

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

AS PASSED SENATE

**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 how causing a child to be conceived as a result of rape is involved in terminating
4 parental rights; to revise a definition; to provide that causing a child to be conceived as a
5 result of rape is relevant in legitimation and adoption proceedings; to provide for related
6 matters; to repeal conflicting laws; and for other purposes.

7 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

8 **SECTION 1.**

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

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

12 (A) Abandoned a child;

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

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

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

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

21 **or**

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

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

26 **SECTION 2.**

27 Title 19 of the Official Code of Georgia Annotated, relating to domestic relations, is
 28 amended by revising subsection (c) of Code Section 19-7-22, relating to a petition for
 29 legitimation of a child, as follows:

30 "(c) Upon the presentation and filing of ~~the~~ a legitimation petition, the court may pass an
 31 order declaring the father's relationship with the child to be legitimate, ~~and that. If the~~
 32 court grants such petition, the father and child shall be capable of inheriting from each
 33 other in the same manner as if born in lawful wedlock, ~~and specifying the court shall~~
 34 specify the name by which the child shall be known. If the court determines that the father
 35 caused his child to be conceived as a result of rape in violation of Code Section 16-6-1 or
 36 an offense which consists of the same or similar elements under federal law or the laws of
 37 another state or territory of the United States, it shall create a presumption against
 38 legitimation."

39 **SECTION 3.**

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

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

- 47 (1) Child has been abandoned by that parent;
 48 (2) Parent cannot be found after a diligent search has been made;
 49 (3) Parent is insane or otherwise incapacitated from surrendering such rights; ~~or~~
 50 (4) Parent caused his child to be conceived as a result of rape in violation of Code
 51 Section 16-6-1; or

52 ~~(4)(5)~~ (5) Parent has failed to exercise proper parental care or control due to misconduct or
 53 inability, as set out in paragraph (3), (4), or (5) of subsection (a) of Code
 54 Section 15-11-310,

55 and the court is of the opinion that the adoption is in the best interests of that child, after
 56 considering the physical, mental, emotional, and moral condition and needs of the child
 57 who is the subject of the proceeding, including the need for a secure and stable home."

58

SECTION 4.

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

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

64 (A) Child has been abandoned by that parent;

65 (B) Parent of the child cannot be found after a diligent search has been made;

66 (C) Parent is insane or otherwise incapacitated from surrendering such rights; ~~or~~

67 (D) Parent caused his child to be conceived as a result of rape in violation of Code
 68 Section 16-6-1; or

69 ~~(D)~~(E) Parent has failed to exercise proper parental care or control due to misconduct
 70 or inability, as set out in paragraph (3), (4), or (5) of subsection (a) of Code
 71 Section 15-11-310,

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

79

SECTION 5.

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