

The House Committee on Judiciary offers the following substitute to SB 331:

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 a stay of
6 discovery under certain circumstances; to provide for related matters; to repeal conflicting
7 laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

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

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

13 (A) Abandoned a child;

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

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

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

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

22 or

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

25 (G) Caused his child to be conceived as a result of having nonconsensual sexual
 26 intercourse with the mother of his child or when the mother is less than ten years of age."

27 **SECTION 2.**

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

31 "(c)(1) Upon the presentation and filing of the a legitimation petition, the court may pass
 32 issue an order declaring the father's relationship with the child to be legitimate, and that,
 33 If the court grants such petition, the father and child shall be capable of inheriting from
 34 each other in the same manner as if born in lawful wedlock, and specifying the court shall
 35 specify the name by which the child shall be known.

36 (2)(A) If the court determines by clear and convincing evidence that the father caused
 37 his child to be conceived as a result of having nonconsensual sexual intercourse with
 38 the mother of his child or when the mother is less than ten years of age, or an offense
 39 which consists of the same or similar elements under federal law or the laws of another
 40 state or territory of the United States, it shall create a presumption against legitimation.

41 (B) Notwithstanding Code Section 53-2-3, if the court denies a legitimation petition
 42 under this paragraph, the child shall be capable of inheriting from or through his or her
 43 father. Notwithstanding Code Section 53-2-4, if the court denies a legitimation petition
 44 under this paragraph, the father shall not be capable of inheriting from or through his
 45 child.

46 (C) If there is a pending criminal proceeding in connection with an allegation made
 47 pursuant to subparagraph (A) of this paragraph, the court shall stay discovery in the
 48 legitimation action until the completion of such criminal proceeding."

49 **SECTION 3.**

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

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

- 57 (1) Child has been abandoned by that parent;
 58 (2) Parent cannot be found after a diligent search has been made;
 59 (3) Parent is insane or otherwise incapacitated from surrendering such rights; or

60 (4) Parent caused his child to be conceived as a result of having nonconsensual sexual
 61 intercourse with the mother of his child or when the mother is less than ten years of age;
 62 or
 63 ~~(4)~~(5) Parent has failed to exercise proper parental care or control due to misconduct or
 64 inability, as set out in paragraph (3), (4), or (5) of subsection (a) of Code
 65 Section 15-11-310,
 66 and the court is of the opinion that the adoption is in the best interests of that child, after
 67 considering the physical, mental, emotional, and moral condition and needs of the child
 68 who is the subject of the proceeding, including the need for a secure and stable home."

69 **SECTION 4.**

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

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

- 75 (A) Child has been abandoned by that parent;
- 76 (B) Parent of the child cannot be found after a diligent search has been made;
- 77 (C) Parent is insane or otherwise incapacitated from surrendering such rights; ~~or~~
- 78 (D) Parent caused his child to be conceived as a result of having nonconsensual sexual
 79 intercourse with the mother of his child or when the mother is less than ten years of age;
 80 or

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

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

91 **SECTION 5.**

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