

The House Committee on Health and Human Services offers the following substitute to HB 915:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 5 of Title 49 of the Official Code of Georgia Annotated,
2 relating to children and youth services, so as to establish a public scorecard for child welfare
3 agencies under the Department of Human Services; to define certain terms; to increase fines
4 for certain offenses; to provide that the department shall coordinate contract and licensure
5 compliance inspections for any affected agency or division including the Division of Family
6 and Children Services, the Department of Juvenile Justice, the Department of Behavioral
7 Health and Developmental Disabilities, and the Department of Community Health; to
8 provide for related matters; to provide for effective dates; to repeal conflicting laws; and for
9 other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Article 1 of Chapter 5 of Title 49 of the Official Code of Georgia Annotated, relating to
13 children and youth services, is amended by adding a new Code section to read as follows:

14 "49-5-4.1.

15 (a) As used in this Code section, the term:

16 (1) 'Affected agency' means any state agency, department, division, or office which
17 requires a license or commission from the department for child welfare agencies,
18 including, but not limited to, the Division of Family and Children Services, Department
19 of Human Services, Department of Juvenile Justice, Department of Behavioral Health
20 and Developmental Disabilities, or Department of Community Health.

21 (2) 'Child welfare agency' means any child-caring institution, child-placing agency,
22 children's transition care center, or maternity home.

23 (3) 'Services' means direct care, treatment, custodial responsibilities, or any combination
24 thereof provided for children.

25 (b) The Department of Human Services, in conjunction with other affected agencies and
26 representatives of child welfare agencies, shall establish a child welfare agency public

27 scorecard to score child welfare agencies. Affected agencies shall cooperate with the
28 department to develop and establish the child welfare agency public scorecard.
29 (c) The public scorecard for child welfare agencies and any explanation for the basis of
30 any score on the scorecard shall be published in a single location on a website for public
31 review. Such website shall provide scores for each child welfare agency by the affected
32 agency that is responsible for the regulation of or contracting with each particular child
33 welfare agency. The score shall be posted within 30 days of the completion of an
34 inspection or, if appealed pursuant to subsection (e) of this Code section, the revised score,
35 if any, shall be posted within 30 days of the conclusion of the appeal.
36 (d) The scores shall be based on an established published formula with weight
37 appropriately given for each agency's compliance or noncompliance with applicable laws;
38 rules; contracts; court orders; measures of treatment; behavioral, vocational, and
39 educational outcomes for persons receiving services; and other pertinent information, based
40 on empirical evidence to the greatest extent possible.
41 (e) The department shall provide child welfare agencies with advanced written notice of
42 the scores to be posted. A child welfare agency may contest a score in accordance with
43 department rules by filing a written appeal with the department within ten days from
44 receipt of such notice. If a child welfare agency contests such score, the department shall
45 note on the website that the score is under appeal, until such appeal is concluded. Within
46 ten days of receipt of a child welfare agency's written contest of a score, the department
47 shall hold a meeting with the child welfare agency and any affected agency whose score
48 is contested. The meeting shall be for the parties to discuss the score and basis for the
49 score. If the meeting does not result in a resolution regarding the score, the child welfare
50 agency may contest the score as a contested case under Chapter 13 of Title 50, the 'Georgia
51 Administrative Procedure Act,' except that only 30 days' notice in writing from the
52 commissioner's designee shall be required prior to confirming or revising a score and
53 except that hearings held relating to such action by the department may be closed to the
54 public if the hearing officer determines that an open hearing would be detrimental to the
55 physical or mental health of any child who will testify at such hearing.
56 (f) In consultation with other affected agencies, the department shall promulgate rules and
57 regulations consistent with this Code section, including establishing criteria which must be
58 met in order for a child welfare agency to contest or appeal a score.
59 (g) Nothing in this Code section shall be construed to affect the ability of any affected
60 agency, in its sole discretion, to contract with any child welfare agency or to exercise the
61 rights of the affected agency under the terms and conditions of any existing contract with
62 a child welfare agency."

63 **SECTION 2.**

64 Said title is further amended in Code Section 49-5-12, relating to licensing and inspection
65 of child welfare agencies, standards, revocation or refusal to license, penalties, and
66 violations, by revising subsections (p) and (q) as follows:

67 "(p) Any child welfare agency that shall operate without a license or commission issued
68 by the department shall be guilty of a misdemeanor and, upon conviction thereof, shall be
69 punished by a fine of not less than ~~\$50.00~~ \$500.00 nor more than ~~\$200.00~~ \$1,000.00 for
70 each such offense. Each day of operation without a license or commission shall constitute
71 a separate offense.

72 (q) No person, official, agency, hospital, maternity home, or institution, public or private,
73 in this state shall receive or accept a child under 17 years of age for placement or adoption
74 or place such a child, either temporarily or permanently, in a home other than the home of
75 the child's relatives without having been licensed or commissioned by the department.
76 Notwithstanding the provisions of Code Section 49-5-12.1, violation of this subsection
77 shall be punishable by a fine of not less than ~~\$100.00~~ \$500.00 nor exceeding ~~\$500.00~~
78 \$1,000.00 for each offense. Nothing in this Code section shall be construed to prohibit a
79 properly licensed attorney at law from providing necessary legal services and counsel to
80 parties engaged in or contemplating adoption proceedings. Nothing in this Code section
81 shall be construed to prohibit an individual seeking to:

82 (1) Adopt a child or children from receiving or accepting a child or children in the
83 individual's home in anticipation of filing a petition for adoption under Article 1 of
84 Chapter 8 of Title 19; or

85 (2) Have that individual's child or children placed for adoption from placing that
86 individual's child or children in the home of an individual who is not related to the child
87 or children in anticipation of the individual's initiation of adoption proceedings pursuant
88 to Article 1 of Chapter 8 of Title 19."

89 **SECTION 3.**

90 Said title is further amended by adding a new Code section to read as follows:

91 "49-5-12.3.

92 (a) As used in this Code section, the term:

93 (1) 'Affected agency' means any state agency, department, division, or office which
94 requires a license or commission from the department for child welfare agencies,
95 including, but not limited to, the Division of Family and Children Services, the
96 Department of Juvenile Justice, the Department of Behavioral Health and Developmental
97 Disabilities, or the Department of Community Health.

98 (2) 'Annual inspection' means an inspection of a child welfare agency's facility, books,
99 minutes, financial statements, files, employees, programs, and contracts to ensure
100 contract compliance and licensure compliance.

101 (3) 'Child welfare agency' means any child-caring institution, child-placing agency,
102 children's transition care center, or maternity home.

103 (4) 'Contract compliance' means adherence to the terms of a contract a child welfare
104 agency has with an affected agency to provide child welfare services.

105 (5) 'Licensure compliance' means adherence to licensing or commissioning requirements
106 established pursuant to and in accordance with Code Section 49-5-12.

107 (b) The department shall ensure that the annual inspection of each child welfare agency
108 is performed by all affected agencies in a singular coordinated manner. Affected agencies
109 shall not duplicate the annual inspection but shall cooperate and assist the department with
110 the annual inspection. Affected agencies shall share the results of annual inspection with
111 other applicable affected agencies.

112 (c) The annual inspection shall not occur sooner than 330 days or later than 390 days after
113 the date on which the last annual inspection began and shall not exceed five days. Affected
114 agencies may reduce the extent of the annual inspection by reducing the frequency or the
115 extent of the inspection for contract compliance when the child welfare agency has shown
116 an exceptional history of contract compliance as determined upon past scores; provided,
117 however, that such reduction does not violate federal law, court order, or settlement
118 agreement.

119 (d) A child welfare agency may contest the results of an annual inspection, in accordance
120 with department rules, by filing a written appeal with the affected agency within ten days
121 of receipt of the affected agency's annual inspection report. Within ten days of receipt of
122 a child welfare agency's written appeal of the annual inspection, the affected agency shall
123 hold a meeting with the child welfare agency. The meeting shall be for the parties to
124 discuss the annual inspection. If the meeting does not result in a resolution regarding the
125 annual inspection, the child welfare agency may contest such annual inspection results
126 under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' except that only
127 30 days' notice in writing from the commissioner's designee shall be required prior to
128 confirming or revising an evaluation and except that hearings held relating to such action
129 by the department may be closed to the public if the hearing officer determines that an open
130 hearing would be detrimental to the physical or mental health of any child who will testify
131 at such hearing.

132 (e) The annual inspection shall not limit the ability of affected agencies and other state
133 departments, divisions, and agencies to ensure the safety and well-being of children in the

134 care of child welfare agencies or to inspect, investigate, or respond as required by court
135 order, settlement agreement, or federal law.
136 (f) In consultation with other affected agencies, the department shall promulgate rules and
137 regulations consistent with this Code section, including establishing criteria which must be
138 met in order for a child welfare agency to contest or appeal an evaluation.
139 (g) Nothing in this Code section shall be construed to affect the ability of any affected
140 agency, in its sole discretion, to contract with any child welfare agency or to exercise the
141 rights of the affected agency under the terms and conditions of any existing contract with
142 a child welfare agency."

143 **SECTION 4.**

144 (a) This Act shall become effective on July 1, 2016, except as otherwise provided in
145 subsection (b) of this section.
146 (b) Section 1 of this Act shall become effective on March 1, 2017.

147 **SECTION 5.**

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