
 3438 petition is based; and

3439 (3) Set forth plainly and with particularity:

3440 (A) The facts which bring a child within the jurisdiction of the court, with a statement
 3441 that it is in the best interests of such child and the public that the proceeding be brought;

3442 (B) The name, age, date of birth, and residence address of the child named in the
 3443 petition;

3444 (C) The name and residence address of the parent, guardian, or legal custodian of such
 3445 child; or, if the parent, guardian, or legal custodian of the child named in the petition
 3446 to terminate parental rights does not reside or cannot be found within the state or if such
 3447 place of residence address is unknown, the name of any known adult relative of such
 3448 child residing within the county or, if there is none, the known adult relative of such
 3449 child residing nearest to the location of the court;

3450 (D) Whether the child named in the petition is in protective custody and, if so, the
3451 place of his or her foster care and the time such child was taken into protective custody;
3452 and

3453 (E) Whether any of the information required by this paragraph is unknown.

3454 (d) When a petition to terminate parental rights seeks termination of the rights of a
3455 biological father who is not the legal father and who has not surrendered his rights to his
3456 child, the petition shall include a certificate from the putative father registry disclosing the
3457 name, address, and social security number of any registrant acknowledging paternity of the
3458 child named in the petition or indicating the possibility of paternity of a child of the child's
3459 mother for a period beginning no more than two years immediately preceding such child's
3460 date of birth. The certificate shall document a search of the registry on or after the date of
3461 the filing of the petition and shall include a statement that the registry is current as to filings
3462 of registrants as of the date of the petition or as of a date later than the date of the petition.

3463 (e) A copy of a voluntary surrender or written consent, if any, previously executed by a
3464 parent of the child named in the petition to terminate parental rights shall be attached to the
3465 petition.

3466 15-11-281.

3467 (a) The court shall direct the issuance of a summons to the mother, legal father or
3468 biological father, guardian, legal custodian, attorney, and guardian ad litem, if any, of the
3469 child named in the petition to terminate parental rights and any other persons who appear
3470 to the court to be proper or necessary parties to the proceeding, requiring them to appear
3471 before the court at the time fixed to answer the allegations of the petition. A copy of such
3472 petition shall accompany the summons unless the summons is served by publication, in
3473 which case the published summons shall indicate the general nature of the allegations and
3474 where a copy of such petition can be obtained.

3475 (b) The court shall direct notice and a copy of the petition be provided to the child named
3476 in the petition if the child is 14 years of age or older.

3477 (c) The summons shall include the notice of effect of a termination judgment as set forth
3478 in Code Section 15-11-284 and shall state that a party is entitled to an attorney in the
3479 proceedings and that the court will appoint an attorney if the party is an indigent person.

3480 (d) The court may endorse upon the summons an order directing the parent, guardian, or
3481 legal custodian of the child named in the petition to appear personally at the hearing or
3482 directing the person having the physical custody or control of such child to bring such child
3483 to the hearing.

3484 (e) A party other than the child named in the petition may waive service of summons by
3485 written stipulation or by voluntary appearance at the hearing.

3486 15-11-282.

3487 (a) If a party to be served with a summons is within this state and can be found, the
3488 summons shall be served upon him or her personally as soon as possible and at least 30
3489 days before the termination of parental rights hearing.

3490 (b) If a party to be served is within this state and cannot be found but his or her address is
3491 known or can be ascertained with due diligence, the summons shall be served upon such
3492 party at least 30 days before the termination of parental rights hearing by mailing him or
3493 her a copy by registered or certified mail or statutory overnight delivery, return receipt
3494 requested.

3495 (c) If a party to be served is outside this state but his or her address is known or can be
3496 ascertained with due diligence, service of the summons shall be made at least 30 days
3497 before the termination of parental rights hearing either by delivering a copy to such party
3498 personally or by mailing a copy to him or her by registered or certified mail or statutory
3499 overnight delivery, return receipt request.

3500 (d) If, after due diligence, a party to be served with a summons cannot be found and such
3501 party's address cannot be ascertained, whether he or she is within or outside this state, the
3502 court may order service of the summons upon him or her by publication. The termination
3503 of parental rights hearing shall not be earlier than 31 days after the date of the last
3504 publication.

3505 (e)(1) Service by publication shall be made once a week for four consecutive weeks in
3506 the legal organ of the county where the petition to terminate parental rights has been filed.
3507 Service shall be deemed complete upon the date of the last publication.

3508 (2) When served by publication, the notice shall contain the names of the parties, except
3509 that the anonymity of a child shall be preserved by the use of appropriate initials, and the
3510 date the petition to terminate parental rights was filed. The notice shall indicate the
3511 general nature of the allegations and where a copy of the petition to terminate parental
3512 rights can be obtained and require the party to be served by publication to appear before
3513 the court at the time fixed to answer the allegations of the petition to terminate parental
3514 rights.

3515 (3) The petition to terminate parental rights shall be available to the parent whose rights
3516 are sought to be terminated free of charge from the court during business hours or, upon
3517 request, shall be mailed to such parent.

3518 (4) Within 15 days after the filing of the order of service by publication, the clerk of
3519 court shall mail a copy of the notice, a copy of the order of service by publication, and
3520 a copy of the petition to terminate parental rights to the absent parent's last known
3521 address.

3522 (f) Service of the summons may be made by any suitable person under the direction of the
3523 court.

3524 (g) The court may authorize the payment from county funds of the costs of service and of
3525 necessary travel expenses incurred by persons summoned or otherwise required to appear
3526 at the hearing.

3527 15-11-283.

3528 (a) Unless he has surrendered all parental rights to his child, a summons shall be served
3529 on the legal father of a child named in the petition brought pursuant to this article or the
3530 biological father:

3531 (1) Whose paternity has been previously established in a judicial proceeding to which
3532 the father was a party;

3533 (2) Whose identity is known to the petitioner or the petitioner's attorney;

3534 (3) Who is a registrant on the putative father registry and has acknowledged paternity of
3535 the child named in the petition brought pursuant to this article;

3536 (4) Who is a registrant on the putative father registry who has indicated possible
3537 paternity of the child named in the petition brought pursuant to this article that was born
3538 to such child's mother during a period beginning no more than two years immediately
3539 preceding such child's date of birth; or

3540 (5) Who, if the court finds from the evidence including but not limited to the affidavit
3541 of the mother of a child named in the petition brought pursuant to this article, has
3542 performed any of the following acts:

3543 (A) Lived with such child;

3544 (B) Contributed to such child's support;

3545 (C) Made any attempt to legitimate such child; or

3546 (D) Provided support or medical care for such mother either during her pregnancy or
3547 during her hospitalization for the birth of such child.

3548 (b) Notice shall be given to the biological father or legal father by the following methods:

3549 (1) If the biological father or legal father is within this state and can be found, the
3550 summons shall be served upon him personally as soon as possible and least 30 days
3551 before the termination of parental rights hearing;

3552 (2) If the biological father or legal father is outside this state but his address is known or
3553 can be ascertained with due diligence, service of summons shall be made at least 30 days
3554 before the termination of parental rights hearing either by delivering a copy to him
3555 personally or by mailing a copy to him by registered or certified mail or statutory
3556 overnight delivery, return receipt requested; or

3557 (3) If, after due diligence, the biological father or legal father to be served with summons
3558 cannot be found and his address cannot be ascertained, whether he is within or outside
3559 this state, the court may order service of summons upon him by publication. The
3560 termination of parental rights hearing shall not be earlier than 31 days after the date of the
3561 last publication. Service by publication shall be as follows:

3562 (A) Service by publication shall be made once a week for four consecutive weeks in
3563 the legal organ of the county where the petition to terminate parental rights has been
3564 filed and of the county of the biological father's last known address. Service shall be
3565 deemed complete upon the date of the last publication;

3566 (B) When served by publication, the notice shall contain the names of the parties,
3567 except that the anonymity of a child shall be preserved by the use of appropriate initials,
3568 and the date the petition to terminate parental rights was filed. The notice shall indicate
3569 the general nature of the allegations and where a copy of the petition to terminate
3570 parental rights can be obtained and require the biological father or legal father to appear
3571 before the court at the time fixed to answer the allegations of the petition to terminate
3572 parental rights;

3573 (C) The petition to terminate parental rights shall be available to the biological father
3574 or legal father whose rights are sought to be terminated free of charge from the court
3575 during business hours or, upon request, shall be mailed to the biological father or legal
3576 father; and

3577 (D) Within 15 days after the filing of the order of service by publication, the clerk of
3578 court shall mail a copy of the notice, a copy of the order of service by publication, and
3579 a copy of the petition to terminate parental rights to the biological father's or legal
3580 father's last known address.

3581 (c) The notice shall advise the biological father who is not the legal father that he may lose
3582 all rights to the child named in a petition brought pursuant to this article and will not be
3583 entitled to object to the termination of his rights to such child unless, within 30 days of
3584 receipt of notice, he files:

3585 (1) A petition to legitimate such child; and

3586 (2) Notice of the filing of the petition to legitimate with the court in which the
3587 termination of parental rights proceeding is pending.

3588 (d) If the identity of the biological father whose rights are sought to be terminated is not
3589 known to the petitioner or the petitioner's attorney and the biological father would not be
3590 entitled to notice in accordance with subsection (a) of this Code section, then it shall be
3591 rebuttably presumed that he is not entitled to notice of the proceedings. The court shall be
3592 authorized to require the mother to execute an affidavit supporting the presumption or show
3593 cause before the court if she refuses. Absent evidence rebutting the presumption, no

3594 further inquiry or notice shall be required by the court, and the court may enter an order
 3595 terminating the rights of the biological father.

3596 (e) The court may enter an order terminating all the parental rights of a biological father,
 3597 including any right to object thereafter to such proceedings:

3598 (1) Who fails to file a timely petition to legitimate the child named in a petition brought
 3599 pursuant to this article and notice in accordance with subsection (c) of this Code section;

3600 (2) Whose petition to legitimate is subsequently dismissed for failure to prosecute; or

3601 (3) Whose petition to legitimate does not result in a court order finding that he is the
 3602 legal father of the child named in a petition brought pursuant to this article.

3603 15-11-284.

3604 The notice required to be given to the mother, the biological father, and legal father of the
 3605 child shall state:

3606 'NOTICE OF EFFECT OF TERMINATION JUDGMENT

3607 Georgia law provides that you can permanently lose your rights as a parent. A petition
 3608 to terminate parental rights has been filed requesting the court to terminate your parental
 3609 rights to your child. A copy of the petition to terminate parental rights is attached to this
 3610 notice. A court hearing of your case has been scheduled for the _____ day of
 3611 _____, _____, at (time of day), at the _____ Court of _____ County.

3612 If you fail to appear, the court can terminate your rights in your absence.

3613 If the court at the trial finds that the facts set out in the petition to terminate parental
 3614 rights are true and that termination of your rights will serve the best interests of your
 3615 child, the court can enter a judgment ending your rights to your child.

3616 If the judgment terminates your parental rights, you will no longer have any rights to your
 3617 child. This means that you will not have the right to visit, contact, or have custody of
 3618 your child or make any decisions affecting your child or your child's earnings or property.

3619 Your child will be legally freed to be adopted by someone else.

3620 Even if your parental rights are terminated:

3621 (1) You will still be responsible for providing financial support (child support payments)
 3622 for your child's care unless and until your child is adopted; and

3623 (2) Your child can still inherit from you unless and until your child is adopted.

3624 This is a very serious matter. You should contact an attorney immediately so that you
 3625 can be prepared for the court hearing. You have the right to hire an attorney and to have
 3626 him or her represent you. If you cannot afford to hire an attorney, the court will appoint
 3627 an attorney if the court finds that you are an indigent person. Whether or not you decide
 3628 to hire an attorney, you have the right to attend the hearing of your case, to call witnesses
 3629 on your behalf, and to question those witnesses brought against you.

3630 If you have any questions concerning this notice, you may call the telephone number of
3631 the clerk's office which is _____.'

3632 15-11-285.

3633 (a) If any person named in and properly served with a summons shall without reasonable
3634 cause fail to appear or, when directed in the summons, to bring the child named in the
3635 petition pursuant to this article before the court, then the court may issue a rule nisi against
3636 the person, directing the person to appear before the court to show cause why he or she
3637 should not be held in contempt of court.

3638 (b) If a summons cannot be served or if the person to whom the summons is directed fails
3639 to obey it, the court may issue an order to take the child named in the petition pursuant to
3640 this article into protective custody.

3641 Part 4

3642 15-11-300.

3643 (a) In advance of each hearing to terminate parental rights, DFCS shall give written notice
3644 of the date, time, place, and purpose of the hearing to the caregiver of the child at issue, the
3645 foster parents of such child, if any, any preadoptive parent, or any relative providing care
3646 for such child, including the right to be heard. The written notice shall be delivered to the
3647 recipient at least 72 hours before the review or hearing by United States mail, e-mail, or
3648 hand delivery.

3649 (b) This Code section shall not be construed to require a caregiver, foster parent,
3650 preadoptive parent, or relative caring for the child at issue to be made a party to the hearing
3651 solely on the basis of such notice and right to be heard.

3652 15-11-301.

3653 (a) If no just cause has been shown for delay, all hearings contemplated by this article shall
3654 be conducted within 90 days of the date a petition to terminate parental rights is filed.

3655 (b) If no just cause for delay has been shown by written finding of fact by the court, an
3656 order of disposition shall be issued by the juvenile court no later than 30 days after the
3657 conclusion of the hearing on the petition to terminate parental rights.

3658 (c) All hearings contemplated by this article shall be recorded by stenographic notes or by
3659 electronic, mechanical, or other appropriate means capable of accurately capturing a full
3660 and complete record of all words spoken during the hearings. If no just cause for delay has
3661 been shown, the court reporter shall provide a transcript of the hearings no later than 30
3662 days after a notice of appeal is filed.

3663 (d) This Code section shall not affect the right to request a rehearing or the right to appeal
3664 the juvenile court's order.

3665 (e) Failure to comply with the time requirements of this Code section shall not be grounds
3666 to invalidate an otherwise proper order terminating parental rights unless the court
3667 determines that such delay resulted in substantial prejudice to a party.

3668 15-11-302.

3669 The record of the testimony of the parties adduced in any proceeding under this article shall
3670 not be admissible in any civil, criminal, or any other cause or proceedings in any court
3671 against a person named as respondent for any purpose whatsoever, except in subsequent
3672 dependency or termination proceedings involving the same child or dependency or
3673 termination proceedings involving the same respondent.

3674 15-11-303.

3675 In all proceedings under this article, the standard of proof to be adduced to terminate
3676 parental rights shall be by clear and convincing evidence.

3677 Part 5

3678 15-11-310.

3679 (a) In considering the termination of parental rights, the court shall first determine whether
3680 one of the following statutory grounds for termination of parental rights has been met:

3681 (1) The parent has given written consent to termination which has been acknowledged
3682 by the court or has voluntarily surrendered his or her child for adoption;

3683 (2) The parent has subjected his or her child to aggravated circumstances;

3684 (3) The parent has wantonly and willfully failed to comply for a period of 12 months or
3685 longer with a decree to support his or her child that has been entered by a court of
3686 competent jurisdiction of this or any other state;

3687 (4) A child is abandoned by his or her parent; or

3688 (5) A child is a dependent child due to lack of proper parental care or control by his or
3689 her parent, reasonable efforts to remedy the circumstances have been unsuccessful or
3690 were not required, such cause of dependency is likely to continue or will not likely be
3691 remedied, and the continued dependency will cause or is likely to cause serious physical,
3692 mental, emotional, or moral harm to such child.

3693 (b) If any of the statutory grounds for termination has been met, the court shall then
3694 consider whether termination is in a child's best interests after considering the following
3695 factors:

- 3696 (1) Such child's sense of attachments, including his or her sense of security and
 3697 familiarity, and the continuity of affection for such child;
- 3698 (2) Such child's wishes and long-term goals;
- 3699 (3) Such child's need for permanence, including his or her need for stability and
 3700 continuity of relationships with a parent, siblings, and other relatives; and
- 3701 (4) Any other factors, including the factors set forth in Code Section 15-11-26,
 3702 considered by the court to be relevant and proper to its determination.
- 3703 (c) If the court determines that a parent has subjected his or her child to aggravated
 3704 circumstances because such parent has committed the murder of the other parent of such
 3705 child, the court shall presume that termination of parental rights is in the best interests of
 3706 the child.
- 3707 15-11-311.
- 3708 (a) In determining whether a child is without proper parental care and control, the court
 3709 shall consider, without being limited to, the following:
- 3710 (1) A medically verified deficiency of such child's parent's physical, mental, or emotional
 3711 health that is of such duration or nature so as to render such parent unable to provide
 3712 adequately for his or her child;
- 3713 (2) Excessive use of or history of chronic unrehabilitated substance abuse with the effect
 3714 of rendering a parent of such child incapable of providing adequately for the physical,
 3715 mental, emotional, or moral condition and needs of his or her child;
- 3716 (3) A felony conviction and imprisonment of a parent of such child for an offense which
 3717 has a demonstrably negative effect on the quality of the parent-child relationship
 3718 including, but not limited to, any of the following:
- 3719 (A) Murder of another child of such parent;
- 3720 (B) Voluntary manslaughter of another child of such parent;
- 3721 (C) Voluntary manslaughter of the other parent of his or her child;
- 3722 (D) Aiding or abetting, attempting, conspiring, or soliciting to commit murder or
 3723 voluntary manslaughter of another child of such parent;
- 3724 (E) Aiding or abetting, attempting, conspiring, or soliciting to commit murder or
 3725 voluntary manslaughter of the other parent of his or her child; or
- 3726 (F) Committing felony assault that results in serious bodily injury to his or her child
 3727 or another child of such parent;
- 3728 (4) Egregious conduct or evidence of past egregious conduct of a physically,
 3729 emotionally, or sexually cruel or abusive nature by such parent toward his or her child or
 3730 toward another child of such parent;

3731 (5) Physical, mental, or emotional neglect of his or her child or evidence of past physical,
3732 mental, or emotional neglect by the parent of such child or another child of such parent;
3733 and
3734 (6) Serious bodily injury or death of a sibling of his or her child under circumstances
3735 which constitute substantial evidence that such injury or death resulted from parental
3736 neglect or abuse.

3737 (b) In determining whether a child who is not in the custody and care of his or her parent
3738 is without proper parental care and control, the court shall also consider, without being
3739 limited to, whether such parent, without justifiable cause, has failed significantly for a
3740 period of six months prior to the date of the termination hearing:

3741 (1) To develop and maintain a parental bond with his or her child in a meaningful,
3742 supportive manner;

3743 (2) To provide for the care and support of his or her child as required by law or judicial
3744 decree; and

3745 (3) To comply with a court ordered plan designed to reunite such parent with his or her
3746 child.

3747 (c) A parent's reliance on prayer or other religious nonmedical means for healing in lieu
3748 of medical care, in the exercise of religious beliefs, shall not be the sole basis for
3749 determining a parent to be unwilling or unable to provide safety and care adequate to meet
3750 his or her child's physical, emotional, and mental health needs as provided in paragraph (1)
3751 of subsection (a) of this Code section or as depriving such child of proper parental care or
3752 control for purposes of this Code section and Code Section 15-11-310.

3753 Part 6

3754 15-11-320.

3755 (a) When the court finds that any ground set out in Code Section 15-11-310 is proved by
3756 clear and convincing evidence and that termination of parental rights is in a child's best
3757 interests, it shall order the termination of the parent's rights.

3758 (b) The court's order shall:

3759 (1) Contain written findings on which the order is based, including the factual basis for
3760 a determination that grounds for termination of parental rights exist and that termination
3761 is in the best interests of the child;

3762 (2) Be conclusive and binding on all parties from the date of entry;

3763 (3) Grant custody of the child at issue in accordance with Code Section 15-11-321; and

3764 (4) Inform the parent whose rights have been terminated of his or her right to use the
3765 services of the Georgia Adoption Reunion Registry; however, failure to include such
3766 information shall not affect the validity of the judgment.

3767 (c) If the court does not order the termination of parental rights but the court finds that
3768 there is clear and convincing evidence that a child is a dependent child, the court may enter
3769 a disposition order in accordance with the provisions of Article 3 of this chapter.

3770 (d) The court shall transmit a copy of every final order terminating the parental rights of
3771 a parent to the Office of Adoptions of the department within 15 days of the filing of such
3772 order.

3773 15-11-321.

3774 (a) When a court enters an order terminating the parental rights of a parent or accepts a
3775 parent's voluntary surrender of parental rights, or a petition for termination of parental
3776 rights is withdrawn because a parent has executed an act of surrender in favor of the
3777 department, a placement may be made only if the court finds that such placement is in the
3778 best interests of the child and in accordance with such child's court approved permanency
3779 plan created pursuant to Code Sections 15-11-231 and 15-11-232. In determining which
3780 placement is in a child's best interests, the court shall enter findings of fact reflecting its
3781 consideration of the following:

3782 (1) Such child's need for a placement that offers the greatest degree of legal permanence
3783 and security;

3784 (2) The least disruptive placement for such child;

3785 (3) Such child's sense of attachment and need for continuity of relationships;

3786 (4) The value of biological and familial connections; and

3787 (5) Any other factors the court deems relevant to its determination.

3788 (b) A guardian or legal custodian shall submit to the jurisdiction of the court for purposes
3789 of placement.

3790 (c) A placement effected under the provisions of this Code section shall be conditioned
3791 upon the person who is given custody or who is granted an adoption of a child whose
3792 parents have had their parental rights terminated or surrendered agreeing to abide by the
3793 terms and conditions of the order of the court.

3794 (d) In addition to its rights as a legal custodian, the department has the authority to consent
3795 to the adoption of a child whose parents have had their parental rights terminated or
3796 surrendered.

3797 15-11-322.

3798 (a) If a petition seeking the adoption of a child whose parents have had their parental rights
3799 terminated or surrendered is not filed within six months after the date of the disposition
3800 order, the court shall then, and at least every six months thereafter so long as such child
3801 remains unadopted, review the circumstances of such child to determine what efforts have
3802 been made to assure that such child will be adopted. The court shall:

3803 (1) Make written findings regarding whether reasonable efforts have been made to move
3804 such child to permanency;

3805 (2) Evaluate whether, in light of any change in circumstances, the permanency plan for
3806 such child remains appropriate; and

3807 (3) Enter such orders as it deems necessary to further adoption or if appropriate, other
3808 permanency options, including, but not limited to, another placement.

3809 (b) In those cases in which a child whose parents have had their parental rights terminated
3810 or surrendered was placed with a guardian, within 60 days after such appointment and
3811 within 60 days after each anniversary date of such appointment, the guardian shall file with
3812 the court a personal status report of such child which shall include:

3813 (1) A description of such child's general condition, changes since the last report, and
3814 such child's needs;

3815 (2) All addresses of such child during the reporting period and the living arrangements
3816 of such child for all addresses; and

3817 (3) Recommendations for any modification of the guardianship order.

3818 15-11-323.

3819 (a) A child who has not been adopted after the passage of at least three years from the date
3820 the court terminated parental rights or the parent voluntarily surrendered parental rights to
3821 DFCS and for whom the court has determined that adoption is no longer the permanent
3822 plan may petition the court to reinstate parental rights pursuant to the modification of
3823 orders procedure prescribed by Code Section 15-11-32. Such child may file the petition
3824 to reinstate parental rights prior to the expiration of such three-year period if the
3825 department or licensed child-placing agency that is responsible for the custody and
3826 supervision of such child and such child stipulate that such child is no longer likely to be
3827 adopted. A child 14 years of age or older shall sign the petition in the absence of a
3828 showing of good cause as to why such child could not do so.

3829 (b) If it appears that the best interests of a child may be promoted by reinstatement of
3830 parental rights, the court shall order that a hearing be held and shall cause notice to be
3831 served by United States mail to DFCS, the attorney of record, guardian ad litem, if any, and
3832 foster parents, if any, of the child whose parental rights were terminated or surrendered and

3833 the child's former parent whose parental rights were terminated or surrendered. The former
 3834 parent and foster parents, if any, shall have a right to be heard at the hearing to reinstate
 3835 parental rights but shall not be parties at such hearing, and such hearing may be conducted
 3836 in their absence. A child's motion shall be dismissed if his or her former parent cannot be
 3837 located or if such parent objects to the reinstatement.

3838 (c) The court shall grant the petition if it finds by clear and convincing evidence that a
 3839 child is no longer likely to be adopted and that reinstatement of parental rights is in the
 3840 child's best interests. In determining whether reinstatement is in the child's best interests
 3841 the court shall consider, but not be limited to, the following:

3842 (1) Whether a parent whose rights are to be reinstated is a fit parent and has remedied his
 3843 or her deficits as provided in the record of the prior termination proceedings and prior
 3844 termination order;

3845 (2) The age and maturity of a child and the ability of such child to express his or her
 3846 preference;

3847 (3) Whether the reinstatement of parental rights will present a risk to a child's health,
 3848 welfare, or safety; and

3849 (4) Other material changes in circumstances, if any, that may have occurred which
 3850 warrant the granting of the petition.

3851 (d) If the court grants the petition to reinstate parental rights, a review hearing shall be
 3852 scheduled within six months. During such period, the court may order that a child be
 3853 immediately placed in the custody of his or her parent or, if the court determines that a
 3854 transition period is necessary and such child is in DFCS custody at the time of the order,
 3855 order DFCS to provide transition services to the family as appropriate.

3856 (e) An order granted under this Code section reinstates a parent's rights to his or her child.
 3857 Such reinstatement shall be a recognition that the situation of the parent and his or her child
 3858 has changed since the time of the termination of parental rights and reunification is now
 3859 appropriate.

3860 (f) This Code section is intended to be retroactive and applied to any child who is under
 3861 the jurisdiction of the court at the time of the hearing regardless of the date parental rights
 3862 were terminated.

3863 ARTICLE 5

3864 Part 1

3865 15-11-380.

3866 The purpose of this article is:

3867 (1) To acknowledge that certain behaviors or conditions occurring within a family or
3868 school environment indicate that a child is experiencing serious difficulties and is in need
3869 of services and corrective action in order to protect such child from the irreversibility of
3870 certain choices and to protect the integrity of such child's family;

3871 (2) To make family members aware of their contributions to their family's problems and
3872 to encourage family members to accept the responsibility to participate in any program
3873 of care ordered by the court;

3874 (3) To provide a child with a program of treatment, care, guidance, counseling, structure,
3875 supervision, and rehabilitation that he or she needs to assist him or her in becoming a
3876 responsible and productive member of society; and

3877 (4) To ensure the cooperation and coordination of all agencies having responsibility to
3878 supply services to any member of a family referred to the court.

3879 15-11-381.

3880 As used in this article, the term:

3881 (1) 'Comprehensive services plan' means an interagency treatment, habilitation, support,
3882 or supervision plan developed collaboratively by state or local agency representatives,
3883 parties, and other interested persons following a court's finding that a child is incompetent
3884 to proceed.

3885 (2) 'Habilitation' means the process by which a child is helped to acquire and maintain
3886 those life skills which will enable him or her to cope more effectively with the demands
3887 of his or her own person and of his or her environment and to raise the level of his or her
3888 physical, mental, social, and vocational abilities.

3889 (3) 'Plan manager' means a person who is under the supervision of the court and is
3890 appointed by the court to convene a meeting of all relevant parties for the purpose of
3891 developing a comprehensive services plan.

3892 (4) 'Runaway' means a child who without just cause and without the consent of his or her
3893 parent, guardian, or legal custodian is absent from his or her home or place of abode for
3894 at least 24 hours.

3895 (5) 'Status offense' means an act prohibited by law which would not be an offense if
3896 committed by an adult.

3897 (6) 'Truant' means having ten or more days of unexcused absences from school in the
3898 current academic year.

Part 2

3899

3900 15-11-390.

3901 (a) A complaint alleging a child is a child in need of services may be filed by a parent,
 3902 guardian, or legal custodian, DFCS, a school official, a law enforcement officer, a guardian
 3903 ad litem, or an attorney who has knowledge of the facts alleged or is informed and believes
 3904 that such facts are true.

3905 (b) The complaint shall set forth plainly and with particularity:

3906 (1) The name, date of birth, and residence address of the child alleged to be a child in
 3907 need of services;

3908 (2) The names and residence addresses of the parent, guardian, or legal custodian, any
 3909 other family members, or any other individuals living within such child's home;

3910 (3) The name of any public institution or agency having the responsibility or ability to
 3911 supply services alleged to be needed by such child; and

3912 (4) Whether any of the matters required by this subsection are unknown.

3913 (c) When a school official is filing a complaint alleging a child is a child in need of
 3914 services, information shall be included which shows that:

3915 (1) The legally liable school district has sought to resolve the expressed problem through
 3916 available educational approaches; and

3917 (2) The school district has sought to engage the parent, guardian, or legal custodian of
 3918 such child in solving the problem but such person has been unwilling or unable to do so,
 3919 that the problem remains, and that court intervention is needed.

3920 (d) When a school official is filing a complaint alleging a child is a child in need of
 3921 services involving a child who is eligible or suspected to be eligible for services under the
 3922 federal Individuals with Disabilities Education Act or Section 504 of the federal
 3923 Rehabilitation Act of 1973, information shall be included which demonstrates that the
 3924 legally liable school district:

3925 (1) Has determined that such child is eligible or suspected to be eligible under the federal
 3926 Individuals with Disabilities Education Act or Section 504 of the federal Rehabilitation
 3927 Act of 1973; and

3928 (2) Has reviewed for appropriateness such child's current Individualized Education
 3929 Program (IEP) and placement and has made modifications where appropriate.

3930 (e) The juvenile court intake officer shall be responsible for receiving complaints alleging
 3931 that a child is a child in need of services.

Part 3

3932

3933 15-11-400.

3934 (a) The continued custody hearing for a child alleged to be a child in need of services shall
3935 be held promptly and no later than:

3936 (1) Twenty-four hours after such child is taken into temporary custody if he or she is
3937 being held in a secure residential facility or nonsecure residential facility; or

3938 (2) Seventy-two hours after such child is placed in foster care, provided that, if the 72
3939 hour time frame expires on a weekend or legal holiday, the hearing shall be held on the
3940 next day which is not a weekend or legal holiday.

3941 (b) If a child alleged to be a child in need of services was never taken into temporary
3942 custody or is released from temporary custody at the continued custody hearing, the
3943 following time frames apply:

3944 (1) The petition for a child in need of services shall be filed:

3945 (A) Within 30 days of the juvenile court intake officer's determination that a mandatory
3946 conference would be inappropriate or futile; or

3947 (B) Within 30 days of such child's release from temporary custody if the court
3948 determines that the mandatory conference would be inappropriate or futile;

3949 (2) Summons shall be served at least 24 hours before the adjudication hearing;

3950 (3) An adjudication hearing shall be scheduled to be held no later than 60 days after the
3951 filing of the petition for a child in need of services; and

3952 (4) If not held in conjunction with an adjudication hearing, a disposition hearing shall be
3953 held and completed within 30 days after the conclusion of an adjudication hearing.

3954 (c) If a child alleged to be a child in need of services is not released from temporary
3955 custody at the continued custody hearing, the following time frames apply:

3956 (1) The petition for a child in need of services shall be filed within five days of the
3957 continued custody hearing;

3958 (2) Summons shall be served at least 72 hours before an adjudication hearing;

3959 (3) An adjudication hearing shall be scheduled to be held no later than ten days after the
3960 filing of the petition for a child in need of services; and

3961 (4) If not held in conjunction with an adjudication hearing, a disposition hearing shall be
3962 held and completed within 30 days after the conclusion of an adjudication hearing.

3963 15-11-401.

3964 (a) A proceeding under this article may be commenced in the county in which the act
3965 complained of took place or in the county in which the child alleged to be a child in need
3966 of services legally resides.

3967 (b) If a proceeding is commenced in the county in which the act complained of took place,
3968 the court shall transfer the case to the county in which the child alleged to be a child in
3969 need of services legally resides for further proceedings.

3970 (c) When a proceeding is transferred, certified copies of all legal and social documents and
3971 records on file with the clerk of court pertaining to the proceeding shall accompany such
3972 transfer.

3973 15-11-402.

3974 (a) The court shall appoint an attorney for a child alleged to be a child in need of services.

3975 (b) The court may appoint a guardian ad litem for a child alleged to be a child in need of
3976 services at the request of such child's attorney or upon the court's own motion if it
3977 determines that a guardian ad litem is necessary to assist the court in determining the best
3978 interests of such child; provided, however, that such guardian ad litem may be the same
3979 person as the child's attorney unless or until there is a conflict of interest between the
3980 attorney's duty to such child as such child's attorney and the attorney's considered opinion
3981 of such child's best interests as guardian ad litem.

3982 (c) The role of a guardian ad litem in a proceeding for a child in need of services shall be
3983 the same role as provided for in all dependency proceedings under Article 3 of this chapter.

3984 (d) If an attorney or a guardian ad litem has previously been appointed for a child in a
3985 dependency or delinquency proceeding, the court, when possible, shall appoint the same
3986 attorney or guardian ad litem for a child alleged to be a child in need of services.

3987 (e) An attorney appointed to represent a child in a proceeding for a child in need of
3988 services shall continue representation in any subsequent appeals unless excused by the
3989 court.

3990 (f) A child alleged to be a child in need of services shall be informed of his or her right to
3991 an attorney at or prior to the first mandatory conference and prior to the first court
3992 proceeding for a child in need of services. A child alleged to be a child in need of services
3993 shall be given an opportunity to:

3994 (1) Obtain and employ an attorney of his or her own choice; or

3995 (2) To obtain a court appointed attorney if the court determines that such child is an
3996 indigent person.

3997 15-11-403.

3998 A continuance shall be granted only upon a showing of good cause and only for that period
3999 of time shown to be necessary by the moving party at the hearing on such motion.
4000 Whenever any continuance is granted, the facts which require the continuance shall be
4001 entered into the court record.

4002 15-11-404.

4003 If a child is alleged or adjudicated to be a child in need of services and is placed in foster
4004 care, the child shall be required to have a case plan. In addition to the case plan
4005 requirements of Code Section 15-11-201, a case plan shall include:

4006 (1) A description of such child's strengths and needs;

4007 (2) A description of such child's specific parental strengths and needs;

4008 (3) A description of other personal, family, or environmental problems that may
4009 contribute to such child's behaviors;

4010 (4) A description of the safety, physical, and mental health needs of such child;

4011 (5) Identification of the least restrictive placement to safeguard such child's best interests
4012 and protect the community;

4013 (6) An assessment of the availability of community resources to address such child's and
4014 his or her family's needs;

4015 (7) An assessment of the availability of court diversion services; and

4016 (8) An assessment of the availability of other preventive measures.

4017 15-11-405.

4018 Any proceeding or other processes or actions alleging for the first time that a child is a
4019 runaway shall be terminated or dismissed upon the request of such child's parent, guardian,
4020 or legal custodian.

4021 Part 4

4022 15-11-410.

4023 (a) A child may be taken into temporary custody under this article:

4024 (1) Pursuant to a court order; or

4025 (2) By a law enforcement officer when there are reasonable grounds to believe that a
4026 child has run away from his or her parent, guardian, or legal custodian or the
4027 circumstances are such as to endanger a child's health or welfare unless immediate action
4028 is taken.

4029 (b) Before entering an order authorizing temporary custody, the court shall consider the
4030 results of a detention assessment and determine whether continuation in the home is
4031 contrary to a child's welfare and whether there are available services that would prevent the
4032 need for custody. The court shall make such determination on a case-by-case basis and
4033 shall make written findings of fact referencing any and all evidence relied upon in reaching
4034 its decision.

4035 (c) A person taking a child into temporary custody shall deliver such child, with all
4036 reasonable speed and without first taking such child elsewhere, to a medical facility if he
4037 or she is believed to suffer from a serious physical condition or illness which requires
4038 prompt treatment and, upon delivery, shall promptly contact a juvenile court intake officer.
4039 Immediately upon being notified by the person taking such child into custody, the juvenile
4040 court intake officer shall administer a detention assessment and determine if such child
4041 should be released, remain in temporary custody, or be brought before the court.

4042 15-11-411.

4043 (a) A person taking a child into temporary custody pursuant to Code Section 15-11-410
4044 shall not exercise custody over such child except for a period of 12 hours.

4045 (b) Immediately after a child taken into custody, every effort shall be made to contact such
4046 child's parents, guardian, or legal custodian.

4047 (c) If a parent, guardian, or legal custodian has not assumed custody of his or her child at
4048 the end of the 12 hour period described in subsection (a) of this Code section, the court
4049 shall be notified and shall place such child in the least restrictive placement consistent with
4050 such child's needs for protection or control in the custody of such child's parents, guardian,
4051 or legal custodian upon such person's promise to bring such child before the court when
4052 requested by the court; provided, however, that if such placement is not available, such
4053 child shall be placed in the custody of DFCS which shall promptly arrange for foster care
4054 of such child.

4055 15-11-412.

4056 (a) A child alleged to be a child in need of services may be held in a secure residential
4057 facility or nonsecure residential facility until a continued custody hearing is held, provided
4058 that a detention assessment has been administered and such child is not held in a secure
4059 residential facility or nonsecure residential facility for more than 24 hours and any of the
4060 following apply:

4061 (1) It is alleged that such child is a runaway;

4062 (2) It is alleged that such child is habitually disobedient of the reasonable and lawful
4063 commands of his or her parent, guardian, or legal custodian and is ungovernable; or

4064 (3) Such child has previously failed to appear at a scheduled hearing.

4065 (b) A child alleged to be a child in need of services placed in a secure residential facility
4066 or nonsecure residential facility pursuant to subsection (a) of this Code section may be
4067 appointed an attorney prior to the continued custody hearing.

4068 (c) In no case shall a child alleged to be or adjudicated as a child in need of services in
4069 custody be detained in a jail, adult lock-up, or other adult detention facility.

4070 15-11-413.

4071 (a) If a child alleged to be a child in need of services is being held in a secure residential
4072 facility or nonsecure residential facility, a continued custody hearing shall be held within
4073 24 hours. If such hearing is not held within the time specified, such child shall be released
4074 from temporary detention in accordance with subsection (c) of Code Section 15-11-411 and
4075 with authorization of the detaining authority.

4076 (b) If a child alleged to be a child in need of services is not being held in a secure
4077 residential facility or nonsecure residential facility and has not been released to the custody
4078 of such child's parent, guardian, or legal custodian, a hearing shall be held promptly and
4079 not later than 72 hours after such child is placed in foster care, provided that, if the 72 hour
4080 time frame expires on a weekend or legal holiday, the hearing shall be held on the next day
4081 which is not a weekend or legal holiday.

4082 (c) At the commencement of a continued custody hearing, the court shall inform the
4083 parties of:

4084 (1) The nature of the allegations;

4085 (2) The nature of the proceedings;

4086 (3) The possible consequences or dispositions that may apply to such child's case
4087 following adjudication; and

4088 (4) Their due process rights, including the right to an attorney and to an appointed
4089 attorney; the privilege against self-incrimination; that he or she may remain silent and
4090 that anything said may be used against him or her; the right to confront anyone who
4091 testifies against him or her and to cross-examine any persons who appear to testify
4092 against him or her; the right to testify and to compel other witnesses to attend and testify
4093 in his or her own behalf; the right to a speedy adjudication hearing; and the right to
4094 appeal and be provided with a transcript for such purpose.

4095 15-11-414.

4096 (a) At a continued custody hearing, the court shall determine whether there is probable
4097 cause to believe that a child has committed a status offense or is otherwise a child in need
4098 of services and that continued custody is necessary.

4099 (b) If the court determines there is probable cause to believe that a child has committed a
4100 status offense or is otherwise in need of services, the court may order that such child:

4101 (1) Be released to the custody of his or her parent, guardian, or legal custodian; or

4102 (2) Be placed in the least restrictive placement consistent with such child's need for
4103 protection and control as authorized by Code Section 15-11-411 and in accordance with
4104 Code Section 15-11-415.

4105 (c) If the court determines there is probable cause to believe that such child has committed
4106 a status offense or is otherwise in need of services, the court shall:

4107 (1) Refer such child and his or her family for a mandatory conference; or

4108 (2) Order that a petition for a child in need of services be filed and set a date for an
4109 adjudication hearing if the court determines that a mandatory conference would be
4110 inappropriate or futile.

4111 (d) Following a continued custody hearing, the court may detain a child alleged to be a
4112 child in need of services in a secure residential facility or nonsecure residential facility for
4113 up to 24 hours, excluding weekends and legal holidays, only for the purpose of providing
4114 adequate time to arrange for an appropriate alternative placement pending the adjudication
4115 hearing.

4116 (e) All orders shall contain written findings as to the form or conditions of a child's release.
4117 If a child alleged to be a child in need of services cannot be returned to the custody of his
4118 or her parent, guardian, or legal custodian at the continued custody hearing, the court shall
4119 state the facts upon which the continued custody is based. The court shall make the
4120 following findings of fact referencing any and all evidence relied upon to make its
4121 determinations:

4122 (1) Whether continuation in the home of such child's parent, guardian, or legal custodian
4123 is contrary to such child's welfare; and

4124 (2) Whether reasonable efforts have been made to safely maintain such child in the home
4125 of his or her parent, guardian, or legal custodian and to prevent or eliminate the need for
4126 removal from such home. Such finding shall be made at the continued custody hearing
4127 if possible but in no case later than 60 days following such child's removal from his or
4128 her home.

4129 15-11-415.

4130 (a) Restraints on the freedom of a child prior to adjudication shall be imposed only when
4131 there is probable cause to believe that a child committed the act of which he or she is
4132 accused, there is clear and convincing evidence that such child's freedom should be
4133 restrained, that no less restrictive alternatives will suffice, and:

4134 (1) Such child's detention or care is required to reduce the likelihood that he or she may
4135 inflict serious bodily harm on others during the interim period;

4136 (2) Such child's detention is necessary to secure his or her presence in court to protect
4137 the jurisdiction and processes of the court; or

4138 (3) An order for such child's detention has been made by the court.

4139 (b) A child alleged to be a child in need of services shall not be detained:

4140 (1) To punish, treat, or rehabilitate such child;

- 4141 (2) To allow his or her parent, guardian, or legal custodian to avoid his or her legal
4142 responsibilities;
- 4143 (3) To satisfy demands by a victim, law enforcement, or the community;
- 4144 (4) To permit more convenient administrative access to him or her;
- 4145 (5) To facilitate further interrogation or investigation; or
- 4146 (6) Due to a lack of a more appropriate facility.
- 4147 (c) Whenever a child alleged to be a child in need of services cannot be unconditionally
4148 released, conditional or supervised release that results in the least necessary interference
4149 with the liberty of such child shall be favored over more intrusive alternatives.
- 4150 (d) Whenever the curtailment of the freedom of a child alleged to be a child in need of
4151 services is permitted, the exercise of authority shall reflect the following values:
- 4152 (1) Respect for the privacy, dignity, and individuality of such child and his or her family;
- 4153 (2) Protection of the psychological and physical health of such child;
- 4154 (3) Tolerance of the diverse values and preferences among different groups and
4155 individuals;
- 4156 (4) Assurance of equality of treatment by race, class, ethnicity, and sex;
- 4157 (5) Avoidance of regimentation and depersonalization of such child;
- 4158 (6) Avoidance of stigmatization of such child; and
- 4159 (7) Assurance that such child has been informed of his or her right to consult with an
4160 attorney and that, if the child is an indigent person, an attorney will be provided.
- 4161 (e) Before entering an order authorizing detention, the court shall determine whether a
4162 child's continuation in his or her home is contrary to his or her welfare and whether there
4163 are available services that would prevent or eliminate the need for detention. The court
4164 shall make such determination on a case-by-case basis and shall make written findings of
4165 fact referencing any and all evidence relied upon in reaching its decision.
- 4166 (f) If a child alleged to be a child in need of services can remain in the custody of his or
4167 her parent, guardian, or legal custodian through the provision of services to prevent the
4168 need for removal, the court shall order that such services shall be provided.

4169 Part 5

4170 15-11-420.

4171 All proceedings seeking an adjudication that a child is a child in need of services shall be
4172 initiated by a petition filed by an attorney.

4173 15-11-421.

4174 (a) If a child alleged to be a child in need of services is not released from temporary
4175 custody at a continued custody hearing, a petition seeking an adjudication that such child
4176 is a child in need of services shall be filed within five days of such continued custody
4177 hearing.

4178 (b) If a child alleged to be a child in need of services was never taken into temporary
4179 custody or is released from temporary custody at a continued custody hearing, a petition
4180 seeking an adjudication that such child is a child in need of services shall be filed:

4181 (1) Within 30 days of the juvenile court intake officer's determination that a mandatory
4182 conference would be inappropriate or futile; or

4183 (2) Within 30 days of such child's release from temporary custody if the court determines
4184 that the mandatory conference would be inappropriate or futile.

4185 (c) Upon a showing of good cause and notice to all parties, the court may grant a requested
4186 extension of time for filing a petition seeking an adjudication that a child is a child in need
4187 of services in accordance with the best interests of the child. The court shall issue a written
4188 order reciting the facts justifying the extension.

4189 (d) If no petition seeking an adjudication that a child is a child in need of services is filed
4190 within the required time frame, the complaint may be dismissed without prejudice.

4191 15-11-422.

4192 (a) A petition seeking an adjudication that a child is a child in need of services shall be
4193 verified and may be on information and belief. It shall set forth plainly and with
4194 particularity:

4195 (1) The facts which bring a child within the jurisdiction of the court, with a statement
4196 that it is in the best interests of the child and the public that the proceeding be brought;

4197 (2) The name, date of birth, and residence address of the child alleged to be a child in
4198 need of services;

4199 (3) The name and residence address of the parent, guardian, or legal custodian of the
4200 child named in the petition; or, if such child's parent, guardian, or legal custodian does
4201 not reside or cannot be found within the state or if such place of residence address is
4202 unknown, the name of any known adult relative of such child residing within the county
4203 or, if there is none, the known adult relative of such child residing nearest to the location
4204 of the court;

4205 (4) The name and age of any other family member of such child living within such
4206 child's home;

4207 (5) Whether all available and appropriate attempts to encourage voluntary use of
4208 community services by such child's family have been exhausted; and

- 4209 (6) Whether any of the information required by this subsection is unknown.
- 4210 (b) If a petition seeking an adjudication that a child is a child in need of services is based
 4211 on a complaint filed by a school official, such petition shall be dismissed unless it includes
 4212 information which shows that:
- 4213 (1) The legally liable school district has sought to resolve the expressed problem through
 4214 available educational approaches; and
- 4215 (2) The school district has sought to engage such child's parent, guardian, or legal
 4216 custodian in solving the problem but any such individual has been unwilling or unable
 4217 to do so; that the problem remains; and that court intervention is needed.
- 4218 (c) If a petition seeking an adjudication that a child is a child in need of services is based
 4219 on a complaint filed by a school official involving a child who is eligible or suspected to
 4220 be eligible for services under the federal Individuals with Disabilities Education Act or
 4221 Section 504 of the federal Rehabilitation Act of 1973, such petition shall be dismissed
 4222 unless it includes information which demonstrates that the legally liable school district:
- 4223 (1) Has determined that such child is eligible or suspected to be eligible under the federal
 4224 Individuals with Disabilities Education Act or Section 504 of the federal Rehabilitation
 4225 Act of 1973; and
- 4226 (2) Has reviewed for appropriateness such child's current Individualized Education
 4227 Program (IEP) and placement and has made modifications where appropriate.
- 4228 15-11-423.
- 4229 (a) The court shall direct the issuance of a summons to the child alleged to be a child in
 4230 need of services, his or her parent, guardian, or legal custodian, DFCS and any other public
 4231 agencies or institutions providing services, and any other persons who appear to the court
 4232 to be proper or necessary parties to such child in need of services proceeding requiring
 4233 them to appear before the court at the time fixed to answer the allegations of the petition
 4234 seeking an adjudication that a child is in need of services. A copy of such petition shall
 4235 accompany the summons.
- 4236 (b) The summons shall state that a party is entitled to an attorney in the proceedings and
 4237 that the court will appoint an attorney if the party is an indigent person.
- 4238 (c) A party other than a child may waive service of summons by written stipulation or by
 4239 voluntary appearance at the hearing.

4240 15-11-424.

- 4241 (a) If a party to be served with a summons pursuant to Code Section 15-11-423 is within
 4242 this state and can be found, the summons shall be served upon him or her personally as
 4243 soon as possible and at least 24 hours before the adjudication hearing.

4244 (b) If a party to be served is within this state and cannot be found but his or her address is
4245 known or can be ascertained with due diligence, the summons shall be served upon such
4246 party at least five days before an adjudication hearing by mailing him or her a copy by
4247 registered or certified mail or statutory overnight delivery, return receipt requested.

4248 (c) If a party to be served is outside this state but his or her address is known or can be
4249 ascertained with due diligence, service of the summons shall be made at least five days
4250 before an adjudication hearing either by delivering a copy to such party personally or by
4251 mailing a copy to him or her by registered or certified mail or statutory overnight delivery,
4252 return receipt requested.

4253 (d) Service of the summons may be made by any suitable person under the direction of the
4254 court.

4255 (e) The court may authorize payment from county funds of the costs of service and of
4256 necessary travel expenses incurred by persons summoned or otherwise required to appear
4257 at the hearing on the petition seeking an adjudication that a child is in need of services.

4258 15-11-425.

4259 (a) In the event a parent, guardian, or legal custodian of a child alleged to be a child in
4260 need of services willfully fails to appear personally at a hearing on the petition seeking an
4261 adjudication that a child is a child in need of services after being ordered to so appear or
4262 such parent, guardian, or legal custodian willfully fails to bring such child to such hearing
4263 after being so directed, the court may issue a rule nisi against the person directing the
4264 person to appear before the court to show cause why he or she should not be held in
4265 contempt of court.

4266 (b) If a parent, guardian, or legal custodian of the child alleged to be a child in need of
4267 services fails to appear in response to an order to show cause, the court may issue a bench
4268 warrant directing that such parent, guardian, or legal custodian be brought before the court
4269 without delay to show cause why he or she should not be held in contempt and the court
4270 may enter any order authorized by the provisions of Code Section 15-11-31.

4271 (c) In the event an agency representative willfully fails to appear at a mandatory
4272 conference or a hearing on the petition seeking an adjudication that a child is a child in
4273 need of services after being ordered to so appear, the court may direct the appropriate
4274 agency representative to appear before the court to show cause why a contempt order
4275 should not be issued.

4276 (d) If a child 16 years of age or older fails to appear at a hearing on a petition seeking an
4277 adjudication that such child is a child in need of services after being ordered to so appear,
4278 the court may issue a bench warrant requiring that such child be brought before the court

4279 without delay and the court may enter any order authorized by the provisions of Code
4280 Section 15-11-31.
4281 (e) If there is sworn testimony that a child 14 years of age but not yet 16 years of age
4282 willfully refuses to appear at a hearing on a petition seeking an adjudication that such child
4283 is a child in need of services after being ordered to so appear, the court may issue a bench
4284 warrant requiring that such child be brought before the court and the court may enter any
4285 order authorized by the provisions of Code Section 15-11-31.

4286 Part 6

4287 15-11-440.

4288 The petitioner has the burden of proving the allegations of a child in need of services
4289 petition by clear and convincing evidence.

4290 15-11-441.

4291 (a) If a child alleged to be a child in need of services is in continued custody but not in a
4292 secure residential facility or nonsecure residential facility, the adjudication hearing shall
4293 be scheduled to be held no later than ten days after the filing of the petition seeking an
4294 adjudication that such child is a child in need of services. If such child is not in continued
4295 custody, the adjudication hearing shall be scheduled to be held no later than 60 days after
4296 the filing of such petition.

4297 (b) At the conclusion of the adjudication hearing, the court shall determine whether such
4298 child is a child in need of services.

4299 15-11-442.

4300 (a) If the court finds that a child is a child in need of services, a final disposition hearing
4301 shall be held and completed within 60 days of the conclusion of the adjudication hearing.

4302 (b) The court shall order the least restrictive and most appropriate disposition. Such
4303 disposition may include:

4304 (1) Permitting such child to remain with his or her caregiver without limitations or
4305 conditions;

4306 (2) Permitting such child to remain with his or her caregiver subject to such limitations
4307 and conditions as the court may prescribe;

4308 (3) Placing such child on probation or unsupervised probation on such terms and
4309 conditions as deemed in the best interests of such child and the public. An order granting
4310 probation to a child in need of services may be revoked on the ground that the terms and
4311 conditions of the probation have not been observed;

- 4312 (4) Requiring that such child perform community service in a manner prescribed by the
 4313 court and under the supervision of an individual designated by the court;
- 4314 (5) Requiring that such child make restitution. A restitution order may remain in force
 4315 and effect simultaneously with another order of the court. Payment of funds shall be
 4316 made by such child or his or her family or employer directly to the clerk of the juvenile
 4317 court entering the order or another employee of that court designated by the judge, and
 4318 such court shall disburse such funds in the manner authorized in the order. While an
 4319 order requiring restitution is in effect, the court may transfer enforcement of its order to:
- 4320 (A) The juvenile court of the county of such child's residence and its probation staff,
 4321 if he or she changes his or her place of residence; or
- 4322 (B) A superior court once such child reaches 18 years of age if he or she thereafter
 4323 comes under the jurisdiction of the superior court;
- 4324 (6) Imposing a fine on such child who has committed an offense which, if committed by
 4325 an adult, would be a violation under the criminal laws of this state or has violated an
 4326 ordinance or bylaw of a county, city, town, or consolidated government. Such fine shall
 4327 not exceed the fine which may be imposed against an adult for the same offense;
- 4328 (7) Requiring such child to attend structured after-school or evening programs or other
 4329 court approved programs as well as requiring supervision of such child during the time
 4330 of the day in which he or she most often used to perform the acts complained of in the
 4331 petition alleging that such child is a child in need of services;
- 4332 (8) Any order authorized for the disposition of a dependent child;
- 4333 (9) Any order authorized for the disposition of a delinquent child except that a child in
 4334 need of services shall not be placed in a secure residential facility or nonsecure residential
 4335 facility nor shall such facility accept such child; or
- 4336 (10) Any combination of the dispositions set forth in paragraphs (1) through (9) of this
 4337 subsection as the court deems to be in the best interests of a child and the public.
- 4338 (c) All disposition orders shall include written findings of the basis for the disposition and
 4339 such conditions as the court imposes and a specific plan of the services to be provided.
- 4340 15-11-443.
- 4341 (a) An order of disposition shall be in effect for the shortest time necessary to accomplish
 4342 the purposes of the order and for not more than two years. A written disposition order shall
 4343 state the length of time the order is to be in effect. An order of extension may be made if:
- 4344 (1) A hearing is held prior to the expiration of the order upon motion of DFCS, DJJ, the
 4345 prosecuting attorney, or on the court's own motion;
- 4346 (2) Reasonable notice of the factual basis of the motion and of the hearing and
 4347 opportunity to be heard are given to the parties affected;

4348 (3) The court finds that the extension is necessary to accomplish the purposes of the
4349 order extended; and

4350 (4) The extension does not exceed two years from the expiration of the prior order.

4351 (b) The court may terminate an order of disposition or an extension of such a disposition
4352 order prior to its expiration, on its own motion or an application of a party, if it appears to
4353 the court that the purposes of the order have been accomplished.

4354 (c) When a child adjudicated as a child in need of services reaches 18 years of age, all
4355 orders affecting him or her then in force shall terminate and he or she shall be discharged
4356 from further obligation or control.

4357 15-11-444.

4358 (a) An order granting probation to a child adjudicated to be a child in need of services may
4359 be revoked on the ground that the conditions of probation have been violated.

4360 (b) Any violation of a condition of probation may be reported to the prosecuting attorney
4361 who may file a motion for revocation of probation. A motion for revocation of probation
4362 shall contain specific factual allegations constituting each violation of a condition of
4363 probation.

4364 (c) A motion for revocation of probation shall be served upon the child, his or her attorney,
4365 and parent, guardian, or legal custodian in accordance with the provisions of Code Section
4366 15-11-424.

4367 (d) If a child in need of services is taken into custody because of the alleged violation of
4368 probation, the provisions governing the detention of a child under this article shall apply.

4369 (e) A revocation hearing shall be scheduled to be held no later than 30 days after the filing
4370 of a motion to revoke probation.

4371 (f) If the court finds, beyond a reasonable doubt, that a child in need of services violated
4372 the terms and conditions of probation, the court may:

4373 (1) Extend his or her probation;

4374 (2) Impose additional conditions of probation; or

4375 (3) Make any disposition that could have been made at the time probation was imposed.

4376 15-11-445.

4377 The court shall review the disposition of a child in need of services at least once within
4378 three months after such disposition and at least every six months thereafter so long as the
4379 order of disposition is in effect.

Part 7

4380

4381 15-11-450.

4382 (a) After determining, in accordance with the provisions of Article 7 of this chapter, that
4383 a child alleged to be a child in need of services in a petition under this article or who has
4384 been alleged to have committed a delinquent act is unrestorably incompetent to proceed
4385 and the court orders that procedures for a comprehensive services plan be initiated, the
4386 court shall appoint a plan manager, if one has not already been appointed, to direct the
4387 development of a comprehensive services plan for such child.

4388 (b) The plan manager shall convene all relevant parties to develop a comprehensive
4389 services plan. A plan manager shall request that the following persons attend such
4390 meeting:

4391 (1) The parent, guardian, or legal custodian of such child;

4392 (2) Such child's attorney;

4393 (3) The prosecuting attorney;

4394 (4) Such child's guardian ad litem, if any;

4395 (5) Mental health or developmental disabilities representatives;

4396 (6) Such child's caseworker;

4397 (7) A representative from such child's school; and

4398 (8) Any family member of such child who has shown an interest and involvement in such
4399 child's well-being.

4400 (c) A plan manager may request that other relevant persons attend a comprehensive
4401 services plan meeting, including but not limited to the following:

4402 (1) A representative from the Department of Public Health;

4403 (2) A DFCS caseworker;

4404 (3) Representatives of the public and private resources to be utilized in the plan; and

4405 (4) Other persons who have demonstrated an ongoing commitment to the child.

4406 (d) A plan manager shall be responsible for collecting all previous histories of such child,
4407 including, but not limited to, previous evaluations, assessments, and school records, and
4408 for making such histories available for consideration by the persons at the comprehensive
4409 services plan meeting.

4410 (e) Unless a time extension is granted by the court, a plan manager shall submit the
4411 comprehensive services plan to the court within 30 days of the entry of the court's
4412 disposition order for a child adjudicated to be unrestorably incompetent to proceed under
4413 Article 7 of this chapter. The plan shall include the following:

4414 (1) An outline of the specific provisions for supervision of such child for protection of
4415 the community and such child;

- 4416 (2) An outline of a plan designed to provide treatment, habilitation, support, or
4417 supervision services for a child in the least restrictive environment;
- 4418 (3) If such child's evaluation recommends treatment in a secure environment,
4419 certification by such plan manager that all other appropriate community based treatment
4420 options have been exhausted; and
- 4421 (4) Identification of all parties responsible for each element of the plan, including such
4422 child, agency representatives, and other persons.
- 4423 (f) A plan manager shall also be responsible for:
- 4424 (1) Convening a meeting of all parties and representatives of all agencies prior to the
4425 comprehensive services plan hearing and review hearings;
- 4426 (2) Identifying to the court any person who should provide testimony at the
4427 comprehensive services plan hearing; and
- 4428 (3) Monitoring the comprehensive services plan, presenting to the court amendments to
4429 the plan as needed, and presenting evidence to the court for the reapproval of the plan at
4430 subsequent review hearings.
- 4431 15-11-451.
- 4432 (a) The court shall hold a comprehensive services plan hearing within 30 days after the
4433 comprehensive services plan has been submitted to the court for the purpose of approving
4434 the plan. Thereafter, the court shall hold a comprehensive services plan hearing every six
4435 months for the purpose of reviewing such child's condition and approving the
4436 comprehensive services plan.
- 4437 (b) The persons required to be notified of a comprehensive services plan hearing and
4438 witnesses identified by a plan manager shall be given at least ten days' prior notice of the
4439 hearing and any subsequent hearing to review such child's condition and shall be afforded
4440 an opportunity to be heard at any such hearing. The victim, if any, of a child's alleged
4441 delinquent act shall also be provided with the same ten days' prior notice and shall be
4442 afforded an opportunity to be heard and to present a victim impact form as provided in
4443 Code Section 17-10-1.1 to the court at the comprehensive services plan hearing. The judge
4444 shall make a determination regarding sequestration of witnesses in order to protect the
4445 privileges and confidentiality rights of a child adjudicated to be unrestorably incompetent
4446 to proceed under Article 7 of this chapter.
- 4447 (c) At the comprehensive services plan hearing, the court shall enter an order incorporating
4448 a comprehensive services plan as part of the disposition of the comprehensive services plan
4449 hearing. At the time of the disposition, a child shall be placed in an appropriate treatment
4450 setting, as recommended by the examiner, unless such child has already been placed in an
4451 appropriate treatment setting pursuant to subsection (d) of Code Section 15-11-656.

4452 (d) If, during the comprehensive services plan hearing or any subsequent review hearing,
 4453 the court determines that a child meets criteria for civil commitment, such child may be
 4454 committed to a secure treatment facility.

4455 (e) At any time, in the event of a change in circumstances regarding such child, the court
 4456 on its own motion or on the motion of the attorney representing such child, any guardian
 4457 ad litem for such child, the prosecuting attorney, or the plan manager may set a hearing for
 4458 review of the comprehensive services plan and any proposed amendments to such plan.
 4459 The court may issue an appropriate order incorporating an amended plan.

4460 (f) If a child is under a comprehensive services plan when he or she reaches the age of 18,
 4461 the plan manager shall make a referral for appropriate adult services.

4462 ARTICLE 6

4463 Part 1

4464 15-11-470.

4465 The purpose of this article is:

4466 (1) Consistent with the protection of the public interest, to hold a child committing
 4467 delinquent acts accountable for his or her actions, taking into account such child's age,
 4468 education, mental and physical condition, background, and all other relevant factors, but
 4469 to mitigate the adult consequences of criminal behavior;

4470 (2) To accord due process of law to each child who is accused of having committed a
 4471 delinquent act;

4472 (3) To provide for a child committing delinquent acts with supervision, care, and
 4473 rehabilitation which ensure balanced attention to the protection of the community, the
 4474 imposition of accountability, and the development of competencies to enable such child
 4475 to become a responsible and productive member of the community;

4476 (4) To promote a continuum of services for a child and his or her family from prevention
 4477 of delinquent acts to aftercare, considering, whenever possible, prevention, diversion, and
 4478 early intervention, including an emphasis on community based alternatives;

4479 (5) To provide effective sanctions to acts of juvenile delinquency; and

4480 (6) To strengthen families and to successfully reintegrate delinquent children into homes
 4481 and communities.

4482 15-11-471.

4483 As used in this article, the term:

4484 (1) 'AIDS transmitting crime' shall have the same meaning as set forth in Code Section
 4485 31-22-9.1.

4486 (2) 'Behavioral health evaluation' means a court ordered evaluation completed by a
 4487 licensed psychologist or psychiatrist of a child alleged to have committed or adjudicated
 4488 of a delinquent act so as to provide the juvenile court with information and
 4489 recommendations relevant to the behavioral health status and mental health treatment
 4490 needs of such child.

4491 (3) 'Community rehabilitation center' means a rehabilitation and custodial center
 4492 established within a county for the purpose of assisting in the rehabilitation of delinquent
 4493 children and children in need of services in a neighborhood and family environment in
 4494 cooperation with community educational, medical, and social agencies. Such center
 4495 shall:

4496 (A) Be located within any county having a juvenile court presided over by at least one
 4497 full-time judge exercising jurisdiction exclusively over juvenile matters; and

4498 (B) Be operated by a nonprofit corporation organized under Chapter 3 of Title 14, the
 4499 'Georgia Nonprofit Corporation Code,' and have a full-time chief executive officer. The
 4500 charter, bylaws, and method of selecting the board of directors and chief executive
 4501 officer of such nonprofit corporation shall be subject to the unanimous approval of the
 4502 chief judge of the judicial circuit in which the county is located, the judge or judges of
 4503 the juvenile court, the superintendent of the county school district, and the
 4504 commissioner of juvenile justice; such approval shall be in writing and shall be
 4505 appended to the charter and bylaws of the nonprofit organization. Any amendment of
 4506 the charter or bylaws of the nonprofit corporation shall be subject to the same written
 4507 approval as the original charter and bylaws.

4508 (4) 'Determined to be infected with HIV' means having a confirmed positive human
 4509 immunodeficiency virus (HIV) test or having been clinically diagnosed as having AIDS.

4510 (5) 'Graduated sanctions' means:

4511 (A) Verbal and written warnings;

4512 (B) Increased restrictions and reporting requirements;

4513 (C) Community service;

4514 (D) Referral to treatment and counseling programs in the community;

4515 (E) Weekend programming;

4516 (F) Electronic monitoring, as such term is defined in Code Section 42-8-151;

4517 (G) Curfew;

4518 (H) An intensive supervision program; or

4519 (I) A home confinement program.

4520 (6) 'Hearing officer' means a DJJ employee or county juvenile probation office
 4521 employee, as applicable, who has been selected and appointed by DJJ or the county
 4522 juvenile probation office, as applicable, to hear cases alleging violations of probation for

4523 administrative sanctioning. A hearing officer shall not be a probation officer who has
4524 direct supervision over the child who is the subject of the hearing.

4525 (7) 'HIV test' means any antibody, antigen, viral particle, viral culture, or other test to
4526 indicate the presence of HIV in the human body, and such test has been approved for
4527 such purposes by the regulations of the Department of Community Health.

4528 (8) 'Intensive supervision' means the monitoring of a child's activities on a more frequent
4529 basis than regular aftercare supervision, pursuant to regulations of the commissioner of
4530 juvenile justice.

4531 (9) 'Low risk' means the lowest risk to recidivate as calculated by a risk assessment.

4532 (10) 'Moderate risk or high risk' means a calculation by a risk assessment that is not low
4533 risk.

4534 (11) 'Probation management program' means a special condition of probation that
4535 includes graduated sanctions.

4536 (12) 'Secure probation sanctions program' means secure confinement of seven, 14, or 30
4537 days.

4538 15-11-472.

4539 (a) A detention hearing shall be held promptly and no later than:

4540 (1) Two business days after an alleged delinquent child is placed in preadjudication
4541 custody if he or she is taken into custody without an arrest warrant; or

4542 (2) Five business days after an alleged delinquent child is placed in preadjudication
4543 custody if he or she is taken into custody pursuant to an arrest warrant.

4544 (b) If an alleged delinquent child is placed in preadjudication custody without an arrest
4545 warrant and the detention hearing cannot be held within 48 hours because the expiration
4546 of the 48 hours falls on a weekend or legal holiday, the court shall review the detention
4547 assessment and the decision to detain such child and make a finding based on probable
4548 cause within 48 hours of such child being placed in preadjudication custody.

4549 (c) If an alleged delinquent child is released from preadjudication custody at the detention
4550 hearing or was never taken into custody, the following time frames shall apply:

4551 (1) Any petition alleging delinquency shall be filed within 30 days of the filing of the
4552 complaint or within 30 days after such child is released from preadjudication custody;

4553 (2) Summons shall be served at least 72 hours before the adjudication hearing;

4554 (3) The arraignment hearing shall be scheduled no later than 30 days after the filing of
4555 the petition alleging delinquency;

4556 (4) The adjudication hearing shall be held no later than 60 days from the filing of the
4557 petition alleging delinquency; and

4558 (5) The disposition hearing shall be held within 30 days of the adjudication hearing
4559 unless the court makes written findings of fact explaining the delay.

4560 (d) If an alleged delinquent child is not released from preadjudication custody at the
4561 detention hearing, the following time frames shall apply:

4562 (1) The petition alleging delinquency shall be filed within 72 hours of the detention
4563 hearing;

4564 (2) Summons shall be served at least 72 hours before the adjudication hearing;

4565 (3) The adjudication hearing shall be held no later than ten days after the filing of the
4566 petition alleging delinquency; and

4567 (4) The disposition hearing shall be held within 30 days of the adjudication hearing
4568 unless the court makes written findings of fact explaining the delay.

4569 (e) For purposes of this Code section, preadjudication custody begins when a juvenile
4570 court intake officer authorizes the placement of a child in a secure residential facility.

4571 15-11-473.

4572 (a) A prosecuting attorney shall conduct delinquency proceedings on behalf of the state.

4573 (b) Except as provided in Article 9 of this chapter, in any delinquency proceeding, the
4574 prosecuting attorney shall be entitled to complete access to all court files, probation files,
4575 hearing transcripts, delinquency reports, and any other juvenile court records. It shall be
4576 the duty of the clerk, probation officers of the juvenile court, and DJJ to assist a
4577 prosecuting attorney in obtaining any requested items.

4578 15-11-474.

4579 (a) An alleged delinquent child and the state shall be parties at all stages of delinquency
4580 proceedings.

4581 (b) A parent, guardian, or legal custodian of an alleged delinquent child shall have the
4582 right to notice, the right to be present in the courtroom, and the opportunity to be heard at
4583 all stages of delinquency proceedings.

4584 (c) DJJ shall receive notice of the disposition hearing.

4585 15-11-475.

4586 (a) An alleged delinquent child shall have the right to be represented by an attorney at all
4587 proceedings under this article.

4588 (b) A parent, guardian, or legal custodian of an alleged delinquent child shall not waive
4589 his or her child's right to be represented by an attorney.

4590 (c) An alleged delinquent child may waive the right to an attorney under limited
4591 circumstances as set forth in subsection (d) of this Code section, but a child shall be

4592 required to consult with an attorney as provided in subsection (b) of Code Section
4593 15-11-511.

4594 (d) Prior to the detention hearing, if any, the court shall appoint an attorney to represent
4595 an alleged delinquent child unless an attorney has been retained and appears on behalf of
4596 such child or the court determines that a child may waive his or her right to an attorney for
4597 the purposes of a detention hearing. Nothing in this subsection shall prohibit a judge from
4598 releasing such child from detention prior to appointment of an attorney.

4599 (e) Upon a motion by an attorney for an alleged delinquent child, together with written
4600 permission of such child, a judge shall issue an order providing that such child's attorney
4601 shall have access to all dependency, school, hospital, physician, or other health or mental
4602 health care records relating for such child.

4603 15-11-476.

4604 (a) The court shall appoint a separate guardian ad litem whenever:

4605 (1) An alleged delinquent child appears before the court without his or her parent,
4606 guardian, or legal custodian;

4607 (2) It appears to the court that a parent, guardian, or legal custodian of an alleged
4608 delinquent child is incapable or unwilling to make decisions in the best interests of such
4609 child with respect to proceedings under this article such that there may be a conflict of
4610 interest between such child and his or her parent, guardian, or legal custodian; or

4611 (3) The court finds that it is otherwise in a child's best interests to do so.

4612 (b) The role of a guardian ad litem in a delinquency proceeding shall be the same role as
4613 provided for in all dependency proceedings under Article 3 of this chapter.

4614 (c) Neither a child's attorney in a delinquency proceeding nor his or her parent, guardian,
4615 or legal custodian shall prohibit or impede access to such child by the guardian ad litem.

4616 15-11-477.

4617 (a) At any time prior to the issuance of a final dispositional order, the court may order a
4618 behavioral health evaluation of a child alleged to be or adjudicated as a delinquent child
4619 which may be conducted by DBHDD or a private psychologist or psychiatrist.

4620 (b) The court shall order and give consideration to the results of a child's behavioral health
4621 evaluation before ordering a child adjudicated for a class A designated felony act or class
4622 B designated felony act placed in restrictive custody; provided, however, that such order
4623 shall not be required if the court has considered the results of a prior behavioral health
4624 evaluation of such child that had been completed in the preceding six months.

4625 (c) Statements made by a child during a behavioral health evaluation shall only be
4626 admissible into evidence as provided in Code Section 15-11-479.

4627 15-11-478.

4628 A continuance shall be granted only upon a showing of good cause and only for that period
4629 of time shown to be necessary by the moving party at the hearing on the motion.
4630 Whenever any continuance is granted, the facts which require the continuance shall be
4631 entered into the court record.

4632 15-11-479.

4633 Voluntary statements made in the course of intake screening of a child alleged to be or
4634 adjudicated as a delinquent child or in the course of his or her treatment, any evaluation,
4635 or any other related services shall be inadmissible in any adjudication hearing in which
4636 such child is the accused and shall not be considered by the court except such statement
4637 shall be admissible as rebuttal or impeachment evidence.

4638 15-11-480.

4639 (a) When a child enters a denial to a petition alleging his or her delinquency, jeopardy
4640 attaches when the first witness is sworn at the adjudication hearing.
4641 (b) When a child enters an admission to a petition alleging his or her delinquency,
4642 jeopardy attaches when the court accepts the admission.

4643 15-11-481.

4644 (a) In any delinquency proceeding in which a petition has been filed, the juvenile court
4645 shall notify any victim of a child's alleged delinquent act that the victim may submit a
4646 victim impact form as provided in Code Section 17-10-1.1 if:

4647 (1) The conduct of an alleged delinquent child would constitute a felony if committed
4648 by an adult, caused physical, psychological, or economic injury to the victim; or
4649 (2) The conduct of an alleged delinquent child would constitute a misdemeanor if
4650 committed by an adult caused serious physical injury or death to the victim.

4651 (b) The provisions of subsection (e) of Code Section 17-10-1.1 shall apply to the use and
4652 disclosure of the victim impact form.

4653 (c) The victim may complete the victim impact form and submit such form to the juvenile
4654 court. If the victim is unable to do so because of such victim's mental, emotional, or
4655 physical incapacity, or because of such victim's age, the victim's attorney or family member
4656 may complete the victim impact form on behalf of the victim.

4657 (d) Prior to the imposition of a dispositional order for an alleged delinquent child, the
4658 juvenile court shall permit the victim to address the juvenile court and present any
4659 information or opinions that concern the victim or the victim's family, including the impact
4660 of the delinquent act on the victim, the harm caused by the alleged delinquent child and the

4661 delinquent act, the need for restitution, or the terms of the disposition order. Such
4662 statement shall be given in the presence of the alleged delinquent child and he or she shall
4663 be subject to cross-examination. The prosecuting attorney and the alleged delinquent child
4664 shall be afforded the opportunity to explain, support, or deny the victim's statement. It
4665 shall be the duty of the juvenile court to advise the victim of the right to address the court
4666 prior to the entry of a dispositional order for an alleged delinquent child. The victim shall
4667 have the discretion to exercise the right to be present and be heard at the dispositional
4668 hearing. If the victim is voluntarily absent from the dispositional hearing, such absence
4669 shall constitute a waiver of the rights provided by this subsection.

4670 (e) Except as provided in subsection (d) of this Code section, no disposition of a
4671 delinquent child shall be invalidated because of failure to comply with the provisions of
4672 this Code section. This Code section shall not be construed to create any cause of action
4673 or any right of appeal on behalf of the victim, the state, or the accused; provided, however,
4674 that if the court intentionally fails to comply with this Code section, the victim may file a
4675 complaint with the Judicial Qualifications Commission.

4676 Part 2

4677 15-11-490.

4678 (a) A proceeding under this article may be commenced:

4679 (1) In the county in which an allegedly delinquent child legally resides; or

4680 (2) In any county in which the alleged delinquent acts occurred.

4681 (b) If the adjudicating court finds that a nonresident child has committed a delinquent act,
4682 the adjudicating court may retain jurisdiction over the disposition of a nonresident child or
4683 may transfer the proceeding to the county of such child's residence for disposition. Like
4684 transfer may be made if the residence of such child changes pending the proceeding.

4685 (c) If the adjudicating court retains jurisdiction, prior to making any order for disposition
4686 of a nonresident child, the adjudicating court shall communicate to the court of the county
4687 of such child's residence the fact that such child has been adjudicated to have committed
4688 a delinquent act. Such communication shall state the date upon which the adjudicating
4689 court plans to enter an order for disposition of such nonresident child and shall request any
4690 information or recommendations relevant to the disposition of such nonresident child. Any
4691 such recommendation shall be considered by but shall not be binding upon the adjudicating
4692 court in making its order for disposition.

4693 (d) When any case is transferred, certified copies of all documents and records pertaining
4694 to the case on file with the clerk of the court shall accompany the transfer order.

4695 Compliance with this subsection shall terminate jurisdiction in the transferring court and
 4696 initiate jurisdiction in the receiving court.

4697 Part 3

4698 15-11-500.

4699 If it appears from a filed affidavit or from sworn testimony before the court that the
 4700 conduct, condition, or surroundings of an alleged delinquent child are endangering such
 4701 child's health or welfare or those of others or that such child may abscond or be removed
 4702 from the jurisdiction of the court or will not be brought before the court, notwithstanding
 4703 the service of the summons, the court may endorse upon the summons an order that a law
 4704 enforcement officer shall serve the summons and take such child into immediate custody
 4705 and bring him or her forthwith before the court.

4706 15-11-501.

4707 (a) An alleged delinquent child may be taken into custody:

4708 (1) Pursuant to an order of the court under this article, including an order to a DJJ
 4709 employee to apprehend:

4710 (A) When he or she has escaped from an institution or facility operated by DJJ; or

4711 (B) When he or she has been placed under supervision and has violated its conditions;

4712 (2) Pursuant to the laws of arrest; or

4713 (3) By a law enforcement officer or duly authorized officer of the court if there are
 4714 reasonable grounds to believe that a child has committed a delinquent act.

4715 (b) A law enforcement officer taking a child into custody shall promptly give notice
 4716 together with a statement of the reasons for taking such child into custody to his or her
 4717 parent, guardian, or legal custodian and to the court.

4718 (c) When a child who is taken into custody has committed an act which would constitute
 4719 a felony if committed by an adult, the juvenile court, within 48 hours after it learns of such
 4720 child having been taken into custody, shall notify the prosecuting attorney of the judicial
 4721 circuit in which the juvenile proceedings are to be instituted.

4722 15-11-502.

4723 (a) A person taking an alleged delinquent child into custody, with all reasonable speed and
 4724 without first taking such child elsewhere, shall:

4725 (1) Immediately release such child, without bond, to his or her parent, guardian, or legal
 4726 custodian upon such person's promise to bring such child before the court when requested
 4727 by the court;

4728 (2) Immediately deliver such child to a medical facility if such child is believed to suffer
 4729 from a serious physical condition or illness which requires prompt treatment and, upon
 4730 delivery, shall promptly contact a juvenile court intake officer. Immediately upon being
 4731 notified by the person taking such child into custody, the juvenile court intake officer
 4732 shall determine if such child can be administered a detention assessment and if so, shall
 4733 conduct such assessment and determine if such child should be released, remain in
 4734 protective custody, or be brought before the court; or

4735 (3) Bring such child immediately before the juvenile court or promptly contact a juvenile
 4736 court intake officer. The court or juvenile court intake officer shall determine if such
 4737 child should be released or detained. All determinations and court orders regarding
 4738 detention shall comply with the requirements of this article and shall be based on an
 4739 individual detention assessment of such child and his or her circumstances.

4740 (b) Notwithstanding subsection (a) of this Code section, a law enforcement officer may
 4741 detain an alleged delinquent child for a reasonable period of time sufficient to conduct
 4742 interrogations and perform routine law enforcement procedures including but not limited
 4743 to fingerprinting, photographing, and the preparation of any necessary records.

4744 (c) Prior to a detention hearing, an alleged delinquent child shall be placed in detention,
 4745 if necessary, only in such places as are authorized by Code Section 15-11-504.

4746 15-11-503.

4747 (a) Restraints on the freedom of an alleged delinquent child prior to adjudication shall be
 4748 imposed only when there is probable cause to believe that such child committed the act of
 4749 which he or she is accused, that there is clear and convincing evidence that such child's
 4750 freedom should be restrained, that no less restrictive alternatives will suffice, and that:

4751 (1) Such child's detention or care is required to reduce the likelihood that he or she may
 4752 inflict serious bodily harm on others during the interim period;

4753 (2) Such child has a demonstrated pattern of theft or destruction of property such that
 4754 detention is required to protect the property of others;

4755 (3) Such child's detention is necessary to secure his or her presence in court to protect
 4756 the jurisdiction and processes of the court; or

4757 (4) An order for such child's detention has been made by the court.

4758 (b) All children who are detained shall be informed of their right to bail as provided by
 4759 Code Section 15-11-507.

4760 (c) An alleged delinquent child shall not be detained:

4761 (1) To punish, treat, or rehabilitate him or her;

4762 (2) To allow his or her parent, guardian, or legal custodian to avoid his or her legal
 4763 responsibilities;

- 4764 (3) To satisfy demands by a victim, law enforcement, or the community;
 4765 (4) To permit more convenient administrative access to him or her;
 4766 (5) To facilitate further interrogation or investigation; or
 4767 (6) Due to a lack of a more appropriate facility.
- 4768 (d) Whenever an alleged delinquent child cannot be unconditionally released, conditional
 4769 or supervised release that results in the least necessary interference with the liberty of such
 4770 child shall be favored over more intrusive alternatives.
- 4771 (e) Whenever the curtailment of the freedom of an alleged delinquent child is permitted,
 4772 the exercise of authority shall reflect the following values:
- 4773 (1) Respect for the privacy, dignity, and individuality of such child and his or her family;
 4774 (2) Protection of the psychological and physical health of such child;
 4775 (3) Tolerance of the diverse values and preferences among different groups and
 4776 individuals;
- 4777 (4) Assurance of equality of treatment by race, class, ethnicity, and sex;
 4778 (5) Avoidance of regimentation and depersonalization of such child;
 4779 (6) Avoidance of stigmatization of such child; and
- 4780 (7) Assurance that such child has been informed of his or her right to consult with an
 4781 attorney and that, if such child is an indigent person, an attorney will be provided.
- 4782 (f) Before entering an order authorizing detention, the court shall determine whether a
 4783 child's continuation in his or her home is contrary to his or her welfare and whether there
 4784 are available services that would prevent or eliminate the need for detention. The court
 4785 shall make that determination on a case-by-case basis and shall make written findings of
 4786 fact referencing any and all evidence relied upon in reaching its decision.
- 4787 (g) If an alleged delinquent child can remain in the custody of his or her parent, guardian,
 4788 or legal custodian through the provision of services to prevent the need for removal, the
 4789 court shall order that such services shall be provided.
- 4790 15-11-504.
- 4791 (a) An alleged delinquent child may be detained only in:
- 4792 (1) A licensed foster home;
 4793 (2) A home approved by the court which may be a public or private home;
 4794 (3) The home of such child's noncustodial parent or of a relative;
 4795 (4) A facility operated by a licensed child welfare agency; or
 4796 (5) A detention home or center for delinquent children which is under the direction or
 4797 supervision of the court or other public authority or of a private agency approved by the
 4798 court.

- 4799 (b) Placement shall be made in the least restrictive facility available consistent with the
4800 best interests of the child.
- 4801 (c) A child 15 years of age or older and alleged to be a delinquent child may be held in a
4802 jail or other facility for the detention of adults for identification or processing procedures
4803 or while awaiting transportation only so long as necessary to complete such activities for
4804 up to six hours, or for up to 24 hours if the closest secure residential facility is more than
4805 70 miles from such facility, if all of the following apply:
- 4806 (1) Such child is detained for the commission of a crime that would constitute a class A
4807 designated felony act, class B designated felony act, or a serious violent felony as defined
4808 in Code Section 17-10-6.1;
- 4809 (2) Such child is awaiting a detention hearing;
- 4810 (3) Such child's detention hearing is scheduled within 24 hours after being taken into
4811 custody, excluding weekends and legal holidays;
- 4812 (4) There is no existing acceptable alternative placement for such child; and
- 4813 (5) The jail or other facility for the detention of adults provides sight and sound
4814 separation for children, including:
- 4815 (A) Total separation between children and adult facility spatial areas such that there is
4816 no verbal, visual, or physical contact and there could be no haphazard or accidental
4817 contact between child and adult residents in the respective facilities;
- 4818 (B) Total separation in all program activities for children and adults within the
4819 facilities, including recreation, education, counseling, health care, dining, sleeping, and
4820 general living activities;
- 4821 (C) Continuous visual supervision of a child; and
- 4822 (D) Separate staff for children and adults, specifically direct care staff such as
4823 recreation, education, and counseling, although specialized services staff, such as
4824 cooks, bookkeepers, and medical professionals who are not normally in contact with
4825 detainees or whose infrequent contacts occur under conditions of separation of children
4826 and adults, can serve both.
- 4827 (d) A child shall not be transported with adults who have been charged with or convicted
4828 of a crime. DJJ may transport a child with children who have been charged with or
4829 convicted of a crime in superior court.
- 4830 (e) The official in charge of a jail or other facility for the detention of adult offenders or
4831 persons charged with a crime shall inform the court or the juvenile court intake officer
4832 immediately when a child who appears to be under the age of 17 years is received at such
4833 facility and shall deliver such child to the court upon request or transfer such child to the
4834 facility designated by the juvenile court intake officer or the court.

4835 (f) All facilities shall maintain data on each child detained and such data shall be recorded
 4836 and retained by the facility for three years and shall be made available for inspection during
 4837 normal business hours by any court exercising juvenile court jurisdiction, by DJJ, and by
 4838 the Council of Juvenile Court Judges. The required data are each detained child's:

4839 (1) Name;

4840 (2) Date of birth;

4841 (3) Sex;

4842 (4) Race;

4843 (5) Offense or offenses for which such child is being detained;

4844 (6) Date of and authority for confinement;

4845 (7) Location of the offense and the name of the school if the offense occurred in a school
 4846 safety zone, as defined in Code Section 16-11-127.1;

4847 (8) The name of the referral source, including the name of the school if the referring
 4848 source was a school;

4849 (9) The score on the detention assessment;

4850 (10) The basis for detention if such child's detention assessment score does not in and
 4851 of itself mandate detention;

4852 (11) The reason for detention, which may include, but shall not be limited to,
 4853 preadjudication detention, detention while awaiting a postdisposition placement, or
 4854 -serving a short-term program disposition;

4855 (12) Date of and authority for release or transfer; and

4856 (13) Transfer or to whom released.

4857 15-11-505.

4858 If an alleged delinquent child is brought before the court or delivered to a secure residential
 4859 facility or nonsecure residential facility or foster care facility designated by the court, the
 4860 juvenile court intake officer shall immediately administer a detention assessment and
 4861 determine if such child should be detained and release such child unless it appears that his
 4862 or her detention is warranted.

4863 15-11-506.

4864 (a) A detention hearing shall be held to determine whether preadjudication custody of an
 4865 alleged delinquent child is required. If such hearing is not held within the time specified,
 4866 such child shall be released from detention or foster care.

4867 (b) If an alleged delinquent child is detained and is not released from preadjudication
 4868 custody, a detention hearing shall be held promptly and not later than:

- 4869 (1) Two business days after such child is placed in preadjudication custody if such child
4870 is taken into custody without an arrest warrant; or
- 4871 (2) Five business days after such child is placed in preadjudication custody if such child
4872 is taken into custody pursuant to an arrest warrant.
- 4873 (c) If the detention hearing cannot be held within two business days in accordance with
4874 paragraph (1) of subsection (b) of this Code section because the date for the hearing falls
4875 on a weekend or legal holiday, the court shall review the decision to detain such child and
4876 make a finding based on probable cause within 48 hours of such child being placed in
4877 preadjudication custody.
- 4878 (d) Reasonable oral or written notice of the detention hearing, stating the time, place, and
4879 purpose of the hearing, shall be given to an alleged delinquent child and to his or her
4880 parent, guardian, or legal custodian, if he or she can be found. In the event such child's
4881 parent, guardian, or legal custodian cannot be found, the court shall forthwith appoint a
4882 guardian ad litem for such child.
- 4883 (e) If an alleged delinquent child is not released from preadjudication custody and his or
4884 her parent, guardian, or legal custodian or guardian ad litem, if any, has not been notified
4885 of the hearing and did not appear or waive appearance at such hearing and thereafter files
4886 an affidavit showing such facts, the court shall rehear the matter without unnecessary delay
4887 and shall order such child's release unless it appears from such hearing that such child's
4888 detention or foster care is warranted or required.
- 4889 (f) At the commencement of the detention hearing, the court shall inform an alleged
4890 delinquent child of:
- 4891 (1) The contents of the complaint or petition;
4892 (2) The nature of the proceedings;
4893 (3) The right to make an application for bail, as provided by Code Section 15-11-507 and
4894 Title 17;
4895 (4) The possible consequences or dispositions that may apply to such child's case
4896 following adjudication; and
4897 (5) His or her due process rights, including the right to an attorney and to an appointed
4898 attorney; the privilege against self-incrimination; that he or she may remain silent and
4899 that anything said may be used against him or her; the right to confront anyone who
4900 testifies against him or her and to cross-examine any persons who appear to testify
4901 against him or her; the right to testify and to compel other witnesses to attend and testify
4902 in his or her own behalf; the right to a speedy adjudication hearing; and the right to
4903 appeal and be provided with a transcript for such purpose.
- 4904 (g) If an alleged delinquent child can be returned to the custody of his or her parent,
4905 guardian, or legal custodian through the provision of services to eliminate the need for

4906 removal, the court shall release such child to the physical custody of his or her parent,
4907 guardian, or legal custodian and order that those services shall be provided.

4908 (h) If an alleged delinquent child cannot be returned to the custody of his or her parent,
4909 guardian, or legal custodian, a probation officer shall provide referrals for services as soon
4910 as possible to enable such child's parent, guardian, or legal custodian to obtain any
4911 assistance that may be needed to effectively provide the care and control necessary for such
4912 child to return home.

4913 (i) For purposes of this Code section, preadjudication custody begins when a juvenile court
4914 intake officer authorizes the placement of a child in a secure residential facility.

4915 15-11-507.

4916 (a) All children alleged to have committed a delinquent act shall have the same right to
4917 bail as adults.

4918 (b) The judge shall admit to bail all children in the same manner and under the same
4919 circumstances and procedures as are applicable to adults accused of the commission of
4920 crimes, with the exception that applying for bail, holding a hearing on the application, and
4921 granting bail for children alleged to have committed a delinquent act may only occur:

4922 (1) At intake in accordance with Code Section 15-11-503; or

4923 (2) At the detention hearing in accordance with Code Section 15-11-506.

4924 (c) A court shall be authorized to release an alleged delinquent child on bail if the court
4925 finds that such child:

4926 (1) Poses no significant risk of fleeing from the jurisdiction of the court or failing to
4927 appear in court when required;

4928 (2) Poses no significant threat or danger to any person, to the community, or to any
4929 property in the community;

4930 (3) Poses no significant risk of committing any felony pending trial; and

4931 (4) Poses no significant risk of intimidating witnesses or otherwise obstructing the
4932 administration of justice.

4933 (d) If a child is accused of committing an act that would be a serious violent felony, as
4934 defined in Code Section 17-10-6.1, if committed by an adult and such child has previously
4935 been adjudicated for a delinquent act for committing an act that would be a serious violent
4936 felony if committed by an adult, there shall be a rebuttable presumption that no condition
4937 or combination of conditions will reasonably assure the appearance of such child as
4938 required or assure the safety of any other person or the community.

4939 (e) Any person having legal custody or an adult blood relative or stepparent of an alleged
4940 delinquent child shall be entitled to post bail but shall be required immediately to return
4941 such child to the individual or entity having legal custody of such child.

4942 (f) For the purposes of this Code section, the term 'bail' shall include the releasing of a
 4943 child on his or her own recognizance.

4944 15-11-508.

4945 (a) As used in this Code section, the term:

4946 (1) 'Notice' shall have the same meaning as set forth in Code Section 17-17-3.

4947 (2) 'Victim' shall have the same meaning as set forth in Code Section 17-17-3.

4948 (3) 'Violent delinquent act' means to commit, attempt to commit, conspiracy to commit,
 4949 or solicitation of another to commit a delinquent act which if committed by an adult
 4950 would constitute:

4951 (A) A serious violent felony as defined by Code Section 17-10-6.1;

4952 (B) A class A designated felony act or class B designated felony act;

4953 (C) Stalking or aggravated stalking as provided by Article 7 of Chapter 5 of Title 16;

4954 or

4955 (D) Any attempt to commit, conspiracy to commit, or solicitation of another to commit
 4956 an offense enumerated in subparagraphs (A) through (C) of this paragraph.

4957 (b) If a child accused of a violent delinquent act is detained pending adjudication, a
 4958 juvenile court intake officer shall provide notice to the victim, whenever practicable, that
 4959 such child is to be released from detention not less than 24 hours prior to such child's
 4960 release from detention.

4961 (c) Not less than 48 hours prior to a child who has been adjudicated to have committed a
 4962 violent delinquent act being released from detention or transferred to a nonsecure
 4963 residential facility, a juvenile court intake officer shall, whenever practicable, provide
 4964 notice to the victim of such pending release or transfer.

4965 (d) Victim notification need not be given unless a victim has expressed a desire for such
 4966 notification and has provided a juvenile court intake officer with a current address and
 4967 telephone number. It shall be the duty of a juvenile court intake officer to advise the victim
 4968 of his or her right to notification and of the requirement of the victim to provide a primary
 4969 and personal telephone number to which such notification shall be directed.

4970 Part 4

4971 15-11-510.

4972 (a) If an alleged delinquent child has not been detained after the filing of a complaint, he
 4973 or she shall be promptly referred to intake or given a date for arraignment.

4974 (b) At intake, the court, the juvenile court intake officer, or other officer designated by the
 4975 court shall inform a child of:

- 4976 (1) The contents of the complaint;
4977 (2) The nature of the proceedings;
4978 (3) The possible consequences or dispositions that may apply to such child's case
4979 following adjudication; and
4980 (4) His or her due process rights, including the right to an attorney and to an appointed
4981 attorney; the privilege against self-incrimination; that he or she may remain silent and
4982 that anything said may be used against him or her; the right to confront anyone who
4983 testifies against him or her and to cross-examine any persons who appear to testify
4984 against him or her; the right to testify and to compel other witnesses to attend and testify
4985 in his or her own behalf; the right to a speedy adjudication hearing; and the right to
4986 appeal and be provided with a transcript for such purpose.
- 4987 (c) A juvenile court intake officer may elect to pursue a case through informal adjustment
4988 or other nonadjudicatory procedure in accordance with the provisions of Code Section
4989 15-11-515.
- 4990 (d) If a case is to be prosecuted further and handled other than by informal adjustment or
4991 other nonadjudicatory procedure, a referral shall be made to the prosecuting attorney and
4992 a petition for delinquency shall be filed within 30 days of the filing of a complaint.
- 4993 15-11-511.
- 4994 (a) At arraignment, the court shall inform a child of:
4995 (1) The contents of the petition alleging delinquency;
4996 (2) The nature of the proceedings;
4997 (3) The possible consequences or dispositions that may apply to such child's case
4998 following adjudication; and
4999 (4) His or her due process rights, including the right to an attorney and to an appointed
5000 attorney; the privilege against self-incrimination; that he or she may remain silent and
5001 that anything said may be used against him or her; the right to confront anyone who
5002 testifies against him or her and to cross-examine any persons who appear to testify
5003 against him or her; the right to testify and to compel other witnesses to attend and testify
5004 in his or her own behalf; the right to a speedy adjudication hearing; and the right to
5005 appeal and be provided with a transcript for such purpose.
- 5006 (b) The court may accept an admission at arraignment and may proceed immediately to
5007 disposition if a child is represented by counsel at arraignment or if a child has waived the
5008 right to counsel after consultation with an attorney as to the wisdom of making an
5009 admission or denial at arraignment. Otherwise, a child may make a preliminary statement
5010 indicating whether he or she plans to admit or deny the allegations of the complaint at the
5011 adjudication hearing, but the court shall not accept an admission from a child who is

5012 unrepresented by counsel or who has not otherwise consulted with an attorney and waived
5013 the right to counsel at arraignment.

5014 Part 5

5015 15-11-515.

5016 (a) Before a petition for informal adjustment is filed, a probation officer or other officer
5017 designated by the court, subject to the court's direction, may inform the parties of informal
5018 adjustment if it appears that:

5019 (1) The admitted facts bring the case within the jurisdiction of the court;

5020 (2) Counsel and advice without an adjudication would be in the best interests of the
5021 public and a child, taking into account at least the following factors:

5022 (A) The nature of the alleged offense;

5023 (B) The age and individual circumstances of such child;

5024 (C) Such child's prior record, if any;

5025 (D) Recommendations for informal adjustment made by the complainant or the victim;
5026 and

5027 (E) Services to meet such child's needs and problems may be unavailable within the
5028 formal court system or may be provided more effectively by alternative community
5029 programs; and

5030 (3) A child and his or her parent, guardian, or legal custodian consent with knowledge
5031 that consent is not obligatory.

5032 (b) The giving of counsel and advice shall not extend beyond three months unless
5033 extended by the court for an additional period not to exceed three months and shall not
5034 authorize the detention of a child if not otherwise permitted by this article.

5035 (c) An incriminating statement made by a participant in an informal adjustment to the
5036 person giving counsel or advice and in the discussion or conferences incident thereto shall
5037 not be used against the declarant over objection in any hearing except in a hearing on
5038 disposition in a juvenile court proceeding or in a criminal proceeding upon conviction for
5039 the purpose of a presentence investigation.

5040 (d) If a child is alleged to have committed a class A designated felony act or class B
5041 designated felony act, the case shall not be subject to informal adjustment, counsel, or
5042 advice without the prior consent of the district attorney or his or her authorized
5043 representative.

Part 6

5044

5045 15-11-520.5046 A petition alleging delinquency shall be filed by an attorney.5047 15-11-521.

5048 (a) If a child is in detention prior to adjudication, a petition alleging delinquency shall be
5049 filed not later than 72 hours after the detention hearing. If no petition alleging delinquency
5050 is filed within the applicable time, such child shall be released.

5051 (b) If a child is not in detention prior to adjudication, a petition alleging delinquency shall
5052 be filed within 30 days of the filing of the complaint alleging violation of a criminal law
5053 or within 30 days of such child's release pursuant to a determination that detention is not
5054 warranted.

5055 15-11-522.

5056 A petition alleging delinquency shall be verified and may be on information and belief. It
5057 shall set forth plainly and with particularity:

5058 (1) The facts which bring a child within the jurisdiction of the court, with a statement
5059 that it is in the best interests of such child and the public that the proceeding be brought
5060 and that such child is in need of supervision, treatment, or rehabilitation, as the case may
5061 be;

5062 (2) The name, age, and residence address of such child on whose behalf such petition is
5063 brought;

5064 (3) The name and residence address of such child's parent, guardian, or legal custodian;
5065 or, if such child's parent, guardian, or legal custodian does not reside or cannot be found
5066 within this state or if such place of residence address is unknown, the name of any of such
5067 child's known adult relative residing within the county or, if there is none, such child's
5068 known adult relative residing nearest to the location of the court;

5069 (4) If a child is in custody, the place of his or her detention and the time such child was
5070 taken into custody;

5071 (5) If a child is being charged with a class A designated felony act or class B designated
5072 felony act; and

5073 (6) Whether any of the information required by this Code section is unknown.

5074 15-11-523.

5075 (a) A prosecuting attorney may amend a petition alleging delinquency at any time prior
5076 to the commencement of the adjudication hearing. However, if an amendment is made, a

5077 child may request a continuance of his or her adjudication hearing. A continuance may be
5078 granted by the court for such period as required in the interest of justice.

5079 (b) When a petition alleging delinquency is amended to include material changes to the
5080 allegations or new charges of delinquency for adjudication, the petition shall be served in
5081 accordance with Code Sections 15-11-530 and 15-11-531.

5082 (c) After jeopardy attaches, a petition alleging delinquency shall not be amended to include
5083 new charges of delinquency.

5084 Part 7

5085 15-11-530.

5086 (a) The court shall direct the issuance of a summons to a child and his or her parent,
5087 guardian, or legal custodian requiring them to appear before the court at the time fixed to
5088 answer the allegations of a petition alleging delinquency. A copy of the petition shall
5089 accompany the summons.

5090 (b) The summons shall state that a party shall be entitled to have an attorney in the
5091 proceedings and that the court will appoint an attorney if the party is an indigent person.

5092 15-11-531.

5093 (a) If a party to be served with a summons is within this state and can be found, the
5094 summons shall be served upon him or her personally as soon as possible and at least 24
5095 hours before the adjudication hearing.

5096 (b) If a party to be served is within this state and cannot be found but his or her address is
5097 known or can be ascertained with due diligence, the summons shall be served upon such
5098 party at least five days before the adjudication hearing by mailing him or her a copy by
5099 registered or certified mail or statutory overnight delivery, return receipt requested.

5100 (c) If an individual to be served is outside this state but his or her address is known or can
5101 be ascertained with due diligence, notice of the summons shall be made at least five days
5102 before the adjudication hearing either by delivering a copy to such party personally or by
5103 mailing a copy to him or her by registered or certified mail or statutory overnight delivery,
5104 return receipt requested.

5105 (d) Service of the summons may be made by any suitable person under the direction of the
5106 court.

5107 (e) The court may authorize payment from county funds of the costs of service and of
5108 necessary travel expenses incurred by persons summoned or otherwise required to appear
5109 at the hearing.

5110 15-11-532.

5111 (a) In the event a child's parent, guardian, or legal custodian willfully fails to appear
5112 personally at a hearing on a petition alleging delinquency after being ordered to so appear
5113 or a child's parent, guardian, or legal custodian willfully fails to bring such child to a
5114 hearing after being so directed, the court may issue a rule nisi against the person directing
5115 the person to appear before the court to show cause why he or she should not be held in
5116 contempt of court.

5117 (b) If a parent, guardian, or legal custodian of the alleged delinquent child fails to appear
5118 in response to an order to show cause, the court may issue a bench warrant directing that
5119 such parent, guardian, or legal custodian be brought before the court without delay to show
5120 cause why he or she should not be held in contempt and the court may enter any order
5121 authorized by the provisions of Code Section 15-11-31.

5122 (c) If a child 16 years of age or older fails to appear at a hearing on a petition alleging
5123 delinquency after being ordered to so appear, the court may issue a bench warrant requiring
5124 that such child be brought before the court without delay and the court may enter any order
5125 authorized by the provisions of Code Section 15-11-31.

5126 (d) If there is sworn testimony that a child 14 years of age but not yet 16 years of age
5127 willfully refuses to appear at a hearing on a petition alleging delinquency after being
5128 ordered to so appear, the court may issue a bench warrant requiring that such child be
5129 brought before the court and the court may enter any order authorized by the provisions of
5130 Code Section 15-11-31.

5131 Part 8

5132 15-11-540.

5133 A delinquency petition shall be dismissed by the court upon the motion of the prosecuting
5134 attorney setting forth that there is not sufficient evidence to warrant further proceedings.

5135 15-11-541.

5136 (a) Except as limited by subsection (d) of Code Section 15-11-542, in all cases in which
5137 a child is charged with having committed a delinquent act, such child shall, upon filing a
5138 motion for discovery with the court and serving a copy of the motion to the prosecuting
5139 attorney, have full access to the following for inspection, copying, or photographing:

5140 (1) A copy of the complaint;

5141 (2) A copy of the petition for delinquency;

5142 (3) The names and last known addresses and telephone numbers of each witness to the
5143 occurrence which forms the basis of the charge;

- 5144 (4) A copy of any written statement made by such child or any witness that relates to the
5145 testimony of a person whom the prosecuting attorney intends to call as a witness;
- 5146 (5) A copy of any written statement made by any alleged coparticipant which the
5147 prosecuting attorney intends to use at a hearing;
- 5148 (6) Transcriptions, recordings, and summaries of any oral statement of such child or of
5149 any witness, except attorney work product;
- 5150 (7) Any scientific or other report which is intended to be introduced at the hearing or that
5151 pertains to physical evidence which is intended to be introduced;
- 5152 (8) Photographs and any physical evidence which are intended to be introduced at the
5153 hearing; and
- 5154 (9) Copies of the police incident report and supplemental report, if any, regarding the
5155 occurrence which forms the basis of the charge.
- 5156 (b) The prosecuting attorney shall disclose all evidence, known or that may become known
5157 to him or her, favorable to such child and material either to guilt or punishment.
- 5158 (c) If a child requests disclosure of information pursuant to subsection (a) of this Code
5159 section, it shall be the duty of such child to promptly make the following available for
5160 inspection, copying, or photographing to the prosecuting attorney:
- 5161 (1) The names and last known addresses and telephone numbers of each witness to the
5162 occurrence which forms the basis of the defense;
- 5163 (2) Any scientific or other report which is intended to be introduced at the hearing or that
5164 pertains to physical evidence which is intended to be introduced;
- 5165 (3) Photographs and any physical evidence which he or she intends to introduce at the
5166 hearing; and
- 5167 (4) A copy of any written statement made by any witness that relates to the testimony of
5168 a person whom the child intends to call as a witness.
- 5169 (d) A request for discovery or reciprocal discovery shall be complied with promptly and
5170 not later than 48 hours prior to the adjudication hearing, except when later compliance is
5171 made necessary by the timing of the request. If the request for discovery is made fewer
5172 than 48 hours prior to the adjudication hearing, the discovery response shall be produced
5173 in a timely manner.
- 5174 (e) Any material or information furnished to a child pursuant to a discovery request shall
5175 remain in the exclusive custody of such child and shall only be used during the pendency
5176 of the case and shall be subject to such other terms and conditions as the court may
5177 provide.

5178 15-11-542.

5179 (a) If a request for discovery is refused, application may be made to the court for a written
5180 order granting discovery.

5181 (b) Motions to compel discovery shall certify that a request for discovery was made and
5182 was refused.

5183 (c) An order granting discovery shall require reciprocal discovery.

5184 (d) The court may deny, in whole or in part, or otherwise limit or set conditions concerning
5185 discovery upon sufficient showing by a person or entity to whom a request for discovery
5186 is made that disclosure of the information would:

5187 (1) Jeopardize the safety of a party, witness, or confidential informant;

5188 (2) Create a substantial threat of physical or economic harm to a witness or other person;

5189 (3) Endanger the existence of physical evidence;

5190 (4) Disclose privileged information; or

5191 (5) Impede the criminal prosecution of a child who is being prosecuted as an adult or the
5192 prosecution of an adult charged with an offense arising from the same transaction or
5193 occurrence.

5194 15-11-543.

5195 (a) Upon written request by a prosecuting attorney stating the time, date, and place at
5196 which the alleged delinquent act was committed, a child shall serve upon the prosecuting
5197 attorney a written notice of his or her intention to offer a defense of alibi.

5198 (b) A notice to offer an alibi defense shall state the specific place or places at which a child
5199 claims to have been at the time of the alleged delinquent act and the names, addresses,
5200 dates of birth, and telephone numbers of the witnesses, if known to the child, upon whom
5201 such child intends to rely to establish his or her alibi, unless previously supplied.

5202 (c) A request for alibi evidence shall be complied with promptly and not later than 48
5203 hours prior to the adjudication hearing, except when later compliance is made necessary
5204 by the timing of the request. If the request for alibi evidence is made fewer than 48 hours
5205 prior to the adjudication hearing, the alibi evidence shall be produced in a timely manner.

5206 (d) If a child withdraws his or her notice of intention to rely upon an alibi defense, the
5207 notice and intention to rely upon an alibi defense shall not be admissible; provided,
5208 however, that a prosecuting attorney or entity prosecuting the case may offer any other
5209 evidence regarding alibi.

5210 (e) A prosecuting attorney shall serve upon a child a written notice stating the names,
5211 addresses, dates of birth, and telephone numbers of the witnesses, if known to the state,
5212 upon whom the state intends to rely to rebut such child's evidence of alibi, unless
5213 previously supplied.

5214 15-11-544.

5215 If, subsequent to providing a discovery response, the existence of additional evidence is
5216 found, it shall be promptly provided to the state or child making the discovery request.

5217 15-11-545.

5218 Nothing contained in the provisions governing discovery procedure under this part shall
5219 prohibit the court from ordering the disclosure of any information that the court deems
5220 necessary and appropriate for proper adjudication.

5221 15-11-546.

5222 If at any time during the course of the proceedings it is brought to the attention of the court
5223 that a person or entity has failed to comply with a discovery request, the court may grant
5224 a continuance, prohibit the party from introducing in evidence the information not
5225 disclosed, or enter such other order as the court deems just under the circumstances.

5226 Part 9

5227 15-11-560.

5228 (a) Except as provided in subsection (b) of this Code section, the court shall have
5229 concurrent jurisdiction with the superior court over a child who is alleged to have
5230 committed a delinquent act which would be considered a crime if tried in a superior court
5231 and for which an adult may be punished by loss of life, imprisonment for life without
5232 possibility of parole, or confinement for life in a penal institution.

5233 (b) The superior court shall have exclusive original jurisdiction over the trial of any child
5234 13 to 17 years of age who is alleged to have committed any of the following offenses:

5235 (1) Murder;

5236 (2) Voluntary manslaughter;

5237 (3) Rape;

5238 (4) Aggravated sodomy;

5239 (5) Aggravated child molestation;

5240 (6) Aggravated sexual battery; or

5241 (7) Armed robbery if committed with a firearm.

5242 (c) The granting of bail or pretrial release of a child charged with an offense enumerated
5243 in subsection (b) of this Code section shall be governed by the provisions of Code Section
5244 17-6-1.

5245 (d) At any time before indictment, the district attorney may, after investigation and for
5246 cause, decline prosecution in the superior court of a child 13 to 17 years of age alleged to

5247 have committed an offense specified in subsection (b) of this Code section. Upon declining
5248 such prosecution in the superior court, the district attorney shall immediately cause a
5249 petition to be filed in the appropriate juvenile court for adjudication. Except as provided
5250 in paragraph (8) of subsection (b) of Code Section 15-11-602, any case transferred by the
5251 district attorney to the juvenile court pursuant to this subsection shall be subject to the class
5252 A designated felony act provisions of Code Section 15-11-602, and the transfer of the case
5253 from superior court to juvenile court shall constitute notice to such child that such case is
5254 subject to the class A designated felony act provisions of Code Section 15-11-602.

5255 (e) After indictment, the superior court may after investigation and for extraordinary cause
5256 transfer to the juvenile court any case involving a child 13 to 17 years of age alleged to
5257 have committed voluntary manslaughter. Any such transfer shall be appealable by the
5258 State of Georgia pursuant to Code Section 5-7-1. Upon such a transfer by the superior
5259 court, jurisdiction shall vest in the juvenile court and jurisdiction of the superior court shall
5260 terminate. Except as provided in paragraph (8) of subsection (b) of Code Section
5261 15-11-602, any case transferred by the superior court to the juvenile court pursuant to this
5262 subsection shall be subject to the class A designated felony act provisions of Code Section
5263 15-11-602, and the transfer of the case from superior court to juvenile court shall constitute
5264 notice to such child that such case is subject to the class A designated felony act provisions
5265 of Code Section 15-11-602.

5266 (f) The superior court may transfer any case involving a child 13 to 17 years of age alleged
5267 to have committed any offense enumerated in subsection (b) of this Code section and
5268 convicted of a lesser included offense not included in subsection (b) of this Code section
5269 to the juvenile court of the county of such child's residence for disposition. Upon such a
5270 transfer by the superior court, jurisdiction shall vest in the juvenile court and jurisdiction
5271 of the superior court shall terminate.

5272 (g) Within 30 days of any proceeding in which a child 13 to 17 years of age is convicted
5273 of certain offenses over which the superior court has original jurisdiction as provided in
5274 subsection (b) of this Code section or adjudicated as a delinquent child on the basis of
5275 conduct which if committed by an adult would constitute such offenses, the superior court
5276 shall provide written notice to the school superintendent or his or her designee of the school
5277 in which such child is enrolled or, if the information is known, of the school in which such
5278 child plans to be enrolled at a future date. Such notice shall include the specific criminal
5279 offense that such child committed. The local school system to which such child is assigned
5280 may request further information from the court's file.

5281 15-11-561.

5282 (a) After a petition alleging delinquency has been filed but before the adjudication hearing,
5283 on its own motion or on a motion by a prosecuting attorney, the court may convene a
5284 hearing to determine whether to transfer the offense to the appropriate superior court for
5285 criminal trial if the court determines that:

5286 (1) There is probable cause to believe that a child committed the alleged offense;

5287 (2) Such child is not committable to an institution for the developmentally disabled or
5288 mentally ill; and

5289 (3) The petition alleges that such child:

5290 (A) Was at least 15 years of age at the time of the commission of the offense and
5291 committed an act which would be a felony if committed by an adult; or

5292 (B) Was 13 or 14 years of age and either committed an act for which the punishment
5293 is loss of life or confinement for life in a penal institution or committed aggravated
5294 battery resulting in serious bodily injury to a victim.

5295 (b) At least three days prior to the scheduled transfer hearing, written notice shall be given
5296 to a child and his or her parent, guardian, or legal custodian. The notice shall contain a
5297 statement that the purpose of the hearing is to determine whether such child is to be tried
5298 in the juvenile court or transferred for trial as an adult in superior court. A child may
5299 request and the court shall grant a continuance to prepare for the transfer hearing.

5300 (c) After consideration of a probation report, risk assessment, and any other evidence the
5301 court deems relevant, including any evidence offered by a child, the court may determine
5302 that because of the seriousness of the offense or such child's prior record, the welfare of the
5303 community requires that criminal proceedings against such child be instituted.

5304 (d) No child, either before or after reaching 17 years of age, shall be prosecuted in superior
5305 court for an offense committed before the child turned 17, unless the case has been
5306 transferred as provided in this part. In addition, no child shall be subject to criminal
5307 prosecution at any time for an offense arising out of a criminal transaction for which the
5308 juvenile court retained jurisdiction in its transfer order.

5309 15-11-562.

5310 (a) The criteria which the court shall consider in determining whether to transfer an alleged
5311 delinquent child as set forth in subsection (b) of Code Section 15-11-560 to superior court
5312 includes, but shall not be limited to:

5313 (1) The age of such child;

5314 (2) The seriousness of the alleged offense, especially if personal injury resulted;

5315 (3) Whether the protection of the community requires transfer of jurisdiction;

- 5316 (4) Whether the alleged offense involved violence or was committed in an aggressive or
5317 premeditated manner;
- 5318 (5) The culpability of such child including such child's level of planning and
5319 participation in the alleged offense;
- 5320 (6) Whether the alleged offense is a part of a repetitive pattern of offenses which
5321 indicates that such child may be beyond rehabilitation in the juvenile justice system;
- 5322 (7) The record and history of such child, including experience with the juvenile justice
5323 system, other courts, supervision, commitments to juvenile institutions, and other
5324 placements;
- 5325 (8) The sophistication and maturity of such child as determined by consideration of his
5326 or her home and environmental situation, emotional condition, and pattern of living;
- 5327 (9) The program and facilities available to the juvenile court in considering disposition;
5328 and
- 5329 (10) Whether or not a child can benefit from the treatment or rehabilitative programs
5330 available to the juvenile court.
- 5331 (b) A probation officer shall prepare a written report developing fully all available
5332 information relevant to the transfer criteria. A probation officer shall submit such report
5333 to the parties and the court as soon as practicable but not later than 24 hours before the
5334 scheduled hearing. The child subject to transfer and the prosecuting attorney shall have the
5335 right to review such report and cross-examine the individual making such report.
- 5336 (c) The court may order a transfer evaluation of a child's clinical status as it may impact
5337 the criteria in subsection (a) of this Code section. Statements made by a child in a transfer
5338 evaluation shall only be admissible into evidence in an adjudication hearing or in a criminal
5339 proceeding as provided by Code Sections 15-11-479 and 15-11-563.
- 5340 15-11-563.
- 5341 Statements made by a child at a transfer hearing shall not be admissible against such child
5342 over objection in a criminal proceedings if transfer is ordered except as impeachment or
5343 rebuttal evidence.
- 5344 15-11-564.
- 5345 (a) The decision of the court regarding transfer of the case shall only be an interlocutory
5346 judgment which either a child or the prosecuting attorney, or both, have the right to have
5347 reviewed by the Court of Appeals.
- 5348 (b) The pendency of an interlocutory appeal shall stay criminal proceedings in superior
5349 court. A child transferred for trial as an adult in superior court shall be detained only in

5350 those places authorized for the preadjudication detention of a child as set forth in Code
5351 Section 15-11-504.

5352 15-11-565.

5353 (a) Prior to the entry of a judgment ordering a child's transfer or during the pendency of
5354 an appeal of a judgment ordering a child's transfer, such child shall be detained only in
5355 those places authorized for the preadjudication detention of a child as set forth in Code
5356 Section 15-11-504.

5357 (b) After the entry of a judgment ordering transfer, a child shall be detained only in those
5358 places authorized for the detention of a child until such child, as set forth in Code Section
5359 15-11-34, reaches 17 years of age.

5360 15-11-566.

5361 (a) If the court decides to transfer a child for trial in superior court, it shall dismiss the
5362 juvenile court petition alleging delinquency, set forth the offense or offenses which are
5363 being transferred, and make the following findings of fact in its dismissal order:

5364 (1) That the court had jurisdiction of the cause and the parties;
5365 (2) That the child subject to transfer was represented by an attorney; and
5366 (3) That the hearing was held in the presence of the child subject to transfer and his or
5367 her attorney.

5368 (b) The dismissal order shall also recount the reasons underlying the decision to transfer
5369 jurisdiction.

5370 (c) A dismissal of the petition alleging delinquency terminates the jurisdiction of the
5371 juvenile court over such child as to those offenses which are transferred. If the petition
5372 alleging delinquency alleges multiple offenses that constitute a single criminal transaction,
5373 the court shall either retain or transfer all offenses relating to a single criminal transaction.

5374 (d) Once juvenile court jurisdiction is terminated, the superior court shall retain
5375 jurisdiction even though, thereafter, a child pleads guilty to, or is convicted of, a lesser
5376 included offense. The plea to, or conviction of, a lesser included offense shall not revest
5377 juvenile jurisdiction over such child.

5378 (e) A copy of the petition alleging delinquency and order of dismissal shall be sent to the
5379 district attorney of the judicial circuit in which the proceeding is taking place.

5380 (f) If the court decides not to transfer a child for trial in superior court, it shall set a date
5381 for an adjudication hearing in juvenile court on the petition alleging delinquency.

5382 15-11-567.

5383 (a) Except in those cases in which the superior court has exclusive original jurisdiction or
5384 juvenile court jurisdiction has been terminated and the child has been transferred to
5385 superior court, if it appears to any court in a criminal proceeding or a quasi-criminal
5386 proceeding that the accused is a child, the case shall forthwith be transferred to the juvenile
5387 court together with a copy of the accusatory pleading and all other papers, documents, and
5388 transcripts of testimony relating to the case.

5389 (b) The transferring court shall order that a child be taken forthwith to the juvenile court
5390 or to a place of detention designated by the court or shall release him or her to the custody
5391 of his or her parent, guardian, legal custodian, or other person legally responsible for him
5392 or her to be brought before the juvenile court at a time designated by that court. The
5393 accusatory pleading may not serve in lieu of a petition alleging delinquency in the juvenile
5394 court.

5395 Part 10

5396 15-11-580.

5397 (a) At the commencement of the adjudication hearing, the court shall address the alleged
5398 delinquent child, in language understandable to the child, and determine whether such child
5399 is capable of understanding statements about his or her rights under this article.

5400 (b) If a child is capable, the court shall inquire how he or she responds to the allegations
5401 of the delinquency petition. The child may:

5402 (1) Deny the allegations of such petition, in which case the court shall proceed to hear
5403 evidence on such petition; or

5404 (2) Admit the allegations of such petition, in which case the court shall further inquire
5405 to determine whether there is a factual basis for adjudication. If so, the court may then
5406 adjudge such child to have committed a delinquent act.

5407 (c) If a child stands mute, refuses to answer, or answers evasively, the court shall enter a
5408 denial of the allegations.

5409 15-11-581.

5410 The state shall have the burden of proving the allegations of a delinquency petition beyond
5411 a reasonable doubt.

5412 15-11-582.

5413 (a) The court shall fix a time for the adjudication hearing. If an alleged delinquent child
5414 is in detention, the hearing shall be scheduled to be held no later than ten days after the

5415 filing of the delinquency petition. If a child is not in detention, the hearing shall be
5416 scheduled to be held no later than 60 days after the filing of such petition.

5417 (b) Adjudication hearings shall be conducted:

5418 (1) By the court without a jury;

5419 (2) In accordance with Titles 17 and 24; and

5420 (3) In language understandable to the child subject to the delinquency petition and
5421 participants, to the fullest extent practicable.

5422 (c) The court shall determine if the allegations of the petition alleging delinquency are
5423 admitted or denied in accordance with the provisions of Code Section 15-11-580.

5424 (d) After hearing all of the evidence, the court shall make and record its findings on
5425 whether the delinquent acts ascribed to a child were committed by such child. If the court
5426 finds that the allegations of delinquency have not been established, it shall dismiss the
5427 delinquency petition and order such child be released from any detention or legal custody
5428 imposed in connection with the proceedings.

5429 (e) The court shall make a finding that a child has committed a delinquent act based on a
5430 valid admission made in open court of the allegations of the delinquency petition or on the
5431 basis of proof beyond a reasonable doubt. If the court finds that a child has committed a
5432 delinquent act, the court may proceed immediately or at a postponed hearing to make
5433 disposition of the case.

5434 Part 11

5435 15-11-590.

5436 (a) After an adjudication that a child has committed a delinquent act, the court may direct
5437 that a written predisposition investigation report be prepared by the probation officer or
5438 other person designated by the court.

5439 (b) A predisposition investigation report shall contain such information about the
5440 characteristics, family, environment, and the circumstances affecting the child who is the
5441 subject of the report as the court determines may be helpful in its determination of the need
5442 for treatment or rehabilitation and a proper disposition of the case, including but not limited
5443 to:

5444 (1) A summary of the facts of the conduct of such child that led to the adjudication;

5445 (2) The sophistication and maturity of such child;

5446 (3) A summary of such child's home environment, family relationships, and background;

5447 (4) A summary of such child's prior contacts with the juvenile court and law enforcement
5448 agencies, including the disposition following each contact and the reasons therefor;

- 5449 (5) A summary of such child's educational status, including, but not limited to, his or her
 5450 strengths, abilities, and special educational needs. The report shall identify appropriate
 5451 educational and vocational goals for such child. Examples of appropriate goals include:
 5452 (A) Attainment of a high school diploma or its equivalent;
 5453 (B) Successful completion of literacy courses;
 5454 (C) Successful completion of vocational courses;
 5455 (D) Successful attendance and completion of such child's current grade if enrolled in
 5456 school; or
 5457 (E) Enrollment in an apprenticeship or a similar program;
 5458 (6) A summary of the results and recommendations of any of such child's significant
 5459 physical and mental examinations;
 5460 (7) The seriousness of the offense to the community;
 5461 (8) The nature of the offense; and
 5462 (9) Whether the offense was against persons or against property.
 5463 (c) If the court has ordered a child's physical or mental examination to be conducted, the
 5464 report shall include a copy of the results of the examination.
 5465 (d) If the court has ordered a risk assessment for a child, that assessment shall be included
 5466 in the predisposition investigation report.
 5467 (e) All information shall be presented in a concise and factual manner. The report shall
 5468 indicate the sources of information in the report.
 5469 (f) The original report and any other material to be disclosed shall be furnished to the
 5470 court, and copies shall be furnished to the attorney for the child who is the subject of such
 5471 report and to the prosecuting attorney at least five days prior to the disposition hearing.

5472 Part 12

- 5473 15-11-600.
 5474 (a) After a finding that a child has committed a delinquent act, the court shall hear
 5475 evidence on whether such child is in need of treatment, rehabilitation, or supervision and
 5476 shall make and file its findings.
 5477 (b) The court may proceed immediately to the disposition hearing after the adjudication
 5478 hearing or conduct the disposition hearing within 30 days of the adjudication hearing. The
 5479 disposition hearing may occur later than 30 days after the adjudication hearing only if the
 5480 court makes and files written findings of fact explaining the need for delay.
 5481 (c) In the absence of evidence to the contrary, evidence sufficient to warrant a finding that
 5482 felony acts have been committed shall also be sufficient to sustain a finding that the child
 5483 is in need of treatment or rehabilitation.

5484 (d) If the court finds that a child who committed a delinquent act is not in need of
5485 treatment, rehabilitation, or supervision, it shall dismiss the proceeding and discharge such
5486 child from any detention or other restriction previously ordered.

5487 (e) If the court finds that a child who committed a delinquent act is in need of supervision
5488 but not of treatment or rehabilitation, it shall find that such child is a child in need of
5489 services and enter any disposition authorized by Code Section 15-11-442.

5490 (f) The court may consider any evidence, including hearsay evidence, that the court finds
5491 to be relevant, reliable, and necessary to determine the needs of a child who committed a
5492 delinquent act and the most appropriate disposition.

5493 (g)(1) Prior to the disposition hearing, and upon request, the parties and their attorneys
5494 shall be afforded an opportunity to examine any written reports received by the court.

5495 (2) Portions of written reports not relied on by the court in reaching its decision which
5496 if revealed would be prejudicial to the interests of any party to the proceeding, or reveal
5497 confidential sources, may be withheld in the court's discretion.

5498 (3) Parties and their attorneys shall be given the opportunity to controvert written reports
5499 received by the court and to cross-examine individuals making such reports.

5500 (h) In scheduling investigations and hearings, the court shall give priority to proceedings
5501 in which a child is in detention or has otherwise been removed from his or her home.

5502 15-11-601.

5503 (a) At the conclusion of the disposition hearing, if a child who committed a delinquent act
5504 is determined to be in need of treatment or rehabilitation, then after considering the results
5505 of such child's risk assessment if the court is contemplating placing such child in restrictive
5506 custody, the court shall enter the least restrictive disposition order appropriate in view of
5507 the seriousness of the delinquent act, such child's culpability as indicated by the
5508 circumstances of the particular case, the age of such child, such child's prior record, and
5509 such child's strengths and needs. The court may make any of the following orders of
5510 disposition, or combination of them, best suited to such child's treatment, rehabilitation,
5511 and welfare:

5512 (1) Any order authorized for the disposition of a dependent child other than placement
5513 in the temporary custody of DFCS unless such child is also adjudicated as a dependent
5514 child;

5515 (2) An order requiring such child and his or her parent, guardian, or legal custodian to
5516 participate in counseling or in counsel and advice. Such counseling and counsel and
5517 advice may be provided by the court, court personnel, probation officers, professional
5518 counselors or social workers, psychologists, physicians, physician assistants, qualified
5519 volunteers, or appropriate public, private, or volunteer agencies and shall be designed to

5520 assist in deterring future delinquent acts or other conduct or conditions which would be
5521 harmful to such child or society;
5522 (3) An order placing such child on probation under conditions and limitations the court
5523 prescribes and which may include the probation management program. The court may
5524 place such child on probation under the supervision of:
5525 (A) A probation officer of the court or the court of another state;
5526 (B) Any public agency authorized by law to receive and provide care for such child;
5527 or
5528 (C) Any community rehabilitation center if its chief executive officer has
5529 acknowledged in writing its willingness to accept the responsibility for the supervision
5530 of such child;
5531 (4) An order placing a child on unsupervised probation under conditions and limitations
5532 the court prescribes;
5533 (5) In any case in which such child who has not achieved a high school diploma or the
5534 equivalent is placed on probation, the court shall consider and may order as a condition
5535 of probation that he or she pursue a course of study designed to lead to achieving a high
5536 school diploma or the equivalent;
5537 (6) An order requiring that such child perform community service in a manner prescribed
5538 by the court and under the supervision of an individual designated by the court;
5539 (7) An order requiring that such child make restitution. Such order may remain in force
5540 and effect simultaneously with another order of the court, including but not limited to an
5541 order of commitment to DJJ. However, no order of restitution shall be enforced while
5542 such child is at a secure residential facility or nonsecure residential facility unless the
5543 commissioner of juvenile justice certifies that a restitution program is available at such
5544 facility. Payment of funds shall be made by such child or his or her family or employer
5545 directly to the clerk of the juvenile court entering the order or to another employee of
5546 such court designated by the judge, and that court shall disburse such funds in the manner
5547 authorized in the order. While an order requiring restitution is in effect, the court may
5548 transfer enforcement of its order to:
5549 (A) DJJ;
5550 (B) The juvenile court of the county of such child's residence and its probation staff,
5551 if he or she changes his or her place of residence; or
5552 (C) The superior court once such child reaches 17 years of age if he or she thereafter
5553 comes under the jurisdiction of such court;
5554 (8) An order requiring such child remit to the general fund of the county a sum not to
5555 exceed the maximum fine applicable to an adult for commission of any of the following
5556 offenses:

- 5557 (A) Any felony in the commission of which a motor vehicle is used;
 5558 (B) Driving under the influence of alcohol or drugs;
 5559 (C) Driving without proof of minimum required motor vehicle insurance;
 5560 (D) Fraudulent or fictitious use of a driver's license;
 5561 (E) Hit and run or leaving the scene of an accident;
 5562 (F) Homicide by vehicle;
 5563 (G) Manslaughter resulting from the operation of a motor vehicle;
 5564 (H) Possession of controlled substances or marijuana;
 5565 (I) Racing on highways or streets;
 5566 (J) Using a motor vehicle in fleeing or attempting to elude an officer; or
 5567 (K) Any violation of the provisions contained in Title 40 which is properly adjudicated
 5568 as a delinquent act;
- 5569 (9) An order suspending such child's driver's license for a period not to exceed the date
 5570 on which he or she reaches 18 years of age or, in the case of a child who does not have
 5571 a driver's license, an order prohibiting the issuance of a driver's license to such child for
 5572 a period not to exceed the date on which he or she reaches 18 years of age. The court
 5573 shall retain the driver's license during such period of suspension and return it to such
 5574 child at the end of such period. The court shall notify the Department of Driver Services
 5575 of any actions taken pursuant to this paragraph;
- 5576 (10) An order placing such child in an institution, camp, or other facility for delinquent
 5577 children operated under the direction of the court or other local public authority only if
 5578 such child was adjudicated for a delinquent act involving:
- 5579 (A) An offense that would be a felony if committed by an adult; or
 5580 (B) An offense that would be a misdemeanor if committed by an adult and such child
 5581 has had at least one prior adjudication for an offense that would be a felony if
 5582 committed by an adult and at least three other prior adjudications for a delinquent act;
 5583 or
- 5584 (11) With the same exceptions as set forth in subparagraphs (A) and (B) of
 5585 paragraph (10) of this subsection, an order committing such child to DJJ.
- 5586 (b)(1) This subsection shall apply to cases involving:
- 5587 (A) An offense that would be a felony if committed by an adult; or
 5588 (B) An offense that would be a misdemeanor if committed by an adult and such child
 5589 has had at least one prior adjudication for an offense that would be a felony if
 5590 committed by an adult and at least three other prior adjudications for a delinquent act.
- 5591 (2) In addition to any other treatment or rehabilitation, the court may order such child to
 5592 serve up to a maximum of 30 days in a secure residential facility or, after a risk

5593 assessment and with the court's approval, in a treatment program provided by DJJ or the
 5594 juvenile court.

5595 (c) Any child ordered to a secure residential facility under subsection (b) of this Code
 5596 section and detained after the adjudication hearing in a secure residential facility or
 5597 nonsecure residential facility pending placement in a secure residential facility shall be
 5598 given credit for time served in a secure residential facility or nonsecure residential facility
 5599 awaiting placement.

5600 (d) A child shall be given adequate information concerning the obligations and conditions
 5601 imposed upon him or her by the disposition ordered by the court and the consequences of
 5602 failure to meet such obligations and conditions. Such information shall be given in terms
 5603 understandable to a child to enable such child to conform his or her conduct to the
 5604 requirements of the disposition.

5605 15-11-602.

5606 (a) When a child is adjudicated to have committed a class A designated felony act or
 5607 class B designated felony act, the order of disposition shall be made within 20 days of the
 5608 conclusion of the disposition hearing. The court may make one of the following orders of
 5609 disposition best suited to provide for the rehabilitation of such child and the protection of
 5610 the community:

5611 (1) Any order authorized by Code Section 15-11-601, if the court finds that placement
 5612 in restrictive custody is not required; or

5613 (2) An order placing such child in restrictive custody for up to 60 months for a class A
 5614 designated felony act and for up to 36 months for a class B designated felony act.

5615 (b) Every order shall include a finding, based on a preponderance of the evidence, of
 5616 whether such child requires placement in restrictive custody. If placement in restrictive
 5617 custody is ordered for a child classified as low risk, the court shall make a specific written
 5618 finding as to why placement in restrictive custody is necessary. In determining whether
 5619 placement in restrictive custody is required, the court shall consider and make specific
 5620 written findings of fact as to each of the following factors:

5621 (1) The age and maturity of such child;

5622 (2) The needs and best interests of such child;

5623 (3) The record, background, and risk level of such child as calculated by a risk
 5624 assessment, including, but not limited to, information disclosed in the probation
 5625 investigation, diagnostic assessment, school records, and dependancy records;

5626 (4) The nature and circumstances of the offense, including whether any injury involved
 5627 was inflicted by such child or another participant, the culpability of such child or another

5628 participant in planning and carrying out the offense, and the existence of any aggravating
5629 or mitigating factors;

5630 (5) The need for protection of the community;

5631 (6) The age and physical condition of the victim;

5632 (7) If the act was trafficking of substances in violation of Code Section 16-13-31 or
5633 16-13-31.1, whether the circumstances involved sale, delivery, or manufacture of the
5634 substances, and if such circumstances were not involved, the court shall dispose of the
5635 act as a class B designated felony act; and

5636 (8) If the act was aggravated child molestation and subject to the provisions of
5637 paragraph (2) of subsection (d) of Code Section 16-6-4, the court shall adjudicate the act
5638 as a delinquent act and impose a disposition in accordance with Code Section 15-11-601.

5639 (c) An order for a child adjudicated for a class A designated felony act placing such child
5640 in restrictive custody shall provide that:

5641 (1) Such child be placed in DJJ custody for an initial period of up to 60 months;

5642 (2) Such child be confined for a period set by the order in a secure residential facility,
5643 except as provided in subsection (e) of this Code section. All time spent in a secure
5644 residential facility or nonsecure residential facility shall be counted toward the period set
5645 by the order;

5646 (3) After a period of confinement set by the court, such child shall be placed under
5647 intensive supervision not to exceed 12 months;

5648 (4) Such child shall not be released from intensive supervision unless by court order; and

5649 (5) All home visits shall be carefully arranged and monitored by DJJ personnel while
5650 such child is placed in a secure residential facility or nonsecure residential facility.

5651 (d) An order for a child adjudicated for a class B designated felony act placing such child
5652 in restrictive custody shall provide that:

5653 (1) Such child be placed in DJJ custody for an initial period of up to 18 months;

5654 (2) Except as provided in subsection (e) of this Code section, if such child is classified
5655 as moderate risk or high risk, he or she be confined for a period set by the order in a
5656 secure residential facility for half of the custodial period and the other half of the period
5657 may, at the discretion of DJJ, be spent in a nonsecure residential facility. All time spent
5658 in a secure residential facility or nonsecure residential facility shall be counted toward the
5659 confinement period set by the order;

5660 (3) Except as provided in subsection (e) of this Code section, if such child is classified
5661 as low risk, he or she be confined for a period set by the order in a nonsecure residential
5662 facility. All time spent in a secure residential facility or nonsecure residential facility
5663 subsequent to the date of the disposition hearing and prior to placement in a nonsecure
5664 residential facility shall be counted toward the confinement period set by the order;

5665 (4) Such child be placed under intensive supervision not to exceed six months either after
5666 a period of confinement set by the court or as an initial period of supervision;
5667 (5) Such child shall not be released from intensive supervision unless by court order; and
5668 (6) All home visits shall be carefully arranged and monitored by DJJ personnel while a
5669 child is placed in a secure residential facility or nonsecure residential facility.
5670 (e)(1) Any child who is ordered to be confined in restrictive custody who is diagnosed
5671 with a developmental disability and is not amenable to treatment in a secure residential
5672 facility may be transferred by DJJ to a nonsecure residential facility determined to be
5673 appropriate for such child by DJJ, provided that the court and prosecuting attorney are
5674 notified of such change of placement.
5675 (2) Notwithstanding subsection (b) of this Code section, the court shall order placement
5676 in restrictive custody in any case where the child is found to have committed a class A
5677 designated felony act or class B designated felony act in which such child inflicted
5678 serious physical injury upon another person who is 72 years of age or older.
5679 (f) During a child's placement order or any extension of the placement in restrictive
5680 custody:
5681 (1) While in a secure residential facility or nonsecure residential facility, such child shall
5682 be permitted to participate in all services and programs and shall be eligible to receive
5683 special medical and treatment services, regardless of the time of confinement in such
5684 facility. A child adjudicated to have committed a class A designated felony act or class
5685 B designated felony act may be eligible to participate in programs sponsored by such
5686 facility, including community work programs and sheltered workshops under the general
5687 supervision of DJJ staff outside of such facility. In cooperation and coordination with the
5688 DJJ, such child shall be allowed to participate in state sponsored programs for evaluation
5689 and services under the Georgia Vocational Rehabilitation Agency and the Department of
5690 Behavioral Health and Developmental Disabilities;
5691 (2)(A) A child adjudicated to have committed a class A designated felony act or class
5692 B designated felony act shall not be discharged from placement in a secure residential
5693 facility or nonsecure residential facility prior to the period of time provided in the
5694 court's order except as provided in paragraph (1) of subsection (e) of this Code section
5695 or when a motion to be discharged from placement in a secure residential facility or
5696 nonsecure residential facility is granted by the court. After a court order denying a
5697 motion to discharge a child from placement in a secure residential facility or nonsecure
5698 residential facility, a subsequent such motion shall not be filed until at least six months
5699 have elapsed. Notwithstanding Code Section 15-11-32, DJJ or any party may file a
5700 motion with the court seeking a child's release from placement in a secure residential
5701 facility or nonsecure residential facility, an order modifying the court's order requiring

5702 placement in a secure residential facility or nonsecure residential facility, or termination
5703 of an order of disposition for a child committed for a class A designated felony act or
5704 class B designated felony act.

5705 (B) All motions filed under this paragraph shall be accompanied by a written
5706 recommendation for release, modification, or termination from a child's DJJ counselor
5707 or placement supervisor, filed in the court that committed such child to DJJ, and served
5708 on the prosecuting attorney for such jurisdiction.

5709 (C) At least 14 days prior to the date of the hearing on the motion, the moving party
5710 shall serve a copy of the motion, by first-class mail, upon the victim of the class A
5711 designated felony act or class B designated felony act, if any, at the victim's last known
5712 address, the child's attorney, if any, the child's parents or guardian, and the law
5713 enforcement agency that investigated the class A designated felony act or class B
5714 designated felony act. In addition to the parties to the motion, the prosecuting attorney
5715 and the victim, if any, shall have a right to be heard and to present evidence to the court
5716 relative to any motion filed pursuant to this paragraph.

5717 (D) A court hearing a motion filed under this paragraph shall determine the disposition
5718 of a child based upon a preponderance of the evidence. In determining whether a
5719 motion for release from custody, modification of placement in a secure residential
5720 facility or nonsecure residential facility, or termination of an order of disposition should
5721 be granted or denied due to changed circumstances, the court shall be required to find
5722 whether or not such child has been rehabilitated and shall consider and make specific
5723 findings of fact as to each of the following factors:

5724 (i) The needs and best interests of such child;

5725 (ii) The record and background of such child, including the disciplinary history of
5726 such child during the period of placement in a secure residential facility or nonsecure
5727 residential facility and subsequent offense history;

5728 (iii) The academic progress of such child during the period of placement in a secure
5729 residential facility or nonsecure residential facility, including, if he or she is receiving
5730 services under the federal Individuals with Disabilities Education Act or Section 504
5731 of the federal Rehabilitation Act of 1973, a review of his or her Individualized
5732 Education Program (IEP) and such child's progress toward IEP goals;

5733 (iv) The victim's impact statement submitted for purposes of a hearing conducted
5734 pursuant to this paragraph;

5735 (v) The safety risk to the community if such child is released; and

5736 (vi) Such child's acknowledgment to the court and victim, if any, of his or her
5737 conduct being the cause of harm to others; and

5738 (3) Unless otherwise specified in the order, DJJ shall report in writing to the court not
5739 less than once every six months during the placement on the status, adjustment, and
5740 progress of such child.

5741 (g) Notwithstanding the initial periods of placement in restrictive custody ordered by the
5742 court pursuant to subsection (c) or (d) of this Code section, the period of placement may
5743 be extended on motion by DJJ, after a disposition hearing, for two additional periods not
5744 to exceed 12 months each, provided that no placement or extension of custody may
5745 continue beyond a child's twenty-first birthday.

5746 (h) The court shall identify the school last attended by a child adjudicated for a class A
5747 designated felony act or class B designated felony act and the school which such child
5748 intends to attend and shall transmit a copy of the adjudication to the principals of both
5749 schools within 15 days of the adjudication. Such information shall be subject to
5750 notification, distribution, and other requirements as provided in Code Section 20-2-671.

5751 15-11-603.

5752 (a) As part of any order of disposition regarding a child adjudged to have committed a
5753 delinquent act constituting an AIDS transmitting crime, the court may in its discretion and
5754 after conferring with the director of the health district, order that such child submit to an
5755 HIV test within 45 days following the adjudication of delinquency. The court shall mail
5756 DJJ a copy of the order within three days following its issuance.

5757 (b) Within 30 days following receipt of the copy of the order, DJJ shall arrange for the
5758 HIV test for such child.

5759 (c) Any child placed in the custody and control of DJJ shall be HIV tested in accordance
5760 with DJJ's policies and procedures.

5761 (d) If a child is determined to be infected with HIV, that determination and the name of
5762 the child shall be deemed to be AIDS confidential information and shall only be reported
5763 to:

5764 (1) DJJ or the Department of Corrections, as the case may be, and the Department of
5765 Public Health, which may disclose the name of such child if necessary to provide
5766 counseling and which shall provide counseling to each victim of the AIDS transmitting
5767 crime or to any parent, guardian, or legal custodian of any victim who is a minor or
5768 incompetent person if DJJ or the Department of Corrections believes the crime posed a
5769 reasonable risk of transmitting HIV to the victim. Counseling shall include providing the
5770 person with information and explanations medically appropriate for such person which
5771 may include all or part of the following: accurate information regarding AIDS and HIV;
5772 an explanation of behaviors that reduce the risk of transmitting AIDS and HIV; an
5773 explanation of the confidentiality of information relating to AIDS diagnoses and HIV

5774 tests; an explanation of information regarding both social and medical implications of
 5775 HIV tests; and disclosure of commonly recognized treatment or treatments for AIDS and
 5776 HIV;

5777 (2) The court which ordered the HIV test; and

5778 (3) Those persons in charge of any facility to which such child has been confined by
 5779 order of the court. In addition to any other restrictions regarding the confinement of a
 5780 child, a child determined to be an HIV infected person may be confined separately from
 5781 any other children in that facility other than those who have been determined to be
 5782 infected with HIV if:

5783 (A) That child is reasonably believed to be sexually active while confined;

5784 (B) That child is reasonably believed to be sexually predatory either during or prior to
 5785 detention; or

5786 (C) The commissioner of juvenile justice reasonably determines that other
 5787 circumstances or conditions exist which indicate that separate confinement would be
 5788 warranted.

5789 15-11-604.

5790 (a) A child adjudicated to have committed a delinquent act shall be given credit for each
 5791 day spent in a secure residential facility or nonsecure residential facility awaiting
 5792 adjudication and for each day spent in a secure residential facility or nonsecure residential
 5793 facility in connection with and resulting from a court order entered in the proceedings for
 5794 which the disposition was imposed and in any institution or facility for treatment or
 5795 examination of a physical or mental disability. Such credit shall be applied toward the
 5796 child's disposition.

5797 (b) Subsection (a) of this Code section shall apply to dispositions for all offenses, whether
 5798 classified as violations, misdemeanors, or felonies.

5799 15-11-605.

5800 (a) In addition to any other terms or conditions of probation provided for under this article,
 5801 the court may require that children who receive a disposition of probation:

5802 (1) Be ordered to a probation management program; or

5803 (2) Be ordered to a secure probation sanctions program by a probation officer or hearing
 5804 officer.

5805 (b) When a child has been ordered to a probation management program or secure
 5806 probation sanctions program, the court shall retain jurisdiction throughout the period of the
 5807 probated sentence and may modify or revoke any part of a probated sentence as provided
 5808 in Code Section 15-11-32.

5809 (c)(1) DJJ in jurisdictions where DJJ is authorized to provide probation supervision or
5810 the county juvenile probation office in jurisdictions where probation supervision is
5811 provided directly by the county, as applicable, shall be authorized to establish rules and
5812 regulations for graduated sanctions as an alternative to judicial modifications or
5813 revocations for probationers who violate the terms and conditions of a probation
5814 management program.

5815 (2) DJJ or the county juvenile probation office, as applicable, shall not sanction
5816 probationers for violations of conditions of probation if the court has expressed an
5817 intention in a written order that such violations be heard by the court.

5818 (d) DJJ or the county juvenile probation office, as applicable, shall impose only those
5819 restrictions equal to or less restrictive than the maximum sanction established by the court.

5820 (e) The secure probation sanctions program shall be established by DJJ. Exclusion of a
5821 child from a secure probation sanctions program otherwise authorized by this Code section
5822 to enter such program shall be mutually agreed upon by the Council of Juvenile Court
5823 Judges and DJJ. The secure probation sanctions program shall be available to the juvenile
5824 courts to the extent that each secure facility has capacity for such offenders within its
5825 facilities. Prior to reaching full capacity, DJJ shall inform the various juvenile courts of
5826 its capacity constraints.

5827 (f)(1) When requesting the secure probation sanctions program, probation officers
5828 supervising a child under a probation management program shall provide an affidavit to
5829 the court specifying:

5830 (A) The elements of such child's probation program;

5831 (B) Such child's failures to respond to graduated sanctions in the community; and

5832 (C) Such child's number of violations and the nature of each violation.

5833 (2) If a probation officer fails to document the violations and specify how a child has
5834 failed to complete a probation management program, such child shall be ineligible to
5835 enter the secure probation sanctions program.

5836 (3) A child may enter the secure probation sanctions program if ordered by the court and:

5837 (A) The probation officer has complied with the provisions of paragraph (1) of this
5838 subsection and the criteria set by the department for entrance into such program and
5839 such child has had three or more violations of probation; or

5840 (B) A child in a probation management program and his or her parent or guardian, or
5841 a child in such program and his or her attorney, admit to three or more violations of
5842 such program and sign a waiver accepting the sanction proposed by the probation
5843 officer.

5844 (4) Each new violation of a condition of a probated sentence may result in a child being
5845 sentenced to the secure probation sanctions program; provided, however, that if a child

5846 is sentenced to the secure probation sanctions program and completes all program
5847 components in the seven, 14, and 30 day programs, such child shall be ineligible to attend
5848 the secure probation sanctions program for a future violation of a condition of the same
5849 probated sentence.

5850 (g)(1) When a violation of a condition of probation occurs, a child may have an
5851 administrative hearing conducted by a hearing officer. If the hearing officer determines
5852 by a preponderance of the evidence that such child violated the conditions of probation,
5853 the probation officer shall be authorized to impose graduated sanctions. A child's failure
5854 to comply with a sanction imposed under this paragraph shall constitute another violation
5855 of probation.

5856 (2) A hearing officer's decision shall be final unless such child files, within five days of
5857 the service of such decision, a written demand with the hearing officer who conducted
5858 the administrative hearing for review of such decision. Such demand shall not stay the
5859 sanction decision. Such hearing officer shall issue a response to such demand within five
5860 days of receiving such demand.

5861 (3) If such hearing officer insists on the sanction, his or her decision shall be final unless
5862 the child subject to the sanction files an appeal in the court that originally adjudicated
5863 such child. Such appeal shall be filed within ten days of the date of the decision of the
5864 hearing officer.

5865 (4) The appeal shall first be reviewed by the court upon the record. At the court's
5866 discretion, a de novo hearing may be held on the decision. The filing of the appeal shall
5867 not stay the sanction decision.

5868 (5) Where the court does not act on the appeal within 15 days of the date of the filing of
5869 the appeal, the sanction decision shall be affirmed by operation of law.

5870 15-11-606.

5871 An order of disposition or adjudication shall not be a conviction of a crime and shall not
5872 impose any civil disability ordinarily resulting from a conviction nor operate to disqualify
5873 the child in any civil service application or appointment.

5874 15-11-607.

5875 (a) Except as otherwise provided in Code Section 15-11-602, an order of disposition
5876 committing a child adjudicated for a delinquent act to DJJ shall continue in force for two
5877 years or until such child is sooner discharged by DJJ. The court which made the order may
5878 extend its duration for a period not to exceed two years subject to like discharge, if:

5879 (1) A hearing is held upon DJJ's motion prior to the expiration of the order;

5880 (2) Reasonable notice of the factual basis of the motion and of the hearing and an
5881 opportunity to be heard are given to such child and his or her parent, guardian, or legal
5882 custodian; and

5883 (3) The court finds that the extension is necessary for the treatment or rehabilitation of
5884 such child.

5885 (b) Any other order of disposition except an order of restitution as allowed by
5886 paragraph (7) or (8) of subsection (a) of Code Section 15-11-601 shall continue in force for
5887 not more than two years. An order of extension may be made if:

5888 (1) A hearing is held prior to the expiration of the order on the court's own motion or
5889 upon motion of DJJ or the prosecuting attorney;

5890 (2) Reasonable notice of the factual basis of the motion and of the hearing and
5891 opportunity to be heard are given to the parties affected;

5892 (3) The court finds that the extension is necessary to accomplish the purposes of the
5893 order extended; and

5894 (4) The extension does not exceed two years from the expiration of the prior order.

5895 (c) The court may terminate an order of disposition or an extension of such a disposition
5896 order prior to its expiration, on its own motion or an application of a party, if it appears to
5897 the court that the purposes of the order have been accomplished.

5898 (d) When a child reaches 21 years of age, all orders affecting him or her then in force
5899 terminate and he or she is discharged from further obligation or control.

5900 15-11-608.

5901 (a) An order granting probation to a child adjudicated for a delinquent act may be revoked
5902 on the ground that the conditions of probation have been violated.

5903 (b) Any violation of a condition of probation may be reported to the prosecuting attorney
5904 who may file a motion in the court for revocation of probation. A motion for revocation
5905 of probation shall contain specific factual allegations constituting each violation of a
5906 condition of probation.

5907 (c) The motion for revocation of probation shall be served upon the child serving the
5908 probated sentence, his or her attorney, and his or her parent, guardian, or legal custodian
5909 in accordance with the provisions of Code Section 15-11-531.

5910 (d) If a child serving a probated sentence is taken into custody because of an alleged
5911 violation of probation, the provisions governing the detention of a child shall apply.

5912 (e) A revocation hearing shall be scheduled to be held no later than 30 days after the filing
5913 of such motion or, if a child has been detained as a result of the filing of such motion for
5914 revocation, not later than ten days after the filing of the motion.

5915 (f) If the court finds, beyond a reasonable doubt, that a child violated the terms and
 5916 conditions of probation, the court may:

5917 (1) Extend probation;

5918 (2) Impose additional conditions of probation; or

5919 (3) Make any disposition that could have been made at the time probation was imposed.

5920 (g) In the case of a class A designated felony act or class B designated felony act, if the
 5921 court finds that a child violated the terms and conditions of probation, the court shall
 5922 reconsider and make specific findings of fact as to each of the factors in subsection (b) of
 5923 Code Section 15-11-602 to determine whether placement in restrictive custody.

5924 (h) In the case of a class A designated felony act or class B designated felony act, if the
 5925 court finds, beyond a reasonable doubt, that a child violated the terms and conditions of
 5926 probation and revokes the order granting probation, the child shall be given credit for time
 5927 served on probation and time served in preadjudication custody.

5928 Part 13

5929 15-11-620.

5930 (a) When a child is alleged to have committed a delinquent act and be a dependent child,
 5931 the date such child is considered to have entered foster care shall be the date of the first
 5932 judicial finding that such child has been subjected to child abuse or neglect or the date that
 5933 is 60 days after the date on which such child is removed from his or her home, whichever
 5934 is earlier.

5935 (b) If a child alleged or adjudicated to have committed a delinquent act is detained in a
 5936 facility operated primarily for the detention of delinquent children but is later placed in
 5937 foster care within 60 days of such child's removal from the home, then the date of entry
 5938 into foster care shall be 60 days after the date of removal.

5939 (c) If a child is detained in a facility operated primarily for the detention of delinquent
 5940 children pending placement in foster care and remains detained for more than 60 days, then
 5941 the date of entry into foster care shall be the date such child is placed in foster care.

5942 15-11-621.

5943 The periodic review hearing requirements under Code Sections 15-11-216, 15-11-217, and
 5944 15-11-218 shall apply to proceedings involving a child alleged or adjudicated to have
 5945 committed a delinquent act and placed in foster care.

5946 15-11-622.

5947 (a) The permanency plan requirements under Code Sections 15-11-230, 15-11-231, and
5948 15-11-232 shall apply to proceedings involving a child alleged or adjudicated to have
5949 committed a delinquent act and placed in foster care.

5950 (b) In addition to the compelling reasons set forth in Code Section 15-11-233, a
5951 compelling reason for determining that filing a termination of parental rights petition is not
5952 in the best interests of a child alleged or adjudicated to have committed a delinquent act
5953 may include, but not be limited to:

5954 (1) A child's developmental needs require continued out-of-home placement for an
5955 additional number of months, and his or her parent, guardian, or legal custodian has
5956 cooperated with referrals, visitation, and family conferences, as well as therapy;

5957 (2) A child is uncooperative with services or referrals; and

5958 (3) The length of the delinquency disposition affects the permanency plan.

5959

Part 14

5960 15-11-630.

5961 (a) A juvenile traffic offense consists of a violation by a child of:

5962 (1) A law or local ordinance governing the operation of a moving motor vehicle upon the
5963 streets or highways of this state or upon the waterways within or adjoining this state; or

5964 (2) Any other motor vehicle traffic law or local ordinance if a child is taken into custody
5965 and detained for its violation or is transferred to the juvenile court by the court hearing
5966 the charge.

5967 (b) The following offenses shall be acts of delinquency and shall not be handled as
5968 juvenile traffic offenses: aggressive driving, reckless driving, a four-point speeding offense,
5969 homicide by vehicle, manslaughter resulting from the operation of a vehicle, any felony in
5970 the commission of which a motor vehicle is used, racing on highways and streets, using a
5971 motor vehicle in fleeing or attempting to elude an officer, fraudulent or fictitious use of a
5972 driver's license, hit and run or leaving the scene of an accident, driving under the influence
5973 of alcohol or drugs, and any offense committed by an unlicensed driver under 16 years of
5974 age.

5975 (c) A juvenile traffic offense shall not be an act of delinquency unless the case is
5976 transferred to the delinquency calendar.

5977 (d) The summons, notice to appear, or other designation of a citation accusing a child of
5978 committing a juvenile traffic offense constitutes the commencement of the proceedings in
5979 the court of the county in which the alleged violation occurred and serves in place of a
5980 summons and petition under this article. These cases shall be filed and heard separately

5981 from other proceedings of the court. If a child is taken into custody on the charge, Code
5982 Sections 15-11-503 and 15-11-505 shall apply. If a child is, or after commencement of the
5983 proceedings becomes, a resident of another county of this state, the court in the county
5984 where the alleged traffic offense occurred may retain jurisdiction over the entire case.

5985 (e) The court shall fix a time for a hearing and shall give reasonable notice thereof to the
5986 child accused of committing a juvenile traffic offense and, if his or her address is known,
5987 to his or her parent, guardian, or legal custodian. If the accusation made in the summons,
5988 notice to appear, or other designation of a citation is denied, a hearing shall be held at
5989 which the parties shall have the right to subpoena witnesses, present evidence,
5990 cross-examine witnesses, and appear with their attorney. The hearing shall be open to the
5991 public.

5992 (f) If the court finds on the admission of a child or upon the evidence that a child
5993 committed the offense charged, it may make one or more of the following orders:

5994 (1) Reprimand, counsel, or warn such child and his or her parent, guardian, or legal
5995 custodian; provided, however, that this disposition order shall not be available for any act
5996 of delinquency;

5997 (2) As a matter of supervised or unsupervised probation, order the Department of Driver
5998 Services to suspend such child's privilege to drive under stated conditions and limitations
5999 for a period not to exceed 12 months;

6000 (3) Require such child to attend a traffic school approved by the Department of Driver
6001 Services or a substance abuse clinic or program approved by either DBHDD or the
6002 Council of Juvenile Court Judges for a reasonable period of time;

6003 (4) Assess a fine and order such child to remit to the general fund of the county a sum
6004 not exceeding the maximum applicable to an adult for a like offense. The fine shall be
6005 subject to all additions and penalties as specified under this title and Title 47;

6006 (5) Require such child to participate in a program of community service as specified by
6007 the court;

6008 (6) Impose any sanction authorized by Code Section 15-11-442 or 15-11-601; or

6009 (7) Place such child on probation subject to the conditions and limitations imposed by
6010 Title 40 governing probation granted to adults for like offenses, provided that such
6011 probation shall be supervised by the court or shall be unsupervised probation.

6012 (g) In lieu of the orders provided by subsection (f) of this Code section, if the evidence
6013 warrants, the court may transfer the case to the delinquency calendar of the court and direct
6014 the filing and service of a summons and delinquency petition.

6015 (h) Upon finding that a child has committed a juvenile traffic offense or an act of
6016 delinquency which would be a violation of Title 40 if committed by an adult, the court shall
6017 forward, within ten days, a report of the final adjudication and disposition of the charge to

6018 the Department of Driver Services; provided, however, that this procedure shall not be
 6019 applicable to those cases which have been dismissed or in which a child and his or her
 6020 parent, guardian, or legal custodian have been reprimanded, counseled, or warned by the
 6021 court. The Department of Driver Services shall record the adjudication and disposition of
 6022 the offense on such child's permanent record, and such adjudication and disposition shall
 6023 be deemed a conviction for the purpose of suspending or revoking such child's driver's
 6024 license. Such record shall also be available to law enforcement agencies and courts as are
 6025 the permanent traffic records of adults.

6026 ARTICLE 7

6027 15-11-650.

6028 The purpose of this article is:

- 6029 (1) To set forth procedures for a determination of whether a child is incompetent to
 6030 proceed; and
 6031 (2) To provide a mechanism for the development and implementation of competency
 6032 remediation services, when appropriate, including treatment, habilitation, support, or
 6033 supervision services.

6034 15-11-651.

6035 As used in this article, the term:

- 6036 (1) 'Competency remediation services' means outpatient interventions directed only at
 6037 facilitating the attainment of competence to proceed for a child adjudicated to be
 6038 incompetent to proceed. Such term may include mental health treatment to reduce
 6039 interfering symptoms, specialized psychoeducational programming, or a combination of
 6040 these interventions.
 6041 (2) 'Comprehensive services plan' shall have the same meaning as set forth in Code
 6042 Section 15-11-381.
 6043 (3) 'Incompetent to proceed' means lacking sufficient present ability to understand the
 6044 nature and object of the proceedings, to comprehend his or her own situation in relation
 6045 to the proceedings, and to assist his or her attorney in the preparation and presentation of
 6046 his or her case in all adjudication, disposition, or transfer hearings. Such term shall
 6047 include consideration of a child's age or immaturity.
 6048 (4) 'Mental competency proceeding' means a hearing conducted to determine whether
 6049 a child is incompetent to proceed in adjudication, a disposition hearing, or a transfer
 6050 proceeding.
 6051 (5) 'Plan manager' shall have the same meaning as set forth in Code Section 15-11-381.

6052 (6) 'Treatment facility' means a facility that receives patients for psychiatric treatment
6053 as provided in Code Sections 37-3-80 through 37-3-84 but shall not include a secure
6054 residential facility.

6055 15-11-652.

6056 (a) If at any time after the filing of a petition alleging delinquency or that a child is a child
6057 in need of services the court has reason to believe that the child named in the petition may
6058 be incompetent to proceed, the court on its own motion or on the motion of the attorney
6059 representing such child, any guardian ad litem for such child, such child's parent, guardian,
6060 or legal custodian, or the prosecuting attorney shall stay all proceedings relating to such
6061 petition and, unless the court accepts a stipulation by the parties as to such child's
6062 incompetency, shall order a competency evaluation of and report on such child's mental
6063 condition.

6064 (b) When a delinquency petition is filed alleging a child under the age of 13 has committed
6065 a serious violent felony, as defined in Code Section 17-10-6.1, the court shall stay all
6066 delinquency proceedings relating to such petition and, unless the court accepts a stipulation
6067 by the parties as to such child's incompetency, shall order a competency evaluation and
6068 report concerning such child's mental condition.

6069 (c) Any motion, notice of hearing, order, or other pleading relating to a child's
6070 incompetency to proceed shall be served upon him or her, his or her attorney, his or her
6071 guardian ad litem, if any, his or her parent, guardian, or legal custodian, and the
6072 prosecuting attorney.

6073 (d) Prior to the administration of any evaluation, the court shall appoint an attorney to
6074 represent a child if he or she is not yet represented by an attorney.

6075 (e) All time limits set forth in Articles 5 and 6 of this chapter for adjudication and
6076 disposition of a delinquency or a child in need of services proceeding shall be tolled during
6077 the evaluation, adjudication, and disposition phases of the mental competency proceeding
6078 and during provision of competency remediation services.

6079 15-11-653.

6080 (a) The court ordered evaluation and report shall be conducted by an examiner who shall
6081 consider whether a child is incompetent to proceed. The court shall provide the examiner
6082 with any law enforcement or court records necessary for understanding the petition alleging
6083 delinquency. The attorney for the child being examined and the prosecuting attorney shall
6084 provide the examiner with any records from any other available sources that are deemed
6085 necessary for the competency evaluation.

6086 (b) The competency evaluation shall be performed on an outpatient basis; provided,
6087 however, that if a child is in an out-of-home placement, the evaluation shall be performed
6088 at such child's location.

6089 (c) The examiner who conducts the evaluation shall submit a written report to the court
6090 within 30 days of receipt of the court order for evaluation. The court may, in its discretion,
6091 grant the examiner an extension in filing such report. The report shall contain the
6092 following:

6093 (1) The specific reason for the evaluation, as provided by the court or the party
6094 requesting the evaluation;

6095 (2) The evaluation procedures used, including any psychometric instruments
6096 administered, any records reviewed, and the identity of any persons interviewed;

6097 (3) Any available pertinent background information;

6098 (4) The results of a mental status exam, including the diagnosis if any and description
6099 of any psychiatric symptoms, cognitive deficiency, or both;

6100 (5) A description of a child's abilities and deficits in the following mental competency
6101 functions:

6102 (A) The ability to understand and appreciate the nature and object of the proceedings;

6103 (B) The ability to comprehend his or her situation in relation to the proceedings; and

6104 (C) The ability to assist his or her attorney in the preparation and presentation of his
6105 or her case;

6106 (6) An opinion regarding the potential significance of a child's mental competency,
6107 strengths, and deficits;

6108 (7) An opinion regarding whether or not a child should be considered incompetent to
6109 proceed; and

6110 (8) A specific statement explaining the reasoning supporting the examiner's final
6111 determination.

6112 (d) If, in the opinion of the examiner, a child should be considered incompetent to proceed,
6113 the report shall also include the following:

6114 (1) An opinion on whether the primary cause of incompetency to proceed is immaturity,
6115 mental illness, developmental disability, or a combination of mental illness and
6116 developmental disability;

6117 (2) An opinion on whether there is a substantial probability that the examined child will
6118 attain the mental competency necessary to participate in adjudication, a disposition
6119 hearing, or a transfer hearing in the foreseeable future;

6120 (3) If the examiner believes that the examined child will attain mental competency,
6121 recommendations for the general level and type of competency remediation services
6122 necessary for significant deficits;

- 6123 (4) A recommendation on the appropriate treatment or services;
6124 (5) When appropriate, recommendations for modifications of court procedure which may
6125 help compensate for mental competency weaknesses; and
6126 (6) Any relevant medication history.
- 6127 (e) If the examiner determines that the examined child is currently competent because of
6128 ongoing treatment with medication or other services, the report shall address the necessity
6129 of continuing such treatment and shall include a description of any limitation such
6130 treatment may have on competency.
- 6131 (f) Copies of the written evaluation report shall be provided by the court to the attorney
6132 representing the examined child, the prosecuting attorney or a member of his or her staff,
6133 and any guardian ad litem for the examined child no later than five days after receipt of the
6134 report by the court.
- 6135 (g) Upon a showing of good cause by any party or upon the court's own motion, the court
6136 may order additional evaluations by other licensed psychologists or psychiatrists. In no
6137 event shall more than one evaluation be conducted by an examiner employed by DBHDD.
- 6138 15-11-654.
- 6139 (a) If at any time following a finding that a child is incompetent to proceed the court
6140 determines that such child is a resident of a county of this state other than the county in
6141 which the court sits, the court may transfer the proceeding to the county of such child's
6142 residence.
- 6143 (b) When any case is transferred, certified copies of all legal, social history, health, or
6144 mental health records pertaining to the case on file with the clerk of the court shall
6145 accompany the transfer. Compliance with this subsection shall terminate jurisdiction in the
6146 transferring court and initiate jurisdiction in the receiving court.
- 6147 (c) If a court determines that such child's competency is remediated, jurisdiction of the
6148 case may be returned to the transferring court for the adjudication hearing and any
6149 subsequent proceedings.
- 6150 15-11-655.
- 6151 (a) A hearing to determine if a child is incompetent to proceed shall be conducted within
6152 60 days after the initial court order for evaluation. The hearing may be continued by the
6153 court for good cause shown.
- 6154 (b) Written notice shall be given to all parties and the victim at least ten days prior to such
6155 hearing.

6156 (c) The burden of proving that a child is incompetent to proceed shall be on such child.
6157 The standard of proof necessary for proving mental competency shall be a preponderance
6158 of the evidence.

6159 (d) At the hearing to determine incompetency to proceed, a child's attorney and the
6160 prosecuting attorney shall have the right to:

- 6161 (1) Present evidence;
6162 (2) Call and examine witnesses;
6163 (3) Cross-examine witnesses; and
6164 (4) Present arguments.

6165 (e) The examiner appointed by the court shall be considered the court's witness and shall
6166 be subject to cross-examination by both a child's attorney and the prosecuting attorney.

6167 (f) The court's findings of fact shall be based on any evaluations of a child's mental
6168 condition conducted by licensed psychologists or psychiatrists appointed by the court, any
6169 evaluations of a child's mental condition conducted by independent licensed psychologists
6170 or psychiatrists hired by the parties, and any additional evidence presented.

6171 (g) If the court finds that a child is not incompetent to proceed, the proceedings which
6172 have been suspended shall be resumed. The time limits under Article 5 or 6 of this chapter
6173 for adjudication and disposition of the petition shall begin to run from the date of the order
6174 finding such child mentally competent.

6175 (h) Copies of the court's findings shall be given to the parties within ten days following the
6176 issuance of such findings.

6177 15-11-656.

6178 (a) If the court finds that a child is incompetent to proceed but such child's incompetence
6179 may be remediated, if such child is alleged:

- 6180 (1) To be a child in need of services, the court shall either dismiss the petition without
6181 prejudice or order competency remediation services for such child; or
6182 (2) To have committed a delinquent act, the court may order competency remediation
6183 services for such child.

6184 (b) In determining whether to order competency remediation services, the court shall
6185 consider:

- 6186 (1) Whether there is probable cause to believe the allegations in the petition are true;
6187 (2) The nature of the incompetency;
6188 (3) An incompetent child's age; and
6189 (4) The nature of the act alleged to have been committed by the incompetent child, in
6190 particular whether the act is a serious violent felony as such term is defined in Code
6191 Section 17-10-6.1.

6192 (c) If a child is determined to be incompetent to proceed, the court has ordered that
6193 competency remediation services should be provided, and:

6194 (1) Such child is alleged to have committed an act that would be a felony if committed
6195 by an adult, the court may retain jurisdiction of such child for up to two years after the
6196 date of the order of incompetency, with review hearings at least every six months to
6197 redetermine competency or proceed as provided in subsection (f) of this Code section;

6198 or

6199 (2) A child is alleged to have committed an act that would be a misdemeanor if
6200 committed by an adult, the court may retain jurisdiction of a child for up to 120 days after
6201 the date of the order of incompetency or proceed as provided in subsection (f) of this
6202 Code section.

6203 (d) All court orders determining incompetency shall include specific written findings by
6204 the court as to the nature of the incompetency and the mandated outpatient competency
6205 remediation services. If such child is in an out-of-home placement, the court shall specify
6206 the type of competency remediation services to be performed at such child's location. A
6207 child may be placed in a secure treatment facility or program, not to include DJJ facilities,
6208 if the court makes a finding by clear and convincing evidence that:

6209 (1) A child is mentally ill or developmentally disabled and meets the requirements for
6210 civil commitment pursuant to Chapters 3 and 4 of Title 37; and

6211 (2) All available less restrictive alternatives, including treatment in community
6212 residential facilities or community settings which would offer an opportunity for
6213 improvement of a child's condition, are inappropriate.

6214 (e) A child who is incompetent to proceed shall not be subject to transfer to superior court,
6215 adjudication, disposition, or modification of disposition so long as the mental
6216 incompetency exists.

6217 (f) If the court determines that an alleged delinquent child is incompetent to proceed, the
6218 court may dismiss the petition without prejudice.

6219 (g) If a child is detained in a secure residential facility or nonsecure residential facility and
6220 the court determines that such child is incompetent to proceed, within five days of such
6221 determination the court shall issue an order to immediately release such child to the
6222 appropriate parent, guardian, or legal custodian.

6223 15-11-657.

6224 (a) All competency remediation service orders issued by the court shall contain:

6225 (1) The name of the competency remediation service program provider and the location
6226 of the program;

6227 (2) A statement of the arrangements for a child's transportation to the program site;

- 6228 (3) The length of the competency remediation service program;
 6229 (4) A statement of the arrangements for a child's transportation after the program ends;
 6230 and
 6231 (5) A direction concerning the frequency of reports required by the court.
- 6232 (b) DBHDD or a licensed psychologist or psychiatrist shall file a written report with the
 6233 court:
- 6234 (1) Not later than six months after the date the court orders that competency remediation
 6235 be attempted but prior to the first review hearing;
 6236 (2) Every six months after the first review hearing if a child remains incompetent to
 6237 proceed and under an order for remediation;
 6238 (3) At any time DBHDD or a licensed psychologist or psychiatrist opines a child has
 6239 attained competency; or
 6240 (4) At shorter intervals designated by the court in its competency remediation order.
- 6241 (c) DBHDD or the licensed psychologist or psychiatrist written report shall include, but
 6242 not be limited to:
- 6243 (1) Whether a child's competency can be remediated or whether a child is likely to
 6244 remain incompetent to proceed for the foreseeable future;
 6245 (2) Whether additional time is needed to remediate a child's competency; and
 6246 (3) If a child has attained competency, the effect, if any, of any limitations that are
 6247 imposed by any medication or other treatment used in the effort to remediate competency.
- 6248 15-11-658.
- 6249 (a) If the court initially finds that a child is unrestorably incompetent to proceed, the court
 6250 shall dismiss the petition, appoint a plan manager, and order that procedures for a
 6251 comprehensive services plan be initiated under Article 5 of this chapter. When appropriate,
 6252 the court may:
- 6253 (1) Order that a child be referred for civil commitment pursuant to Chapters 3 and 4 of
 6254 Title 37. Such proceedings shall be instituted not less than 60 days prior to the dismissal
 6255 of the delinquency or a child in need of services petition; or
 6256 (2) Order that referral be made for appropriate adult services if a child has reached the
 6257 age of 18 years at the time of the competency determination.
- 6258 (b) If at any time after a child is ordered to undergo competency remediation services
 6259 DBHDD or a licensed psychologist or psychiatrist opines that a child is likely to remain
 6260 incompetent to proceed for the foreseeable future, DBHDD or the licensed psychologist
 6261 or psychiatrist shall submit a report to the court so stating.
- 6262 (c) Upon receipt of the report specified in subsection (b) of this Code section, the court
 6263 shall make a competency determination and shall dismiss the delinquency petition, appoint

6264 a plan manager, and order that procedures for a comprehensive services plan be initiated
 6265 under Article 5 of this chapter. When appropriate, the court may:

6266 (1) Order that a child be referred for civil commitment pursuant to Chapters 3 and 4 of
 6267 Title 37. Such proceedings shall be instituted not less than 60 days prior to the dismissal
 6268 of the delinquency or child in need of services petition; or

6269 (2) Order that referral be made for appropriate adult services if a child has reached the
 6270 age of 18 years at the time of the competency determination.

6271 15-11-659.

6272 If at any time after a child is adjudicated to be incompetent to proceed due to age,
 6273 immaturity, or for any reason other than mental illness or developmental disability and is
 6274 ordered to undergo competency remediation services and DBHDD determines that such
 6275 child is likely to remain incompetent to proceed for the foreseeable future, DBHDD shall
 6276 submit a report and its conclusions to the court. Upon receipt of such report, the court
 6277 shall:

6278 (1) Make a competency determination;

6279 (2) Order that the applicable petition be dismissed; and

6280 (3) Order that a plan manager be appointed and that the procedures for a comprehensive
 6281 services plan be initiated under Article 5 of this chapter.

6282 15-11-660.

6283 (a) The court shall hold a hearing to review a child's progress toward competency:

6284 (1) At least every six months;

6285 (2) At any time, on its own motion or on the motion of the prosecuting attorney, a child's
 6286 attorney, or a child's guardian ad litem, if any;

6287 (3) On receipt of a report submitted by DBHDD; or

6288 (4) Not less than three months before a child's eighteenth birthday.

6289 (b) If at a review hearing the court finds that a child has attained competency, the
 6290 suspended proceedings shall be resumed and the time limits applicable under Article 5 or
 6291 6 of this chapter shall begin to run from the date of the order finding the child mentally
 6292 competent.

6293 (c) If at a review hearing held following the court's receipt of a DBHDD or licensed
 6294 psychologist or psychiatrist's report the court finds that a child's incompetency has not been
 6295 remediated but that such child has made substantial progress toward remediation, the court
 6296 may extend the competency remediation program period for an additional 60 days if the
 6297 court determines by clear and convincing evidence that further participation is likely to lead
 6298 to remediation of competency.

6299 (d) If at a review hearing the court finds that a child's competency is not remediated and
 6300 is not likely to be remediated within the time left before such child's eighteenth birthday,
 6301 the court shall dismiss the petition with prejudice if such child is alleged to be a child in
 6302 need of services or to have committed a delinquent act which would be a misdemeanor if
 6303 committed by an adult.

6304 (e) At each review hearing, the court shall also consider whether the petition alleging
 6305 delinquency or that a child is a child in need of services should be withdrawn, maintained,
 6306 or dismissed, without prejudice, upon grounds other than a child's being incompetent to
 6307 proceed. If the court dismisses the petition, the prosecuting attorney may seek to refile a
 6308 petition alleging a delinquent act which would be a felony if committed by an adult if a
 6309 child is later determined to be mentally competent. The prosecuting attorney may also seek
 6310 transfer to superior court if a child is later determined to be mentally competent and
 6311 otherwise meets all the requirements for transfer under Article 6 of this chapter.

6312 ARTICLE 8

6313 15-11-680.

6314 This article shall be known and may be cited as the 'Parental Notification Act.'

6315 15-11-681.

6316 As used in this article, the term:

6317 (1) 'Abortion' means the use or prescription of any instrument, medicine, drug, or any
 6318 other substance or device with the intent to terminate the pregnancy of a female known
 6319 to be pregnant. The term 'abortion' shall not include the use or prescription of any
 6320 instrument, medicine, drug, or any other substance or device employed solely to increase
 6321 the probability of a live birth, to preserve the life or health of the child after live birth, or
 6322 to remove a dead unborn child who died as a result of a spontaneous abortion. The term
 6323 'abortion' also shall not include the prescription or use of contraceptives.

6324 (2) 'Proper identification' means any document issued by a governmental agency
 6325 containing a description of the person, the person's photograph, or both, including but not
 6326 limited to a driver's license, an identification card authorized under Code Sections
 6327 40-5-100 through 40-5-104 or similar identification card issued by another state, a
 6328 military identification card, a passport, or an appropriate work authorization issued by the
 6329 United States Immigration and Customs Enforcement Division of the Department of
 6330 Homeland Security.

6331 (3) 'Unemancipated minor' means any person under the age of 18 who is not or has not
6332 been married or who is under the care, custody, and control of such person's parent or
6333 parents, guardian, or the juvenile court of competent jurisdiction.

6334 15-11-682.

6335 (a) No physician or other person shall perform an abortion upon an unemancipated minor
6336 unless:

6337 (1)(A) The unemancipated minor seeking an abortion is accompanied by his or her
6338 parent or guardian who shall show proper identification and state that he or she is the
6339 lawful parent or guardian of the unemancipated minor and that he or she has been
6340 notified that an abortion is to be performed on the unemancipated minor;

6341 (B) The physician or the physician's qualified agent gives at least 24 hours' actual
6342 notice, in person or by telephone, to the parent or guardian of the unemancipated minor
6343 of the pending abortion and the name and address of the place where the abortion is to
6344 be performed; provided, however, that, if the person so notified indicates that he or she
6345 has been previously informed that the unemancipated minor was seeking an abortion
6346 or if the person so notified has not been previously informed and he or she clearly
6347 expresses that he or she does not wish to consult with the unemancipated minor, then
6348 in either event the abortion may proceed in accordance with Chapter 9A of Title 31; or

6349 (C) The physician or a physician's qualified agent gives written notice of the pending
6350 abortion and the address of the place where the abortion is to be performed, sent by
6351 registered or certified mail or statutory overnight delivery, return receipt requested with
6352 delivery confirmation, addressed to a parent or guardian of the unemancipated minor
6353 at the usual place of abode of the parent or guardian. Unless proof of delivery is
6354 otherwise sooner established, such notice shall be deemed delivered 48 hours after
6355 mailing. The time of mailing shall be recorded by the physician or agent in the
6356 unemancipated minor's file. The abortion may be performed 24 hours after the delivery
6357 of the notice; provided, however, that, if the person so notified certifies in writing that
6358 he or she has been previously informed that the unemancipated minor was seeking an
6359 abortion or if the person so notified has not been previously informed and he or she
6360 certifies in writing that he or she does not wish to consult with the unemancipated
6361 minor, then in either event the abortion may proceed in accordance with Chapter 9A of
6362 Title 31; and

6363 (2) The unemancipated minor signs a consent form stating that she consents, freely and
6364 without coercion, to the abortion.

6365 (b) If the unemancipated minor or the physician or a physician's qualified agent, as the
6366 case may be, elects not to comply with any one of the requirements of subparagraph

6367 (a)(1)(A), (a)(1)(B), or (a)(1)(C) of this Code section, or if the parent or legal guardian of
6368 the unemancipated minor cannot be located, the unemancipated minor may petition, on his
6369 or her own behalf or by next friend, any juvenile court in the state for a waiver of such
6370 requirement pursuant to the procedures provided for in Code Section 15-11-684. The
6371 juvenile court shall assist the unemancipated minor or next friend in preparing the petition
6372 and notices required pursuant to this Code section. Venue shall be lawful in any county.
6373 (c) No abortion shall be performed unless the requirements of subparagraph (a)(1)(A),
6374 (a)(1)(B), or (a)(1)(C) of this Code section have been met or the unemancipated minor has
6375 obtained a court order waiving such requirements.

6376 15-11-683.
6377 Notwithstanding Code Sections 15-11-40, 15-11-150, 15-11-152, 15-11-160, 15-11-281,
6378 15-11-424, and 15-11-531, the unemancipated minor or next friend shall be notified of the
6379 date, time, and place of the hearing in such proceedings at the time of filing the petition.
6380 The hearing shall be held within three days of the date of filing, excluding weekends and
6381 legal holidays. The parent, guardian, or legal custodian of the unemancipated minor shall
6382 not be served with the petition or with a summons or otherwise notified of the proceeding.
6383 If a hearing is not held within the time prescribed in this Code section, the petition shall be
6384 deemed granted.

6385 15-11-684.

6386 (a) An unemancipated minor may participate in proceedings in the court on such minor's
6387 own behalf and the court shall advise such minor of the right to court appointed counsel
6388 and shall provide such minor with such counsel upon request or if such minor is not already
6389 adequately represented.

6390 (b) All court proceedings under this Code section shall be conducted in a manner to
6391 preserve the complete anonymity of the parties and shall be given such precedence over
6392 other pending matters as is necessary to ensure that a decision is reached by the court as
6393 expeditiously as is possible under the circumstances of the case. In no event shall the
6394 name, address, birth date, or social security number of such minor be disclosed.

6395 (c) The requirements of subparagraph (a)(1)(A), (a)(1)(B), or (a)(1)(C) of Code Section
6396 15-11-682 shall be waived if the court finds either:

6397 (1) That the unemancipated minor is mature enough and well enough informed to make
6398 the abortion decision in consultation with her physician, independently of the wishes of
6399 such minor's parent or guardian; or

6400 (2) That the notice to a parent or, if the unemancipated minor is subject to guardianship,
6401 the legal guardian pursuant to Code Section 15-11-682 would not be in the best interests
6402 of such minor.

6403 (d) A court that conducts proceedings under this Code section shall issue written and
6404 specific factual findings and legal conclusions supporting its decision and shall order that
6405 a record of the evidence be maintained. The juvenile court shall render its decision within
6406 24 hours of the conclusion of the hearing and a certified copy of same shall be furnished
6407 immediately to the unemancipated minor. If the juvenile court fails to render its decision
6408 within 24 hours after the conclusion of the hearing, then the petition shall be deemed
6409 granted. All juvenile court records shall be sealed in a manner that will preserve
6410 anonymity.

6411 (e) An expedited appeal completely preserving the anonymity of the parties shall be
6412 available to any unemancipated minor to whom the court denies a waiver of notice. The
6413 appellate courts are authorized and requested to issue promptly such rules as are necessary
6414 to preserve anonymity and to ensure the expeditious disposition of procedures provided by
6415 this Code section. In no event shall the name, address, birth date, or social security number
6416 of such minor be disclosed during the expedited appeal or thereafter.

6417 (f) No filing fees shall be required of any unemancipated minor who uses the procedures
6418 provided by this Code section.

6419 15-11-685.

6420 The requirements and procedures of this article shall apply to all unemancipated minors
6421 within this state whether or not such persons are residents of this state.

6422 15-11-686.

6423 This article shall not apply when, in the best clinical judgment of the attending physician
6424 on the facts of the case before him or her, a medical emergency exists that so complicates
6425 the condition of the unemancipated minor as to require an immediate abortion. A person
6426 who performs an abortion as a medical emergency under the provisions of this Code
6427 section shall certify in writing the medical indications on which this judgment was based
6428 when filing such reports as are required by law.

6429 15-11-687.

6430 Any physician or any person employed or connected with a physician, hospital, or health
6431 care facility performing abortions who acts in good faith shall be justified in relying on the
6432 representations of the unemancipated minor or of any other person providing the
6433 information required under this article. No physician or other person who furnishes

6434 professional services related to an act authorized or required by this article and who relies
 6435 upon the information furnished pursuant to this article shall be held to have violated any
 6436 criminal law or to be civilly liable for such reliance, provided that the physician or other
 6437 person acted in good faith.

6438 15-11-688.

6439 Any person who violates the provisions of this article shall be guilty of a misdemeanor and
 6440 any person who intentionally encourages another to provide false information pursuant to
 6441 this article shall be guilty of a misdemeanor.

6442 ARTICLE 9

6443 15-11-700.

6444 (a) As used in this Code section, the term 'dependency proceeding' means a court
 6445 proceeding stemming from a petition alleging that a child is a dependent child.

6446 (b) The general public shall be admitted to:

6447 (1) An adjudicatory hearing involving an allegation of a class A designated felony act
 6448 or class B designated felony act;

6449 (2) An adjudicatory hearing involving an allegation of delinquency brought in the
 6450 interest of any child who has previously been adjudicated for committing a delinquent
 6451 act; provided, however, the court shall close any delinquency hearing on an allegation of
 6452 sexual assault or any delinquency hearing at which any party expects to introduce
 6453 substantial evidence related to matters of dependency;

6454 (3) Any child support hearing;

6455 (4) Any hearing in a legitimation action filed pursuant to Code Section 19-7-22;

6456 (5) At the court's discretion, any dispositional hearing involving any proceeding under
 6457 this article; or

6458 (6) Any hearing in a dependency proceeding, except as otherwise provided in
 6459 subsection (c) of this Code section.

6460 (c) The court may close the hearing in a dependency proceeding only upon making a
 6461 finding upon the record and issuing a signed order stating the reason or reasons for closing
 6462 all or part of a hearing in such proceeding and stating that:

6463 (1) The proceeding involves an allegation of an act which, if done by an adult, would
 6464 constitute a sexual offense under Chapter 6 of Title 16; or

6465 (2) It is in the best interests of the child. In making such a determination, the court shall
 6466 consider such factors as:

6467 (A) The age of the child alleged or adjudicated as a dependent child;

- 6468 (B) The nature of the allegations;
6469 (C) The effect that an open court proceeding will have on the court's ability to reunite
6470 and rehabilitate the family unit; and
6471 (D) Whether the closure is necessary to protect the privacy of a child, of a foster parent
6472 or other caretaker of a child, or of a victim of domestic violence.
- 6473 (d) The court may close a hearing or exclude a person from a hearing in any proceeding
6474 on its own motion, by motion of a party to the proceeding, or by motion of the child who
6475 is the subject of the proceeding or the child's attorney or guardian ad litem.
- 6476 (e) Only the parties, their counsel, witnesses, persons accompanying a party for his or her
6477 assistance, the victim, and any other persons as the court finds have a proper interest in the
6478 proceeding or in the work of the court may be admitted by the court to hearings from which
6479 the public is excluded; provided, however, that when the conduct alleged in the dependency
6480 proceeding could give rise to a criminal or delinquent act prosecution, attorneys for the
6481 prosecution and the defense shall be admitted.
- 6482 (f) The court may refuse to admit a person to a hearing in any proceeding upon making a
6483 finding upon the record and issuing a signed order that the person's presence at the hearing
6484 would:
- 6485 (1) Be detrimental to the best interests of the child who is a party to the proceeding;
6486 (2) Impair the fact-finding process; or
6487 (3) Be otherwise contrary to the interest of justice.
- 6488 (g) The court may temporarily exclude any child from a termination of parental rights
6489 hearing except while allegations of his or her delinquency or unruly conduct are being
6490 heard.
- 6491 (h) Any request for installation and use of electronic recording, transmission, videotaping,
6492 or motion picture or still photography of any judicial proceeding shall be made to the court
6493 at least two days in advance of the hearing. The request shall be evaluated by the court
6494 pursuant to the standards set forth in Code Section 15-1-10.1.
- 6495 (i) The judge may order the media not to release identifying information concerning any
6496 child or family members or foster parent or other caretaker of a child involved in hearings
6497 open to the public.
- 6498 (j) The general public shall be excluded from proceedings in juvenile court unless such
6499 hearing has been specified as one in which the general public shall be admitted to pursuant
6500 to this Code section.
- 6501 15-11-701.
- 6502 (a) Upon dismissal of a petition or complaint alleging delinquency or that a child is a child
6503 in need of services or completion of the process in a case handled through informal

6504 adjustment, mediation, or other nonadjudicatory procedure, the court shall order the sealing
6505 of the files and records in the case.

6506 (b) On application of a person who has been adjudicated for committing a delinquent act
6507 or as a child in need of services or on the court's own motion, and after a hearing, the court
6508 shall order the sealing of the files and records in the proceeding if the court finds that:

6509 (1) Two years have elapsed since the final discharge of the person;

6510 (2) Since the final discharge of the person he or she has not been convicted of a felony
6511 or of a misdemeanor involving moral turpitude or adjudicated for committing a
6512 delinquent act or as a child in need of services and no proceeding seeking conviction or
6513 adjudication is pending against the person; and

6514 (3) The person has been rehabilitated.

6515 (c) Reasonable notice of the hearing required by subsection (b) of this Code section shall
6516 be given to:

6517 (1) The district attorney;

6518 (2) DJJ, when appropriate;

6519 (3) The authority granting the discharge if the final discharge was from an institution or
6520 from parole; and

6521 (4) The law enforcement officers or department having custody of the files and records
6522 if the files and records specified in Code Sections 15-11-702 and 15-11-708 are included
6523 in the application or motion.

6524 (d) Upon the entry of the order the proceeding shall be treated as if it had never occurred.
6525 All index references shall be deleted and the person, the court, the law enforcement
6526 officers, and the departments shall properly reply that no record exists pertaining to the
6527 person upon inquiry in any matter. Copies of the order shall be sent to each agency or
6528 designated official and shall also be sent to the deputy director of the Georgia Crime
6529 Information Center of the Georgia Bureau of Investigation. Inspection of the sealed files
6530 and records thereafter may be permitted by an order of the court upon petition by the
6531 person who is the subject of the records and otherwise only by those persons named in the
6532 order or to criminal justice officials upon petition to the court for official judicial
6533 enforcement or criminal justice purposes.

6534 (e) The court may seal any record containing information identifying a victim of an act
6535 which, if done by an adult, would constitute a sexual offense under Chapter 6 of Title 16.

6536 15-11-702.

6537 (a)(1) Every child charged with an offense that would be a felony if committed by an
6538 adult shall be fingerprinted and photographed upon being taken into custody.

6539 (2) Fingerprints and photographs of children to be used in investigating the commission
6540 of crimes shall be taken and filed separately from those of adults by law enforcement
6541 officials and shall be made available as provided in this article and as may be directed by
6542 the court.

6543 (b) Fingerprint files and photographs of children may be inspected by law enforcement
6544 officers when necessary for criminal justice purposes and for the discharge of their official
6545 duties. Other inspections may be authorized by the court in individual cases upon a
6546 showing that it is necessary in the public interest.

6547 (c) If a child has been charged with an offense that if committed by an adult would be a
6548 felony or if the case is transferred to another court for prosecution, such child's
6549 identification data, and other pertinent information shall be forwarded to the Georgia Crime
6550 Information Center of the Georgia Bureau of Investigation. The center shall create a
6551 juvenile fingerprint file and enter the data into the computerized criminal history files. The
6552 Georgia Bureau of Investigation shall act as the official state repository for juvenile history
6553 data and shall be authorized to disseminate such data for the purposes specified in Code
6554 Section 15-11-708.

6555 (d) Upon application of a child, fingerprints and photographs of such child shall be
6556 removed from the file and destroyed if a petition alleging delinquency is not filed or the
6557 proceedings are dismissed after either such petition is filed or the case is transferred to the
6558 juvenile court or the child is adjudicated not to be a delinquent child. The court shall notify
6559 the deputy director of the Georgia Crime Information Center when fingerprints and
6560 photographs are destroyed, and the Georgia Bureau of Investigation shall treat such records
6561 in the same manner as criminal history record information is restricted pursuant to Code
6562 Section 35-3-37.

6563 (e) Except as provided in subsection (a) of this Code section, without the consent of the
6564 judge, a child shall not be photographed after he or she is taken into custody unless the case
6565 is transferred to another court for prosecution.

6566 (f) Upon request, the judge or his or her designee shall release the name of any child with
6567 regard to whom a petition has been filed alleging a child committed a class A designated
6568 felony act or class B designated felony act or alleging a child committed a delinquent act
6569 if such child has previously been adjudicated for committing a delinquent act or if such
6570 child has previously been before the court on a delinquency charge and adjudication was
6571 withheld.

6572 15-11-703.

6573 Except as provided in subsection (d) of Code Section 24-6-609, the disposition of a child
6574 and evidence adduced in a hearing in the juvenile court may not be used against such child

6575 in any proceeding in any court other than for a proceeding for delinquency or a child in
6576 need of services, whether before or after reaching 18 years of age, except in the
6577 establishment of conditions of bail, plea negotiations, and sentencing in felony offenses;
6578 and, in such excepted cases, such records of dispositions and evidence shall be available
6579 to prosecuting attorneys, superior court judges, and the accused and may be used in the
6580 same manner as adult records.

6581 15-11-704.

6582 (a) Except as provided in subsection (b) of this Code section and Code Sections 15-11-705
6583 and 15-11-706, all files and records of the court in a proceeding under this chapter shall be
6584 open to inspection only upon order of the court.

6585 (b) The general public shall be allowed to inspect court files and records for any
6586 proceeding that was open to the public pursuant to paragraphs (1) through (5) of subsection
6587 (b) of Code Section 15-11-700.

6588 (c) A judge may permit authorized representatives of recognized organizations compiling
6589 statistics for proper purposes to inspect and make abstracts from official records under
6590 whatever conditions upon their use and distribution such judge may deem proper and may
6591 punish by contempt any violation of those conditions.

6592 (d) A judge shall permit authorized representatives of DJJ, the Governor's Office for
6593 Children and Families, and the Council of Juvenile Court Judges to inspect and extract data
6594 from any court files and records for the purpose of obtaining statistics on children and to
6595 make copies pursuant to the order of the court.

6596 (e) Except as otherwise provided in Code Sections 15-11-701 and 15-11-703, the
6597 complaint, petition, order of adjudication, and order of disposition in any delinquency case
6598 shall be disclosed upon request of the prosecuting attorney or the accused for use
6599 preliminarily to or in conjunction with a subsequent juvenile or criminal proceeding in a
6600 court of record.

6601 15-11-705.

6602 (a) Notwithstanding other provisions of this article, the court records of proceedings under
6603 Article 5 of this chapter shall be withheld from public inspection but shall be open to
6604 inspection by juvenile probation and parole officers, a child who is a party in a proceeding,
6605 his or her parent, guardian, or legal custodian, such child's attorney, and others entrusted
6606 with the supervision of such child. Additional access to court records may be granted by
6607 court order.

6608 (b) It shall be unlawful for any person to disclose court records, or any part thereof, to
6609 persons other than those entitled to access under subsection (a) of this Code section, except

6610 by court order. Any person who knowingly violates this subsection shall be guilty of
 6611 contempt and the court may enter any order authorized by the provisions of Code Section
 6612 15-11-31.

6613 15-11-706.

6614 (a) When a decision is made to handle a case through informal adjustment, mediation, or
 6615 other nonadjudicatory procedure, the juvenile court intake officer shall file with the court
 6616 in the county in which a child legally resides all of the following information:

6617 (1) The name, address, and date of birth of the child subject to informal adjustment,
 6618 mediation, or other nonadjudicatory procedure;

6619 (2) The act or offense for which such child was apprehended;

6620 (3) The diversion decision made;

6621 (4) The nature of such child's compliance with an informal adjustment agreement; and

6622 (5) If an informal adjustment agreement is revoked, the fact of and reasons for the
 6623 revocation.

6624 (b) Notwithstanding subsection (a) of Code Section 15-11-701, the court in the county in
 6625 which a child resides shall keep a separate record for such child which shall be open to the
 6626 court, the prosecuting attorney, or an officer designated by the court only for the purpose
 6627 of deciding whether to handle a subsequent case through informal adjustment, mediation,
 6628 or other nonadjudicatory procedure or for use in disposition of a subsequent proceeding.
 6629 Any person who knowingly violates this subsection shall be guilty of contempt and the
 6630 court may enter any order authorized by the provisions of Code Section 15-11-31.

6631 15-11-707.

6632 Within 30 days of any proceeding in which a child is adjudicated for committing a
 6633 delinquent act for a second or subsequent time or is adjudicated for committing a class A
 6634 designated felony act or class B designated felony act, the court shall provide written notice
 6635 to the school superintendent of the school in which such child is enrolled or his or her
 6636 designee or, if the information is known, of the school in which such child plans to be
 6637 enrolled at a future date. Such notice shall include the specific delinquent act or class A
 6638 designated felony act or class B designated felony act such child committed.

6639 15-11-708.

6640 (a) Law enforcement records and files concerning a child shall be kept separate from the
 6641 records and files of arrests of adults.

6642 (b) Unless a charge of delinquency is transferred for criminal prosecution, the interest of
 6643 national security requires, the case is one in which the general public may not be excluded

6644 from the hearings, or the court otherwise orders in the best interests of the child, the records
6645 and files shall not be open to public inspection nor shall their contents be disclosed to the
6646 public.

6647 (c) Inspection of the records and files shall be permitted by:

6648 (1) A juvenile court having a child before it in any proceeding;

6649 (2) The attorney for a party to the proceedings, with the consent of the court;

6650 (3) The officers of public institutions or agencies to whom a child is committed;

6651 (4) Law enforcement officers of this state, the United States, or any other jurisdiction
6652 when necessary for the discharge of their official duties;

6653 (5) A court in which a child is convicted of a criminal offense, for the purpose of a
6654 presentence report or other disposition proceeding;

6655 (6) Officials of penal institutions and other penal facilities to which a child is committed;
6656 or

6657 (7) A parole board in considering a child's parole or discharge or in exercising
6658 supervision over such child.

6659 (d) The court shall allow authorized representatives of DJJ, the Governor's Office for
6660 Children and Families, and the Council of Juvenile Court Judges to inspect and copy law
6661 enforcement records for the purpose of obtaining statistics on children.

6662 (e) Access to fingerprint records submitted to the Georgia Bureau of Investigation shall
6663 be limited to the administration of criminal justice purposes.

6664 15-11-709.

6665 (a) Subject to the earlier sealing of certain records pursuant to Code Section 15-11-701,
6666 the juvenile court shall make and keep records of all cases brought before it and shall
6667 preserve the records pertaining to a child in accordance with the common records retention
6668 schedules for courts approved by the State Records Committee pursuant to Code Section
6669 50-18-92.

6670 (b) Thereafter, the court may destroy such records, except that the records of cases in
6671 which a court terminates the parental rights of a parent and the records of cases involving
6672 a petition for legitimation of a child shall be preserved permanently.

6673 (c) The juvenile court shall make official minutes consisting of all petitions and orders
6674 filed in a case and any other pleadings, certificates, proofs of publication, summonses,
6675 warrants, and other writs which may be filed and shall make social records consisting of
6676 records of investigation and treatment and other confidential information.

6677 (d) Identification data shall be maintained and shall be disseminated to criminal justice
6678 officials for official judicial enforcement or criminal justice purposes as provided in Code
6679 Section 35-3-33.

6680 (e) Nothing in this chapter shall restrict or otherwise prohibit a juvenile court clerk from
 6681 electing to store for computer retrieval any or all records, dockets, indexes, or files; nor
 6682 shall a juvenile court clerk be prohibited from combining or consolidating any books,
 6683 dockets, files, or indexes in connection with the filing for record of papers of the kind
 6684 specified in this chapter or any other law, provided that any automated or computerized
 6685 record-keeping method or system shall provide for the systematic and safe preservation and
 6686 retrieval of all books, dockets, records, or indexes. When the clerk of a juvenile court
 6687 elects to store for computer retrieval any or all records, the same data elements used in a
 6688 manual system shall be used, and the same integrity and security shall be maintained.

6689 15-11-710.

6690 (a) As used in this Code section, the term 'governmental entity' shall mean the court,
 6691 superior court, DJJ, DBHDD, DFACS, county departments of family and children services,
 6692 or public schools, as such term is defined in Code Section 16-11-35.

6693 (b) Governmental entities and state, county, municipal, or consolidated government
 6694 departments, boards, or agencies shall exchange with each other all information not held
 6695 as confidential pursuant to federal law and relating to a child which may aid a
 6696 governmental entity in the assessment, treatment, intervention, or rehabilitation of a child,
 6697 notwithstanding Code Section 15-1-15, 15-11-40, 15-11-105, 15-11-170, 15-11-264,
 6698 15-11-541, 15-11-542, 15-11-603, 15-11-708, 15-11-709, 15-11-744, 20-2-751.2,
 6699 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,
 6700 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,
 6701 49-5-45, 49-5-183, 49-5-184, 49-5-185, or 49-5-186, in order to serve the best interests of
 6702 such child. Information which is shared pursuant to this subsection shall not be utilized to
 6703 assist in the prosecution of a child in juvenile court or superior court or utilized to the
 6704 detriment of such child.

6705 (c) Information released pursuant to this Code section shall not change or rescind the
 6706 confidential nature of such information and such information shall not be subject to public
 6707 disclosure or inspection unless otherwise provided by law.

6708 ARTICLE 10

6709 15-11-720.

6710 (a) Emancipation may occur by operation of law or pursuant to a petition filed with the
 6711 court as provided in this article by a child who is at least 16 years of age.

6712 (b) An emancipation occurs by operation of law:

6713 (1) When a child is validly married;

- 6714 (2) When a child reaches the age of 18 years; or
6715 (3) During the period when a child is on active duty with the armed forces of the United
6716 States.
- 6717 (c) An emancipation occurs by court order pursuant to a petition filed by a child with the
6718 juvenile court.
- 6719 15-11-721.
- 6720 A child seeking emancipation shall file a petition for emancipation in the juvenile court in
6721 the county where such child resides. The petition shall be signed and verified by the
6722 petitioner, and shall include:
- 6723 (1) The petitioner's full name and birth date and the county and state where the petitioner
6724 was born;
- 6725 (2) A certified copy of the petitioner's birth certificate;
- 6726 (3) The name and last known address of the petitioner's parent, guardian, or legal
6727 custodian and, if no parent, guardian, or legal custodian can be found, the name and
6728 address of the petitioner's nearest living relative residing within this state;
- 6729 (4) The petitioner's present address and length of residency at that address;
- 6730 (5) A declaration by the petitioner demonstrating the ability to manage his or her
6731 financial affairs together with any information necessary to support the declaration;
- 6732 (6) A declaration by the petitioner demonstrating the ability to manage his or her
6733 personal and social affairs together with any information necessary to support the
6734 declaration; and
- 6735 (7) The names of individuals who have personal knowledge of the petitioner's
6736 circumstances and believe that under those circumstances emancipation is in the best
6737 interests of the petitioner. Such individuals may include any of the following:
- 6738 (A) A licensed physician, physician assistant, or osteopath;
- 6739 (B) A registered professional nurse or licensed practical nurse;
- 6740 (C) A licensed psychologist;
- 6741 (D) A licensed professional counselor, social worker, or marriage and family therapist;
- 6742 (E) A school guidance counselor, school social worker, or school psychologist;
- 6743 (F) A school administrator, school principal, or school teacher;
- 6744 (G) A member of the clergy;
- 6745 (H) A law enforcement officer; or
- 6746 (I) An attorney.

6747 15-11-722.

6748 (a) Upon filing the petition, a copy of the petition for emancipation and a summons to
6749 appear at the hearing shall be served on all persons named in the petition and upon any
6750 individual who provided an affidavit for the emancipation.

6751 (b) A person served with a petition may file an answer in the juvenile court in which the
6752 petition was filed within 30 days of being served.

6753 15-11-723.

6754 (a) After a petition for emancipation is filed, the court may:

6755 (1) Appoint a guardian ad litem to investigate the allegations of the petition and to file
6756 a report with the court, including a recommendation as to whether it is in the best
6757 interests of the petitioner that the petition for emancipation be granted;

6758 (2) Appoint an attorney for the petitioner; and

6759 (3) Appoint an attorney for the petitioner's parent, guardian, or legal custodian if he or
6760 she is an indigent person and if he or she opposes the petition.

6761 (b) After a petition for emancipation is filed, the court shall seek an affidavit from each
6762 person identified in the petition pursuant to paragraph (7) of Code Section 15-11-721 that
6763 describes why that person believes the petitioner should be emancipated.

6764 15-11-724.

6765 A child who petitions the court for emancipation shall have the burden of showing that
6766 emancipation should be ordered by a preponderance of evidence.

6767 15-11-725.

6768 (a) The court shall issue an emancipation order if, after a hearing, it determines that
6769 emancipation is in the best interests of the child and such child has established:

6770 (1) That his or her parent, guardian, or legal custodian does not object to the petition; or,
6771 if a parent, guardian, or legal custodian objects to the petition, that the best interests of
6772 the child are served by allowing the emancipation to occur by court order;

6773 (2) That he or she is a resident of this state;

6774 (3) That he or she has demonstrated the ability to manage his or her financial affairs,
6775 including proof of employment or other means of support. 'Other means of support' shall
6776 not include general assistance or aid received from means-tested public assistance
6777 programs such as Temporary Assistance for Needy Families as provided in Article 9 of
6778 Chapter 4 of Title 49 or similar programs under Title IV-A of the federal Social Security
6779 Act;

6780 (4) That he or she has the ability to manage his or her personal and social affairs,
6781 including, but not limited to, proof of housing; and

6782 (5) That he or she understands his or her rights and responsibilities under this article as
6783 an emancipated child.

6784 (b) If the court issues an emancipation order, the court shall retain a copy of the order until
6785 the emancipated child becomes 25 years of age.

6786 (c) An emancipation obtained by fraud is voidable. Voiding an emancipation order shall
6787 not affect an obligation, responsibility, right, or interest that arose during the period of time
6788 the order was in effect.

6789 (d) A child or his or her parent, guardian, or legal custodian may appeal the court's grant
6790 or denial of an emancipation petition.

6791 15-11-726.

6792 (a) A child emancipated by court order may petition the juvenile court that issued the
6793 emancipation order to rescind such order.

6794 (b) A copy of the petition for rescission and a summons shall be served on the petitioner's
6795 parent, guardian, or legal custodian.

6796 (c) The court shall grant the petition and rescind the order of emancipation if it finds:

6797 (1) That the petitioner is an indigent person and has no means of support;

6798 (2) That the petitioner and the petitioner's parent, guardian, or legal custodian agree that
6799 the order should be rescinded; or

6800 (3) That there is a resumption of family relations inconsistent with the existing
6801 emancipation order.

6802 (d) If a petition for rescission is granted, the court shall issue an order rescinding the
6803 emancipation order and retain a copy of the order until the petitioner becomes 25 years of
6804 age.

6805 (e) Rescission of an emancipation order shall not alter any contractual obligations or rights
6806 or any property rights or interests that arose during the period of time that the emancipation
6807 order was in effect.

6808 (f) A child or his or her parent, guardian, or legal custodian may appeal the court's grant
6809 or denial of a petition for rescission of an emancipation order. The appeal shall be filed in
6810 the Court of Appeals.

6811 15-11-727.

6812 (a) A child emancipated by operation of law or by court order shall be considered to have
6813 the rights and responsibilities of an adult, except for those specific constitutional and
6814 statutory age requirements regarding voting, use of alcoholic beverages, and other health

6815 and safety regulations relevant to a child because of his or her age. The rights of a child
 6816 to receive any transfer of property or money pursuant to 'The Georgia Transfers to Minors
 6817 Act' under Article 5 of Chapter 5 of Title 44; under the Uniform Transfers to Minors Act,
 6818 the Uniform Gift to Minors Act, or other substantially similar act of another state; or
 6819 pursuant to a trust agreement shall not be affected by a declaration of an emancipation
 6820 under this article.

6821 (b) A child shall be considered emancipated for the purposes of, but not limited to:

6822 (1) The right to enter into enforceable contracts, including apartment leases;

6823 (2) The right to sue or be sued in his or her own name;

6824 (3) The right to retain his or her own earnings;

6825 (4) The right to establish a separate domicile;

6826 (5) The right to act autonomously, and with the rights and responsibilities of an adult, in
 6827 all business relationships, including but not limited to property transactions and obtaining
 6828 accounts for utilities, except for those estate or property matters that the court determines
 6829 may require a conservator or guardian ad litem;

6830 (6) The right to earn a living, subject only to the health and safety regulations designed
 6831 to protect those under the age of 18 regardless of their legal status;

6832 (7) The right to authorize his or her own preventive health care, medical care, dental
 6833 care, and mental health care, without parental knowledge or liability;

6834 (8) The right to apply for a driver's license or other state licenses for which he or she
 6835 might be eligible;

6836 (9) The right to register for school;

6837 (10) The right to apply for medical assistance programs and for other welfare assistance,
 6838 if needed;

6839 (11) The right, if a parent, to make decisions and give authority in caring for his or her
 6840 own minor child; and

6841 (12) The right to make a will.

6842 (c) A parent, guardian, or legal custodian of a child emancipated by court order shall not
 6843 be liable for any debts incurred by his or her child during the period of emancipation.

6844 15-11-728.

6845 (a) The duty to provide support for a child shall continue until an emancipation order is
 6846 granted.

6847 (b) A child emancipated under this article shall not be considered a dependent child.

6848 (c) The provisions set forth in Code Section 19-3-2 regarding age limitations to contract
 6849 for marriage shall apply to a child who has become emancipated under this article.

ARTICLE 11

6850

6851 15-11-740.

6852 (a) This article shall be known and may be cited as the 'Georgia Child Advocate for the
6853 Protection of Children Act.'

6854 (b) In keeping with this article's purpose of assisting, protecting, and restoring the security
6855 of children whose well-being is threatened, it is the intent of the General Assembly that the
6856 mission of protection of the children of this state should have the greatest legislative and
6857 executive priority. Recognizing that the needs of children must be attended to in a timely
6858 manner and that more aggressive action should be taken to protect children from abuse and
6859 neglect, the General Assembly creates the Office of the Child Advocate for the Protection
6860 of Children to provide independent oversight of persons, organizations, and agencies
6861 responsible for providing services to or caring for children who are victims of child abuse
6862 and neglect or whose domestic situation requires intervention by the state. The Office of
6863 the Child Advocate for the Protection of Children will provide children with an avenue
6864 through which to seek relief when their rights are violated by state officials and agents
6865 entrusted with their protection and care.

6866 15-11-741.6867 As used in this article, the term:

6868 (1) 'Advocate' or 'child advocate' means the Child Advocate for the Protection of
6869 Children established under Code Section 15-11-742.

6870 (2) 'Agency' shall have the same meaning and application as provided for in
6871 paragraph (1) of subsection (a) of Code Section 50-14-1.

6872 (3) 'Child' or 'children' means an individual receiving protective services from DFCS, for
6873 whom DFCS has an open case file, or who has been, or whose siblings, parents, or other
6874 caretakers have been, the subject of a report to DFCS within the previous five years.

6875 15-11-742.

6876 (a) There is created the Office of the Child Advocate for the Protection of Children. The
6877 Governor, by executive order, shall create a nominating committee which shall consider
6878 nominees for the position of the advocate and shall make a recommendation to the
6879 Governor. Such person shall have knowledge of the child welfare system, the juvenile
6880 justice system, and the legal system and shall be qualified by training and experience to
6881 perform the duties of the office as set forth in this article.

6882 (b) The advocate shall be appointed by the Governor from a list of at least three names
6883 submitted by the nominating committee for a term of three years and until his or her

6884 successor is appointed and qualified and may be reappointed. The salary of the advocate
 6885 shall not be less than \$60,000.00 per year, shall be fixed by the Governor, and shall come
 6886 from funds appropriated for the purposes of the advocate.

6887 (c) The Office of the Child Advocate for the Protection of Children shall be assigned to
 6888 the Office of Planning and Budget for administrative purposes only, as described in Code
 6889 Section 50-4-3.

6890 (d) The advocate may appoint such staff as may be deemed necessary to effectively fulfill
 6891 the purposes of this article, within the limitations of the funds available for the purposes
 6892 of the advocate. The duties of the staff may include the duties and powers of the advocate
 6893 if performed under the direction of the advocate. The advocate and his or her staff shall
 6894 receive such reimbursement for travel and other expenses as is normally allowed to state
 6895 employees from funds appropriated for the purposes of the advocate.

6896 (e) The advocate shall have the authority to contract with experts in fields including but
 6897 not limited to medicine, psychology, education, child development, juvenile justice, mental
 6898 health, and child welfare as needed to support the work of the advocate, utilizing funds
 6899 appropriated for the purposes of the advocate.

6900 (f) Notwithstanding any other provision of state law, the advocate shall act independently
 6901 of any state official, department, or agency in the performance of his or her duties.

6902 (g) The advocate or his or her designee shall be a member of the Georgia Child Fatality
 6903 Review Panel.

6904 15-11-743.

6905 The advocate shall perform the following duties:

6906 (1) Identify, receive, investigate, and seek the resolution or referral of complaints made
 6907 by or on behalf of children concerning any act, omission to act, practice, policy, or
 6908 procedure of an agency or any contractor or agent thereof that may adversely affect the
 6909 health, safety, or welfare of the children;

6910 (2) Refer complaints involving abused children to appropriate regulatory and law
 6911 enforcement agencies;

6912 (3) Coordinate and supervise the work of the Georgia Child Fatality Review Panel
 6913 created by Code Section 19-15-4 and provide such staffing and administrative support to
 6914 the panel as may be necessary to enable the panel to carry out its statutory duties;

6915 (4) Report the death of any child to the chairperson of the child fatality review
 6916 subcommittee of the county in which such child resided at the time of death, unless the
 6917 advocate has knowledge that such death has been reported by the county medical
 6918 examiner or coroner, pursuant to Code Section 19-15-3, and to provide such
 6919 subcommittee access to any records of the advocate relating to such child;

6920 (5) Provide periodic reports on the work of the Office of the Child Advocate for the
 6921 Protection of Children, including but not limited to an annual written report for the
 6922 Governor and the General Assembly and other persons, agencies, and organizations
 6923 deemed appropriate. Such reports shall include recommendations for changes in policies
 6924 and procedures to improve the health, safety, and welfare of children and shall be made
 6925 expeditiously in order to timely influence public policy;

6926 (6) Establish policies and procedures necessary for the Office of the Child Advocate for
 6927 the Protection of Children to accomplish the purposes of this article, including without
 6928 limitation providing DFCS with a form of notice of availability of the Office of the Child
 6929 Advocate for the Protection of Children. Such notice shall be posted prominently, by
 6930 DFCS, in DFCS offices and in facilities receiving public moneys for the care and
 6931 placement of children and shall include information describing the Office of the Child
 6932 Advocate for the Protection of Children and procedures for contacting that office; and

6933 (7) Convene quarterly meetings with organizations, agencies, and individuals who work
 6934 in the area of child protection to seek opportunities to collaborate and improve the status
 6935 of children in Georgia.

6936 15-11-744.

6937 (a) The advocate shall have the following rights and powers:

6938 (1) To communicate privately, by mail or orally, with any child and with each child's
 6939 parent, guardian, or legal custodian;

6940 (2) To have access to all records and files of DFCS concerning or relating to a child, and
 6941 to have access, including the right to inspect, copy, and subpoena records held by clerks
 6942 of the various courts, law enforcement agencies, service providers, including medical and
 6943 mental health, and institutions, public or private, with whom a particular child has been
 6944 either voluntarily or otherwise placed for care or from whom the child has received
 6945 treatment within this state. To the extent any such information provides the names and
 6946 addresses of individuals who are the subject of any confidential proceeding or statutory
 6947 confidentiality provisions, such names and addresses or related information that has the
 6948 effect of identifying such individuals shall not be released to the public without the
 6949 consent of such individuals. The Office of the Child Advocate for the Protection of
 6950 Children shall be bound by all confidentiality safeguards provided in Code Sections
 6951 49-5-40 and 49-5-44. Anyone wishing to obtain records held by the Office of the Child
 6952 Advocate shall petition the original agency of record where such records exist;

6953 (3) To enter and inspect any and all institutions, facilities, and residences, public and
 6954 private, where a child has been placed by a court or DFCS and is currently residing.
 6955 Upon entering such a place, the advocate shall notify the administrator or, in the absence

6956 of the administrator, the person in charge of the facility, before speaking to any children.
 6957 After notifying the administrator or the person in charge of the facility, the advocate may
 6958 communicate privately and confidentially with children in the facility, individually or in
 6959 groups, or the advocate may inspect the physical plant. To the extent possible, entry and
 6960 investigation provided by this Code section shall be conducted in a manner which will
 6961 not significantly disrupt the provision of services to children;

6962 (4) To apply to the Governor to bring legal action in the nature of a writ of mandamus
 6963 or application for injunction pursuant to Code Section 45-15-18 to require an agency to
 6964 take or refrain from taking any action required or prohibited by law involving the
 6965 protection of children;

6966 (5) To apply for and accept grants, gifts, and bequests of funds from other states, federal
 6967 and interstate agencies, independent authorities, private firms, individuals, and
 6968 foundations for the purpose of carrying out the lawful responsibilities of the Office of the
 6969 Child Advocate for the Protection of Children;

6970 (6) When less formal means of resolution do not achieve appropriate results, to pursue
 6971 remedies provided by this article on behalf of children for the purpose of effectively
 6972 carrying out the provisions of this article; and

6973 (7) To engage in programs of public education and legislative advocacy concerning the
 6974 needs of children requiring the intervention, protection, and supervision of courts and
 6975 state and county agencies.

6976 (b)(1) Upon issuance by the advocate of a subpoena in accordance with this article for
 6977 law enforcement investigative records concerning an ongoing investigation, the
 6978 subpoenaed party may move a court with appropriate jurisdiction to quash such
 6979 subpoena.

6980 (2) The court shall order a hearing on the motion to quash within five days of the filing
 6981 of the motion to quash, and the hearing may be continued for good cause shown by any
 6982 party or by the court on its own motion. Subject to any right to an open hearing in
 6983 contempt proceedings, such hearing shall be closed to the extent necessary to prevent
 6984 disclosure of the identity of a confidential source; disclosure of confidential investigative
 6985 or prosecution material which would endanger the life or physical safety of any person
 6986 or persons; or disclosure of the existence of confidential surveillance, investigation, or
 6987 grand jury materials or testimony in an ongoing criminal investigation or prosecution.
 6988 Records, motions, and orders relating to a motion to quash shall be kept sealed by the
 6989 court to the extent and for the time necessary to prevent public disclosure of such matters,
 6990 materials, evidence, or testimony.

6991 (c) The court shall, at or before the time specified in the subpoena for compliance
 6992 therewith, enter an order:

6993 (1) Enforcing the subpoena as issued;
 6994 (2) Quashing or modifying the subpoena if it is unreasonable and oppressive; or
 6995 (3) Conditioning enforcement of the subpoena on the advocate maintaining confidential
 6996 any evidence, testimony, or other information obtained from law enforcement or
 6997 prosecution sources pursuant to the subpoena until the time the criminal investigation and
 6998 prosecution are concluded. Unless otherwise ordered by the court, an investigation or
 6999 prosecution shall be deemed to be concluded when the information becomes subject to
 7000 public inspection pursuant to Code Section 50-18-72. The court shall include in its order
 7001 written findings of fact and conclusions of law.

7002 15-11-745.

7003 (a) No person shall discriminate or retaliate in any manner against any child, parent,
 7004 guardian, or legal custodian of a child, employee of a facility, agency, institution or other
 7005 type of provider, or any other person because of the making of a complaint or providing
 7006 of information in good faith to the advocate or willfully interfere with the advocate in the
 7007 performance of his or her official duties.

7008 (b) Any person violating subsection (a) of this Code section shall be guilty of a
 7009 misdemeanor.

7010 15-11-746.

7011 The advocate shall be authorized to request an investigation by the Georgia Bureau of
 7012 Investigation of any complaint of criminal misconduct involving a child.

7013 15-11-747.

7014 (a) There is established a Child Advocate Advisory Committee. The advisory committee
 7015 shall consist of:

7016 (1) One representative of a not for profit children's agency appointed by the Governor;

7017 (2) One representative of a for profit children's agency appointed by the Lieutenant
 7018 Governor;

7019 (3) One pediatrician appointed by the Speaker of the House of Representatives;

7020 (4) One social worker with experience and knowledge of child protective services who
 7021 is not employed by the state appointed by the Governor;

7022 (5) One psychologist appointed by the Lieutenant Governor;

7023 (6) One attorney from the Children and the Courts Committee of the State Bar of
 7024 Georgia appointed by the Speaker of the House of Representatives; and

7025 (7) One juvenile court judge appointed by the Chief Justice of the Supreme Court.

7026 Each member of the advisory committee shall serve a two-year term and until the
 7027 appointment and qualification of such member's successor. Appointments to fill vacancies
 7028 in such offices shall be filled in the same manner as the original appointment.

7029 (b) The advisory committee shall meet a minimum of three times a year with the advocate
 7030 and his or her staff to review and assess the following:

7031 (1) Patterns of treatment and service for children;

7032 (2) Policy implications; and

7033 (3) Necessary systemic improvements.

7034 The advisory committee shall also provide for an annual evaluation of the effectiveness of
 7035 the Office of the Child Advocate for the Protection of Children."

7036 **PART II**

7037 **PLACEMENT OF JUVENILE OFFENDERS**

7038 **SECTION 2-1.**

7039 Code Section 42-5-52 of the Official Code of Georgia Annotated, relating to classification
 7040 and separation of inmates generally and the placement of juvenile offenders, is amended by
 7041 revising subsection (b), as follows:

7042 "(b) The department may establish separate correctional or similar institutions for the
 7043 separation and care of juvenile offenders. The commissioner may transfer any juvenile
 7044 under 17 years of age from the penal institution in which he or she is serving to the
 7045 Department of Juvenile Justice, provided that the transfer is approved thereby. The
 7046 juvenile may be returned to the custody of the commissioner when the commissioner of
 7047 juvenile justice determines that the juvenile is unsuited to be dealt with therein. The
 7048 commissioner may accept a juvenile for transfer into a penal institution upon the request
 7049 of the commissioner of juvenile justice if such juvenile is 16 years of age or older and has
 7050 been committed to the Department of Juvenile Justice for a delinquent act, as defined by
 7051 Code Section 15-11-2, or convicted of a felony. In the event of such transfer, the
 7052 department shall have the same authority over and responsibility for such juvenile as the
 7053 Department of Juvenile Justice has for such juvenile."

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PART III
DEPARTMENT OF JUVENILE JUSTICE AND
CHILDREN AND YOUTH SERVICES
SECTION 3-1.

7058 Title 49 of the Official Code of Georgia Annotated, relating to social services, is amended
7059 by revising Code Section 49-4A-1, relating to definitions, as follows:

7060 "49-4A-1.

7061 As used in this chapter, the term:

7062 (1) 'Board' means the Board of Juvenile Justice.

7063 (2) 'Child in need of services' means any child so adjudged under Article 6 of Chapter
7064 11 of Title 15.

7065 ~~(2)~~(3) 'Commissioner' means the commissioner of juvenile justice.

7066 ~~(3)~~(4) 'Delinquent or unruly child or youth' means any ~~person~~ child so adjudged under
7067 Article ~~†~~ 6 of Chapter 11 of Title 15.

7068 ~~(4)~~(5) 'Department' means the Department of Juvenile Justice.

7069 (6) 'Detention assessment' means an actuarial tool, approved by the board and validated
7070 on a targeted population, used to make detention decisions and that identifies and
7071 calculates specific factors that are likely to indicate a child's risk to public safety pending
7072 adjudication and the likelihood that such child will appear for juvenile proceedings for
7073 the act causing the detention decision to be made.

7074 (7) 'Evidence based programs or practices' means programs, practices, procedures, and
7075 policies that scientific research demonstrates a likelihood to prevent or reduce juvenile
7076 delinquency or recidivism.

7077 (8) 'Juvenile detention facility' means hardware secure residential institutions or
7078 community residential locations operated by or on behalf of the department and may
7079 include youth development centers, regional youth detention centers, group homes,
7080 emergency shelters, wilderness or outdoor therapeutic programs, or other facilities that
7081 provide 24 hour care in a residential setting.

7082 (9) 'Recidivism' means a conviction or adjudication of delinquency for an offense or
7083 crime committed within three years of being placed on probation or being discharged or
7084 released from a juvenile detention facility.

7085 (10) 'Risk and needs assessment' means an actuarial tool, approved by the board and
7086 validated on a targeted population, that identifies and calculates specific factors that
7087 predict a child's likelihood of recidivating and identifies criminal risk factors that, when
7088 properly addressed, can reduce such child's likelihood of recidivating.

7089 (11) 'Risk assessment' means an actuarial tool, approved by the board and validated on
 7090 a targeted population, that identifies and calculates specific factors that predict a child's
 7091 likelihood of recidivating."

7092 **SECTION 3-2.**

7093 Said chapter is further amended by revising subsection (b) of Code Section 49-4A-2, relating
 7094 to the creation of the Board of Juvenile Justice, as follows:

7095 "(b) The board shall:

7096 (1) Provide ~~provide~~ leadership in developing programs to successfully rehabilitate
 7097 ~~juvenile delinquents and unruly children~~ delinquent children committed to the state's
 7098 custody and to provide;

7099 (2) Provide technical assistance to private and public entities for prevention programs
 7100 for children at risk;

7101 (3) Ensure that detention assessment, risk assessment, and risk and needs assessment
 7102 instruments that are utilized by intake personnel and courts are developed in consultation
 7103 with the Governor's Office for Children and Families and the Council of Juvenile Court
 7104 Judges and ensure that such instruments are validated at least every five years;

7105 (4) Adopt rules and regulations governing the management and treatment of children
 7106 committed to the department to ensure that evidence based programs or practices,
 7107 including the use of a risk and needs assessment and any other method the board deems
 7108 appropriate, guide decisions related to placing a committed child in a facility or into the
 7109 community, preparing a child's release into the community, and managing children
 7110 probationers in the community; and

7111 (5) Require the department to collect and analyze data and performance outcomes,
 7112 including, but not limited to, data collected and maintained pursuant to subsection (n) of
 7113 Code Section 49-4A-8 and prepare an annual report regarding such information which
 7114 shall be submitted to the Governor, the Lieutenant Governor, the Speaker of the House
 7115 of Representatives, and the chairpersons of the House Committee on Judiciary Non-civil
 7116 and the Senate State Judiciary Committee."

7117 **SECTION 3-3.**

7118 Said chapter is further amended by revising Code Section 49-4A-3, relating to the creation
 7119 of the Department of Juvenile Justice, as follows:

7120 "49-4A-3.

7121 (a) There is created the Department of Juvenile Justice and the position of commissioner
 7122 of juvenile justice. ~~The Department of Juvenile Justice shall be the successor entity to the~~
 7123 ~~Department of Children and Youth Services and the change is intended to be one of name~~

7124 ~~only, and the commissioner of juvenile justice shall be the successor to the commissioner~~
 7125 ~~of children and youth services and the change is intended to be one of name only.~~ The
 7126 commissioner shall be the chief administrative officer of the ~~Department of Juvenile Justice~~
 7127 department and shall be both appointed and removed by the board, subject to the approval
 7128 of the Governor. The commissioner of human services ~~may~~ shall not also serve as the
 7129 commissioner of juvenile justice. Subject to the general policy and rules and regulations
 7130 of the board, the commissioner ~~of juvenile justice~~ shall supervise, direct, account for,
 7131 organize, plan, administer, and execute the functions of the ~~Department of Juvenile Justice~~
 7132 department.

7133 (b) The department shall provide for supervision, detention, and rehabilitation of ~~juvenile~~
 7134 ~~delinquents~~ delinquent children committed to the state's custody. The department shall also
 7135 be authorized to operate prevention programs and to provide assistance to local public and
 7136 private entities with prevention programs for ~~juveniles~~ children at risk. In lieu of
 7137 commitment ~~Additionally,~~ the department ~~will~~ shall be authorized to provide for
 7138 specialized treatment for ~~juvenile offenders, in lieu of commitment, who have been found~~
 7139 ~~to be sex offenders or drug abusers~~ children adjudicated for delinquent acts involving
 7140 sexual offenses or controlled substances and who may have behavior disorders. The
 7141 department's organization, operation, and implementation shall be based on the following:

- 7142 (1) Development of a comprehensive continuum of service options using evidence based
 7143 programs or practices through flexible funding to allow providers to respond to the
 7144 unique needs and capabilities of individual children and families;
- 7145 (2) Services implemented so that each child and family served can have a personal
 7146 relationship with staff, providers, and workers, which staff, providers, and workers shall
 7147 be trained and treated as professionals, have a range of multidisciplinary skills, and have
 7148 manageable caseloads;
- 7149 (3) Services shall be based on evidence based programs or practices and be community
 7150 centered and responsive to local needs with state and local and public and private entities
 7151 forming cooperative partnerships that enhance informal support systems for families;
- 7152 (4) Systems that are accountable, with desired outcomes specified, results measured and
 7153 evaluated, and cost-efficient options maximized;
- 7154 (5) Intersystem communication and collaboration that are encouraged and facilitated
 7155 through coordination of systems so that gaps and unnecessary duplications in planning,
 7156 funding, and providing services are eliminated;
- 7157 (6) Being consumer ~~The department shall be consumer~~ driven and responsive to the
 7158 changing needs of individual communities; and
- 7159 (7) Encouraging ~~The department shall encourage~~ the central location of various services
 7160 whenever possible."

7161 **SECTION 3-4.**

7162 Said chapter is further amended by revising Code Section 49-4A-4, relating to purpose of
7163 chapter, as follows:

7164 "49-4A-4.

7165 It is the purpose of this chapter to establish the department as the agency to administer,
7166 supervise, and manage juvenile detention facilities. ~~Except for the purposes of~~
7167 ~~administration, supervision, and management as provided in this chapter, juvenile detention~~
7168 ~~facilities shall continue to be detention care facilities for delinquent and unruly children and~~
7169 ~~youth for the purposes of Article 1 of Chapter 11 of Title 15, relating to juvenile courts and~~
7170 ~~juvenile proceedings."~~

7171 **SECTION 3-5.**

7172 Said chapter is further amended by revising subsection (a) of Code Section 49-4A-5, relating
7173 to transfer of functions and employees of the Division of Youth Services and personnel
7174 administration, as follows:

7175 "(a) The department shall carry out all functions and exercise all powers relating to the
7176 administration, supervision, and management of juvenile detention facilities, ~~including~~
7177 ~~youth development centers, and jurisdiction over said youth development centers and other~~
7178 ~~such~~ juvenile detention facilities is vested in the department."

7179 **SECTION 3-6.**

7180 Said chapter is further amended by revising Code Section 49-4A-6, relating to rules and
7181 regulations, as follows:

7182 "49-4A-6.

7183 (a) The board shall adopt rules and regulations for the government, operation,
7184 administration, and maintenance of ~~youth development centers and other~~ juvenile detention
7185 facilities ~~by the department~~ and may also adopt such other rules and regulations for the
7186 government and operation of the department as the board may deem necessary consistent
7187 with the provisions of this chapter.

7188 (b) Rules and regulations adopted by the board under subsection (a) of this Code section
7189 shall recognize that a primary purpose of ~~youth development centers and other~~ juvenile
7190 detention facilities is to carry out rehabilitative programs using evidence based programs
7191 or practices to the end that children ~~and youth~~ housed in ~~said centers shall~~ such facilities
7192 develop ~~their~~ self-respect and self-reliance and acquire the necessary knowledge and skills
7193 to become good citizens who are qualified for honorable employment."

7194

SECTION 3-7

7195 Said chapter is further amended by revising Code Section 49-4A-7, relating to powers and
7196 duties of the department, as follows:

7197 "49-4A-7.

7198 (a) The department shall be authorized to:

7199 (1) Accept for detention in a ~~youth development center or other~~ juvenile detention
7200 facility any child who is committed to the department under Article ~~† 6~~ of Chapter 11 of
7201 Title 15;

7202 (2) Provide probation ~~and parole~~ and other court services for children ~~and youth~~ pursuant
7203 to a request from a court under Article ~~† 6~~ of Chapter 11 of Title 15;

7204 (3) Provide casework services and care or payment of maintenance costs for children ~~and~~
7205 ~~youths~~ who have run away from their home communities within this state or from their
7206 home communities in this state to another state or from their home communities in
7207 another state to this state; pay the costs of returning such runaway children ~~and youths~~
7208 to their home communities; and provide such services, care, or costs for runaway children
7209 ~~and youths~~ as may be required under Chapter 3 of Title 39;

7210 (4) Enter into contracts and cooperative agreements with federal, state, county, and
7211 municipal governments and their agencies and departments; enter into contracts with
7212 public and private institutions and agencies of this and other states; enter into leases with
7213 private vendors selected to operate programs on behalf of the department which ~~leases~~
7214 shall run concurrently with the department's service contracts; provided, however, that
7215 any such lease shall provide that if the property which is the subject of the lease is sold
7216 and conveyed during the term of the lease, such lease shall expire by operation of law 90
7217 days after the closing of such sale and conveyance; and enter into contracts with
7218 individuals, as may be necessary or desirable in effectuating the purposes of this chapter;
7219 and

7220 (5) Solicit and accept donations, contributions, and gifts and receive, hold, and use
7221 grants, devises, and bequests of real, personal, and mixed property on behalf of the state
7222 to enable the department to carry out its functions and purposes.

7223 (b) When given legal custody over a child ~~or youth~~ for detention in a ~~youth development~~
7224 ~~center or other~~ juvenile detention facility under court order under Article ~~† 6~~ of Chapter 11
7225 of Title 15, the department shall have:

7226 (1) The right of physical possession of ~~the~~ such child ~~or youth~~;7227 (2) The right and duty to protect, train, and discipline ~~the~~ such child ~~or youth~~;7228 (3) The responsibility to provide ~~the~~ such child ~~or youth~~ with food, clothing, shelter, and
7229 education;

7230 (4) The right to determine in which facility ~~the~~ such child ~~or youth~~ shall live and to
 7231 transfer such child as provided in subsection (b) of Code Section 42-5-52; and

7232 (5) The right and duty to provide or obtain for a such child ~~or youth~~ medical, hospital,
 7233 psychiatric, surgical, or dental care or services as may be considered appropriate and
 7234 necessary by competent medical authority without securing prior consent of parents or
 7235 legal guardians.

7236 (c) The board may authorize the commissioner to enter into contracts and agreements
 7237 provided for in this Code section subject to the approval of the board or may, through
 7238 appropriate action of the board, delegate such authority to the commissioner; provided,
 7239 however, that any contract or agreement that provides services to delinquent children shall
 7240 be a performance based contract that includes financial incentives or consequences based
 7241 on the results achieved by the contractor as measured by output, quality, or outcome
 7242 measures."

7243 SECTION 3-8.

7244 Said chapter is further amended by revising Code Section 49-4A-8, relating to commitment
 7245 of delinquent or unruly children, as follows:

7246 "49-4A-8.

7247 (a) When ~~any child or youth is adjudged to be in a state of delinquency or unruliness under~~
 7248 ~~Article 1 of Chapter 11 of Title 15~~ and the court does not release such a delinquent child
 7249 ~~or youth~~ unconditionally or place him or her on probation or in a suitable public or private
 7250 institution or agency, the court may commit ~~him~~ such child to the department as provided
 7251 in ~~said~~ Article ~~1~~ 6 of Chapter 11 of Title 15; provided, however, that no delinquent ~~or~~
 7252 ~~unruly~~ child ~~or youth~~ shall be committed to the department until the department certifies
 7253 to the Governor that it has facilities available and personnel ready to assume responsibility
 7254 for delinquent ~~or unruly~~ children ~~and youths~~.

7255 (b) When the court commits a delinquent ~~or unruly~~ child to the department, it may order
 7256 ~~the~~ such child conveyed forthwith to any facility designated by the department or direct
 7257 that ~~the~~ such child be left at liberty until otherwise ordered by the department under such
 7258 conditions as will ensure his or her availability and submission to any orders of the
 7259 department. If such delinquent ~~or unruly~~ child is ordered conveyed to the department, the
 7260 court shall assign an officer or other suitable person to convey such child to any facility
 7261 designated by the department, provided that the person assigned to convey a girl must be
 7262 a female. The cost of conveying such child committed to the department to the facility
 7263 designated by the department shall be paid by the county from which such child is
 7264 committed, provided that no compensation shall be allowed beyond the actual and
 7265 necessary expenses of the party conveying and the child conveyed.

7266 (c) When a court commits a delinquent ~~or unruly~~ child to the department, the court shall
 7267 at once ~~forward to the department~~ electronically submit a certified copy of the order of
 7268 commitment to the department, and the court, the probation officer, the prosecuting and
 7269 police authorities, the school authorities, and other public officials shall make available to
 7270 the department all pertinent information in their possession ~~with respect~~ pertaining to the
 7271 case, ~~including, but not limited to, any predisposition investigation report as set forth in~~
 7272 Code Section 15-11-590 and any risk assessment. Such reports shall, if the department so
 7273 requests, be made upon forms furnished by the department or according to an outline
 7274 provided by the department.

7275 (d)(1) When a delinquent ~~or unruly~~ child has been committed to the department, the
 7276 department shall, under rules and regulations established by the board, forthwith examine
 7277 and study ~~the~~ such child and investigate all pertinent circumstances of his or her life and
 7278 behavior. The department shall make periodic reexaminations of all ~~delinquent or unruly~~
 7279 such children within its control, except those on release under supervision of the
 7280 department. Such reexaminations may be made as frequently as the department considers
 7281 desirable, ~~and shall be made with respect to every~~ such child shall be reexamined at
 7282 intervals not exceeding one year. Failure of the department to examine a ~~delinquent or~~
 7283 ~~unruly child~~ such a child committed to it or to reexamine him or her within one year of
 7284 a previous examination shall not of itself entitle ~~the~~ such child to discharge from control
 7285 of the department but shall entitle ~~the~~ such child to petition the committing court for an
 7286 order of discharge; and the court shall discharge him or her unless the department, upon
 7287 due notice, satisfies the court of the necessity of further control.

7288 (2) The department shall keep written records of all examinations and reexaminations,
 7289 of conclusions based thereon, and of all orders concerning the disposition or treatment
 7290 of every delinquent ~~or unruly~~ child subject to its control. Records ~~as may be~~ maintained
 7291 by the department ~~with respect~~ pertaining to a delinquent ~~or unruly~~ child committed to
 7292 the department shall not be public records but shall be privileged records and may be
 7293 disclosed by direction of the commissioner pursuant to federal law ~~in regard to~~ regarding
 7294 disseminating juvenile criminal history records only to those persons having a legitimate
 7295 interest therein; provided, however, that the commissioner shall permit the Council of
 7296 Juvenile Court Judges to inspect and copy such records for the purposes of obtaining
 7297 statistics on juveniles.

7298 (e) Except as provided by subsection (e.1) of this Code section and subsection ~~(b)~~ (c) or
 7299 (d) of Code Section ~~15-11-70~~ 15-11-602, when a delinquent ~~or unruly~~ child has been
 7300 committed to the department for detention and a diagnostic study for the purpose of
 7301 determining the most satisfactory plan for ~~the~~ such child's care and treatment has been
 7302 completed, the department may:

- 7303 (1) Permit ~~the~~ such child liberty under supervision and upon such conditions as the
 7304 department may believe conducive to acceptable behavior;
- 7305 (2) Order ~~the~~ such child's confinement under such conditions as the department may
 7306 believe best designed to serve ~~the~~ such child's welfare and as may be in the best interest
 7307 of the public;
- 7308 (3) Order reconfinement or renewed release as often as conditions indicate to be
 7309 desirable;
- 7310 (4) Revoke or modify any order of the department affecting ~~the~~ such child, except an
 7311 order of final discharge, as often as conditions indicate to be desirable; or
- 7312 (5) Discharge ~~the~~ such child from control of the department pursuant to Code Section
 7313 15-11-32 and subsection ~~(a)~~ (c) of Code Section ~~15-11-70~~ 15-11-607 when it is satisfied
 7314 that such discharge will best serve ~~the~~ such child's welfare and the protection of the
 7315 public.
- 7316 (e.1)(1) When a child who has been adjudicated ~~delinquent~~ for the commission of a class
 7317 A designated felony act or class B designated felony act as defined in Code Section
 7318 ~~15-11-63~~ 15-11-2 is released from confinement or custody of the department, it shall be
 7319 the responsibility of the department to provide notice to any person who was the victim
 7320 of ~~the~~ such child's ~~delinquent~~ acts that ~~the~~ such child is being released from confinement
 7321 or custody.
- 7322 (2) ~~As long as a good faith attempt to comply with paragraph (1) of this subsection has~~
 7323 ~~been made, the~~ The department and employees of the department shall not be liable for
 7324 damages incurred by reason of the department's failure to provide the notice required by
 7325 paragraph (1) of this subsection.
- 7326 (3) When a child convicted of a felony offense in a superior court is released from
 7327 confinement or custody of the department, the department shall provide written notice,
 7328 including the ~~delinquent act~~ or class A designated felony act or class B designated felony
 7329 act committed, to the superintendent of the school system in which such child was
 7330 enrolled or, if the information is known, the school in which such child was enrolled or
 7331 plans to be enrolled.
- 7332 (4) ~~As long as a good faith attempt to comply with paragraph (3) of this subsection has~~
 7333 ~~been made, the~~ The department and employees of the department shall not be liable for
 7334 damages incurred by reason of the department's failure to provide notice required by
 7335 paragraph (3) of this subsection.
- 7336 (f) As a means of correcting the socially harmful tendencies of a delinquent ~~or unruly~~ child
 7337 committed to it, the department may:
- 7338 (1) Require participation by ~~youth~~ such child in moral, academic, vocational, physical,
 7339 and correctional training and activities, and provide ~~youth~~ such child the opportunity for

7340 religious activities where practicable in the institutions under the control and supervision
 7341 of the department;

7342 (2) Require such modes of life and conduct as may seem best adapted to fit and equip
 7343 him or her for return to full liberty without danger to the public;

7344 (3) Provide such medical, psychiatric, or casework treatment as is necessary; or

7345 (4) Place him or her, if physically fit, in a park, maintenance camp, or forestry camp or
 7346 on a ranch owned by the state or by the United States and require any child so housed to
 7347 perform suitable conservation and maintenance work, provided that the children shall not
 7348 be exploited and that the dominant purpose of such activities shall be to benefit and
 7349 rehabilitate the children rather than to make the camps self-sustaining.

7350 (g) When funds are available, the department may:

7351 (1) Establish and operate places for detention and diagnosis of all delinquent ~~or unruly~~
 7352 children committed to it;

7353 (2) Establish and operate additional treatment and training facilities, including parks,
 7354 forestry camps, maintenance camps, ranches, and group residences necessary to classify
 7355 and handle juvenile delinquents of different ages and habits and different mental and
 7356 physical conditions, according to their needs; and

7357 (3) Establish ~~parole~~ or aftercare supervision to aid children given conditional release to
 7358 find homes and employment and otherwise to assist them to become reestablished in the
 7359 community and to lead socially acceptable lives.

7360 (h) Whenever the department finds that any ~~delinquent or unruly~~ child committed to the
 7361 department is mentally ill or ~~mentally retarded~~ has a developmental disability, as defined
 7362 in Code Section 15-11-2, the department shall have the power to return such ~~delinquent or~~
 7363 ~~unruly~~ child to the court of original jurisdiction for appropriate disposition by that court or
 7364 may, if it so desires, request the court having jurisdiction in the county in which the ~~youth~~
 7365 ~~development center or other~~ juvenile detention facility is located to take such action as the
 7366 condition of the child may require.

7367 (i)(1) A child who has been committed to the department ~~as a delinquent or unruly child~~
 7368 for detention in a ~~youth development center~~ juvenile detention facility or who has been
 7369 otherwise taken into custody and who has escaped therefrom or who has been placed
 7370 under supervision and broken the conditions thereof may be taken into custody without
 7371 a warrant by a sheriff, deputy sheriff, constable, police officer, probation officer, ~~parole~~
 7372 ~~officer~~, or any other officer of this state authorized to serve criminal process; upon a
 7373 written request made by an employee of the department having knowledge of the escape
 7374 or of the violation of conditions of supervision. Before a child may be taken into custody
 7375 for violation of the conditions of supervision, ~~the~~ such written request ~~mentioned above~~
 7376 ~~must~~ shall be reviewed by the commissioner or his or her designee. If the commissioner

7377 or his or her designee finds that probable cause exists to believe that ~~the~~ such child has
 7378 violated his or her conditions of supervision, he or she may issue an order directing that
 7379 ~~the~~ such child be picked up and returned to custody.

7380 (2) The commissioner may designate as a peace officer who is authorized to exercise the
 7381 power of arrest any employee of the department whose full-time duties include the
 7382 preservation of public order, the protection of life and property, the detection of crime,
 7383 or the supervision of delinquent ~~and unruly~~ children or children in need of services in its
 7384 institutions, facilities, or programs, or any employee who is a line supervisor of any such
 7385 employee. The commissioner also may designate as a peace officer who is authorized
 7386 to exercise the power of arrest any employee of a person or organization which contracts
 7387 with the department pertaining to the management, custody, care, and control of
 7388 delinquent children or children in need of services retained by the person or organization;
 7389 if that employee's full-time duties include the preservation of public order, the protection
 7390 of life and property, the detection of crime, or the supervision of delinquent ~~and unruly~~
 7391 children in the department's institutions, facilities, or programs, or any employee who is
 7392 a line supervisor of such employee. The commissioner may designate one or more
 7393 employees of the department to investigate and apprehend ~~delinquent and unruly~~ children
 7394 who have escaped from ~~an institution or~~ a juvenile detention facility or who have broken
 7395 the conditions of supervision; provided, however, that the employees so designated shall
 7396 only be those with primary responsibility for the security functions of ~~youth development~~
 7397 ~~centers~~ such facilities or whose primary duty consists of the apprehension of youths who
 7398 have escaped from such ~~institutions or~~ facilities or who have broken the conditions of
 7399 supervision. An employee of the department so designated shall have the police power
 7400 to investigate, to apprehend such children, and to arrest any person physically interfering
 7401 with the proper apprehension of such children. An employee of the department so
 7402 designated in the investigative section of the department shall have the power to obtain
 7403 a search warrant for the purpose of locating and apprehending such children.
 7404 Additionally, such employee, while on the grounds or in the buildings of the department's
 7405 institutions or facilities, shall have the same law enforcement powers, including the
 7406 power of arrest, as a law enforcement officer of the local government with police
 7407 jurisdiction over such institutions or facilities. Such employee shall be authorized to
 7408 carry weapons, upon written approval of the commissioner, notwithstanding Code
 7409 Sections 16-11-126 and 16-11-129. The commissioner shall also be authorized to
 7410 designate any person or organization with whom the department contracts for services
 7411 pertaining to the management, custody, care, and control of delinquent ~~and unruly~~
 7412 children or children in need of services detained by the person or organization as a law
 7413 enforcement unit under paragraph (7) of Code Section 35-8-2. Any employee or person

7414 designated under this subsection shall be considered to be a peace officer within the
7415 meaning of Chapter 8 of Title 35 and ~~must~~ shall be certified under that chapter.

7416 (3) For the purposes of investigation of ~~delinquent or unruly~~ children who have escaped
7417 from ~~institutions or~~ juvenile detention facilities of the department or of ~~delinquent or~~
7418 ~~unruly~~ children who are alleged to have broken the conditions of supervision, the
7419 department is empowered and authorized to request and receive from the Georgia Crime
7420 Information Center, ~~established by Chapter 3 of Title 35,~~ any information in the files of
7421 the Georgia Crime Information Center which will aid in the apprehension of such
7422 children.

7423 (4) An employee designated pursuant to paragraph (2) of this subsection may take a child
7424 into custody without a warrant upon personal knowledge or written request of a person
7425 having knowledge of the escape or violation of conditions of supervision, or a child may
7426 be taken into custody pursuant to Code Section ~~15-11-45~~ 15-11-501. When taking a child
7427 into custody pursuant to this paragraph, a designated employee of the department shall
7428 have the power to use all force reasonably necessary to take ~~the~~ such child into custody.

7429 (5) The child shall be kept in custody in a suitable place designated by the department
7430 and there detained until such child may be returned to the custody of the department.

7431 (6) Such taking into custody shall not be termed an arrest; provided, however, that any
7432 person taking a child into custody pursuant to this subsection shall have the same
7433 immunity from civil and criminal liability as a peace officer making an arrest pursuant
7434 to a valid warrant.

7435 (j) The department shall ensure that each ~~delinquent or unruly~~ child it releases under
7436 supervision or otherwise has suitable clothing, transportation to his or her home or to the
7437 county in which a suitable home or employment has been found for him or her, and such
7438 an amount of money as the rules and regulations of the board may authorize. The
7439 expenditure for clothing and for transportation and the payment of money to a ~~delinquent~~
7440 ~~or unruly~~ such child released may be made from funds for support and maintenance
7441 appropriated by the General Assembly to the department or to the institution from which
7442 such child is released or from local funds.

7443 (k) Every child committed to the department as ~~delinquent or unruly~~, if not already
7444 discharged, shall be discharged from custody of the department when he or she reaches his
7445 or her twenty-first birthday.

7446 (l) Commitment of a ~~delinquent or unruly~~ child to the custody of the department shall not
7447 operate to disqualify such child in any future examination, appointment, or application for
7448 public service under the government either of the state or of any political subdivision
7449 thereof.

7450 (m) A commitment to the department shall not be received in evidence or used in any way
 7451 in any proceedings in any court, except in subsequent proceedings for delinquency or
 7452 ~~unruliness~~ being in need of services involving the same child and except in imposing
 7453 sentence in any criminal proceeding against the same person.

7454 (n)(1) The department shall conduct a continuing inquiry into the effectiveness of
 7455 treatment methods it employs in seeking the rehabilitation of maladjusted children. To
 7456 this end, the department shall maintain a statistical record of arrests and commitments of
 7457 its wards subsequent to their discharge from the jurisdiction and control of the department
 7458 and shall tabulate, analyze, and publish in print or electronically annually these data so
 7459 that they may be used to evaluate the relative merits of methods of treatment. The
 7460 department shall cooperate and coordinate with courts, juvenile court clerks, and public
 7461 and private agencies in the collection of statistics and information regarding juvenile
 7462 delinquency; arrests made; complaints, informations, and petitions filed; the disposition
 7463 made thereof; and other information useful in determining the amount and causes of
 7464 juvenile delinquency in this state:

7465 (A) Juvenile delinquency;

7466 (B) Arrests made;

7467 (C) Detentions made, the offense for which such detention was authorized, and the
 7468 reason for each detention;

7469 (D) Complaints filed;

7470 (E) Informations filed;

7471 (F) Petitions filed;

7472 (G) The results of complaints, informations, and petitions, including whether such
 7473 filings were dismissed, diverted, or adjudicated;

7474 (H) Commitments to the department, the length of such commitment, and releases from
 7475 the department;

7476 (I) The department's placement decisions for commitments;

7477 (J) Placement decisions to institutions, camps, or other facilities for delinquent children
 7478 operated under the direction of courts or other local public authorities;

7479 (K) Community programs utilized and completion data for such programs;

7480 (L) Recidivism;

7481 (M) Data collected by juvenile court clerks pursuant to Code Section 15-11-64; and

7482 (N) Other information useful in determining the amount and causes of juvenile
 7483 delinquency in this state.

7484 (2) In order to facilitate the collection of such the information required by paragraph (1)
 7485 of this subsection, the department shall be authorized to inspect and copy all records of

7486 the court and law enforcement agencies pertaining to juveniles and collect data from
7487 juvenile court clerks.

7488 (o) When a child ~~who~~ is committed to the department is under court order to make certain
7489 restitution as a part of his or her treatment by the court, the requirement that the restitution
7490 be paid in full shall not cease with the order of commitment. The provision of the order
7491 requiring restitution shall remain in force and effect during the period of commitment, and
7492 the department is empowered to enforce ~~said~~ such restitution requirement and to direct that
7493 payment of funds or notification of service completed be made to the clerk of the juvenile
7494 court or another employee of that court designated by the judge."

7495 SECTION 3-9.

7496 Said chapter is further amended by revising subsections (b) and (e) of Code Section 49-4A-9,
7497 relating to sentence of youthful offenders, as follows:

7498 "(b) Any final order of judgment by the court in the case of any such child shall be subject
7499 to such modification from time to time as the court may consider to be for the welfare of
7500 such child. No commitment of any child to any institution or other custodial agency shall
7501 deprive the court of jurisdiction to change the form of the commitment or transfer the
7502 custody of the child to some other institution or agency on such conditions as the court may
7503 see fit to impose, the duty being constant upon the court to give to all children subject to
7504 its jurisdiction such oversight and control in the premises as will be conducive to the
7505 welfare of the child and the best interests of the state; provided, however, that the release
7506 ~~or parole~~ of any child committed to the department for detention in any of its institutions
7507 under the terms of this chapter during the period of one year from the date of commitment
7508 shall be had only with the concurrence and recommendation of the commissioner or the
7509 commissioner's designated representative; provided, further, that upon releasing ~~or paroling~~
7510 any child adjudicated for committing a delinquent act for the commission of a class A
7511 designated felony act or class B designated felony act as defined in Code Section ~~15-11-63~~
7512 15-11-2 and committed to the department for detention in any of its institutions under the
7513 terms of this chapter, the department shall provide notice to any person who was the victim
7514 of the child's delinquent acts that the child is being released ~~or paroled~~. So ~~As~~ long as a
7515 good faith attempt to comply with the notice requirement of this subsection has been made,
7516 the department and employees of the department shall not be liable for damages incurred
7517 by reason of the department's failure to provide the notice required by this subsection."

7518 "(e) Any child under 17 years of age who is sentenced in the superior court and committed
7519 to the department may be eligible to participate in all ~~youth development center~~ juvenile
7520 detention facility programs and services including community work programs, sheltered
7521 workshops, special state sponsored programs for evaluation and services under the Georgia

7522 Vocational Rehabilitation Agency and the Department of Behavioral Health and
 7523 Developmental Disabilities, and under the general supervision of ~~youth development center~~
 7524 juvenile detention facility staff at special planned activities outside of the ~~youth~~
 7525 ~~development center~~ juvenile detention facility. When such a child sentenced in the
 7526 superior court is approaching his or her seventeenth birthday, the department shall notify
 7527 the court that a further disposition of the child is necessary. The department shall provide
 7528 the court with information concerning the participation and progress of the child in
 7529 programs described in this subsection. The court shall review the case and determine if the
 7530 child, upon becoming 17 years of age, should be placed on probation, have his or her
 7531 sentence reduced, be transferred to the Department of Corrections for the remainder of the
 7532 original sentence, or be subject to any other determination authorized by law."

7533 **SECTION 3-10.**

7534 Said chapter is further amended by revising Code Section 49-4A-10, relating to escape from
 7535 a youth detention center, petition, and commitment, as follows:

7536 "49-4A-10.

7537 Whenever any child shall escape from any ~~youth detention center~~ juvenile detention
 7538 facility, the department shall file a petition in the court having jurisdiction and, upon
 7539 conviction, he or she shall be committed for an additional 12 months in a ~~youth detention~~
 7540 ~~center~~ juvenile detention facility under the jurisdiction of the department or to another
 7541 institution under the Department of Corrections."

7542 **SECTION 3-11.**

7543 Said chapter is further amended by revising Code Section 49-4A-11, relating to aiding or
 7544 encouraging a child to escape and hindering apprehension of a child, as follows:

7545 "49-4A-11.

7546 (a) Any person who shall knowingly aid, assist, or encourage any child ~~or youth~~ who has
 7547 been committed to the department to escape or to attempt to escape its control or custody
 7548 shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment
 7549 for not less than one nor more than five years.

7550 (b) Any person who shall knowingly harbor or shelter any child ~~or youth~~ who has escaped
 7551 the lawful custody or control of the department shall be guilty of a felony and, upon
 7552 conviction thereof, shall be punished by imprisonment for not less than one nor more than
 7553 five years.

7554 (c) Any person who shall knowingly hinder the apprehension of any child under the lawful
 7555 control or custody of the department who has been placed by the department in one of its
 7556 institutions or facilities and who has escaped therefrom or who has been placed under

7557 supervision and is alleged to have broken the conditions thereof shall be guilty of a felony
 7558 and, upon conviction thereof, shall be punished by imprisonment for not less than one nor
 7559 more than five years."

7560 **SECTION 3-12.**

7561 Said chapter is further amended by revising subsection (c) of Code Section 49-4A-16,
 7562 relating to unlawful crossing or passage of certain items across guard lines and penalty, as
 7563 follows:

7564 "(c) The provisions of this Code section shall not apply when the commissioner or director
 7565 of the juvenile detention ~~center or youth development center~~ facility has provided
 7566 authorization for the introduction of the items listed in subsection (b) of this Code section
 7567 into such ~~center~~ facility."

7568 **SECTION 3-13.**

7569 Said chapter is further amended by revising Code Section 49-4A-17, relating to introduction
 7570 of certain items into a juvenile detention center or youth development center prohibited and
 7571 commerce with incarcerated youth, as follows:

7572 "49-4A-17.

7573 (a)(1) Without the knowledge and consent of the commissioner or the director in charge
 7574 of any juvenile detention ~~center or youth development center~~ facility, it shall be unlawful
 7575 for any person to take into or cause to be introduced into such ~~center~~ facility any item
 7576 which such person has been directed not to take into such center:

7577 (A) Verbally by a staff member of such ~~center~~ facility;

7578 (B) In writing by a staff member of such ~~center~~ facility; or

7579 (C) As directed by the rules, regulations, or policies of such ~~center~~ facility.

7580 (2) Any item taken into a ~~center~~ facility in violation of this subsection shall be deemed
 7581 contraband and shall be subject to being confiscated and retained as property of the
 7582 department.

7583 (3) Any person who violates this subsection shall be guilty of a felony and, upon
 7584 conviction thereof, shall be punished by imprisonment for not less than one year nor more
 7585 than four years.

7586 (b) It shall be unlawful for any person to trade or traffic with, buy from, or sell any article
 7587 to a ~~youth child~~ assigned to a juvenile detention ~~center or youth development center~~ facility
 7588 without the knowledge and consent of the commissioner or the director in charge of such
 7589 ~~center~~ facility. Any person who violates this subsection shall be guilty of a felony and,
 7590 upon conviction thereof, shall be punished by imprisonment for not less than one year nor
 7591 more than four years."

7592

PART IV

7593

CROSS REFERENCES

7594

SECTION 4-1.

7595 Code Section 1-2-8 of the Official Code of Georgia Annotated, relating to rights of minors,
7596 is revised as follows:

7597 "1-2-8.

7598 The law prescribes certain ages at which persons shall be considered of sufficient maturity
7599 to discharge certain civil functions, to make contracts, and to dispose of property. Prior to
7600 those ages they are minors and are, on account of that disability, unable to exercise these
7601 rights as citizens unless such minor becomes emancipated by operation of law or pursuant
7602 to Article 6 10 of Chapter 11 of Title 15."

7603

SECTION 4-2.

7604 Code Section 5-7-1 of the Official Code of Georgia Annotated, relating to orders, decisions,
7605 or judgments appealable by the state, is amended by revising paragraph (6) of subsection (a)
7606 as follows:

7607 "(6) From an order, decision, or judgment of a superior court transferring a case to the
7608 juvenile court pursuant to ~~subparagraph (b)(2)(B) of Code Section 15-11-28~~ 15-11-560;"

7609

SECTION 4-3.

7610 Code Section 13-3-20 of the Official Code of Georgia Annotated, relating to minors and
7611 contracts for property or valuable consideration and contracts for necessities, is revised as
7612 follows:

7613 "13-3-20.

7614 (a) Generally the contract of a minor is voidable. If in a contractual transaction a minor
7615 receives property or other valuable consideration and, after arrival at the age of 18, retains
7616 possession of such property or continues to enjoy the benefit of such other valuable
7617 consideration, the minor shall have thereby ratified or affirmed the contract and it shall be
7618 binding on him or her. Such contractual transaction shall also be binding upon any minor
7619 who becomes emancipated by operation of law or pursuant to Article 6 10 of Chapter 11
7620 of Title 15.

7621 (b) The contract of a minor for necessities shall be binding on the minor as if the minor
7622 were 18 years of age except that the party furnishing them to the minor shall prove that the
7623 parent or guardian of such minor had failed or refused to supply sufficient necessities for
7624 the minor, that the minor was emancipated by operation of law, or the minor was
7625 emancipated pursuant to Article 6 10 of Chapter 11 of Title 15."

SECTION 4-4.

7626
7627 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by revising
7628 subsection (e) of Code Section 15-23-7, relating to collection of additional legal costs in civil
7629 actions for purposes of providing court-connected or court-referred alternative dispute
7630 resolution programs, as follows:

7631 "(e) Juvenile court supervision fees collected pursuant to Code Section ~~15-11-71~~ 15-11-37
7632 may be used for mediation services provided by court programs pursuant to this chapter."

SECTION 4-5.

7633
7634 Said title is further amended by revising Code Section 15-23-10, relating to the determination
7635 of need as prerequisite to establishment of program, as follows:

7636 "15-23-10.

7637 No alternative dispute resolution program shall be established for any court unless the
7638 judge or a majority of the judges of such court determine that there is a need for such
7639 program in that court. The funding mechanism set forth in this chapter shall be available
7640 to any court, including the juvenile court, which, having determined that a court-annexed
7641 or court-referred alternative dispute resolution program would make a positive contribution
7642 to the ends of justice in that court, has developed a program meeting the standards of the
7643 ~~Georgia Supreme Court's Uniform Rule for Alternative Dispute Resolution Programs~~
7644 Supreme Court of Georgia Alternative Dispute Resolution Rules and appendices. Pursuant
7645 to the standards set forth in the ~~Georgia Supreme Court's Uniform Rule for Alternative~~
7646 ~~Dispute Resolution Programs~~ Supreme Court of Georgia Alternative Dispute Resolution
7647 Rules and appendices, the funding mechanism set forth in this chapter shall be available
7648 to court programs in which cases are screened by the judge or by the program director
7649 under the supervision of the judge on a case-by-case basis to determine whether:

- 7650 (1) The case is appropriate for the process;
7651 (2) The parties are able to compensate the neutral if compensation is required; and
7652 (3) A need for emergency relief makes referral inappropriate until the request for relief
7653 is heard by the court."

SECTION 4-6.

7654
7655 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is
7656 amended by revising paragraphs (1) and (3) of subsection (a) of Code Section 16-5-45,
7657 relating to interference with custody, as follows:

7658 "(1) 'Child' means any individual who is under the age of 17 years or any individual who
7659 is under the age of 18 years who is alleged to be a ~~deprived~~ dependent child or an ~~unruly~~
7660 ~~child~~ a child in need of services as such terms are defined in Code Section 15-11-2."

7661 "(3) 'Lawful custody' means that custody inherent in the natural parents, that custody
 7662 awarded by proper authority as provided in Code Section ~~15-11-45~~ 15-11-133, or that
 7663 custody awarded to a parent, guardian, or other person by a court of competent
 7664 jurisdiction."

7665 **SECTION 4-7.**

7666 Said title is further amended by revising paragraph (3) of subsection (a) of Code Section
 7667 16-10-52, relating to escape, as follows:

7668 "(3) Having been adjudicated of a delinquent ~~or unruly~~ act or a juvenile traffic offense,
 7669 or as a child in need of services subject to lawful custody or lawful confinement,
 7670 intentionally escapes from lawful custody or from any place of lawful confinement;"

7671 **SECTION 4-8.**

7672 Said title is further amended by revising paragraph (3) of subsection (c) of Code Section
 7673 16-11-101.1, relating to furnishing a pistol or revolver to a person under the age of 18 years,
 7674 as follows:

7675 "(3) In addition to any other act which violates this subsection, a parent or legal guardian
 7676 shall be deemed to have violated this subsection if such parent or legal guardian furnishes
 7677 to or permits possession of a pistol or revolver by any minor who has been convicted of
 7678 a forcible felony or forcible misdemeanor, as defined in Code Section 16-1-3, or who has
 7679 been adjudicated for committing a delinquent act under the provisions of Article ~~1~~ 6 of
 7680 Chapter 11 of Title 15 for an offense which would constitute a forcible felony or forcible
 7681 misdemeanor, as defined in Code Section 16-1-3, if such minor were an adult."

7682 **SECTION 4-9.**

7683 Said title is further amended by revising subsection (b) of Code Section 16-11-127.1, relating
 7684 to carrying weapons within school safety zones, at school functions, or on school property,
 7685 as follows:

7686 "(b)(1) Except as otherwise provided in subsection (c) of this Code section, it shall be
 7687 unlawful for any person to carry to or to possess or have under such person's control
 7688 while within a school safety zone or at a school building, school function, or school
 7689 property or on a bus or other transportation furnished by the school any weapon or
 7690 explosive compound, other than fireworks the possession of which is regulated by
 7691 Chapter 10 of Title 25.

7692 (2) Any license holder who violates this subsection shall be guilty of a misdemeanor.
 7693 Any person who is not a license holder who violates this subsection shall be guilty of a

7694 felony and, upon conviction thereof, be punished by a fine of not more than \$10,000.00,
7695 by imprisonment for not less than two nor more than ten years, or both.

7696 (3) Any person convicted of a violation of this subsection involving a dangerous weapon
7697 or machine gun, as such terms are defined in Code Section 16-11-121, shall be punished
7698 by a fine of not more than \$10,000.00 or by imprisonment for a period of not less than
7699 five nor more than ten years, or both.

7700 (4) A child who violates this subsection may be subject to the provisions of Code Section
7701 ~~15-11-63~~ 15-11-601."

7702 **SECTION 4-10.**

7703 Said title is further amended by revising subsection (d) of Code Section 16-11-132, relating
7704 to possession of a pistol or revolver by a person under the age of 18 years, as follows:

7705 "(d) Subsection (c) of this Code section shall not apply to any person under the age of 18
7706 years who has been convicted of a forcible felony or forcible misdemeanor, as defined in
7707 Code Section 16-1-3, or who has been adjudicated for committing a delinquent act under
7708 the provisions of Article ~~±~~ 6 of Chapter 11 of Title 15 for an offense which would
7709 constitute a forcible felony or forcible misdemeanor, as defined in Code Section 16-1-3,
7710 if such person were an adult."

7711 **SECTION 4-11.**

7712 Said title is further amended by revising paragraph (3) of subsection (a) and subsections (b)
7713 and (c) of Code Section 16-12-1, relating to contributing to the delinquency, unruliness, or
7714 deprivation of a minor, as follows:

7715 "(3) 'Minor' means any individual who is under the age of 17 years who is alleged to have
7716 committed a delinquent act or any individual under the age of 18 years ~~who is alleged to~~
7717 ~~be a deprived child or an unruly child as such terms are defined in Code Section 15-11-2."~~

7718 "(b) A person commits the offense of contributing to the delinquency, ~~unruliness,~~ or
7719 ~~deprivation~~ dependency of a minor or causing a child to be a child in need of services when
7720 such person:

7721 (1) Knowingly and willfully encourages, causes, abets, connives, or aids a minor in
7722 committing a delinquent act;

7723 (2) Knowingly and willfully encourages, causes, abets, connives, or aids a minor in
7724 committing an act which would cause such minor to be ~~found to be an unruly~~ a child in
7725 need of services as such term is defined in Code Section 15-11-2; provided, however, that
7726 this paragraph shall not apply to a service provider that notifies the minor's parent,
7727 guardian, or legal custodian of the minor's location and general state of ~~well-being~~

7728 well-being as soon as possible but not later than 72 hours after the minor's acceptance of
7729 services; provided, further, that such notification shall not be required if:

7730 (A) The service provider has reasonable cause to believe that the minor has been
7731 abused or neglected and makes a child abuse report pursuant to Code Section 19-7-5;

7732 (B) The minor will not disclose the name of the minor's parent, guardian, or legal
7733 custodian, and the Division of Family and Children Services within the Department of
7734 Human Services is notified within 72 hours of the minor's acceptance of services; or

7735 (C) The minor's parent, guardian, or legal custodian cannot be reached, and the
7736 Division of Family and Children Services within the Department of Human Services
7737 is notified within 72 hours of the minor's acceptance of services;

7738 (3) Willfully commits an act or acts or willfully fails to act when such act or omission
7739 would cause a minor to be ~~found~~ adjudicated to be a ~~deprived~~ dependent child as such
7740 term is defined in Code Section 15-11-2;

7741 (4) Knowingly and willfully hires, solicits, engages, contracts with, conspires with,
7742 encourages, abets, or directs any minor to commit any felony which encompasses force
7743 or violence as an element of the offense or delinquent act which would constitute a felony
7744 which encompasses force or violence as an element of the offense if committed by an
7745 adult;

7746 (5) Knowingly and willfully provides to a minor any weapon as defined in paragraph (2)
7747 of subsection (a) of Code Section 16-11-127.1 or any weapon as defined in Code Section
7748 16-11-121 to commit any felony which encompasses force or violence as an element of
7749 the offense or delinquent act which would constitute a felony which encompasses force
7750 or violence as an element of the offense if committed by an adult; or

7751 (6) Knowingly and willfully hires, solicits, engages, contracts with, conspires with,
7752 encourages, abets, or directs any minor to commit any smash and grab burglary which
7753 would constitute a felony if committed by an adult.

7754 (c) It shall not be a defense to the offense provided for in this Code section that the minor
7755 has not been formally adjudged to have committed a delinquent act or has not been ~~found~~
7756 adjudged to be ~~unruly or deprived~~ a dependent child or a child in need of services."

7757 **SECTION 4-12.**

7758 Said title is further amended by revising subsections (c), (e), and (g) of Code Section
7759 16-12-141.1, relating to disposal of aborted fetuses, as follows:

7760 "(c) Within 90 days after May 10, 2005, the Department of Human Resources (now known
7761 as the Department of Public Health for these purposes) shall prepare a reporting form for
7762 physicians which shall include:

7763 (1) The number of females whose parent or guardian was provided the notice required
7764 in paragraph (1) of subsection (a) of Code Section ~~15-11-112~~ 15-11-682 by the physician
7765 or such physician's agent; of that number, the number of notices provided personally
7766 under subparagraphs (a)(1)(A) and (a)(1)(B) of Code Section ~~15-11-112~~ 15-11-682 and
7767 the number of notices provided by mail under subparagraph (a)(1)(C) of Code Section
7768 ~~15-11-112~~ 15-11-682; and, of each of those numbers, the number of females who, to the
7769 best of the reporting physician's information and belief, went on to obtain the abortion;

7770 (2) The number of females upon whom the physician performed an abortion without
7771 providing to the parent or guardian of a minor the notice required by subsection (a) of
7772 Code Section ~~15-11-112~~ 15-11-682; and of that number, the number of females for which
7773 subsection (b) of Code Section ~~15-11-112~~ 15-11-682 and Code Section ~~15-11-116~~
7774 15-11-686 were applicable;

7775 (3) The number of abortions performed upon a female by the physician after receiving
7776 judicial authorization pursuant to subsection (b) of Code Section ~~15-11-112~~ 15-11-682
7777 and Code Section ~~15-11-114~~ 15-11-684; and

7778 (4) The same information described in paragraphs (1), (2), and (3) of this subsection with
7779 respect to females for whom a guardian or conservator has been appointed."

7780 "(e) By February 28 of each year following a calendar year in any part of which this
7781 subsection was in effect, each physician who provided, or whose agent provided, the notice
7782 described in subsection (a) of Code Section ~~15-11-112~~ 15-11-682 and any physician who
7783 knowingly performed an abortion upon a female or upon a female for whom a guardian or
7784 conservator had been appointed because of a finding of incompetency during the previous
7785 calendar year shall submit to the Department of Public Health a copy of the form described
7786 in subsection (c) of this Code section with the requested data entered accurately and
7787 completely."

7788 "(g) By June 30 of each year, the Department of Public Health shall issue a public report
7789 providing statistics for the previous calendar year compiled from all the reports covering
7790 that year submitted in accordance with this Code section for each of the items listed in
7791 subsection (c) of this Code section. The report shall also include statistics which shall be
7792 obtained by the Administrative Office of the Courts giving the total number of petitions or
7793 motions filed under subsection (b) of Code Section ~~15-11-112~~ 15-11-682 and, of that
7794 number, the number in which the court appointed a guardian ad litem, the number in which
7795 the court appointed counsel, the number in which the judge issued an order authorizing an
7796 abortion without notification, the number in which the judge denied such an order, and, of
7797 the last, the number of denials from which an appeal was filed, the number of such appeals
7798 that resulted in the denials being affirmed, and the number of such appeals that resulted in
7799 reversals of such denials. Each report shall also provide the statistics for all previous

7800 calendar years for which such a public statistical report was required to be issued, adjusted
 7801 to reflect any additional information from late or corrected reports. The Department of
 7802 Public Health shall ensure that none of the information included in the public reports could
 7803 reasonably lead to the identification of any individual female or of any female for whom
 7804 a guardian or conservator has been appointed."

7805 **SECTION 4-13.**

7806 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is
 7807 amended by revising Code Section 17-4-25.1, relating to the transport of an arrested person
 7808 to a jurisdiction in which an offense was committed and transport of prisoner outside a
 7809 county or municipality, as follows:

7810 "17-4-25.1.

7811 (a) As provided in subsection (e) of this Code section, a sworn law enforcement officer
 7812 from a county or municipality in which an offense is alleged to have been committed shall
 7813 be authorized to transport an arrested person, with the warrant under which such person
 7814 was arrested, from one jurisdiction to the county or municipality in which the offense is
 7815 alleged to have been committed for examination before any judicial officer of that county
 7816 or municipality.

7817 (b) Unless otherwise provided by contract, the agency ~~transporting~~ requesting the
 7818 transportation of the arrested person pursuant to subsection (a) of this Code section shall
 7819 be responsible for all costs associated with the transport. Such officer may hold or
 7820 imprison the arrested person in a jurisdiction other than where the offense is alleged to have
 7821 been committed long enough to enable such officer to prepare to take the arrested person
 7822 to the jurisdiction in which the offense is alleged to have been committed.

7823 (c) A sworn law enforcement officer from a county or municipality shall be authorized to
 7824 transport a prisoner who is lawfully in the custody of such officer to a medical facility,
 7825 ~~youth development center~~ juvenile detention facility as defined in Code Section 49-4A-1,
 7826 or court appearance outside such county or municipality or to transport such prisoner to a
 7827 location outside such county or municipality for any lawfully required or necessary
 7828 purpose.

7829 (d) This Code section shall not be construed to provide any general state-wide police
 7830 powers or authority for county or municipal law enforcement officers or expand the arrest
 7831 powers of such officers outside their properly authorized jurisdiction.

7832 (e) Sheriffs and, with the approval of its governing authority, municipal or other law
 7833 enforcement agency heads are authorized to enter into a contract for the purposes of
 7834 transporting arrested individuals from the jurisdiction of the arrest to an appropriate
 7835 detention facility where the alleged crime is to have occurred. In the absence of a written

7836 contract between the sheriff and municipal or other law enforcement agency head, the
 7837 sheriff or his or her designee has the right of first refusal, as evidenced in writing, of
 7838 transporting persons arrested on a warrant to an appropriate detention facility where the
 7839 crime is alleged to have occurred. Any responsibility arising as a result of the
 7840 transportation of an arrested individual as authorized in this Code section shall be that of
 7841 the agency whose employee is transporting the arrested individual."

7842 **SECTION 4-14.**

7843 Said title is further amended by revising subsection (a) of Code Section 17-7-50.1, relating
 7844 to time for presentment of child's case to a grand jury, as follows:

7845 "(a) Any child who is charged with a crime that is within the jurisdiction of the superior
 7846 court, as provided in Code Section ~~15-11-28~~ 15-11-560 or ~~15-11-30.2~~ 15-11-561, who is
 7847 detained shall within 180 days of the date of detention be entitled to have the charge
 7848 against him or her presented to the grand jury. The superior court shall, upon motion for
 7849 an extension of time and after a hearing and good cause shown, grant one extension to the
 7850 original 180 day period, not to exceed 90 additional days."

7851 **SECTION 4-15.**

7852 Said title is further amended by revising paragraph (1) of subsection (a) of Code Section
 7853 17-7-130, relating to proceedings upon a plea of mental incompetency to stand trial, as
 7854 follows:

7855 "(1) 'Child' means an accused person under the jurisdiction of the superior court pursuant
 7856 to Code Section ~~15-11-28~~ 15-11-560."

7857 **SECTION 4-16.**

7858 Said title is further amended by revising subsection (e) of Code Section 17-10-1, relating to
 7859 fixing of sentence, as follows:

7860 "(e) In any case involving a felony in which the defendant previously appeared before a
 7861 juvenile court, the records of the dispositions of the defendant as well as any evidence used
 7862 in any juvenile court hearing shall be available to the district attorney, the defendant, and
 7863 the superior court judge in determining sentencing as provided in Code Section ~~15-11-79.1~~
 7864 15-11-703."

7865 **SECTION 4-17.**

7866 Said title is further amended by revising Code Section 17-10-14, relating to committal of
 7867 person under 17 convicted of a felony, as follows:

7868 "17-10-14.

7869 (a) Notwithstanding any other provisions of this article and except as otherwise provided
 7870 in ~~subsections (b) and (c)~~ subsection (b) of this Code section, in any case where a person
 7871 under the age of 17 years is convicted of a felony and sentenced as an adult to life
 7872 imprisonment or to a certain term of imprisonment, such person shall be committed to the
 7873 Department of Juvenile Justice to serve such sentence in a detention center of such
 7874 department until such person is 17 years of age at which time such person shall be
 7875 transferred to the Department of Corrections to serve the remainder of the sentence. This
 7876 Code section shall apply to any person convicted on or after July 1, 1987, and to any person
 7877 convicted prior to such date who has not been committed to an institution operated by the
 7878 Department of Corrections.

7879 (b) If a child is transferred to superior court according to subsection (b) of Code Section
 7880 ~~15-11-30.2~~ 15-11-561 and convicted of aggravated assault as defined in Chapter 5 of Title
 7881 16, the court may sentence such child to the Department of Corrections. Such child shall
 7882 be housed in a designated youth confinement unit until such person is 17 years of age, at
 7883 which time such person may be housed in any other unit designated by the Department of
 7884 Corrections.

7885 ~~(c) In any case where a child 13 to 17 years of age is convicted of a felony provided under~~
 7886 ~~subparagraph (b)(2)(A) of Code Section 15-11-28, such child shall be committed to the~~
 7887 ~~custody of the Department of Corrections and shall be housed in a designated youth~~
 7888 ~~confinement unit until such person is 17 years of age, at which time such person may be~~
 7889 ~~housed in any other unit designated by the Department of Corrections."~~

7890 **SECTION 4-18.**

7891 Said title is further amended by revising paragraph (5) of Code Section 17-14-2, relating to
 7892 definitions regarding restitution, as follows:

7893 "(5) 'Parent' means a person who is the legal mother as defined in ~~paragraph (10.2)~~ of
 7894 Code Section 15-11-2, the legal father as defined in ~~paragraph (10.1)~~ of Code Section
 7895 15-11-2, or the legal guardian. Such term shall not include a foster parent."

7896 **SECTION 4-19.**

7897 Said title is further amended by revising subsection (d) of Code Section 17-15-13, relating
 7898 to debt to state created, as follows:

7899 "(d) When a child is adjudicated for committing a delinquent act in a juvenile court
 7900 proceeding involving a crime upon which a claim under this chapter can be made, the
 7901 juvenile court in its discretion may order that the child pay the debt to the state as an adult
 7902 would have to pay had an adult committed the crime. Any assessments so ordered may be

7903 made a condition of probation as provided in ~~paragraph (2) of subsection (a) of Code~~
7904 Section ~~15-11-66~~ 15-11-601."

7905 **SECTION 4-20.**

7906 Said title is further amended by revising subsection (c) of Code Section 17-16-2, relating to
7907 applicability of rules of discovery, as follows:

7908 "(c) This article shall be deemed to have been automatically invoked, without the written
7909 notice provided for in subsection (a) of this Code section, when a defendant has sought
7910 discovery pursuant to Chapter 11 of Title 9, the 'Georgia Civil Practice Act,' pursuant to
7911 ~~Code Section 15-11-75~~ Part 8 of Article 6 of Chapter 11 of Title 15, or pursuant to the
7912 Uniform Rules for the Juvenile Courts of Georgia where such discovery material is the
7913 same as the discovery material that may be provided under this article when a written
7914 notice is filed pursuant to subsection (a) of this Code section."

7915 **SECTION 4-21.**

7916 Title 19 of the Official Code of Georgia Annotated, relating to domestic relations, is
7917 amended by revising paragraph (1) of subsection (b) of Code Section 19-7-5, relating to
7918 reporting of child abuse, as follows:

7919 "(1) 'Abortion' shall have the same meaning as set forth in Code Section ~~15-11-111~~
7920 15-11-681."

7921 **SECTION 4-22.**

7922 Said title is further amended by revising subsection (d) of Code Section 19-7-22, relating to
7923 petition for legitimation of a child, as follows:

7924 "(d) A legitimation petition may be filed, pursuant to ~~paragraph (2) of subsection (e) of~~
7925 Code Section ~~15-11-28~~ 15-11-11, in the juvenile court of the county in which a ~~deprivation~~
7926 dependency proceeding regarding the child is pending."

7927 **SECTION 4-23.**

7928 Said title is further amended by revising paragraph (4) of subsection (a) of Code Section
7929 19-8-10, relating to when surrender or termination of parental rights not required, as follows:

7930 "(4) Parent has failed to exercise proper parental care or control due to misconduct or
7931 inability, as set out in paragraph ~~(2)~~, (3), ~~or (4)~~, or (5) of subsection ~~(b)~~ (a) of Code
7932 Section ~~15-11-94~~ 15-11-310,"

SECTION 4-24.

7933
7934 Said title is further amended by revising subparagraph (a)(3)(D) of Code Section 19-8-11,
7935 relating to petitioning superior court to terminate parental rights, as follows:

7936 "(D) Parent has failed to exercise proper parental care or control due to misconduct or
7937 inability, as set out in paragraph ~~(2)~~, (3), ~~or (4)~~, or (5) of subsection ~~(b)~~ (a) of Code
7938 Section ~~15-11-94~~ 15-11-310,"

SECTION 4-25.

7939
7940 Said title is further amended by revising subsection (g) of Code Section 19-8-13, relating to
7941 petition for adoption, as follows:

7942 "(g) Notwithstanding the provisions of Code Sections 19-8-5 and 19-8-7 and this Code
7943 section which require obtaining and attaching a written voluntary surrender and
7944 acknowledgment thereof and affidavits of the legal mother and a representative of the
7945 petitioner, ~~where~~ when the adoption is sought under subsection (a) of Code Section 19-8-5
7946 or 19-8-7 following the termination of parental rights and the placement of the child by the
7947 juvenile court pursuant to ~~paragraph (1) of subsection (a) of Code Section 15-11-103~~
7948 15-11-321, obtaining and attaching to the petition a certified copy of the order terminating
7949 parental rights of the parent shall take the place of obtaining and attaching those otherwise
7950 required surrenders, acknowledgments, and affidavits."

SECTION 4-26.

7951
7952 Said title is further amended by revising Code Section 19-10A-4, relating to no criminal
7953 prosecution for leaving a child in the custody of a medical facility, as follows:

7954 "19-10A-4.
7955 A mother shall not be prosecuted for ~~the crimes of cruelty to a child, violating Code~~
7956 ~~Section 16-5-70; contributing to the delinquency, unruliness, or deprivation of a child,~~
7957 ~~Code Section 16-12-1; or abandonment of a dependent child, or Code Section 19-10-1;~~
7958 because of the act of leaving her newborn child in the physical custody of an employee,
7959 agent, or member of the staff of a medical facility who is on duty, whether there in a paid
7960 or volunteer position, provided that the newborn child is no more than one week old and
7961 the mother shows proof of her identity, if available, to the person with whom the newborn
7962 is left and provides her name and address."

SECTION 4-27.

7963
7964 Said title is further amended by revising Code Section 19-10A-6, relating to reimbursement
7965 of medical costs, as follows:

7966 "19-10A-6.
 7967 A medical facility which accepts for inpatient admission a child left pursuant to Code
 7968 Section 19-10A-4 shall be reimbursed by the Department of Human Services for all
 7969 reasonable medical and other reasonable costs associated with the child prior to the child
 7970 being placed in the care of the department. A medical facility shall notify the Department
 7971 of Human Services at such time as the child is left and at the time the child is medically
 7972 ready for discharge. Upon notification that the child is medically ready for discharge, the
 7973 Department of Human Services shall take physical custody of the child within six hours.
 7974 The Department of Human Services upon taking physical custody shall promptly bring the
 7975 child before the juvenile court as required by Code Section ~~15-11-47~~ 15-11-145."

7976 **SECTION 4-28.**

7977 Said title is further amended by revising Code Section 19-13-20, relating to definitions
 7978 regarding family violence shelters, as follows:

7979 "(5) 'Family violence shelter' means a facility approved by the department for the purpose
 7980 of receiving, on a temporary basis, persons who are subject to family violence. Family
 7981 violence shelters are distinguished from shelters operated for detention or placement of
 7982 children only, as provided in subsection (c) of Code Section 15-11-135 and subsection (a)
 7983 of Code Section ~~15-11-48~~ 15-11-504."

7984 **SECTION 4-29.**

7985 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by
 7986 revising paragraph (3) of Code Section 20-1A-30, relating to definitions for background
 7987 checks, as follows:

7988 "(3) 'Crime' means any felony; a violation of Code Section 16-5-23, ~~relating to simple~~
 7989 ~~battery~~, when the victim is a minor; a violation of Code Section 16-12-1, ~~relating to~~
 7990 ~~contributing to the delinquency of a minor~~; a violation of Chapter 6 of Title 16, ~~relating~~
 7991 ~~to sexual offenses~~; a violation of Code Section 16-4-1, ~~relating to criminal attempt~~ when
 7992 the crime attempted is any of the crimes specified by this paragraph; or any other offenses
 7993 committed in another jurisdiction which, if committed in this state, would be one of the
 7994 enumerated crimes listed in this paragraph."

7995 **SECTION 4-30.**

7996 Said title is further amended by revising paragraph (1) of subsection (b) of Code Section
 7997 20-2-133, relating to free public instruction, exceptions, eligibility, custody of child,
 7998 notification of local unit of administration of child's location, transfer and utilization of
 7999 records, and funding, as follows:

8000 "(b)(1) Any child, except a child in a ~~youth development center~~ secure residential facility
8001 as defined in Code Section 15-11-2, as specifically provided in this paragraph, who is in
8002 the physical or legal custody of the Department of Juvenile Justice or the Department of
8003 Human Services, ~~or~~; in a placement operated by the Department of Human Services or
8004 the Department of Behavioral Health and Developmental Disabilities; ~~;~~ or in a facility or
8005 placement paid for by the Department of Juvenile Justice, the Department of Human
8006 Services or any of its divisions, or the Department of Behavioral Health and
8007 Developmental Disabilities and who is physically present within the geographical area
8008 served by a local unit of administration for any length of time is eligible for enrollment
8009 in the educational programs of that local unit of administration; provided, however, that
8010 the child meets the age eligibility requirements established by this article. The local unit
8011 of administration of the school district in which such child is present shall be responsible
8012 for the provision of all educational programs, including special education and related
8013 services, at no charge as so long as the child is physically present in the school district.
8014 A child ~~will~~ shall be considered in the physical or legal custody of the Department of
8015 Juvenile Justice or the Department of Human Services or any of its divisions if custody
8016 has been awarded either temporarily or permanently by court order or by voluntary
8017 agreement, or if the child has been admitted or placed according to an individualized
8018 treatment or service plan of the Department of Human Services. A child ~~will~~ shall be
8019 considered in a facility or placement paid for or operated by the Department of
8020 Behavioral Health and Developmental Disabilities if the child has been admitted or
8021 placed according to an individualized treatment or service plan of the Department of
8022 Behavioral Health and Developmental Disabilities. No child in a ~~youth development~~
8023 ~~center~~ secure residential facility as defined in Code Section 15-11-2, regardless of his or
8024 her custody status, shall be eligible for enrollment in the educational programs of the
8025 local unit of administration of the school district in which ~~that youth development center~~
8026 such facility is located. No child or youth in the custody of the Department of
8027 Corrections or the Department of Juvenile Justice and confined in a facility as a result of
8028 a sentence imposed by a court shall be eligible for enrollment in the educational programs
8029 of the local unit of administration of the school district where such child or youth is being
8030 held."

8031 SECTION 4-31.

8032 Said title is further amended by revising subsection (b) of Code Section 20-2-670, relating
8033 to requirements for transferring students beyond sixth grade, as follows:

8034 "(b) In lieu of complying with the provision of subsection (a) of this Code section, a
8035 transferring student may be admitted on a conditional basis if he or she and his or her

8036 parent or legal guardian ~~executes~~ execute a document providing the name and address of
 8037 the school last attended and authorizing the release of all academic and disciplinary records
 8038 to the school administration. The parent or guardian shall be notified of the transfer of such
 8039 records and shall, upon written request made within ten days of such notice, be entitled to
 8040 receive a copy of such records. Within five days of the receipt of a copy of such records,
 8041 the parent or guardian may make a written request for and shall be entitled to a hearing
 8042 before the principal of the school or his or her designee which is the custodian of such
 8043 records for the purpose of challenging the content of the records. The student or his or her
 8044 parent or legal guardian shall also disclose on the same document as the release whether
 8045 the child has ever been adjudicated guilty of the commission of a class A designated felony
 8046 act or class B designated felony act, as defined in Code Section ~~15-11-63~~ 15-11-2 and, if
 8047 so, the date of such adjudication, the offense committed, the jurisdiction in which such
 8048 adjudication was made, and the sentence imposed. Any form document to authorize the
 8049 release of records which is provided by a school to a transferring student or such student's
 8050 parent or legal guardian shall include a list of class A designated felony acts or class B
 8051 designated felony acts. The student or his or her parent or legal guardian shall also disclose
 8052 on the document whether the student is currently serving a suspension or expulsion from
 8053 another school, the reason for such discipline, and the term of such discipline. If a student
 8054 so conditionally admitted is found to be ineligible for enrollment pursuant to the provisions
 8055 of Code Section 20-2-751.2, or is subsequently found to be so ineligible, he or she shall be
 8056 dismissed from enrollment until such time as he or she becomes so eligible."

8057 **SECTION 4-32.**

8058 Said title is further amended by revising Code Section 20-2-671, relating to transfer students
 8059 who have committed felony acts, as follows:

8060 "20-2-671.

8061 If any school administrator determines from the information obtained pursuant to Code
 8062 Section ~~15-11-63~~ 15-11-602 or 20-2-670 or from any other source that a student has
 8063 committed a class A designated felony act or class B designated felony act, as defined in
 8064 Code Section 15-11-2, such administrator shall so inform all teachers to whom the student
 8065 is assigned that they may review the information in the student's file provided pursuant to
 8066 subsection (b) of Code Section 20-2-670 received from other schools or from the juvenile
 8067 courts. Such information shall be kept confidential."

8068 **SECTION 4-33.**

8069 Said title is further amended by revising paragraphs (5) and (14) of subsection (c) and
 8070 subsection (g) of Code Section 20-2-690.2, relating to establishment of student attendance

8071 protocol committee, membership and protocol, summary of penalties for failure to comply,
8072 and reporting, as follows:

8073 "(5) The Department of Juvenile Justice, which may include representatives from area
8074 ~~youth detention centers or regional youth detention centers~~ juvenile detention facilities
8075 as defined in Code Section 49-4A-1;"

8076 "(14) The court approved community based risk reduction program established by the
8077 juvenile court in accordance with Code Section ~~15-11-10~~ 15-11-38, if such a program has
8078 been established."

8079 "(g) The committee shall write the summary of possible consequences and penalties for
8080 failing to comply with compulsory attendance under Code Section 20-2-690.1 for children
8081 and their parents, guardians, or other persons who have control or charge of children for
8082 distribution by schools in accordance with Code Section 20-2-690.1. The summary of
8083 possible consequences for children shall include possible dispositions for ~~unruly~~ children
8084 in need of services and possible denial or suspension of a driver's license for a child in
8085 accordance with Code Section 40-5-22."

8086 **SECTION 4-34.**

8087 Said title is further amended by revising Code Section 20-2-699, relating to the disposition
8088 of children taken into custody, as follows:

8089 "20-2-699.

8090 Any person assuming temporary custody of a child pursuant to Code Section 20-2-698
8091 shall immediately deliver the child either to the parent, guardian, or other person having
8092 control or charge of the child or to the school from which the child is absent, or if the child
8093 is found to have been adjudged a delinquent ~~or unruly, he~~ child or a child in need of
8094 services, the person shall cause the child to be brought before the probation officer of the
8095 county having jurisdiction over such child."

8096 **SECTION 4-35.**

8097 Said title is further amended by revising subsection (d) of Code Section 20-2-751.2, relating
8098 to students subject to disciplinary orders of other school systems, as follows:

8099 "(d) If any school administrator determines from the information obtained pursuant to this
8100 Code section or from Code Section ~~15-11-28 or 15-11-80~~ 15-11-599, 15-11-602, or
8101 15-11-707 that a student has been convicted of or has been adjudicated to have committed
8102 an offense which is a class A designated felony act or class B designated felony act under
8103 Code Section ~~15-11-63~~ 15-11-2, such administrator shall so inform all teachers to whom
8104 the student is assigned and other school personnel to whom the student is assigned. Such
8105 teachers and other certificated professional personnel as the administrator deems

8106 appropriate may review the information in the student's file provided pursuant to this Code
 8107 section that has been received from other schools or from the juvenile courts or superior
 8108 courts. Such information shall be kept confidential."

8109 **SECTION 4-36.**

8110 Said title is further amended by revising Code Section 20-2-766.1, relating to proceeding
 8111 against parents for failure to cooperate in educational programs, as follows:

8112 "20-2-766.1.

8113 The local board of education may, by petition to the juvenile court, proceed against a parent
 8114 or guardian as provided in this Code section. If the court finds that the parent or guardian
 8115 has willfully and unreasonably failed to attend a conference requested by a principal
 8116 pursuant to Code Section 20-2-765 or 20-2-766, the court may order the parent or guardian
 8117 to attend such a conference, order the parent or guardian to participate in such programs
 8118 or such treatment as the court deems appropriate to improve the student's behavior, or both.
 8119 After notice and opportunity for hearing, the court may impose a fine, not to exceed
 8120 \$500.00, on a parent or guardian who willfully disobeys an order of the court entered under
 8121 this Code section. The court may use its contempt and other powers specified in Code
 8122 Section ~~15-11-5~~ 15-11-31 to enforce any order entered under this Code section."

8123 **SECTION 4-37.**

8124 Said title is further amended by revising subsection (a) of Code Section 20-2-768, relating
 8125 to expulsion or suspension of students for felonies, as follows:

8126 "(a) Each local board of education is authorized to refuse to readmit or enroll any student
 8127 who has been suspended or expelled for being convicted of, being adjudicated to have
 8128 committed, being indicted for, or having information filed for the commission of any
 8129 felony or any delinquent act under Code ~~Section 15-11-28~~ Sections 15-11-602 and
 8130 15-11-707 which would be a felony if committed by an adult. If refused readmission or
 8131 enrollment, the student or the student's parent or legal guardian has the right to request a
 8132 hearing pursuant to the procedures provided for in Code Section 20-2-754."

8133 **SECTION 4-38.**

8134 Said title is further amended by revising subparagraph (B) of paragraph (1) of Code Section
 8135 20-3-660, relating to program of grants for foster children created, as follows:

8136 "(B) The student is currently committed to the Division of Family and Children
 8137 Services within the Department of Human Services under Code Section ~~15-11-55~~
 8138 15-11-212 and placed in a family foster home or is placed in accordance with
 8139 subparagraph (a)(2)(C) of Code Section ~~15-11-2~~ 15-11-212;"

SECTION 4-39.

8140
 8141 Title 24 of the Official Code of Georgia Annotated, relating to evidence, is amended by
 8142 revising subsection (b) of Code Section 24-6-603, relating to oath or affirmation, as follows:
 8143 "(b) Notwithstanding the provisions of subsection (a) of this Code section, in all
 8144 proceedings involving ~~deprivation~~ dependency as defined by Code Section 15-11-2 and in
 8145 all criminal proceedings in which a child was a victim of or witness to any crime, the child
 8146 shall be competent to testify, and the child's credibility shall be determined as provided in
 8147 this chapter."

SECTION 4-40.

8148
 8149 Said title is further amended by revising subsection (q) of Code Section 24-12-21, relating
 8150 to disclosure of AIDS confidential information, as follows:
 8151 "(q) A public safety agency or prosecuting attorney may obtain the results from an HIV
 8152 test to which the person named in the request has submitted under Code Section ~~15-11-66.1~~
 8153 15-11-603, 17-10-15, 42-5-52.1, or 42-9-42.1, notwithstanding that the results may be
 8154 contained in a sealed record."

SECTION 4-41.

8155
 8156 Code Section 31-22-9.2 of the Official Code of Georgia Annotated, relating to HIV tests and
 8157 reports of positive results, is amended by revising subsection (c) as follows:
 8158 "(c) Unless exempted under this Code section, each health care provider who orders an
 8159 HIV test for any person shall do so only after counseling the person to be tested. Unless
 8160 exempted under this subsection, the person to be tested shall have the opportunity to refuse
 8161 the test. The provisions of this subsection shall not be required if the person is required to
 8162 submit to an HIV test pursuant to Code Section ~~15-11-66.1~~ 15-11-603, 17-10-15,
 8163 31-17-4.2, 31-17A-3, 42-5-52.1, or 42-9-42.1. The provisions of this subsection shall not
 8164 be required if the person is a minor or incompetent and the parent or guardian thereof
 8165 permits the test after compliance with this subsection. The provisions of this subsection
 8166 shall not be required if the person is unconscious, temporarily incompetent, or comatose
 8167 and the next of kin permits the test after compliance with this subsection. The provisions
 8168 of this subsection shall not apply to emergency or life-threatening situations. The
 8169 provisions of this subsection shall not apply if the physician ordering the test is of the
 8170 opinion that the person to be tested is in such a medical or emotional state that disclosure
 8171 of the test would be injurious to the person's health. The provisions of this subsection shall
 8172 only be required prior to drawing the body fluids required for the HIV test and shall not be
 8173 required for each test performed upon that fluid sample."

SECTION 4-42.

8174
8175 Title 35 of the Official Code of Georgia Annotated, relating to law enforcement officers and
8176 agencies, is amended by revising subsection (c) of Code Section 35-3-33, relating to powers
8177 and duties of the Georgia Crime Information Center, as follows:

8178 "(c) The provisions of this article notwithstanding, information and records of children
8179 shall only be inspected and disclosed as provided in Code Sections ~~15-11-82~~ 15-11-702 and
8180 ~~15-11-83~~ 15-11-708. Such records and information shall be sealed or destroyed according
8181 to the procedures outlined in Code Sections ~~15-11-79.2~~ 15-11-701 and ~~15-11-81~~
8182 15-11-709."

SECTION 4-43.

8183
8184 Said title is further amended by revising subparagraph (B) of paragraph (7) and
8185 subparagraphs (B) and (B.1) of paragraph (8) of Code Section 35-8-2, relating to definitions
8186 regarding peace officers, as follows:

8187 "(B) The Office of Permits and Enforcement of the Department of Transportation, the
8188 Department of Juvenile Justice and its institutions and facilities for the purpose of
8189 personnel who are authorized to exercise the power of arrest and who are employed or
8190 appointed by ~~said~~ such department or institutions, and the office or section in the
8191 Department of Juvenile Justice in which persons are assigned who have been
8192 designated by the commissioner to investigate and apprehend ~~unruly and~~ delinquent
8193 children and any child with a pending juvenile court case alleging the child to be a child
8194 in need of services; and"

8195 "(B) An enforcement officer who is employed by the Department of Transportation in
8196 its Office of Permits and Enforcement and any person employed by the Department of
8197 Juvenile Justice who is designated by the commissioner to investigate and apprehend
8198 ~~unruly and~~ delinquent children and any child with a pending juvenile court case
8199 alleging the child to be a child in need of services;

8200 (B.1) Personnel who are authorized to exercise the power of arrest, who are employed
8201 or appointed by the Department of Juvenile Justice, and whose full-time duties include
8202 the preservation of public order, the protection of life and property, the detection of
8203 crime, or the supervision of delinquent ~~and unruly~~ children in the department's
8204 institutions, facilities, or programs;"

SECTION 4-44.

8205
8206 Code Section 36-32-10 of the Official Code of Georgia Annotated, relating to jurisdiction
8207 in cases of furnishing alcoholic beverages, is amended by revising subsection (e) as follows:

8208 "(e) Nothing in this Code section shall affect the original and exclusive jurisdiction of the
8209 juvenile court as set forth in Code Section ~~15-11-28~~ 15-11-10."

8210 **SECTION 4-45.**

8211 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is
8212 amended by revising subsection (g) of Code Section 40-5-75, relating to suspension of
8213 licenses by operation of law, as follows:

8214 "(g) Notwithstanding the provisions of Code Section ~~15-11-72~~ 15-11-606 and except as
8215 provided in subsection (c) of this Code section, an adjudication of a minor child as a
8216 delinquent child ~~or an unruly child~~ for any offense listed in subsection (a) of this Code
8217 section shall be deemed a conviction for purposes of this Code section."

8218 **SECTION 4-46.**

8219 Said title is further amended by revising subsection (l) of Code Section 40-6-391, relating
8220 to driving under the influence of alcohol, drugs, or other intoxicating substances, as follows:

8221 "(l) A person who violates this Code section while transporting in a motor vehicle a child
8222 under the age of 14 years is guilty of the separate offense of endangering a child by driving
8223 under the influence of alcohol or drugs. The offense of endangering a child by driving
8224 under the influence of alcohol or drugs shall not be merged with the offense of driving
8225 under the influence of alcohol or drugs for the purposes of prosecution and sentencing. An
8226 offender who is convicted of a violation of this subsection shall be punished in accordance
8227 with the provisions of subsection (d) of Code Section 16-12-1, ~~relating to the offense of~~
8228 ~~contributing to the delinquency, unruliness, or deprivation of a child.~~"

8229 **SECTION 4-47.**

8230 Code Section 44-5-41 of the Official Code of Georgia Annotated, relating to voidance and
8231 ratification of conveyance to or by a minor, is revised as follows:

8232 "44-5-41.

8233 A deed, security deed, bill of sale to secure debt, or any other conveyance of property or
8234 interest in property to or by a minor is voidable unless such minor has become emancipated
8235 by operation of law or pursuant to Article 6 10 of Chapter 11 of Title 15. If a minor has
8236 conveyed property or an interest in property, the minor may void the conveyance upon
8237 arrival at the age of 18; and, if the minor makes another conveyance at that time, it will
8238 void the first conveyance without reentry or repossession. If property or an interest in
8239 property has been conveyed to a minor and, after arrival at the age of 18, the minor retains
8240 the possession or benefit of the property or interest in property, the minor shall have
8241 thereby ratified or affirmed the conveyance."

SECTION 4-48.

8242
 8243 Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees,
 8244 is amended by revising paragraph (7) of Code Section 45-9-81, relating to definitions
 8245 regarding certain indemnification, as follows:

8246 "(7) 'Law enforcement officer' means any agent or officer of this state, a political
 8247 subdivision or municipality of this state, or an authority of this state or a political
 8248 subdivision of this state who, as a full-time or part-time employee, is vested either
 8249 expressly by law or by virtue of public employment or service with authority to enforce
 8250 the criminal or traffic laws with the power of arrest and whose duties include the
 8251 preservation of public order, the protection of life and property, or the prevention,
 8252 detection, or investigation of crime. Such term also includes the employees designated
 8253 by the commissioner of juvenile justice ~~of the Department of Juvenile Justice~~ pursuant
 8254 to paragraph (2) of subsection (i) of Code Section 49-4A-8, ~~which employees who~~ have
 8255 the duty to investigate and apprehend delinquent ~~and unruly~~ children and any child with
 8256 a pending juvenile court case alleging the child to be a child in need of services who ~~have~~
 8257 has escaped from a facility under the jurisdiction of the Department of Juvenile Justice
 8258 or who ~~have~~ has broken the conditions of supervision. Such term also includes members
 8259 of the Georgia National Guard, the composition of which is set forth in Code Section
 8260 38-2-3, who have been called into active state service by the Governor."

SECTION 4-49.

8261
 8262 Said title is further amended by revising paragraph (7) of Code Section 45-9-101, relating
 8263 to definitions regarding certain compensation, as follows:

8264 "(7) 'Law enforcement officer' means any agent or officer of this state, or a political
 8265 subdivision or municipality thereof, who, as a full-time or part-time employee, is vested
 8266 either expressly by law or by virtue of public employment or service with authority to
 8267 enforce the criminal or traffic laws and whose duties include the preservation of public
 8268 order, the protection of life and property, or the prevention, detection, or investigation of
 8269 crime. Such term also includes the employees designated by the commissioner of
 8270 juvenile justice ~~of the Department of Juvenile Justice~~ pursuant to paragraph (2) of
 8271 subsection (i) of Code Section 49-4A-8, ~~which employees who~~ have the duty to
 8272 investigate and apprehend delinquent ~~and unruly~~ children and any child with a pending
 8273 juvenile court case alleging the child to be a child in need of services who ~~have~~ has
 8274 escaped from a facility under the jurisdiction of the Department of Juvenile Justice or
 8275 who ~~have~~ has broken the conditions of supervision. Such term also includes members
 8276 of the Georgia National Guard, the composition of which is set forth in Code Section
 8277 38-2-3, who have been called into active state service by the Governor."

SECTION 4-50.

8278

8279 Said title is further amended by revising subsection (a) of Code Section 45-20-1, relating to
8280 purposes and principles of personnel administration, as follows:

8281 "(a) It is the purpose of this article to establish in the state a system of personnel
8282 administration which will attract, select, and retain the best employees based on merit, free
8283 from coercive political influences, with incentives in the form of equal opportunities for
8284 all; which will provide technically competent and loyal personnel to render impartial
8285 service to the public at all times and to render such service according to the dictates of
8286 ethics and morality; and which will remove unnecessary and inefficient employees. It is
8287 specifically the intent of the General Assembly to promote this purpose by allowing
8288 agencies greater flexibility in personnel management so as to promote the overall
8289 effectiveness and efficiency of state government. To this end, and in accordance with Code
8290 Sections 45-20-2 and 45-20-6, all positions filled after July 1, 1996, shall be included in
8291 the unclassified service as defined in this article, except as provided in Code Section
8292 ~~15-11-24.3~~ 15-11-69. It is also specifically the intent of the General Assembly that
8293 employees in the classified service prior to July 1, 1996, shall continue to be employees in
8294 the classified service so long as they remain in classified positions or as otherwise provided
8295 by law. It is further specifically the intent of the General Assembly that state government
8296 operate within a framework of consistent core personnel policies and practices across all
8297 state agencies and entities and that the state's most valued resource, its employees, be
8298 managed in a manner to promote work force productivity and sound business practices."

SECTION 4-51.

8299

8300 Said title is further amended by revising subsection (a) of Code Section 45-20-6, relating to
8301 composition of classified and unclassified service, as follows:

8302 "(a) Any officer or employee who occupied a classified position under the State Personnel
8303 Administration prior to July 1, 1996, or as provided in Code Section ~~15-11-24.3~~ 15-11-69
8304 shall remain in the classified service so long as such officer or employee shall remain in
8305 a classified position or as otherwise provided by law. Employees in the classified service
8306 shall have, upon completing a working test period, appeal rights as provided in Code
8307 Sections 45-20-8 and 45-20-9."

SECTION 4-52.

8308

8309 Title 49 of the Official Code of Georgia Annotated, relating to social services, is amended
8310 by revising paragraphs (3), (5), (12), and (16) of Code Section 49-5-3, relating to definitions
8311 regarding services for children and youth, as follows:

8312 "(3) 'Child welfare and youth services' means duties and functions authorized or required
8313 by this article to be provided by the department with respect to:

8314 (A) Establishment and enforcement of standards for social services and facilities for
8315 children and youths which supplement or substitute for parental care and supervision
8316 for the purpose of preventing or remedying or assisting in the solution of problems
8317 which may result in neglect, abuse, exploitation, or delinquency of children and youths;

8318 (B) Protecting and caring for ~~deprived~~ dependent children and youths;

8319 (C) Protecting and promoting the welfare of children of working mothers;

8320 (D) Providing social services to children and youths and their parents and care for
8321 children and youths born out of wedlock and their mothers;

8322 (E) Promotion of coordination and cooperation among organizations, agencies, and
8323 citizen groups in community planning, organization, development, and implementation
8324 of such services; and

8325 (F) Otherwise protecting and promoting the welfare of children and youths, including
8326 the strengthening of their homes where possible or, where needed, the provision of
8327 adequate care of children and youths away from their homes in foster family homes or
8328 day-care or other child care facilities."

8329 "(5) 'Dependent ~~Deprived~~ child or youth' means any person so adjudged under Chapter
8330 11 of Title 15."

8331 "(12) 'Legal custody' means a legal status created by court order embodying the
8332 following rights and responsibilities:

8333 (A) The right to have the physical possession of the child;

8334 (B) The right and the duty to protect, train, and discipline the child;

8335 (C) The responsibility to provide the child with food, clothing, shelter, education, and
8336 ordinary medical care; and

8337 (D) The right to determine where and with whom the child shall live,

8338 provided that these rights and responsibilities shall be exercised subject to the powers,
8339 rights, duties, and responsibilities of the guardian of the person of the child and subject
8340 to any residual parental rights and responsibilities. These rights shall be subject to
8341 judicial oversight and review pursuant to Code Section ~~15-11-55~~ 15-11-212."

8342 "(16) 'Protective supervision' means a legal status created by court order following
8343 adjudication in a ~~deprivation~~ dependency case, whereby a child's place of abode is not
8344 changed but assistance directed at correcting the ~~deprivation~~ dependency is provided
8345 through the court or an agency designated by the court."

SECTION 4-53.

8346
8347 Said title is further amended by revising paragraphs (1) and (2) of subsection (a) of Code
8348 Section 49-5-8, relating to powers and duties of the department, as follows:

8349 "(1) Preventive services as follows:

8350 (A) Collecting and disseminating information about the problems of children and
8351 youths and providing consultative assistance to groups, public and private, interested
8352 in developing programs and services for the prevention, control, and treatment of
8353 dependency, ~~deprivation~~, and delinquency among the children of this state; and

8354 (B) Research and demonstration projects designed to add to the store of information
8355 about the social and emotional problems of children and youths and improve the
8356 methods for dealing with these problems;

8357 (2) Child welfare services as follows:

8358 (A) Casework services for children and youths and for mothers bearing children out
8359 of wedlock, whether living in their own homes or elsewhere, to help overcome
8360 problems that result in dependency, ~~deprivation~~, or delinquency;

8361 (B) Protective services that will investigate complaints of ~~deprivation~~, abuse, or
8362 abandonment of children and youths by parents, guardians, custodians, or persons
8363 serving in loco parentis and, on the basis of the findings of such investigation, offer
8364 social services to such parents, guardians, custodians, or persons serving in loco
8365 parentis in relation to the problem or bring the situation to the attention of a law
8366 enforcement agency, an appropriate court, or another community agency;

8367 (C) Supervising and providing required services and care involved in the interstate
8368 placement of children;

8369 (D) Homemaker service, or payment of the cost of such service, when needed due to
8370 the absence or incapacity of the mother;

8371 (E) Boarding care, or payment of maintenance costs, in foster family homes or in
8372 group-care facilities for children and youths who cannot be adequately cared for in their
8373 own homes;

8374 (F) Boarding care or payment of maintenance costs for mothers bearing children out
8375 of wedlock prior to, during, and for a reasonable period after childbirth; and

8376 (G) Day-care services for the care and protection of children whose parents are absent
8377 from the home or unable for other reasons to provide parental supervision;"

SECTION 4-54.

8378
8379 Said title is further amended by revising subsection (e) of Code Section 49-5-41, relating to
8380 persons and agencies permitted access to records, as follows:

8381 "(e) Notwithstanding any other provisions of law, with the exception of medical and
 8382 mental health records made confidential by other provisions of law, child abuse and
 8383 ~~deprivation dependency~~ records applicable to a child who at the time of his or her fatality
 8384 or near fatality was:

- 8385 (1) In the custody of a state department or agency or foster parent;
 8386 (2) A child as defined in paragraph (3) of Code Section ~~15-11-171~~ 15-11-741; or
 8387 (3) The subject of an investigation, report, referral, or complaint under Code Section
 8388 ~~15-11-173~~ 15-11-743
 8389 shall not be confidential and shall be subject to Article 4 of Chapter 18 of Title 50, relating
 8390 to open records; provided, however, that any identifying information, including but not
 8391 limited to the child or caretaker's name, race, ethnicity, address, or telephone numbers and
 8392 any other information that is privileged or confidential, shall be redacted to preserve the
 8393 confidentiality of the child, other children in the household, and the child's parents,
 8394 guardians, custodians, or caretakers. Upon the release of documents pursuant to this
 8395 subsection, the department may comment publicly on the case."

8396 SECTION 4-55.

8397 Said title is further amended by revising paragraph (3) of Code Section 49-5-60, relating to
 8398 definitions for employee record checks for day-care centers, as follows:

8399 "(3) 'Crime' means any felony; a violation of Code Section 16-5-23, ~~relating to simple~~
 8400 ~~battery~~, when the victim is a minor; a violation of Code Section 16-12-1, ~~relating to~~
 8401 ~~contributing to the delinquency of a minor~~; a violation of Chapter 6 of Title 16, ~~relating~~
 8402 ~~to sexual offenses~~, excluding the offenses of bigamy or marrying a bigamist; a violation
 8403 of Code Section 16-4-1, ~~relating to criminal attempt~~ when the crime attempted is any of
 8404 the crimes specified by this paragraph; or any other offenses committed in another
 8405 jurisdiction which, if committed in this state, would be one of the enumerated crimes
 8406 listed in this paragraph."

8407 SECTION 4-56.

8408 Said title is further amended by revising paragraph (2) of Code Section 49-5-110, relating
 8409 to definitions for record checks for persons supervising children, as follows:

8410 "(2) 'Crime' means a violation of Code Section 16-5-23, ~~relating to simple battery~~, when
 8411 the victim is a minor; a violation of Code Section 16-5-24, ~~relating to aggravated battery~~,
 8412 when the victim is a minor; a violation of Code Section 16-5-70, ~~relating to cruelty to~~
 8413 ~~children~~; a violation of Code Section 16-12-1, ~~relating to contributing to the delinquency~~
 8414 ~~of a minor~~; a violation of Chapter 6 of Title 16, ~~relating to sexual offenses~~, excluding the
 8415 offenses of bigamy or marrying a bigamist; a felony violation of Chapter 13 of Title 16;

8416 a violation of Code Section 16-5-1, ~~relating to murder and felony murder~~; a violation of
 8417 Code Section 16-4-1, ~~relating to criminal attempt~~ as it concerns attempted murder; or any
 8418 other offense committed in another jurisdiction which, if committed in this state, would
 8419 be deemed to be one of the enumerated crimes listed in this paragraph."

8420 **SECTION 4-57.**

8421 Said title is further amended by revising paragraph (2) of Code Section 49-5-131, relating
 8422 to definitions, as follows:

8423 "(2) 'Child' means a person under the age of 17 years who is alleged to have committed
 8424 a delinquent act or a person under the age of 18 years who is alleged to be ~~deprived a~~
 8425 dependent child or is alleged to be a ~~status offender~~ child in need of services as those
 8426 terms are defined by Code Section 15-11-2."

8427 **SECTION 4-58.**

8428 Said title is further amended by revising Code Section 49-5-154, relating to the study of
 8429 youth needs, as follows:

8430 "49-5-154.

8431 The governing authority of each participating county shall establish a local advisory group
 8432 which includes representation from each component of the local children's services systems
 8433 and other interested parties. The advisory group shall appraise the council on the needs of
 8434 children and youth in its community giving particular attention to the need for prevention
 8435 programs and community based services, residential or nonresidential, which would
 8436 provide an alternative to commitment to or placement or custody in the Department of
 8437 Juvenile Justice or the Department of Human Services and placement in ~~a youth~~
 8438 ~~development center, foster home, or any other institution~~ any juvenile detention facility as
 8439 defined in Code Section 49-4A-1. Such appraisal shall be made annually and in writing.
 8440 The governing authority of the county may request technical assistance from the council
 8441 in conducting such study."

8442 **SECTION 4-59.**

8443 Said title is further amended by revising paragraphs (15) and (18) of subsection (a) of Code
 8444 Section 49-5-281, relating to bill of rights for foster parents, as follows:

8445 "(15) The right to participate in the case planning and decision-making process with the
 8446 Division of Family and Children Services regarding the child as provided in Code Section
 8447 ~~15-11-58~~ 15-11-201;"

8448 "(18) The right to be notified in advance, in writing, by the Division of Family and
 8449 Children Services or the court of any hearing or review where the case plan or

8450 permanency of the child is an issue, including initial and periodic reviews held by the
 8451 court in accordance with Code Section 15-11-216 or by the Judicial Citizen Review Panel
 8452 in accordance with Code Section 15-11-217, hearings following revocation of the license
 8453 of an agency which has permanent custody of a child in accordance with Code Section
 8454 31-2-6, and permanency plan hearings, ~~and motions to extend custody, in accordance~~
 8455 ~~with Code Section 15-11-58~~ in accordance with Code Section 15-11-230;"

8456 **SECTION 4-60.**

8457 Code Section 52-7-12 of the Official Code of Georgia Annotated, relating to operation of
 8458 watercraft while under the influence of alcohol or drugs, is amended by revising subsection
 8459 (l) as follows:

8460 "(l) A person who violates this Code section while transporting in a moving vessel or
 8461 personal watercraft or towing on water skis, an aquaplane, a surfboard or similar device a
 8462 child under the age of 14 years is guilty of the separate offense of endangering a child by
 8463 operating a moving vessel or personal watercraft under the influence of alcohol or drugs.
 8464 The offense of endangering a child by operating a moving vessel or personal watercraft
 8465 under the influence of alcohol or drugs shall not be merged with the offense of operating
 8466 a vessel under the influence of alcohol or drugs for the purposes of prosecution and
 8467 sentencing. An offender who is convicted of a violation of this subsection shall be
 8468 punished in accordance with the provisions of subsection (d) of Code Section 16-12-1;
 8469 ~~relating to the offense of contributing to the delinquency, unruliness, or deprivation of a~~
 8470 ~~child."~~

8471 **PART V**

8472 **EFFECTIVE DATE, APPLICABILITY, AND REPEALER**

8473 **SECTION 5-1.**

8474 This Act shall become effective on July 1, 2013, and shall apply to all offenses which occur
 8475 and juvenile proceedings commenced on and after such date. Any offense occurring before
 8476 July 1, 2013, shall be governed by the statute in effect at the time of such offense and shall
 8477 be considered a prior adjudication for the purpose of imposing a disposition that provides for
 8478 a different penalty for subsequent adjudications, of whatever class, pursuant to this Act. The
 8479 enactment of this Act shall not affect any prosecutions for acts occurring before July 1, 2013,
 8480 and shall not act as an abatement of any such prosecutions.

8481 **SECTION 5-2.**

8482 All laws and parts of laws in conflict with this Act are repealed.