

The House Committee on Juvenile Justice offers the following substitute to SB 364:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 11 of Title 15 and Part 1 of Article 2 of Chapter 13 of Title 16 of the  
2 Official Code of Georgia Annotated, relating to the Juvenile Code and schedules, offenses,  
3 and penalties, respectively, so as to revise and correct errors or omissions in furtherance of  
4 the work of the Georgia Council on Criminal Justice Reform to recommend legislation; to  
5 repeal portions of the Juvenile Code which conflict with other provisions of the Code; to  
6 revise definitions; to provide conformity within the Juvenile Code and with federal law; to  
7 correct cross-references; to change time frames for certain proceedings; to change provisions  
8 relating to the duties and responsibilities of a CASA; to amend Code Section 19-7-1 of the  
9 Official Code of Georgia Annotated, relating to in whom parental power lies and how such  
10 power may be lost, so as to correct a cross-reference; to revise a definition relating to  
11 purchase, possession, or having control of controlled substances or marijuana; to clarify  
12 provisions relating to earned time and parole for persons convicted of trafficking in certain  
13 drugs; to provide for related matters; to provide for effective dates; to provide for  
14 applicability; to repeal conflicting laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 PART I  
17 SECTION 1-1.

18 Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to the Juvenile  
19 Code, is amended by revising paragraphs (5), (10), (39), subparagraph (F) of paragraph (43),  
20 (52), and (71) of Code Section 15-11-2, relating to definitions, as follows:

21 "(5) 'Aggravated circumstances' means the parent has:

22 (A) Abandoned ~~an infant~~ a child;

23 (B) Aided or abetted, attempted, conspired, or solicited to commit murder or voluntary  
24 manslaughter of another child of such parent ~~Attempted, conspired to attempt, or has~~  
25 ~~subjected a child or his or her sibling to death or great bodily harm;~~

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- 26 (C) Subjected ~~Attempted, conspired to attempt, or has subjected~~ a child or his or her  
 27 sibling to torture, chronic abuse, sexual abuse, or sexual exploitation; ~~or~~  
 28 (D) Committed the murder or voluntary manslaughter of his or her child's other parent  
 29 or has been convicted of aiding or abetting, attempting, conspiring, or soliciting the  
 30 murder or voluntary manslaughter of his or her child's other parent;  
 31 (E) Committed the murder or voluntary manslaughter of another child of such parent;  
 32 or  
 33 (F) Committed an assault that resulted in serious bodily injury to his or her child or  
 34 another child of such parent."

35 "(10) 'Child' means any individual who is:

- 36 (A) Under the age of 18 years;  
 37 (B) Under the age of 17 years when alleged to have committed a delinquent act;  
 38 (C) Under the age of 22 years and in the care of DFCS as a result of being adjudicated  
 39 dependent before reaching 18 years of age;  
 40 (D) Under the age of 23 years and eligible for and receiving independent living  
 41 services through DFCS as a result of being adjudicated dependent before reaching 18  
 42 years of age; or  
 43 (E) Under the age of 21 years who committed an act of delinquency before reaching  
 44 the age of 17 years and who has been placed under the supervision of the court or on  
 45 probation to the court for the purpose of enforcing orders of the court."

46 "(39) 'Informal adjustment' means the disposition of a case other than by formal  
 47 adjudication and disposition."

48 "(F) Has legitimated a child pursuant to Code Section ~~19-7-22.1~~ 19-7-21.1."

49 "(52) 'Party' means the state, a child, parent, guardian, legal custodian, or other person  
 50 subject to any judicial proceeding under this chapter; provided, however, that for  
 51 purposes of ~~Article~~ Articles 5 and 6 of this chapter, only a child and the state shall be a  
 52 party."

53 "(71) 'Sibling' means a person with whom a child shares a biological father or one or both  
 54 parents in common by blood, adoption, or marriage, even if the marriage was terminated  
 55 by death or dissolution."

## 56 SECTION 1-2.

57 Said chapter is further amended by revising subsection (a) of Code Section 15-11-5, relating  
 58 to computation of time, as follows:

59 "(a) When a period of time measured in days, weeks, months, years, or other  
 60 measurements of time ~~except hours~~ is prescribed for the exercise of any privilege or the  
 61 discharge of any duty, the first day shall not be counted but the last day shall be counted;

62 and, if the last day falls on a weekend, the party having such privilege or duty shall have  
63 through the following business day to exercise such privilege or discharge such duty."

64 **SECTION 1-3.**

65 Said chapter is further amended by revising subparagraph (F) of paragraph (1) and  
66 subparagraph (D) of paragraph (2) of Code Section 15-11-10, relating to exclusive original  
67 jurisdiction, as follows:

68 "(F) Has been placed under the supervision of the court or on probation to the court;  
69 provided, however, that such jurisdiction shall be for the purpose of completing,  
70 effectuating, and enforcing such supervision or a probation begun either prior to such  
71 child's seventeenth birthday if the order is entered as a disposition for an adjudication  
72 for delinquency or prior to such child's eighteenth birthday if the order is entered for an  
73 adjudication for a child in need of services;"

74 "(D) For the termination of the legal parent-child relationship and the rights of the  
75 biological father who is not the legal father of the child in accordance with Article ~~2~~ 4  
76 of this chapter; provided, however, that such jurisdiction shall not affect the superior  
77 court's exclusive jurisdiction to terminate the legal parent-child relationship and the  
78 rights of a biological father who is not the legal father of the child as set forth in  
79 Chapters 6 through 9 of Title 19;"

80 **SECTION 1-4.**

81 Said chapter is further amended by revising paragraph (3) of subsection (a) of Code Section  
82 15-11-16, relating to commencement of proceedings, as follows:

83 "(3) By the filing of a petition for legitimation under Code Section 15-11-11, or in other  
84 cases by the filing of a complaint or a petition as provided in Articles 3, 4, 6, 7, ~~9~~ 8, and  
85 ~~11~~ 10 of this chapter."

86 **SECTION 1-5.**

87 Said chapter is further amended by adding a new subsection to Code Section 15-11-32,  
88 relating to modification or vacation of orders, as follows:

89 "(g) This Code section is intended to be retroactive and shall apply to any child who is  
90 under the jurisdiction of the court at the time of a hearing, regardless of the date of the  
91 original delinquency order."

92 **SECTION 1-6.**

93 Said chapter is further amended by revising subsection (c) of Code Section 15-11-38, relating  
94 to community based risk reduction programs, as follows:

95 "(c) As part of an early intervention program, the court may enter into protocol agreements  
 96 with school systems within the court's jurisdiction, the county ~~department~~ division of  
 97 family and children services, the county department of health, DJJ, any state or local  
 98 department or agency, any mental health agency or institution, local physicians or health  
 99 care providers, licensed counselors and social workers, and any other social service,  
 100 charitable, or other entity or any other agency or individual providing educational or  
 101 treatment services to families and children within the jurisdiction of the court. Such  
 102 protocol agreements shall authorize the exchange of confidential information in the same  
 103 manner and subject to the same restrictions, conditions, and penalties as provided in Code  
 104 Section 15-11-40."

105 **SECTION 1-7.**

106 Said chapter is further amended by revising paragraph (14) of subsection (c) of Code Section  
 107 15-11-105, relating to powers and duties of guardian ad litem, as follows:

108 "(14) Attend judicial citizen panel review hearings concerning such child and if unable  
 109 to attend the hearings, forward to the panel a letter setting forth such child's status during  
 110 the period since the last judicial citizen panel review and include an assessment of the  
 111 DFCS permanency and treatment plans;"

112 **SECTION 1-8.**

113 Said chapter is further amended by revising subsection (c) of Code Section 15-11-110,  
 114 relating to continuance of hearing in dependency proceedings, as follows:

115 "(c) A stipulation between attorneys or the convenience of the parties shall not constitute  
 116 good cause. Except as otherwise provided by judicial rules governing attorney conflict  
 117 resolution, a pending criminal prosecution or family law matter shall not constitute good  
 118 cause. The need for discovery shall not constitute good cause unless the court finds that  
 119 a person or entity has failed to comply with an order for discovery."

120 **SECTION 1-9.**

121 Said chapter is further amended by revising subsections (c) and (e) of Code Section  
 122 15-11-135, relating to placement in eligible foster care, as follows:

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

- 124 (1) A licensed or approved foster home or a home approved by the court which may be  
 125 a public or private home ~~or the~~;
- 126 (2) The home of the child's noncustodial parent or;
- 127 (3) The home of a relative;
- 128 (4) The home of fictive kin;

129 ~~(2)~~(5) A facility operated by a licensed child welfare agency; or

130 ~~(3)~~(6) A licensed shelter care facility approved by the court."

131 "(e) In any case in which a child is taken into protective custody of DFCS, such child shall  
132 be placed together with his or her siblings who are also in protective custody or DFCS shall  
133 include a statement in its report and case plan of continuing efforts to place the siblings  
134 together or ~~why such efforts are not appropriate~~ document why such joint placement would  
135 be contrary to the safety or well-being of any of the siblings. If siblings are not placed  
136 together, DFCS shall provide for frequent visitation or other ongoing interaction between  
137 siblings, unless DFCS documents that such frequent visitation or other ongoing interaction  
138 would be contrary to the safety or well-being of any of the siblings."

139 **SECTION 1-10.**

140 Said chapter is further amended by revising Code Section 15-11-150, relating to the authority  
141 to file a petition for dependency, as follows:

142 "15-11-150.

143 A DFCS employee, a law enforcement officer, or any person who has actual knowledge  
144 of the abuse, neglect, or abandonment of a child or is informed of the abuse, neglect, or  
145 abandonment of a child that he or she believes to be truthful may make a petition alleging  
146 dependency. Such petition shall not be accepted for filing unless the court or a person  
147 authorized by the court has determined and endorsed on the petition that the filing of the  
148 petition is in the best interests of the public and such child."

149 **SECTION 1-11.**

150 Said chapter is further amended by revising paragraph (14) of subsection (b) of Code Section  
151 15-11-201, relating to DFCS case plan, as follows:

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

159 **SECTION 1-12.**

160 Said chapter is further amended by revising paragraph (1) of subsection (c) of Code Section  
161 15-11-210, relating to disposition hearings, as follows:

162 "(1) The social study report as provided for in Code Section 15-11-191, if applicable,  
 163 ~~made by DFCS~~ and the child adjudicated as a dependent child's proposed written case  
 164 plan. The social study report and case plan shall be filed with the court not less than 48  
 165 hours before the disposition hearing;"

### 166 SECTION 1-13.

167 Said chapter is further amended by revising subsections (c) through (e) of Code Section  
 168 15-11-211, relating to relative search by DFCS, as follows:

169 "~~(c) A diligent search shall be completed by DFCS before final disposition.~~

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

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

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

178 (3) Describing the process for becoming an approved foster family home and the  
 179 additional services and supports available for children placed in approved foster homes;  
 180 and

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

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

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

### 191 SECTION 1-14.

192 Said chapter is further amended by revising subparagraph (a)(2)(C) of Code Section  
 193 15-11-212, relating to disposition of dependent children, as follows:

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

197 **SECTION 1-15.**

198 Said chapter is further amended by revising the introductory language of subsection (c) of  
 199 Code Section 15-11-216, relating to periodic review hearings, as follows:

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

203 **SECTION 1-16.**

204 Said chapter is further amended in Code Section 15-11-262, relating to right to attorney and  
 205 appointment of guardian ad litem in termination of parental rights proceedings, by revising  
 206 subsections (d) through (f) and by redesignating subsections (g) through (i) as subsections  
 207 (h) through (j), respectively, as follows:

208 "(d) The court ~~may~~ shall appoint a guardian ad litem for a child in a termination  
 209 proceeding ~~at the request of such child's attorney or upon the court's own motion if it~~  
 210 ~~determines that a guardian ad litem is necessary to assist the court in determining the best~~  
 211 ~~interests of such child;~~ provided, however, that such guardian ad litem may be the same  
 212 person as the child's attorney unless or until there is a conflict of interest between the  
 213 attorney's duty to such child as such child's attorney and the attorney's considered opinion  
 214 of such child's best interests as guardian ad litem.

215 (e) The court shall appoint a CASA to serve as guardian ad litem whenever possible, and  
 216 a CASA may be appointed in addition to an attorney who is serving as a guardian ad litem.

217 ~~(e)(f)~~ (f) The role of a guardian ad litem in a termination of parental rights proceeding shall  
 218 be the same role as provided for in all dependency proceedings under Article 3 of this  
 219 chapter.

220 ~~(f)(g)~~ (g) If an attorney or guardian ad litem has been appointed to represent a child in a prior  
 221 proceeding under this chapter, the court, when possible, shall appoint the same attorney to  
 222 represent such child in any subsequent proceeding."

223 **SECTION 1-17.**

224 Said chapter is further amended by revising Code Section 15-11-265, relating to suspension  
 225 of right of voluntary surrender of parental rights, as follows:

226 "15-11-265.

227 Once a petition to terminate parental rights has been filed, the parent of a child adjudicated  
 228 as a dependent child shall thereafter be without authority to ~~execute an act of surrender or~~  
 229 ~~otherwise to~~ affect the custody of his or her child except such parent may:

230 ~~(1) Execute an act of surrender in favor of the department; and~~

231 ~~(2)~~ (1) Consent to a judgment terminating his or her parental rights; and

- 232 (2) Execute an act of surrender in favor of:  
 233 (A) A third party if all of the parties to the petition to terminate parental rights agree;  
 234 or  
 235 (B) The department."

236 **SECTION 1-18.**

237 Said chapter is further amended by revising subsection (a) of Code Section 15-11-270,  
 238 relating to venue for petition to terminate parental rights, as follows:

- 239 "(a) A proceeding under this article shall be commenced in:  
 240 (1) In the county that has jurisdiction over the related dependency proceedings;  
 241 (2) In the county in which a child legally resides;  
 242 (3) In the county in which a child is present when the termination proceeding is  
 243 commenced if such child is present without his or her parent, guardian, or legal custodian;  
 244 or  
 245 (4) In the county where the acts underlying the petition to terminate parental rights are  
 246 alleged to have occurred."

247 **SECTION 1-19.**

248 Said chapter is further amended by revising subsection (d) of Code Section 15-11-280,  
 249 relating to the petition for termination of parental rights and putative fathers, as follows:

- 250 "(d) When a petition to terminate parental rights seeks termination of the rights of a  
 251 biological father who is not the legal father and who has not surrendered his rights to his  
 252 child, the petition shall include a certificate from the putative father registry disclosing the  
 253 name, address, and social security number of any registrant acknowledging paternity of the  
 254 child named in the petition or indicating the possibility of paternity of a child of the child's  
 255 mother for a period beginning no more than two years immediately preceding such child's  
 256 date of birth. The certificate shall document a search of the registry on or ~~after~~ before the  
 257 date of the filing of the petition and shall include a statement that the registry is current as  
 258 to filings of registrants as of the date of the petition ~~or as of a date later than the date of the~~  
 259 ~~petition."~~ petition."

260 **SECTION 1-20.**

261 Said chapter is further amended by revising subsection (e) of Code Section 15-11-282,  
 262 relating to service of summons, as follows:

- 263 "(e)(1) Service by publication shall be made once a week for four consecutive weeks in  
 264 the legal organ of the county where the petition to terminate parental rights has been filed



265 and of the county of the biological father's last known address. Service shall be deemed  
 266 complete upon the date of the last publication.

267 (2) When served by publication, the notice shall contain the names of the parties, except  
 268 that the anonymity of a child shall be preserved by the use of appropriate initials, and the  
 269 date the petition to terminate parental rights was filed. The notice shall indicate the  
 270 general nature of the allegations and where a copy of the petition to terminate parental  
 271 rights can be obtained and require the party to be served by publication to appear before  
 272 the court at the time fixed to answer the allegations of the petition to terminate parental  
 273 rights.

274 (3) The petition to terminate parental rights shall be available to the parent party whose  
 275 rights are sought to be terminated free of charge from the court during business hours or,  
 276 upon request, shall be mailed to such parent party.

277 (4) Within 15 days after the filing of the order of service by publication, the clerk of  
 278 court shall mail a copy of the notice, a copy of the order of service by publication, and  
 279 a copy of the petition to terminate parental rights to the absent parent's party's last known  
 280 address."

281 **SECTION 1-21.**

282 Said chapter is further amended by revising Code Section 15-11-283, relating to notice to  
 283 fathers, as follows:

284 "15-11-283.

285 (a) Unless he has surrendered all parental rights to his child, a summons shall be served  
 286 ~~on the legal father of a child named in the petition brought pursuant to this article or in the~~  
 287 same manner as set forth in Code Section 15-11-282 on the biological father:

288 (1) Whose paternity has been previously established in a judicial proceeding to which  
 289 the father was a party;

290 (2) Whose identity is known to the petitioner or the petitioner's attorney;

291 (3) Who is a registrant on the putative father registry and has acknowledged paternity of  
 292 the child named in the petition brought pursuant to this article;

293 (4) Who is a registrant on the putative father registry who has indicated possible  
 294 paternity of the child named in the petition brought pursuant to this article that was born  
 295 to such child's mother during a period beginning no more than two years immediately  
 296 preceding such child's date of birth; or

297 (5) Who, if the court finds from the evidence including but not limited to the affidavit  
 298 of the mother of a child named in the petition brought pursuant to this article, has  
 299 performed any of the following acts:

300 (A) Lived with such child;

301 (B) Contributed to such child's support;  
302 (C) Made any attempt to legitimate such child; or  
303 (D) Provided support or medical care for such mother either during her pregnancy or  
304 during her hospitalization for the birth of such child.

305 ~~(b) Notice shall be given to the biological father or legal father by the following methods:~~  
306 ~~(1) If the biological father or legal father is within this state and can be found, the~~  
307 ~~summons shall be served upon him personally as soon as possible and least 30 days~~  
308 ~~before the termination of parental rights hearing;~~  
309 ~~(2) If the biological father or legal father is outside this state but his address is known or~~  
310 ~~can be ascertained with due diligence, service of summons shall be made at least 30 days~~  
311 ~~before the termination of parental rights hearing either by delivering a copy to him~~  
312 ~~personally or by mailing a copy to him by registered or certified mail or statutory~~  
313 ~~overnight delivery, return receipt requested; or~~  
314 ~~(3) If, after due diligence, the biological father or legal father to be served with summons~~  
315 ~~cannot be found and his address cannot be ascertained, whether he is within or outside~~  
316 ~~this state, the court may order service of summons upon him by publication. The~~  
317 ~~termination of parental rights hearing shall not be earlier than 31 days after the date of the~~  
318 ~~last publication. Service by publication shall be as follows:~~

319 ~~(A) Service by publication shall be made once a week for four consecutive weeks in~~  
320 ~~the legal organ of the county where the petition to terminate parental rights has been~~  
321 ~~filed and of the county of the biological father's last known address. Service shall be~~  
322 ~~deemed complete upon the date of the last publication;~~

323 ~~(B) When served by publication, the notice shall contain the names of the parties,~~  
324 ~~except that the anonymity of a child shall be preserved by the use of appropriate initials,~~  
325 ~~and the date the petition to terminate parental rights was filed. The notice shall indicate~~  
326 ~~the general nature of the allegations and where a copy of the petition to terminate~~  
327 ~~parental rights can be obtained and require the biological father or legal father to appear~~  
328 ~~before the court at the time fixed to answer the allegations of the petition to terminate~~  
329 ~~parental rights;~~

330 ~~(C) The petition to terminate parental rights shall be available to the biological father~~  
331 ~~or legal father whose rights are sought to be terminated free of charge from the court~~  
332 ~~during business hours or, upon request, shall be mailed to the biological father or legal~~  
333 ~~father; and~~

334 ~~(D) Within 15 days after the filing of the order of service by publication, the clerk of~~  
335 ~~court shall mail a copy of the notice, a copy of the order of service by publication, and~~  
336 ~~a copy of the petition to terminate parental rights to the biological father's or legal~~  
337 ~~father's last known address.~~

338 ~~(e)~~(b) The notice shall advise the biological father who is not the legal father that he may  
 339 lose all rights to the child named in a petition brought pursuant to this article and will not  
 340 be entitled to object to the termination of his rights to such child unless, within 30 days of  
 341 receipt of notice, he files:

342 (1) A petition to legitimate such child; and

343 (2) Notice of the filing of the petition to legitimate with the court in which the  
 344 termination of parental rights proceeding is pending.

345 ~~(d)~~(c) If the identity of the biological father whose rights are sought to be terminated is not  
 346 known to the petitioner or the petitioner's attorney and the biological father would not be  
 347 entitled to notice in accordance with subsection (a) of this Code section, then it shall be  
 348 rebuttably presumed that he is not entitled to notice of the proceedings. The court shall be  
 349 authorized to require the mother to execute an affidavit supporting the presumption or show  
 350 cause before the court if she refuses. Absent evidence rebutting the presumption, no  
 351 further inquiry or notice shall be required by the court, and the court may enter an order  
 352 terminating the rights of the biological father.

353 ~~(e)~~(d) The court may enter an order terminating all the parental rights of a biological  
 354 father, including any right to object thereafter to such proceedings:

355 (1) Who fails to file a timely petition to legitimate the child named in a petition brought  
 356 pursuant to this article and notice in accordance with subsection ~~(e)~~ (b) of this Code  
 357 section;

358 (2) Whose petition to legitimate is subsequently dismissed for failure to prosecute; or

359 (3) Whose petition to legitimate does not result in a court order finding that he is the  
 360 legal father of the child named in a petition brought pursuant to this article."

### 361 SECTION 1-22.

362 Said chapter is further amended by revising Part 4 of Article 4, relating to hearings in  
 363 termination of parental rights cases, by adding a new Code section to read as follows:

364 "15-11-304.

365 Except as provided in this Code section, hearings to terminate parental rights shall be  
 366 conducted in accordance with Title 24. Testimony or other evidence relevant to  
 367 determining whether a statutory ground for termination of parental rights exists may not  
 368 be excluded on any ground of privilege, except in the case of:

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

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

372 **SECTION 1-23.**

373 Said chapter is further amended by revising Code Section 15-11-322, relating to continuing  
374 court review when a child is not adopted, as follows:

375 "15-11-322.

376 ~~(a)~~ If a petition seeking the adoption of a child whose parents have had their parental rights  
377 terminated or surrendered is not filed within six months after the date of the disposition  
378 order, the court shall then, and at least every six months thereafter so long as such child  
379 remains unadopted, review the circumstances of such child to determine what efforts have  
380 been made to assure that such child will be adopted. The court shall:

381 (1) Make written findings regarding whether reasonable efforts have been made to move  
382 such child to permanency;

383 (2) Evaluate whether, in light of any change in circumstances, the permanency plan for  
384 such child remains appropriate; and

385 (3) Enter such orders as it deems necessary to further adoption or if appropriate, other  
386 permanency options, including, but not limited to, another placement.

387 ~~(b) In those cases in which a child whose parents have had their parental rights terminated  
388 or surrendered was placed with a guardian, within 60 days after such appointment and  
389 within 60 days after each anniversary date of such appointment, the guardian shall file with  
390 the court a personal status report of such child which shall include:~~

391 ~~(1) A description of such child's general condition, changes since the last report, and  
392 such child's needs;~~

393 ~~(2) All addresses of such child during the reporting period and the living arrangements  
394 of such child for all addresses; and~~

395 ~~(3) Recommendations for any modification of the guardianship order."~~

396 **SECTION 1-24.**

397 Said chapter is further amended by revising subsections (a) and (b) of Code Section  
398 15-11-390, relating to filing of a complaint for a child in need of services, as follows:

399 "(a) A complaint alleging a child is a child in need of services may be ~~filed by a parent,  
400 guardian, or legal custodian, DFCS, a school official,~~ made by any person, including a law  
401 enforcement officer, ~~a guardian ad litem, or an attorney~~ who has knowledge of the facts  
402 alleged or is informed and believes that such facts are true.

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

404 (1) The name, date of birth, and residence address of the child alleged to be a child in  
405 need of services;

406 (2) The facts alleging why the court has jurisdiction of the complaint;

407 (3) The reasons why the complaint is in the best interests of the child and the public;

408 ~~(2)~~(4) The names and residence addresses of the parent, guardian, or legal custodian, any  
 409 other family members, or any other individuals living within such child's home;  
 410 ~~(3)~~(5) The name of any public institution or agency having the responsibility or ability  
 411 to supply services alleged to be needed by such child; and  
 412 ~~(4)~~(6) Whether any of the matters required by this subsection are unknown."

413 **SECTION 1-25.**

414 Said chapter is further amended by revising subsection (a) of Code Section 15-11-400,  
 415 relating to child in need of services and time limitations for continued custody, as follows:

416 "(a) The continued custody hearing for a child alleged to be a child in need of services  
 417 shall be held promptly and no later than:

418 (1) Twenty-four hours, excluding weekends and holidays, ~~Seventy-two hours~~ after such  
 419 child is taken into temporary custody if he or she is being held in a secure residential  
 420 facility or nonsecure residential facility; or

421 (2) Seventy-two hours, excluding weekends and holidays, ~~Five days~~ after such child is  
 422 placed in foster care, ~~provided that, if the five-day time frame expires on a weekend or~~  
 423 ~~legal holiday, the hearing shall be held on the next day which is not a weekend or legal~~  
 424 ~~holiday."~~

425 **SECTION 1-26.**

426 Said chapter is further amended by revising subsections (b) through (g) of Code Section  
 427 15-11-402, relating to the right to an attorney and appointment of a guardian ad litem, as  
 428 follows:

429 ~~"(b) The court shall appoint a CASA to act as a guardian ad litem whenever possible, and~~  
 430 ~~a CASA may be appointed in addition to an attorney who is serving as a guardian ad litem.~~

431 ~~(e)~~(b) The court may appoint a guardian ad litem for a child alleged to be a child in need  
 432 of services at the request of such child's attorney or upon the court's own motion if it  
 433 determines that a guardian ad litem is necessary to assist the court in determining the best  
 434 interests of such child; provided, however, that such guardian ad litem may be the same  
 435 person as the child's attorney unless or until there is a conflict of interest between the  
 436 attorney's duty to such child as such child's attorney and the attorney's considered opinion  
 437 of such child's best interests as guardian ad litem.

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

441 ~~(e)~~(d) If an attorney or a guardian ad litem has previously been appointed for a child in a  
 442 dependency or delinquency proceeding, the court, when possible, shall appoint the same  
 443 attorney or guardian ad litem for a child alleged to be a child in need of services.

444 ~~(f)~~(e) An attorney appointed to represent a child in a proceeding for a child in need of  
 445 services shall continue representation in any subsequent appeals unless excused by the  
 446 court.

447 ~~(g)~~(f) A child alleged to be a child in need of services shall be informed of his or her right  
 448 to an attorney at or prior to the first court proceeding for a child in need of services. A  
 449 child alleged to be a child in need of services shall be given an opportunity to:

450 (1) Obtain and employ an attorney of his or her own choice; or

451 (2) To obtain a court appointed attorney if the court determines that such child is an  
 452 indigent person."

453 **SECTION 1-27.**

454 Said chapter is further amended by revising subsection (c) of Code Section 15-11-410,  
 455 relating to taking a child into temporary custody, and adding a new subsection to read as  
 456 follows:

457 "(c) A person taking a child into temporary custody shall deliver such child, with all  
 458 reasonable speed and without first taking such child elsewhere, to a medical facility if he  
 459 or she is believed to suffer from a serious physical condition or illness which requires  
 460 prompt treatment and, upon delivery, shall promptly contact a juvenile court intake officer.

461 ~~Immediately upon being notified by the person taking such child into custody, the~~

462 (d) As soon as a juvenile court intake officer is notified that a child has been taken into  
 463 temporary custody, such juvenile court intake officer shall administer a detention  
 464 assessment and determine if such child should be released, remain in temporary custody,  
 465 or be brought before the court."

466 **SECTION 1-28.**

467 Said chapter is further amended by revising subsection (c) of Code Section 15-11-411,  
 468 relating to taking a child into temporary custody, as follows:

469 "(c) If a parent, guardian, or legal custodian has not assumed custody of his or her child  
 470 at the end of the 12 hour period described in subsection (a) of this Code section, the court  
 471 shall be notified and shall place such child in the least restrictive placement consistent with  
 472 such child's needs for protection or control ~~in~~. In making its determination of placement,  
 473 the court should consider the following placement options:

- 474 (1) In the custody of such child's parents, guardian, or legal custodian upon such person's  
 475 promise to bring such child before the court when requested by the court; ~~provided,~~  
 476 ~~however, that if such placement is not available, such child shall be placed in~~  
 477 (2) In the custody of DFCS which shall promptly arrange for foster care of such child;  
 478 (3) In a secure residential facility or nonsecure residential facility in accordance with  
 479 Code Section 15-11-412; or  
 480 (4) In any other court-approved placement that is not a secure residential facility or  
 481 nonsecure residential facility."

#### 482 SECTION 1-29.

483 Said chapter is further amended by revising Code Section 15-11-413, relating to continued  
 484 custody hearings, as follows:

485 "15-11-413.

486 (a) If a child alleged to be a child in need of services is being held in a secure residential  
 487 facility or nonsecure residential facility, a continued custody hearing shall be held within  
 488 ~~72~~ 24 hours, excluding weekends and holidays. If such hearing is not held within the time  
 489 specified, such child shall be released from temporary detention in accordance with  
 490 subsection (c) of Code Section 15-11-411 and with authorization of the detaining authority.

491 (b) If a child alleged to be a child in need of services is not being held in a secure  
 492 residential facility or nonsecure residential facility and has not been released to the custody  
 493 of such child's parent, guardian, or legal custodian, a hearing shall be held ~~promptly and~~  
 494 ~~not later than five days~~ within 72 hours, excluding weekends and holidays, after such child  
 495 is placed in foster care, ~~provided that, if the five-day time frame expires on a weekend or~~  
 496 ~~legal holiday, the hearing shall be held on the next day which is not a weekend or legal~~  
 497 ~~holiday.~~

498 ~~(c) At the commencement of a continued custody hearing, the court shall inform the~~  
 499 ~~parties of:~~

500 ~~(1) The nature of the allegations;~~

501 ~~(2) The nature of the proceedings;~~

502 ~~(3) The possible consequences or dispositions that may apply to such child's case~~  
 503 ~~following adjudication; and~~

504 ~~(4) Their due process rights, including the right to an attorney and to an appointed~~  
 505 ~~attorney; the privilege against self-incrimination; that he or she may remain silent and~~  
 506 ~~that anything said may be used against him or her; the right to confront anyone who~~  
 507 ~~testifies against him or her and to cross-examine any persons who appear to testify~~  
 508 ~~against him or her; the right to testify and to compel other witnesses to attend and testify~~

509 ~~in his or her own behalf; the right to a speedy adjudication hearing; and the right to~~  
 510 ~~appeal and be provided with a transcript for such purpose."~~

511 **SECTION 1-30.**

512 Said chapter is further amended by revising Code Section 15-11-414, relating to continued  
 513 custody hearing and findings, as follows:

514 "15-11-414.

515 (a) At the commencement of a continued custody hearing, the court shall inform the  
 516 parties of:

517 (1) The nature of the allegations;

518 (2) The nature of the proceedings;

519 (3) The possible consequences or dispositions that may apply to such child's case  
 520 following adjudication; and

521 (4) Their due process rights, including the right to an attorney and to an appointed  
 522 attorney; the privilege against self-incrimination; that he or she may remain silent and  
 523 that anything said may be used against him or her; the right to confront anyone who  
 524 testifies against him or her and to cross-examine any persons who appear to testify  
 525 against him or her; the right to testify and to compel other witnesses to attend and testify  
 526 in his or her own behalf; the right to a speedy adjudication hearing; and the right to  
 527 appeal and be provided with a transcript for such purpose.

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

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

533 (1) Be released to the custody of his or her parent, guardian, or legal custodian; or

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

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

539 (1) Refer such child and his or her family for a community based risk reduction program;  
 540 or

541 (2) Order that a petition for a child in need of services be filed and set a date for an  
 542 adjudication hearing.

543 ~~(d)~~(e) Following a continued custody hearing, the court may detain a child alleged to be  
 544 a child in need of services in a secure residential facility or nonsecure residential facility



545 for up to ~~72~~ 24 hours, excluding weekends and legal holidays, only for the purpose of  
 546 providing adequate time to arrange for an appropriate alternative placement pending the  
 547 adjudication hearing.

548 ~~(e)~~(f) All orders shall contain written findings as to the form or conditions of a child's  
 549 release. If a child alleged to be a child in need of services cannot be returned to the custody  
 550 of his or her parent, guardian, or legal custodian at the continued custody hearing, the court  
 551 shall state the facts upon which the continued custody is based. The court shall make the  
 552 following findings of fact referencing any and all evidence relied upon to make its  
 553 determinations:

- 554 (1) Whether continuation in the home of such child's parent, guardian, or legal custodian  
 555 is contrary to such child's welfare; and  
 556 (2) Whether reasonable efforts have been made to safely maintain such child in the home  
 557 of his or her parent, guardian, or legal custodian and to prevent or eliminate the need for  
 558 removal from such home. Such finding shall be made at the continued custody hearing  
 559 if possible but in no case later than 60 days following such child's removal from his or  
 560 her home."

561 **SECTION 1-31.**

562 Said chapter is further amended by revising subsections (a), (e), and (f) of Code Section  
 563 15-11-415, relating to detention decisions and findings, as follows:

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

568 (1) Such child's detention or care is required to reduce the likelihood that he or she may  
 569 inflict serious bodily harm on others during the interim period; or

570 (2) Such child's detention is necessary to secure his or her presence in court to protect  
 571 the jurisdiction and processes of the court; ~~or~~

572 ~~(3) An order for such child's detention has been made by the court."~~

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

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

581 **SECTION 1-32.**

582 Said chapter is further amended by revising Code Section 15-11-420, relating to the authority  
 583 to file a petition for a child in need of services, as follows:

584 "15-11-420.

585 A petition alleging that a child is a child in need of services may be ~~made by any person,~~  
 586 ~~including~~ filed by a parent, a guardian, a legal custodian, a law enforcement officer, a  
 587 guardian ad litem, or an attorney who has knowledge of the facts alleged or is informed and  
 588 believes that such facts are true. Such petition shall not be ~~filed~~ accepted for filing unless  
 589 the court or a person authorized by the court has determined and endorsed on the petition  
 590 that the filing of the petition is in the best interests of the public and such child."

591 **SECTION 1-33.**

592 Said chapter is further amended by revising subsection (a) of Code Section 15-11-441,  
 593 relating to an adjudication hearing for a child in need of services, as follows:

594 "(a) If a child alleged to be a child in need of services is in continued custody ~~but not in~~  
 595 ~~a secure residential facility or nonsecure residential facility,~~ the adjudication hearing shall  
 596 be scheduled to be held no later than ten days after the filing of the petition seeking an  
 597 adjudication that such child is a child in need of services. If such child is not in continued  
 598 custody, the adjudication hearing shall be scheduled to be held no later than 60 days after  
 599 the filing of such petition."

600 **SECTION 1-34.**

601 Said chapter is further amended by revising subsection (a) of Code Section 15-11-442,  
 602 relating to disposition hearings for a child in need of services, as follows:

603 "(a) If the court finds that a child is a child in need of services, a final disposition hearing  
 604 shall be held and completed within ~~60~~ 30 days of the conclusion of the adjudication hearing  
 605 if the final disposition hearing is not held in conjunction with such adjudication hearing."

606 **SECTION 1-35.**

607 Said chapter is further amended by revising paragraph (1) of subsection (a) of Code Section  
 608 15-11-443, relating to the duration of disposition orders, as follows:

609 "(1) A hearing is held prior to the expiration of the order upon motion of DFCS, DJJ, the  
 610 ~~prosecuting attorney~~ petitioner, or on the court's own motion;"

611 **SECTION 1-36.**

612 Said chapter is further amended by revising Code Section 15-11-476, relating to appointment  
 613 of a guardian ad litem in delinquency cases, as follows:

614 "15-11-476.

615 (a) ~~The court shall appoint a CASA to act as a guardian ad litem whenever possible, and~~  
 616 ~~a CASA may be appointed in addition to an attorney who is serving as a guardian ad litem.~~

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

618 (1) An alleged delinquent child appears before the court without his or her parent,  
 619 guardian, or legal custodian;

620 (2) It appears to the court that a parent, guardian, or legal custodian of an alleged  
 621 delinquent child is incapable or unwilling to make decisions in the best interests of such  
 622 child with respect to proceedings under this article such that there may be a conflict of  
 623 interest between such child and his or her parent, guardian, or legal custodian; or

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

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

627 ~~(d)~~(c) In Neither a child's attorney in a delinquency proceeding, nor his or her a child's  
 628 parent, guardian, or legal custodian, or attorney shall not prohibit or impede the child's  
 629 guardian ad litem's access to such child by the guardian ad litem."

630 **SECTION 1-37.**

631 Said chapter is further amended by revising paragraph (3) of subsection (e) of Code Section  
 632 15-11-450, relating to comprehensive services plan for child found unrestorably incompetent  
 633 to proceed, as follows:

634 "(3) If such child's evaluation recommends inpatient treatment, certification by such plan  
 635 manager that such child is mentally ill or developmentally disabled and meets the  
 636 requirements for civil commitment pursuant to Chapters 3 and 4 of Title 37 and that all  
 637 other appropriate community based treatment options have been exhausted; and"

638 **SECTION 1-38.**

639 Said chapter is further amended by revising subsection (d) of Code Section 15-11-451,  
 640 relating to hearing on a mental health plan, as follows:

641 "(d) If, during the comprehensive services plan hearing or any subsequent review hearing,  
 642 the court determines that a child ~~meets criteria~~ is mentally ill or developmentally disabled  
 643 and meets the requirements for civil commitment pursuant to Chapters 3 and 4 of Title 37,  
 644 such child may be committed to an appropriate treatment setting."

645 **SECTION 1-39.**

646 Said chapter is further amended by revising subsection (b) of Code Section 15-11-511,  
 647 relating to arraignment and admissions at arraignment, as follows:

648 "(b) The court may accept an admission at arraignment and may proceed immediately to  
 649 disposition if a child is represented by counsel at arraignment ~~or if.~~ If a child's liberty is  
 650 not in jeopardy, he or she may waive the right to counsel at arraignment. A child  
 651 represented by counsel or whose liberty is not in jeopardy may make a preliminary  
 652 statement indicating whether he or she plans to admit or deny the allegations of the  
 653 complaint at the adjudication hearing, ~~but the.~~ The court shall not accept an admission  
 654 from a child whose liberty is in jeopardy and who is unrepresented by counsel."

655 **SECTION 1-40.**

656 Said chapter is further amended by revising subsection (a) of Code Section 15-11-531,  
 657 relating to service of summons for adjudication hearings, as follows:

658 "(a) If a party to be served with a summons is within this state and can be found, the  
 659 summons shall be served upon him or her personally as soon as possible and at least ~~24~~ 72  
 660 hours before the adjudication hearing."

661 **SECTION 1-41.**

662 Said chapter is further amended by revising subsection (d) of Code Section 15-11-532,  
 663 relating to sanctions for failure to obey a summons, as follows:

664 "(d) If there is sworn testimony that a child ~~14 years of age but not yet~~ less than 16 years  
 665 of age willfully refuses to appear at a hearing on a petition alleging delinquency after being  
 666 ordered to so appear, the court may issue a bench warrant requiring that such child be  
 667 brought before the court and the court may enter any order authorized by the provisions of  
 668 Code Section 15-11-31."

669 **SECTION 1-42.**

670 Said chapter is further amended by revising subsection (a) of Code Section 15-11-566,  
 671 relating to dismissal order upon transfer to superior court, as follows:

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

- 676 (1) That the court had jurisdiction of the cause and the parties;  
 677 (2) That the child subject to transfer was represented by an attorney; and  
 678 (3) That the hearing was held in the presence of the child subject to transfer and his or  
 679 her attorney."

680 **SECTION 1-43.**

681 Said chapter is further amended by revising subsection (a) of Code Section 15-11-582,  
 682 relating to adjudication hearings in delinquency cases and time limitations, as follows:

683 "(a) The court shall fix a time for the adjudication hearing. If an alleged delinquent child  
 684 is in detention, the hearing shall be ~~scheduled to be~~ held no later than ten days after the  
 685 filing of the delinquency petition. If a child is not in detention, the hearing shall be  
 686 ~~scheduled to be~~ held no later than 60 days after the filing of such petition."

687 **SECTION 1-44.**

688 Said chapter is further amended by revising subsections (c), (d), and (h) of Code Section  
 689 15-11-602, relating to the disposition of persons adjudicated for class A or class B designated  
 690 felony acts, as follows:

691 "(c) An order for a child adjudicated for a class A designated felony act placing such child  
 692 in restrictive custody shall provide that:

- 693 (1) Such child shall be placed in DJJ custody for an initial period of up to 60 months;  
 694 (2) Such child shall be confined for a period set by the order in a secure residential  
 695 facility, except as provided in subsection (e) of this Code section. All time spent in a  
 696 secure residential facility or nonsecure residential facility shall be counted toward the  
 697 confinement period set by the order;  
 698 (3) After a period of confinement set by the court, such child shall be placed under  
 699 intensive supervision not to exceed 12 months;  
 700 (4) Such child shall not be released from intensive supervision unless by court order; and  
 701 (5) All home visits shall be carefully arranged and monitored by DJJ personnel while  
 702 such child is placed in a secure residential facility or nonsecure residential facility.

703 (d) An order for a child adjudicated for a class B designated felony act placing such child  
 704 in restrictive custody shall provide that:

- 705 (1) Such child shall be placed in DJJ custody for an initial period of up to 36 months;  
 706 provided, however, that not more than 18 months of such custodial period shall be spent  
 707 in restrictive custody;  
 708 (2) Except as provided in subsection (e) of this Code section, if such child is classified  
 709 as moderate risk or high risk, he or she shall be confined for a period set by the order in  
 710 a secure residential facility for half of the period of restrictive custody and the other half  
 711 of the period of restrictive custody may, at the discretion of DJJ, be spent in a nonsecure  
 712 residential facility. All time spent in a secure residential facility or nonsecure residential  
 713 facility shall be counted toward the confinement period set by the order;  
 714 (3) Except as provided in subsection (e) of this Code section, if such child is classified  
 715 as low risk, he or she shall be confined for a period set by the order in a nonsecure

716 residential facility. All time spent in a secure residential facility or nonsecure residential  
 717 facility ~~subsequent to the date of the disposition hearing and prior to placement in a~~  
 718 ~~nonsecure residential facility~~ shall be counted toward the confinement period set by the  
 719 order;

720 (4) Such child shall be placed under intensive supervision not to exceed six months  
 721 either after a period of confinement set by the court or as an initial period of supervision;

722 (5) Such child shall not be released from intensive supervision unless by court order; and

723 (6) All home visits shall be carefully arranged and monitored by DJJ personnel while a  
 724 child is placed in a secure residential facility or nonsecure residential facility."

725 "(h) The court shall identify the school last attended by a child adjudicated for a class A  
 726 designated felony act or class B designated felony act and the school which such child  
 727 intends to attend and shall transmit a copy of the adjudication to the principals of both  
 728 schools within ~~15~~ 30 days of the adjudication. Such information shall be subject to  
 729 notification, distribution, and other requirements as provided in Code Section 20-2-671."

730 **SECTION 1-45.**

731 Said chapter is further amended by revising subsection (a) of Code Section 15-11-604,  
 732 relating to credit for time served, as follows:

733 "(a) A child adjudicated to have committed a delinquent act shall be given credit for each  
 734 day spent in a secure residential facility, ~~or a nonsecure residential facility, or any~~  
 735 institution or facility for the treatment or examination of a physical or mental disability  
 736 awaiting adjudication, pending disposition and ~~for each day spent in a secure residential~~  
 737 ~~facility or nonsecure residential facility~~ in connection with and resulting from a court order  
 738 entered in the proceedings for which the disposition was imposed and in any institution or  
 739 facility for treatment or examination of a physical or mental disability. Such credit shall  
 740 be applied toward the child's disposition."

741 **SECTION 1-46.**

742 Said chapter is further amended by revising subsection (d) of Code Section 15-11-656,  
 743 relating to disposition of incompetent child, as follows:

744 "(d) All court orders determining incompetency shall include specific written findings by  
 745 the court as to the nature of the incompetency and the mandated outpatient competency  
 746 remediation services. If such child is in an out-of-home placement, the court shall specify  
 747 the type of competency remediation services to be performed at such child's location. A  
 748 child may be placed in a ~~secure treatment facility~~ or crisis stabilization unit, as such term  
 749 is defined in Code Section 37-1-29, or a psychiatric residential treatment facility operated

750 by DBHDD or other program, not to include DJJ facilities, if the court makes a finding by  
751 clear and convincing evidence that:

752 (1) A child is mentally ill or developmentally disabled and meets the requirements for  
753 civil commitment pursuant to Chapters 3 and 4 of Title 37; and

754 (2) All available less restrictive alternatives, including treatment in community  
755 residential facilities or community settings which would offer an opportunity for  
756 improvement of a child's condition, are inappropriate."

757 **SECTION 1-47.**

758 Code Section 19-7-1 of the Official Code of Georgia Annotated, relating to in whom parental  
759 power lies and how such power may be lost, is amended by revising paragraph (8) of  
760 subsection (b) as follows:

761 "(8) A superior court order terminating parental rights of the legal father or the biological  
762 father who is not the legal father of the child in a petition for legitimation, a petition to  
763 establish paternity, a divorce proceeding, or a custody proceeding pursuant to this chapter  
764 or Chapter 6 5, 8, or 9 of this title, provided that such termination is in the best interest  
765 of such child; and provided, further, that this paragraph shall not apply to such  
766 termination when a child has been adopted or is conceived by artificial insemination as  
767 set forth in Code Section 19-7-21 or when an embryo is adopted as set forth in Article 2  
768 of Chapter 8 of this title."

769 **PART II**

770 **SECTION 2-1.**

771 Part 1 of Article 2 of Chapter 13 of Title 16 of the Official Code of Georgia Annotated,  
772 relating to schedules, offenses, and penalties, is amended by revising subsection (m) of Code  
773 Section 16-13-30, relating to purchase, possession, manufacture, distribution, or sale of  
774 controlled substances or marijuana and penalties, as follows:

775 "(m) As used in this Code section, the term 'solid substance' means a substance that is not  
776 in a liquid or gas form. Such term shall include tablets, pills, capsules, caplets, powder,  
777 crystal, or any variant of such items."

778 **SECTION 2-2.**

779 Said part is further amended by revising subsection (i) of Code Section 16-13-31, relating  
780 to trafficking in cocaine, illegal drugs, marijuana, or methamphetamine and penalties, as  
781 follows:

782 "(i) Notwithstanding Code Section 16-13-2, any sentence imposed pursuant to  
 783 subsection (g) of this Code section shall not be reduced by any earned time, early release,  
 784 work release, leave, or other sentence-reducing measures under programs administered by  
 785 the Department of Corrections, the effect of which would be to reduce the period of  
 786 incarceration ordered by the sentencing court or any form of pardon, parole, or  
 787 commutation of sentence by the State Board of Pardons and Paroles; provided, however,  
 788 that during the final year of incarceration, a defendant so sentenced shall be eligible to be  
 789 considered for participation in a Department of Corrections administered transitional center  
 790 or work release program."

791 **SECTION 2-3.**

792 Said part is further amended by revising subsection (e) of Code Section 16-13-31.1, relating  
 793 to trafficking in ecstasy, sentencing, and variation, as follows:

794 "(e) Notwithstanding Code Section 16-13-2, any sentence imposed pursuant to  
 795 subsection (b) of this Code section shall not be reduced by any earned time, early release,  
 796 work release, leave, or other sentence-reducing measures under programs administered by  
 797 the Department of Corrections, the effect of which would be to reduce the period of  
 798 incarceration ordered by the sentencing court or any form of pardon, parole, or  
 799 commutation of sentence by the State Board of Pardons and Paroles; provided, however,  
 800 that during the final year of incarceration, a defendant so sentenced shall be eligible to be  
 801 considered for participation in a Department of Corrections administered transitional center  
 802 or work release program."

803 **PART III**

804 **SECTION 3-1.**

805 Part 1 of Article 2 of Chapter 13 of Title 16 of the Official Code of Georgia Annotated,  
 806 relating to schedules, offenses, and penalties, is amended by revising subsection (m) of Code  
 807 Section 16-13-30, relating to purchase, possession, manufacture, distribution, or sale of  
 808 controlled substances or marijuana and penalties, as follows:

809 "(m) As used in this Code section, the term 'solid substance' means a substance that is not  
 810 in a liquid or gas form. Such term shall include tablets, pills, capsules, caplets, powder,  
 811 crystal, or any variant of such items."



812

**PART IV**

813

**SECTION 4-1.**

814 Parts I and II and this part of this Act shall become effective upon its approval by the  
815 Governor or upon its becoming law without such approval, and Part III of this Act shall  
816 become effective on July 1, 2014. Sections 2-2 and 2-3 of Part II of this Act shall apply to  
817 any sentence imposed on or after July 1, 2013.

818

**SECTION 4-2.**

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