

The House Committee on Juvenile Justice offers the following substitute to SB 365:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 6 of Chapter 11 of Title 15, Article 3A of Chapter 5 of Title 40, Chapter
2 2 of Title 42, and Chapter 1 of Title 51 of the Official Code of Georgia Annotated, relating
3 to delinquency proceedings in juvenile court, suspension of driver's license for certain drug
4 offenses, the Board and Department of Corrections, and general tort provisions, respectively,
5 so as to enact offender reentry reforms as recommended by the Georgia Council on Criminal
6 Justice Reform; to change provisions relating to findings in a disposition hearing; to change
7 provisions relating to calculating time when a child is delinquent and dependent; to change
8 provisions relating to periodic review hearings for children in foster care; to provide for
9 permanency planning for children by the Department of Juvenile Justice; to provide for court
10 hearings regarding the Department of Juvenile Justice's permanency planning for children;
11 to provide for restoration or suspension of a defendant's driver's license or issuance of a
12 limited driving permit under certain circumstances; to provide for a Program and Treatment
13 Completion Certificate that may be issued by the Board of Corrections under certain
14 circumstances; to change provisions relating to educational programs for adult offenders; to
15 provide a rebuttable presumption of due care under certain circumstances when a Program
16 and Treatment Completion Certificate has been issued by the Department of Corrections; to
17 retain sovereign immunity of the state; to provide for related matters; to repeal conflicting
18 laws; and for other purposes.

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

20 style="text-align:center">**SECTION 1.**

21 Article 6 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to
22 delinquency proceedings in juvenile court, is amended by revising subsection (a) of Code
23 Section 15-11-600, relating to findings in a disposition hearing, as follows:

24 "(a)(1) After a finding that a child has committed a delinquent act, the court shall hear
25 evidence ~~on whether such~~ and determine whether:

26 (A) Such child is in need of treatment, rehabilitation, or supervision ~~and;~~

S. B. 365 (SUB)

27 (B) Such child's continuation in his or her home is contrary to such child's welfare; and
 28 (C) Reasonable efforts have been made to prevent or eliminate the need to remove such
 29 child from his or her home.
 30 (2) After hearing the evidence described in paragraph (1) of this subsection, the court
 31 shall make and file its findings based upon such determinations."

32 SECTION 2.

33 Said article is further amended by revising Code Section 15-11-620, relating to calculating
 34 time when a child is delinquent and dependent, as follows:

35 "15-11-620.

36 (a) When a child is alleged to have committed a delinquent act and be a dependent child,
 37 the date such child is considered to have entered foster care shall be the date of the first
 38 judicial finding that such child has been subjected to child abuse or neglect or the date that
 39 is 60 days after the date on which such child is removed from his or her home, whichever
 40 is earlier.

41 (b) When a child is alleged to have committed a delinquent act and is placed directly in a
 42 nonsecure residential facility, the date such child is considered to have entered foster care
 43 shall be 60 days after the date on which such child is removed from his or her home.

44 ~~(b)~~(c) If a child alleged or adjudicated to have committed a delinquent act is detained in
 45 a facility operated primarily for the detention of delinquent children but is later placed in
 46 foster care within 60 days of such child's removal from the home, then the date of entry
 47 into foster care shall be 60 days after the date of removal.

48 (d) When a child alleged or adjudicated to have committed a delinquent act is detained in
 49 a facility operated primarily for the detention of delinquent children but is later placed in
 50 a nonsecure residential facility within 60 days of such child's removal from the home, the
 51 date such child is considered to have entered foster care shall be 60 days from the date on
 52 which such child is removed from his or her home.

53 ~~(c)~~(e) If a child is detained in a facility operated primarily for the detention of delinquent
 54 children pending placement in foster care and remains detained for more than 60 days, then
 55 the date of entry into foster care shall be the date such child is placed in foster care.

56 (f) When a child alleged or adjudicated to have committed a delinquent act is detained in
 57 a facility operated primarily for the detention of delinquent children and remains detained
 58 for more than 60 days and such child is subsequently placed in a nonsecure residential
 59 facility, the date such child is considered to have entered foster care shall be the date such
 60 child was placed in a nonsecure residential facility."

61 **SECTION 3.**

62 Said article is further amended by revising Code Section 15-11-621, relating to periodic
63 review hearings for children in foster care, as follows:

64 "15-11-621.

65 (a) The periodic review hearing requirements under Code Sections 15-11-216, 15-11-217,
66 and 15-11-218 shall apply to proceedings involving a child alleged or adjudicated to have
67 committed a delinquent act and placed in foster care.

68 (b) When a child is committed to DJJ and for whom a determination has been made that
69 the child's continuation in his or her home is contrary to the child's welfare and he or she
70 is placed in a nonsecure residential facility, such child shall receive a periodic review
71 before an administrative review panel within DJJ within six months following the date the
72 child entered the nonsecure residential facility and every six months thereafter while the
73 child remains in such facility. The administrative review panel within DJJ shall transmit
74 its report, including its findings and recommendations, to the court within five days after
75 conducting its review."

76 **SECTION 4.**

77 Said article is further amended by adding a new Code section to read as follows:

78 "15-11-623.

79 (a) As used in this Code section, the term 'permanency plan' means a specific written plan
80 prepared by DJJ designed to ensure that a child is reunified with his or her family or ensure
81 that such child quickly attains a substitute long-term home when return to such child's
82 family is not possible or is not in such child's best interests.

83 (b)(1) The court shall hold a hearing to review the permanency plan for each child
84 committed to DJJ when a determination has been made that the child's continuation in his
85 or her home is contrary to the child's welfare, and the child is placed in a nonsecure
86 residential facility.

87 (2) Such hearing shall be held no later than 12 months from the date a child is considered
88 to have entered foster care and every 12 months thereafter to make determinations
89 including whether the permanency plan for such child is appropriate and whether
90 reasonable efforts to finalize the permanency plan have been made by DJJ.

91 (3) A child's parent, guardian, legal custodian, attorney, any relatives providing care for
92 such child, and other interested parties shall be given written notice of such hearing at
93 least five days in advance of such hearing and shall be advised that the permanency plan
94 will be submitted to the court for consideration as the order of the court.

95 (4) At least five days prior to such hearing, DJJ shall submit for the court's consideration
96 a report recommending a permanency plan for a child committed to a nonsecure

97 residential facility. Such report shall include documentation of the steps taken by DJJ to
 98 finalize the permanent placement for such child.
 99 (5) Subsequent to such hearing, the court shall make written findings of fact that shall
 100 include whether DJJ has made reasonable efforts to finalize the permanency plan in effect
 101 at the time of the hearing."

102 SECTION 5.

103 Article 3A of Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to
 104 suspension of driver's license for certain drug offenses, is amended by revising Code Section
 105 40-5-76, relating to restoration or suspension of a defendant's driver's license or issuance of
 106 a limited driving permit, as follows:

107 "40-5-76.

108 (a) A judge presiding in a drug court division or mental health court division may order
 109 the department to restore a defendant's driver's license that has been or should be suspended
 110 pursuant to Code Section 40-5-75, suspend such license, or issue a defendant a limited
 111 driving permit in accordance with the provisions set forth in subsections (c) and (d) of
 112 Code Section 40-5-64 or with whatever conditions the court determines to be appropriate
 113 under the circumstances as a reward or sanction to the defendant's behavior in such court
 114 division. The court shall determine what fees, if any, shall be paid to the department for
 115 such reward or sanction, provided that such fee shall not be greater than the fee normally
 116 imposed for such services.

117 (b) A judge presiding in any court, other than the court divisions specified in subsection
 118 (a) of this Code section, may order the department to restore a defendant's driver's license
 119 that has been or should be suspended pursuant to Code Section 40-5-75 or issue a
 120 defendant a limited driving permit in accordance with the provisions set forth in
 121 subsections (c) and (d) of Code Section 40-5-64 if the offense for which the defendant was
 122 convicted did not directly relate to the operation of a motor vehicle. The court shall
 123 determine what fees, if any, shall be paid to the department for the restoration of such
 124 driver's license or issuance of such limited driving permit, provided that such fee shall not
 125 be greater than the fee normally imposed for such services. Such judge may also order the
 126 department to suspend a defendant's driver's license that could have been suspended
 127 pursuant to Code Section 40-5-75 as a consequence of the defendant's violation of the
 128 terms of his or her probation."

129 SECTION 6.

130 Chapter 2 of Title 42 of the Official Code of Georgia Annotated, relating to the Board and
 131 Department of Corrections, is amended by revising Code Section 42-2-5.1, relating to special

132 school districts for school age youth and educational programs for adult offenders, and by
 133 adding a new Code section to read as follows:

134 "42-2-5.1.

135 (a) In order to provide education for any school age youths incarcerated within any facility
 136 of the ~~Department of Corrections~~ department, the department shall be considered a special
 137 school district which shall be given the same funding consideration for federal funds that
 138 school districts within the state are given. The special school district under the department
 139 shall have the powers, privileges, and authority exercised or capable of exercise by any
 140 other school district. The schools within the special school district shall be under the
 141 control of the commissioner, who shall serve as the superintendent of schools for such
 142 district. The ~~Board of Corrections~~ board shall serve as the board of education for such
 143 district. The board, acting alone or in cooperation with the State Board of Education, shall
 144 establish education standards for the district. As far as is practicable, such standards shall
 145 adhere to the standards adopted by the State Board of Education for the education of school
 146 age youth, while taking into account:

147 (1) The overriding security needs of correctional institutions and other restrictions
 148 inherent to the nature of correctional facilities;

149 (2) The effect of limited funding on the capability of the ~~Department of Corrections~~
 150 department to meet certain school standards; and

151 (3) Existing juvenile education standards of the Correctional Education Association and
 152 the American Correctional Association, which shall be given primary consideration
 153 where any conflicts arise.

154 (b) The effect of subsection (a) of this Code section shall not be to provide state funds to
 155 the special school district under the department through Part 4 of Article 6 of Chapter 2 of
 156 Title 20.

157 42-2-5.2.

158 ~~(c)~~(a) The ~~Board of Corrections~~ board, acting alone or in cooperation with the State Board
 159 of the Technical College System of Georgia or other relevant education agencies, shall
 160 provide overall direction of educational programs for adult offenders in the correctional
 161 system and shall exercise program approval authority. The board may enter into written
 162 agreements with other educational organizations and agencies in order to provide adult
 163 offenders with such education and employment skills most likely to encourage gainful
 164 employment and discourage return to criminal activity upon release. The board may also
 165 enter into agreements with other educational organizations and agencies to attain program
 166 certification for its vocational and technical education programs.

167 (b) The board shall develop and implement programs to assist adult offenders with reentry
 168 into society upon release from prison. In addition to educational and vocational programs,
 169 reentry programs may include social and behavioral programs, substance abuse counseling,
 170 mentoring programs, financial planning, physical and mental health programs, and housing
 171 and federal assistance programs.

172 (c) The board shall create a Program and Treatment Completion Certificate that may be
 173 issued to offenders under the rules and regulations of the board. Such certificate shall
 174 symbolize an offender's achievements toward successful reentry into society. The board's
 175 rules and regulations relating to the issuance of such certificate shall take into account an
 176 offender's disciplinary record and any other factor the board deems relevant to an
 177 individual's qualification for such certificate. The board's rules and regulations shall
 178 specify eligibility considerations and requirements for completion of such certificate. An
 179 offender who was convicted of a serious violent felony, as such term is defined in Code
 180 Section 17-10-6.1, shall not be eligible for such certificate.

181 (d) Nothing in this Code section shall be construed to constitute a waiver of the sovereign
 182 immunity of the state, and no action shall be maintained against the state or any agency or
 183 department thereof for issuance of or failure to issue any Program and Treatment
 184 Completion Certificate."

185 SECTION 7.

186 Chapter 1 of Title 51 of the Official Code of Georgia Annotated, relating to general tort
 187 provisions, is amended by adding a new Code section to read as follows:

188 "51-1-54.

189 (a) As used in this Code section, the term 'Program and Treatment Completion Certificate'
 190 means the certificate issued pursuant to Code Section 42-2-5.2.

191 (b) Issuance of a Program and Treatment Completion Certificate by the Department of
 192 Corrections or the granting of a pardon from the State Board of Pardons and Paroles as
 193 provided in the Constitution and Code Section 42-9-42 shall create a presumption of due
 194 care in hiring, retaining, licensing, leasing to, admitting to a school or program, or
 195 otherwise engaging in activity with the individual to whom the Program and Treatment
 196 Completion Certificate was issued or the pardon was granted. Such presumption may be
 197 rebutted by relevant evidence which extends beyond the scope of the Program and
 198 Treatment Completion Certificate or pardon and which was known or should have been
 199 known by the person against whom negligence is asserted.

200 (c) Nothing in this Code section shall be construed to constitute a waiver of the sovereign
 201 immunity of the state, and no action shall be maintained against the state or any agency or

202 department thereof for issuance of or failure to issue any Program and Treatment
203 Completion Certificate or issuance of or failure to grant a pardon."

204 **SECTION 8.**

205 All laws and parts of laws in conflict with this Act are repealed.