

Senate Bill 331

By: Senators Thompson of the 14th, Hill of the 32nd, Cowser of the 46th, McKoon of the 29th, Ligon, Jr. of the 3rd and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 15-11-2 and Title 19 of the Official Code of Georgia Annotated,
2 relating to definitions for the Juvenile Code and domestic relations, respectively, so as to
3 provide that causing a child to be conceived as a result of violating certain prohibitions
4 relating to certain offenses is an additional ground for terminating parental rights; to revise
5 definitions; to provide that causing a child to be conceived as a result of violating certain
6 prohibitions relating to certain offenses is an additional ground for losing parental rights and
7 is relevant in certain adoption proceedings; to provide for related matters; to repeal
8 conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 SECTION 1.

11 Code Section 15-11-2 of the Official Code of Georgia Annotated, relating to definitions for
12 the Juvenile Code, is amended by revising paragraph (5) as follows:

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

14 (A) Abandoned a child;

15 (B) Aided or abetted, attempted, conspired, or solicited to commit murder or voluntary
16 manslaughter of another child of such parent;

17 (C) Subjected a child or his or her sibling to torture, chronic abuse, sexual abuse, or
18 sexual exploitation;

19 (D) Committed the murder or voluntary manslaughter of his or her child's other parent
20 or has been convicted of aiding or abetting, attempting, conspiring, or soliciting the
21 murder or voluntary manslaughter of his or her child's other parent;

22 (E) Committed the murder or voluntary manslaughter of another child of such parent;

23 or

24 (F) Committed an assault that resulted in serious bodily injury to his or her child or
25 another child of such parent; or

26 (G) Caused a child to be conceived as a result of rape in violation of Code
27 Section 16-6-1."

28 **SECTION 2.**

29 Title 19 of the Official Code of Georgia Annotated, relating to domestic relations, is
 30 amended by revising subsection (b) of Code Section 19-7-1, relating to with whom parental
 31 power lies, as follows:

32 "(b) Parental power shall be lost by:

33 (1) Voluntary contract releasing the right to a third person;

34 (2) Consent to the adoption of the child by a third person;

35 (3) Failure to provide necessities for the child or abandonment of the child;

36 (4) Consent to the child's receiving the proceeds of his or her own labor; which ~~consent~~
 37 shall be revocable at any time;

38 (5) Consent to the marriage of the child, who thus assumes inconsistent responsibilities;

39 (6) Cruel treatment of the child;

40 (7) A superior court order terminating parental rights in an adoption proceeding in
 41 accordance with Chapter 8 of this title; ~~or~~

42 (8) Causing the child to be conceived as a result of rape in violation of Code
 43 Section 16-6-1; or

44 ~~(8)~~(9) A superior court order terminating parental rights of the legal father or the
 45 biological father who is not the legal father of the child in a petition for legitimation, a
 46 petition to establish paternity, a divorce proceeding, or a custody proceeding pursuant to
 47 this chapter or Chapter 5, 8, or 9 of this title, provided that such termination is in the best
 48 interest of such child; and provided, further, that this paragraph shall not apply to such
 49 termination when a child has been adopted or is conceived by artificial insemination as
 50 set forth in Code Section 19-7-21 or when an embryo is adopted as set forth in Article 2
 51 of Chapter 8 of this title."

52 **SECTION 3.**

53 Said title is further amended by revising subsection (a) of Code Section 19-8-10, relating to
 54 when the surrender or termination of parental rights is not required in the context of adoption,
 55 as follows:

56 "(a) Surrender or termination of rights of a parent pursuant to subsection (a) of Code
 57 Section 19-8-4, 19-8-5, 19-8-6, or 19-8-7 shall not be required as a prerequisite to the filing
 58 of a petition for adoption of a child of that parent pursuant to Code Section 19-8-13 ~~where~~
 59 when the court determines by clear and convincing evidence that the:

60 (1) Child has been abandoned by that parent;

61 (2) Parent cannot be found after a diligent search has been made;

62 (3) Parent is insane or otherwise incapacitated from surrendering such rights; ~~or~~

63 (4) Parent caused the child to be conceived as a result of rape in violation of Code
 64 Section 16-6-1; or
 65 ~~(4)~~(5) Parent has failed to exercise proper parental care or control due to misconduct or
 66 inability, as set out in paragraph (3), (4), or (5) of subsection (a) of Code
 67 Section 15-11-310,
 68 and the court is of the opinion that the adoption is in the best interests of that child, after
 69 considering the physical, mental, emotional, and moral condition and needs of the child
 70 who is the subject of the proceeding, including the need for a secure and stable home."

71 **SECTION 4.**

72 Said title is further amended by revising paragraph (3) of subsection (a) of Code
 73 Section 19-8-11, relating to petitioning the superior court to terminate parental rights, as
 74 follows:

75 "(3) Parental rights may be terminated pursuant to paragraph (1) or (2) of this subsection
 76 ~~where~~ when the court determines by clear and convincing evidence that the:

- 77 (A) Child has been abandoned by that parent;
 78 (B) Parent of the child cannot be found after a diligent search has been made;
 79 (C) Parent is insane or otherwise incapacitated from surrendering such rights; ~~or~~
 80 (D) Parent caused the child to be conceived as a result of rape in violation of Code
 81 Section 16-6-1; or
 82 ~~(D)~~(E) Parent has failed to exercise proper parental care or control due to misconduct
 83 or inability, as set out in paragraph (3), (4), or (5) of subsection (a) of Code
 84 Section 15-11-310,

85 and the court shall set the matter down to be heard in chambers not less than 30 and not
 86 more than 60 days following the receipt by such remaining parent of the notice under
 87 subsection (b) of this Code section and shall enter an order terminating such parental
 88 rights if it so finds and if it is of the opinion that adoption is in the best interests of the
 89 child, after considering the physical, mental, emotional, and moral condition and needs
 90 of the child who is the subject of the proceeding, including the need for a secure and
 91 stable home."

92 **SECTION 5.**

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