

Senate Bill 138

By: Senators Miller of the 49th, Dugan of the 30th, Hill of the 32nd, Kennedy of the 18th, Jackson of the 24th and others

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 49 of the Official Code of Georgia Annotated, relating to social services, so
 2 as to provide for various reforms regarding the state's child welfare system pursuant to a
 3 comprehensive review by the Governor's Child Welfare Reform Council; to provide that the
 4 director of the Division of Family and Children Services of the Department of Human
 5 Services is appointed by the Governor; to establish the DFCS State Advisory Board; to
 6 provide requirements for members appointed to county boards of family and children
 7 services; to clarify the primary purpose of county departments of family and children
 8 services; to establish DFCS Regional Advisory Boards; to provide for the sharing of data
 9 relating to the care and protection of children between agencies; to provide for legislative
 10 findings; to provide for the establishment of an interagency data protocol; to provide for
 11 interagency agreements; to provide a manner to address legal impediments that are identified;
 12 to provide for statutory construction; to provide for contact with a school regarding reports
 13 of suspected child abuse; to provide for access to a child's medical and educational records
 14 by a foster parent; to repeal certain provisions deemed unconstitutional regarding a central
 15 child abuse registry; to enact new provisions to provide for the establishment of a central
 16 child abuse registry; to provide for definitions; to provide for the reporting of convictions and
 17 substantiated cases of child abuse to the Division of Family and Children Services; to provide
 18 for entry of reported convictions and substantiated cases into the registry; to provide for a
 19 hearing to contest inclusion of a name in the registry; to limit access to information in the
 20 registry; to provide for confidentiality; to provide for immunity; to amend Code Section
 21 15-11-215 of the Official Code of Georgia Annotated, relating to notice of change in
 22 placement hearings, so as to provide that a temporary absence shall not be considered a
 23 placement change; to amend Code Section 50-5-69 of the Official Code of Georgia
 24 Annotated, relating to purchases without competitive bidding, so as to provide for certain
 25 contracts regarding children in state care or custody; to repeal a provision relating to the
 26 Council for Welfare Administration; to provide for related matters; to repeal conflicting laws;
 27 and for other purposes.

28 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

S. B. 138

29 **SECTION 1.**

30 Title 49 of the Official Code of Georgia Annotated, relating to social services, is amended
 31 in Chapter 2, relating to the Department of Human Services, by adding new Code sections
 32 to read as follows:

33 "49-2-18.

34 (a) The Governor shall appoint the director of the Division of Family and Children
 35 Services, with confirmation by the Senate, who shall serve at the pleasure of the Governor.
 36 The director shall be an employee of the Department of Human Services but shall report
 37 directly to the Governor.

38 (b) The director shall have at least one of the following qualifications:

39 (1) Educational background or managerial experience involving work with vulnerable
 40 populations;

41 (2) Work experience in a setting dealing with the safety or well-being of children or
 42 other vulnerable populations; or

43 (3) Experience working in or managing a complex, multidisciplinary business or
 44 government agency.

45 49-2-19.

46 (a) There is established the DFCS State Advisory Board which shall consist of 20
 47 members appointed by the Governor as follows:

48 (1) One representative from each of the 15 DFCS regions; and

49 (2) Five members who are either state legislators or representatives from the fields of:

50 (A) Child welfare;

51 (B) Former youth in foster care;

52 (C) Public health;

53 (D) Behavioral health and developmental disabilities; or

54 (E) Juvenile justice.

55 (b) The advisory board shall review and recommend proposed rules and regulations for the
 56 Division of Family and Children Services.

57 (c) The advisory board shall elect a chairperson from among its membership. The
 58 advisory board may elect such other officers and committees as it considers appropriate.

59 (d) The advisory board shall meet at least quarterly and at such additional times as it shall
 60 determine necessary to perform its duties. The advisory board shall also meet on the call
 61 of the chairperson, the director of the Division of Family and Children Services, or the
 62 Governor. The director of the Division of Family and Children Services shall participate
 63 in such meetings and provide a quarterly report to the advisory board in advance of each
 64 quarterly meeting.

65 (e) Members shall serve without compensation, although each member of the advisory
 66 board shall be reimbursed for actual expenses incurred in the performance of his or her
 67 duties from funds available to the office; provided, however, that any legislative member
 68 shall receive the allowances authorized by law for legislative members of interim
 69 legislative committees and any members who are state employees shall be reimbursed for
 70 expenses incurred by them in the same manner as they are reimbursed for expenses in their
 71 capacities as state employees."

72 **SECTION 2.**

73 Said title is further amended by revising Code Section 49-3-2, relating to the appointment
 74 of members to the county department of family and children services, as follows:

75 "49-3-2.

76 (a) Each county board shall consist of between five and seven members who shall be
 77 appointed by the governing authority of the county. ~~No person serving as a member of a~~
 78 ~~county board on July 1, 1994, shall have such person's term of office shortened by this~~
 79 ~~subsection. On and after that date, however, vacancies~~ Vacancies in such office which
 80 occur for any reason, including but not limited to expiration of the term of office, shall be
 81 filled by appointment of the county governing authority except as provided in
 82 subsection (c) of this Code section. No elected officer of the state or any subdivision
 83 thereof shall be eligible for appointment to the county board. In making appointments to
 84 the county board of family and children services, the governing authority shall ensure that
 85 appointments are reflective of gender, race, ethnic, and age characteristics of the county
 86 population. Further, the governing authority shall ensure that all appointments made on
 87 or after July 1, 2015, are made from the following categories:

- 88 (1) Pediatric health care providers;
 89 (2) Appropriate school personnel;
 90 (3) Emergency responders;
 91 (4) Law enforcement personnel;
 92 (5) Private child welfare service providers;
 93 (6) Alumni of the child welfare system;
 94 (7) Mental health care providers;
 95 (8) Foster parents; and
 96 (9) Leaders within the faith-based community.

97 (b) The term of office of members of the county board shall be for five years and until the
 98 appointment and qualification of their respective successors, ~~except that upon the~~
 99 ~~expiration of the terms of the members of the county board in office on July 1, 1994, one~~
 100 ~~member shall be appointed for a one-year term, one member for a two-year term, one~~

101 ~~member for a three-year term, one member for a four-year term, and one member for a~~
102 ~~five-year term.~~

103 (c) Appointments to fill vacancies on the county board caused by death, resignation, or
104 removal before the expiration of a term shall be made for the remainder of such term in the
105 same manner as provided in this Code section for original appointments. In the event that
106 the governing authority of the county shall fail to fill any such vacancy or any vacancy
107 caused by expiration of term on the county board within 90 days after such vacancy occurs,
108 the commissioner may appoint members to the county board to fill such vacancies.

109 ~~(d) In addition to the five members required by subsection (a) of this Code section, the~~
110 ~~county governing authority is authorized but not required to appoint two additional~~
111 ~~members. One such additional member shall be a school counselor employed in the county~~
112 ~~and one such additional member shall be a law enforcement officer of the county who is~~
113 ~~responsible for investigating reports of child abuse. Members appointed pursuant to this~~
114 ~~subsection shall be appointed for terms of five years and shall be paid the per diem~~
115 ~~authorized in subsection (e) of this Code section. Appointments to fill vacancies created~~
116 ~~by the death, resignation, or removal before the end of the term of a member appointed~~
117 ~~pursuant to this subsection shall be made in accordance with subsection (c) of this Code~~
118 ~~section.~~

119 ~~(e)~~(d) Members of the county board shall serve without compensation, except that they
120 shall be paid a per diem of not less than \$15.00 per month and shall be reimbursed for
121 traveling and other expenses actually incurred in the performance of their official duties;
122 provided, however, that the gross expenses assessed against a county shall not exceed the
123 amount of the budget of the county previously set aside and levied by the county authorities
124 for such expenses.

125 ~~(f) In addition to the five members otherwise provided for in this Code section, the board~~
126 ~~of family and children services in any county of this state having a population of 550,000~~
127 ~~or more according to the United States decennial census of 1970 or any future such census~~
128 ~~shall include an additional two members who shall be subject to this Code section in the~~
129 ~~same manner as the five members otherwise provided for in this Code section. Each~~
130 ~~member provided for in this subsection shall be appointed for a term of five years and until~~
131 ~~the appointment and qualification of the member's successor, except that in the initial~~
132 ~~appointment of the two additional members one member shall be appointed for a four-year~~
133 ~~term and one member for a five-year term, and these initial members shall serve until the~~
134 ~~appointment and qualification of their successors."~~

135 **SECTION 3.**

136 Said title is further amended by revising Code Section 49-3-6, relating to the functions of
 137 county or district departments of family and children services, as follows:

138 "49-3-6.

139 (a) The primary purpose of county departments shall be to protect children. To achieve
 140 this primary purpose, the county departments shall, in accordance with rules and
 141 regulations of Division of Family and Children Services of the Department of Human
 142 Services:

143 (1) Investigate reports of abuse and neglect;

144 (2) Assess, promote, and support the safety of a child in a safe and stable family or other
 145 appropriate placement in response to allegations of abuse or neglect;

146 (3) Work cooperatively with law enforcement regarding reports that include criminal
 147 conduct allegations; and

148 (4) Without compromising child safety, coordinate services to achieve and maintain
 149 permanency on behalf of the child, strengthen the family, and provide prevention,
 150 intervention, and treatment services pursuant to this title.

151 (b) In addition to the purpose in subsection (a) of this Code section, and subject ~~Subject~~
 152 to the rules and regulations of the Board of Human Services, the county department shall
 153 be charged with the administration of all forms of public assistance in the county, including
 154 home relief; indoor and outdoor care for those in need; temporary assistance for needy
 155 families; old-age assistance; aid to the blind and otherwise disabled; the care and treatment
 156 of dependent; and neglected; ~~delinquent, and disabled~~ children; and such other welfare
 157 activities as shall be delegated to it by the Division of Family and Children Services of the
 158 Department of Human Services or by the county commissioners. The county department
 159 shall also investigate and pass upon all applications for admission to and discharge from
 160 county institutions which provide care and treatment for indigents. If so appointed by a
 161 court of competent jurisdiction, the Division of Family and Children Services of the
 162 Department of Human Services or the county or district department of family and children
 163 services shall perform under the supervision of such court the function of probation officer
 164 or agent of the court in any welfare or penal matters which may be before it."

165 **SECTION 4.**

166 Said title is further amended in Chapter 3, relating to family and children services, by adding
 167 a new Code section to read as follows:

168 "49-3-9.

169 There is established in each region a DFCS Regional Advisory Board. Each regional
 170 advisory board shall be composed of the director of each county department of family and
 171 children services within the region and five to seven additional members as selected by the
 172 DFCS regional director. Such additional members shall be representatives from the
 173 categories included in paragraphs (1) through (11) of subsection (a) of Code Section
 174 49-3-2. The purpose of the regional advisory boards shall be to improve communication,
 175 service delivery, and the consistent application of state policy within each DFCS region.
 176 Each regional advisory board shall meet at least quarterly."

177 **SECTION 5.**

178 Said title is further amended in Chapter 5, relating to programs and protection for children
 179 and youth, by adding a new Code section to read as follows:

180 "49-5-24.

181 (a)(1) In an effort to improve the availability and quality of programs and services for
 182 the protection of children and youth, the General Assembly supports interagency efforts
 183 to gather comprehensive data and to actively share and disseminate data among those
 184 agencies responsible for making informed decisions regarding the treatment, care,
 185 security, and protection of children within this state.

186 (2) The General Assembly finds that the sharing and integration of appropriate data and
 187 information may have numerous benefits for children and families in this state, as well
 188 as for the state and local agencies attempting to provide services for them.

189 (3) The General Assembly finds that such data sharing and integration can serve the best
 190 interests of the child and the family, contribute to higher levels of effectiveness in service
 191 delivery, provide greater efficiency and productivity, and assist in the protection of
 192 children. Specifically, such data sharing and integration can reduce redundant data entry,
 193 expedite data sharing between agencies, provide for more timely service delivery, ensure
 194 more accurate and up-to-date information, assist in the development of a seamless system
 195 of services, and contribute to better performance and greater accountability by all
 196 involved parties.

197 (4) The General Assembly finds that the goals and purposes of this chapter, including the
 198 goal to develop a seamless system of services for children and their families, would be
 199 furthered by the development of a central repository of data for planning and evaluation
 200 purposes and urges the agencies to work toward the development of such a central
 201 repository.

202 (b) The Department of Human Services, working with the following agencies, shall
 203 develop and implement a workable state-wide system for sharing data relating to the care

204 and protection of children between such agencies, utilizing existing state-wide data bases
 205 and data delivery systems to the greatest extent possible, to streamline access to such data:
 206 (1) Division of Family and Children Services of the Department of Human Services;
 207 (2) Department of Early Care and Learning;
 208 (3) Department of Community Health;
 209 (4) Department of Public Health;
 210 (5) Department of Behavioral Health and Developmental Disabilities;
 211 (6) Department of Juvenile Justice;
 212 (7) Department of Education; and
 213 (8) Georgia Crime Information Center.

214 (c) The Department of Human Services, working with such agencies, shall establish an
 215 interagency data protocol to enable each agency to accurately and efficiently collect and
 216 share data with the other agencies in the most effective and expeditious manner. The
 217 interagency data protocol shall:

218 (1) Include protocols and procedures to be used by agencies in data processing, including
 219 but not limited to collecting, storing, manipulating, sharing, retrieving, and releasing data;
 220 (2) Delineate the specific data to be shared among all or specified agencies, the person
 221 or persons authorized by each agency to have access to another agency's data, and the
 222 security arrangements between agencies to ensure the protection of the data from
 223 unauthorized access that may threaten the privacy of persons and the confidentiality of
 224 the data;

225 (3) Establish the circumstances under which and the reasons for which an agency may
 226 share information with another agency, with a local political subdivision, with a
 227 nongovernmental entity, or with an individual; and

228 (4) Ensure compliance with all state and federal laws and regulations concerning the
 229 privacy of information, including but not limited to the federal Family Educational Rights
 230 and Privacy Act of 1974, 20 U.S.C. Section 1232g, and the federal Health Insurance
 231 Portability and Accountability Act of 1996, 42 U.S.C. Section 1320d to 1320d-9.

232 (d) To further delineate the parameters for the sharing of data with one or more agencies,
 233 specific interagency agreements may be executed between or among agencies.

234 (e) If a federal law or regulation impedes necessary data sharing between agencies, the
 235 appropriate agency or agencies shall make all reasonable attempts to be granted a waiver
 236 or exemption from the applicable law or regulation.

237 (f) The Department of Human Services and any of the agencies in subsection (b) of this
 238 Code section may apprise chairpersons of the appropriate committees of the General
 239 Assembly of the need for any legislative action necessary to facilitate or improve data
 240 sharing between agencies for the purposes of this Code section.

241 (g)(1) Notwithstanding any provision to the contrary, nothing in this Code section shall
 242 be construed to nullify any memoranda of understanding existing as of June 30, 2015, or
 243 prohibit the creation of memoranda of understanding on and after July 1, 2015, between
 244 or among agencies concerning data sharing or any other data sharing practices.
 245 (2) Notwithstanding any provision to the contrary, nothing in this Code section shall
 246 prohibit the release to or sharing of data with nongovernmental entities or individuals if
 247 the release or sharing is otherwise required, permitted, or allowed pursuant to state or
 248 federal law."

249 **SECTION 6.**

250 Said title is further amended by revising subsections (c) and (d) of Code Section 49-5-41,
 251 relating to persons and agencies permitted access to records, as follows:

252 "(c) The department or a county or other state or local agency may permit access to records
 253 concerning reports of child abuse and may release information from such records to the
 254 following persons or agencies when deemed appropriate by such department:

255 (1) A physician who has before him or her a child whom he or she reasonably suspects
 256 may be abused;

257 (2) A licensed child-placing agency, a licensed child-caring institution of this state which
 258 is assisting the Department of Human Services by locating or providing foster or adoptive
 259 homes for children in the custody of the department, or an investigator appointed by a
 260 court of competent jurisdiction of this state to investigate a pending petition for adoption;

261 (3) A person legally authorized to place a child in protective custody when such person
 262 has before him or her a child he or she reasonably suspects may be abused and such
 263 person requires the information in the record or report in order to determine whether to
 264 place the child in protective custody;

265 (4) An agency or person having the legal custody, responsibility, or authorization to care
 266 for, treat, or supervise the child who is the subject of a report or record;

267 (5) An agency, facility, or person having responsibility or authorization to assist in
 268 making a judicial determination for the child who is the subject of the report or record of
 269 child abuse, including but not limited to members of officially recognized citizen review
 270 panels, court appointed guardians ad litem, certified Court Appointed Special Advocate
 271 (CASA) volunteers who are appointed by a judge of a juvenile court to act as advocates
 272 for the best interest of a child in a juvenile proceeding, and members of a protocol
 273 committee, as such term is defined in Code Section 19-15-1;

274 (6) A legally mandated public child protective agency or law enforcement agency of
 275 another state bound by similar confidentiality provisions and requirements when, during

276 or following the department's investigation of a report of child abuse, the alleged abuser
277 has left this state;

278 (7) A child welfare agency, as defined in Code Section 49-5-12, or a school where the
279 department has investigated allegations of child abuse made against any employee of
280 such agency or school and any child remains at risk from exposure to that employee,
281 except that such access or release shall protect the identity of:

282 (A) Any person reporting the child abuse; and

283 (B) Any other person whose life or safety has been determined by the department or
284 agency likely to be endangered if the identity were not so protected;

285 (8) An employee of a school or employee of a child welfare agency, as defined in Code
286 Section 49-5-12, against whom allegations of child abuse have been made, when the
287 department has been unable to determine the extent of the employee's involvement in
288 alleged child abuse against any child in the care of that school or agency. In those
289 instances, upon receiving a request and signed release from the employee, the department
290 may report its findings to the employer, except that such access or release shall protect
291 the identity of:

292 (A) Any person reporting the child abuse; and

293 (B) Any other person whose life or safety has been determined by the department or
294 agency likely to be endangered if the identity were not so protected;

295 (9) Any person who has an ongoing relationship with the child named in the record or
296 report of child abuse any part of which is to be disclosed to such person but only if that
297 person is required to report suspected abuse of that child pursuant to subsection (b) of
298 Code Section 19-7-5, as that subsection existed on January 1, 1990;

299 (10) Any school principal or any school guidance counselor, school social worker, or
300 school psychologist who is certified under Chapter 2 of Title 20 and who is counseling
301 a student as a part of such counseling person's school employment duties, but those
302 records shall remain confidential and information obtained therefrom by that counseling
303 person may not be disclosed to any person, except that student, not authorized under this
304 Code section to obtain those records, and such unauthorized disclosure shall be
305 punishable as a misdemeanor;

306 (10.1) Any school official of a school that a child who was the subject of a report of
307 suspected child abuse made pursuant to Code Section 19-7-5 attends in which there is an
308 ongoing investigation of the reported abuse. Any such ongoing investigation shall
309 include contact with such school to obtain any relevant information from school
310 personnel regarding the report of suspected child abuse;

311 (11) The Department of Early Care and Learning or the Department of Education; or

312 (12) An individual, at the time such individual is leaving foster care by reason of having
 313 attained the age of majority, but such access shall be limited to providing such individual
 314 with a free copy of his or her health and education records, including the most recent
 315 information available.

316 (d) Notwithstanding any other provision of law, any child-caring agency, child-placing
 317 agency, or identified foster parent shall have reasonable access to nonidentifying
 318 information from the placement or child protective services record compiled by any state
 319 department or agency having custody of a child with respect to any child who has been
 320 placed in the care or custody of such agency or foster parent or for whom foster care is
 321 being sought, excluding all documents obtained from outside sources which cannot be
 322 redisclosed under state or federal law. A department or agency shall respond to a request
 323 for access to a child's record within 14 days of receipt of such written request. Any
 324 child-caring agency, child-placing agency, or identified foster parent who is granted access
 325 to a child's record shall be subject to the penalties imposed by Code Section 49-5-44 for
 326 unauthorized access to or use of such records. Such record shall include reports of abuse
 327 of such child and the social history of the child and the child's family, the medical history
 328 of such child, including psychological or psychiatric evaluations, or educational records
 329 as allowed by state or federal law and any plan of care or placement plan developed by the
 330 department, provided that no identifying information is disclosed regarding such child.
 331 Notwithstanding the provisions of this subsection, a foster parent, as an agent of the
 332 department, shall have access to a child's medical and educational records in the same
 333 manner and to the same extent as the department itself and to the fullest extent allowable
 334 by law to ensure the proper care and education of a child entrusted to the foster parent's
 335 care."

336 **SECTION 7.**

337 Said title is further amended in Chapter 5 by repealing Article 8, relating to the central child
 338 abuse registry, and enacting a new article to read as follows:

339 "ARTICLE 8

340 49-5-180.

341 As used in this article, the term:

342 (1) 'Abuse investigator' means the division, any county or district department of family
 343 and children services, any law enforcement agency, or any district attorney or designee
 344 thereof. The term also includes coroners, medical examiners, and out-of-state abuse
 345 investigators.

- 346 (2) 'Alleged child abuser' means a person named in an abuse investigator's report as
347 having committed a substantiated case of child abuse.
- 348 (3) 'Child' means any person under 18 years of age.
- 349 (4) 'Child abuse' has the same meaning as in paragraph (4) of subsection (b) of Code
350 Section 19-7-5.
- 351 (5) 'Child abuse crime' means:
- 352 (A) A violation of Article 1 or Article 2 of Chapter 5 of Title 16 or subsections (b) or
353 (c) of Code Section 16-5-70, in which physical injury or death is inflicted on a minor
354 child by a parent or caretaker thereof by other than accidental means;
- 355 (B) A violation of Code Section 16-12-1 regarding a minor child by a parent or
356 caretaker thereof;
- 357 (C) A violation of Chapter 6 of Title 16 in which the victim is a minor;
- 358 (D) A violation of Part 2 of Article 3 of Chapter 12 of Title 16; or
- 359 (E) Any other crime that, in the discretion of the prosecuting attorney, constitutes child
360 abuse.
- 361 (6) 'Child abuse registry' means the Child Protective Services Information System
362 established pursuant to Code Section 49-5-181.
- 363 (7) 'Convicted' means a finding or verdict of guilty or a plea of guilty regardless of
364 whether an appeal of the conviction has been sought. Such term also includes having
365 been arrested, charged, and sentenced for the commission of a child abuse crime for
366 which:
- 367 (A) A plea of nolo contendere was entered to the charge; or
- 368 (B) First offender treatment without adjudication of guilt pursuant to the charge was
369 granted. The order entered pursuant to the provisions of Article 3 of Chapter 8 of Title
370 42, relating to probation of first offenders, or other first offender treatment shall be
371 conclusive evidence of arrest and sentencing for such crime.
- 372 (8) 'Convicted child abuser' means a person who is convicted of a child abuse crime.
- 373 (9) 'Division' means the Division of Family and Children Services of the Department of
374 Human Services.
- 375 (10) 'Out-of-state abuse investigator' means a public child protective agency or law
376 enforcement agency of any other state bound by confidentiality requirements as to
377 information obtained under this article which are similar to those provided in this article.
- 378 (11) 'Sexual abuse' has the same meaning as in paragraph (10) of subsection (b) of Code
379 Section 19-7-5.
- 380 (12) 'Sexual exploitation' has the same meaning as in paragraph (11) of subsection (b)
381 of Code Section 19-7-5.

382 (13) 'Substantiated case' means an investigation of a child abuse report by an abuse
 383 investigator which has been confirmed based upon a preponderance of the evidence that
 384 child abuse has occurred.

385 49-5-181.

386 (a) The division shall establish and maintain a central child abuse registry which shall be
 387 known as the 'Child Protective Services Information System.' The child abuse registry
 388 shall receive notice regarding:

389 (1) Substantiated cases of child abuse reported to the division pursuant to subsection (a)
 390 of Code Section 49-5-182; and

391 (2) Convicted child abusers reported to the division pursuant to subsection (b) of Code
 392 Section 49-5-182.

393 (b) The child abuse registry shall be operated in such a manner as to enable abuse
 394 investigators to:

395 (1) Immediately identify and locate substantiated cases of child abuse and convicted
 396 child abusers; and

397 (2) Maintain and produce aggregate statistical data of substantiated cases of child abuse
 398 and cases of child abuse in which a person was convicted.

399 49-5-182.

400 (a) An abuse investigator who completes the investigation of a child abuse report made
 401 pursuant to Code Section 19-7-5 or otherwise and determines that it is a substantiated case
 402 of child abuse if the alleged child abuser was at least 13 years of age at the time of the
 403 commission of the act shall notify the division within 30 business days following such
 404 determination. Such notice may be submitted electronically and shall include the
 405 following:

406 (1) Name, age, sex, race, social security number, if known, and birthdate of the child
 407 alleged to have been abused;

408 (2) Name, age, sex, race, social security number, and birthdate of the child's parents,
 409 custodian, or caretaker, if known;

410 (3) Name, age, sex, race, social security number, and birthdate of the person who
 411 committed the substantiated case of child abuse; and

412 (4) A summary of the known details of the child abuse which at a minimum shall contain
 413 the classification of the abuse as provided in paragraph (4) of subsection (b) of Code
 414 Section 19-7-5 as either sexual abuse, physical abuse, child neglect, or a combination
 415 thereof.

416 (b) Upon receipt of a sentence in which a person is convicted of a child abuse crime, the
417 prosecuting attorney shall notify the division within 30 business days following such
418 receipt. Such notice may be submitted electronically and shall include the following:

419 (1) A certified copy of the sentence;

420 (2) A complete history of the convicted child abuser, including a certified copy of the
421 indictment, accusation, or both and such other information as the division may require;

422 (3) Name, age, sex, race, social security number, and birthdate of the victim of child
423 abuse by the convicted child abuser, if known; and

424 (4) Name, age, sex, race, social security number, and birthdate of the child's parents,
425 custodian, or caretaker, if known.

426 49-5-183.

427 (a) Upon receipt of an investigator's report of a substantiated case of child abuse pursuant
428 to subsection (a) of Code Section 49-5-182 naming an alleged child abuser, the division:

429 (1) Shall include in the child abuse registry the name of the alleged child abuser, the
430 classification of the abuse as provided in paragraph (4) of subsection (a) of Code Section
431 49-5-182, and a copy of the investigator's report; and

432 (2) Shall mail to such alleged child abuser in such report a notice regarding the
433 substantiated case via certified mail, return receipt requested. It shall be a rebuttable
434 presumption that any such notice has been received if the return receipt has been received
435 by the division. The notice shall further inform such alleged child abuser of such person's
436 right to a hearing to appeal such determination. The notice shall further inform such
437 alleged child abuser of the procedures for obtaining the hearing, and that an opportunity
438 shall be afforded all parties to be represented by legal counsel and to respond and present
439 evidence on all issues involved.

440 (b) Any alleged child abuser who has not attained the age of legal majority set forth by
441 Code Section 39-1-1 at the time of the hearing requested pursuant to subsection (d) of this
442 Code section shall be entitled to representation at the hearing either by the alleged child
443 abuser's parent or other legal guardian or by an attorney employed by such parent or
444 guardian. In the event the administrative law judge conducting the hearing determines that
445 any such alleged minor child abuser will not be so represented at the hearing, or that the
446 interests of any such alleged minor child abuser may conflict with the interests of the
447 alleged minor child abuser's parent or other legal guardian, the administrative law judge
448 shall order the division to apply to the superior court of the county in which the alleged act
449 of child abuse was committed to have counsel appointed for the alleged minor child abuser.
450 Payment for any such court appointed representation shall be made by such county.

451 (c) In order to exercise such right to a hearing, the alleged child abuser must file a written
452 request for a hearing with the division within ten days after receipt of such notice. The
453 written request shall contain the alleged child abuser's current residence address and, if the
454 person has a telephone, a telephone number at which such person may be notified of the
455 hearing.

456 (d) If the division receives a timely written request for a hearing under subsection (c) of
457 this Code section, it shall transmit that request to the Office of State Administrative
458 Hearings within ten days after such receipt. Notwithstanding any other provision of law,
459 the Office of State Administrative Hearings shall conduct a hearing upon that request in
460 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' and
461 the rules of the Office of State Administrative Hearings adopted pursuant thereto, except
462 as otherwise provided in this article. The hearing shall be for the purpose of an
463 administrative determination regarding whether, based on a preponderance of evidence,
464 there was child abuse committed by the alleged child abuser to justify the investigator's
465 determination of a substantiated case. The Office of State Administrative Hearings shall
466 give notice of the time and place of the hearing to the alleged child abuser by first-class
467 mail to the address specified in the written request for a hearing and to the division by
468 first-class mail at least ten days prior to the date of the hearing. It shall be a rebuttable
469 presumption that any such notice is received five days after deposit in the United States
470 mail with the correct address of the alleged child abuser and the division, respectively, and
471 proper postage affixed. Unless postponed by mutual consent of the parties and the
472 administrative law judge or for good cause shown, that hearing shall be held within 30
473 business days following receipt by the Office of State Administrative Hearings of the
474 request for a hearing, and a decision shall be rendered within five business days following
475 such hearing. A motion for an expedited hearing may be filed in accordance with rules and
476 regulations promulgated by the Office of State Administrative Hearings. The hearing may
477 be continued as necessary to allow the appointment of counsel. A telephone hearing may
478 be conducted concerning this matter in accordance with standards prescribed in paragraph
479 (5) of Code Section 50-13-15. Upon the request of any party to the proceeding or the
480 assigned administrative law judge, venue may be transferred to any location within the
481 state if all parties and the administrative law judge consent to such a change of venue.
482 Otherwise, the hearing shall be conducted in the county in which the alleged act of child
483 abuse was committed. The doctrines of collateral estoppel and res judicata as applied in
484 judicial proceedings are applicable to the administrative hearings held pursuant to this
485 article.

486 (e) At the conclusion of the hearing under subsection (d) of this Code section, upon a
487 finding that there is not a preponderance of evidence to conclude that the alleged child

488 abuser committed an act of child abuse, the administrative law judge shall order that the
489 alleged child abuser's name be removed from the child abuse registry. The general public
490 shall be excluded from hearings of the Office of State Administrative Hearings held
491 pursuant to this article and the files and records relating thereto shall be confidential and
492 not subject to public inspection.

493 (f) Notwithstanding any other provision of law, the decision of the administrative law
494 judge under subsection (e) of this Code section shall constitute the final administrative
495 decision. Any party shall have the right of judicial review of such decision in accordance
496 with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' except that the
497 petition for review shall be filed within ten days after such decision and may only be filed
498 with and the decision appealed to the superior court of the county where the hearing took
499 place or, if the hearing was conducted by telephone, the Superior Court of Fulton County.
500 The procedures for such appeal shall be substantially the same as those for judicial review
501 of contested cases under Code Section 50-13-19 except that the filing of a petition for
502 judicial review stays the listing of the petitioner's name upon the child abuse registry and
503 the superior court shall conduct the review and render its decision thereon within 30 days
504 following the filing of the petition. The review and records thereof shall be closed to the
505 public and not subject to public inspection.

506 (g) The administrative law judge shall transmit to the division his or her decision regarding
507 the alleged child abuser and the investigator's report regarding such individual within ten
508 days following that decision unless a petition for judicial review of that decision is filed
509 within the permitted time period. If a timely petition for judicial review is filed within the
510 permitted time period, the superior court shall transmit to the division its decision regarding
511 the alleged child abuser and the investigator's report regarding such individual within ten
512 days following that decision.

513 49-5-184.

514 (a) Upon receipt of a notice from a prosecuting attorney pursuant to subsection (b) of Code
515 Section 49-5-182, the division shall include in the child abuse registry the name of the
516 convicted child abuser, the offense for which he or she was convicted, and whether the
517 offense is considered physical abuse, neglect or exploitation, sexual abuse, or sexual
518 exploitation.

519 (b) Any person whose name appears in the child abuse registry as a convicted child abuser
520 shall be entitled to a hearing for an administrative determination of whether or not
521 expungement of such person's name should be ordered. In order to exercise such right, the
522 person must file a written request for a hearing with the division. The provisions of this
523 subsection shall not apply to persons who have waived their hearing after receipt of notice.

524 (c) Upon receipt by the division of a written request for a hearing pursuant to
525 subsection (b) of this Code section, the division shall transmit such request to the Office
526 of State Administrative Hearings within ten days of receipt. The Office of State
527 Administrative Hearings shall conduct a hearing in accordance with Chapter 13 of Title 50,
528 the 'Georgia Administrative Procedure Act,' except as otherwise provided in this Code
529 section. A hearing shall be conducted within 60 days following receipt of the request by
530 the Office of State Administrative Hearings. Upon a finding that there is no credible
531 evidence that the person who requested the hearing is a convicted child abuser, the Office
532 of State Administrative Hearings shall order the division to expunge that name from the
533 registry. The general public shall be excluded from such hearings and the files and records
534 relating thereto shall be confidential and not subject to public inspection.

535 (d) Notwithstanding any other provision of law, the decision of the Office of State
536 Administrative Hearings pursuant to subsection (c) of this Code section shall constitute the
537 final agency decision. Any party shall have the right of judicial review of that decision in
538 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' except
539 that the petition for review shall be filed within 30 days after such decision and may only
540 be filed with and the decision appealed to the superior court of the county where the
541 hearing took place or, if the hearing was conducted by telephone, the Superior Court of
542 Fulton County. The procedures for such appeal shall be the same as those for judicial
543 review of contested cases under Code Section 50-13-19. The review and records thereof
544 shall be closed to the public and not subject to public inspection.

545 49-5-185.

546 (a) Except as otherwise authorized in subsection (c) of this Code section and subsection (b)
547 of Code Section 49-5-186, the only persons or entities who may access or be provided any
548 information from the child abuse registry are:

549 (1) An abuse investigator who has investigated or is investigating a case of possible child
550 abuse who shall only be provided information relating to that case for purposes of using
551 that information in such investigation; and

552 (2) State or other government agencies and licensing entities in this state or out of state
553 that license individuals who have interactions with or are responsible for providing care
554 for children shall only be provided information for purposes of licensing or employment
555 of a specific individual.

556 (b) The division shall provide the Governor's office, the General Assembly, district
557 attorneys, and law enforcement agencies with a statistical analysis of substantiated cases
558 of child abuse and convicted child abusers entered into the child abuse registry at the end
559 of each calendar year. This analysis shall not include the names of any children, parents,

560 or persons associated with the child abuse. This analysis shall not be protected by any laws
 561 prohibiting the dissemination of confidential information.

562 (c) A person may make a written request to the division to find out whether such person's
 563 name is included in the child abuse registry. Upon presentation of a passport, military
 564 identification card, driver's license, or identification card authorized under Code Sections
 565 40-5-100 through 40-5-104, the office receiving such request shall disclose to such person
 566 whether that person's name is included in the child abuse registry and, if so, the date upon
 567 which the person's name was listed in the registry and the substantiated case of child abuse
 568 or child abuse crime for which the person was convicted.

569 49-5-186.

570 (a) Information in the child abuse registry shall be confidential and access thereto is
 571 prohibited except as provided in this article. Such information shall not be deemed to be
 572 a record of child abuse for purposes of Article 2 of this chapter.

573 (b)(1) Information obtained from the child abuse registry shall not be made a part of any
 574 record which is open to the public except as provided in paragraph (2) of this subsection;
 575 provided, however, that a district attorney may use such information in any court
 576 proceeding in the course of any criminal prosecution for any offense which constitutes
 577 or results from child abuse, if such information is otherwise admissible.

578 (2) Notwithstanding any other provisions of law, information in the child abuse registry
 579 applicable to a child who at the time of his or her death was in the custody of a state
 580 department or agency or foster parent, which information relates to the child while in the
 581 custody of such state department or agency or foster parent, shall not be confidential and
 582 shall be subject to Article 4 of Chapter 18 of Title 50, relating to open records.

583 (c) Any person who knowingly provides any information from the child abuse registry to
 584 a person not authorized to be provided such information under this article shall be guilty
 585 of a misdemeanor.

586 (d) Any person who knowingly and under false pretense obtains or attempts to obtain
 587 information which was obtained from the child abuse registry, except as authorized in this
 588 article, shall be guilty of a misdemeanor.

589 49-5-187.

590 The division and employees thereof providing information from the child abuse registry
 591 as authorized by this article and any person who uses such information from the child abuse
 592 registry as authorized by this article shall have no civil or criminal liability therefor."

593

SECTION 8.

594 Said title is further amended by repealing and reserving Code Section 49-2-16, relating to the
595 Council for Welfare Administration.

596 **SECTION 9.**

597 Code Section 15-11-215 of the Official Code of Georgia Annotated, relating to notice of
598 change in placement hearings, is amended by adding a new subsection to read as follows:

599 "(g) A placement change shall not include a temporary absence from the child's identified
600 and ongoing foster care placement, including, but not limited to, visitation with a friend,
601 sibling, relative, or other caretaker, including a pre-placement visit to a possible foster or
602 adoptive placement; hospitalization for medical, acute psychiatric episodes or diagnosis;
603 respite care when the child is expected to return to his or her foster care placement; day or
604 overnight camp; temporary travel with the foster family or child care institution personnel,
605 church, school, or other persons or groups approved by the Division of Family and
606 Children Services; trail home visits with the court's permission, if required by subsection
607 (b) of Code Section 15-11-212; and runaway episodes."

608 **SECTION 10.**

609 Code Section 50-5-69 of the Official Code of Georgia Annotated, relating to purchases
610 without competitive bidding, is amended by adding a new subsection to read as follows:

611 "(f) The Department of Human Services or the Division of Family and Children Services
612 of the Department of Human Services may enter into contracts for the purchase of or may
613 purchase placements for children in the care or custody of the Division of Family and
614 Children Services of the Department of Human Services, without competitive bidding."

615 **SECTION 11.**

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