

Senate Bill 175

By: Senators Kennedy of the 18th, Miller of the 49th, Martin of the 9th, Walker III of the 20th, Shafer of the 48th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to the
2 Juvenile Code, so as to enact reforms relating to juvenile court proceedings recommended
3 by the Georgia Council on Criminal Justice Reform; to allow juvenile courts to impose
4 certain conditions on parents, guardians, and legal custodians of children who are in need of
5 services, delinquent, or involved in a court's community based risk reduction program; to
6 provide for procedure; to provide for cross-references; to change provisions relating to the
7 detention of a delinquent child who has been determined to be incompetent to proceed in
8 juvenile court proceedings; to provide for professional input as to the detention of a child
9 who has been determined to be incompetent to proceed; to provide for related matters; to
10 repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 PART I
13 SECTION 1-1.

14 Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to the Juvenile
15 Code, is amended by adding a new Code section to read as follows:

16 "15-11-29.1.

17 (a) In any proceeding involving a child in need of services or a delinquent child or when
18 a case plan has been imposed under Code Sections 15-11-38 and 15-11-39, upon the
19 application of the prosecuting attorney or a party to the plan under Code Sections 15-11-38
20 and 15-11-39, or on the court's own motion, the court may issue an order restraining or
21 otherwise controlling the conduct of such child's parent, guardian, or legal custodian so as
22 to promote such child's treatment, rehabilitation, and welfare, provided that due notice of
23 the application or motion and the grounds therefor and an opportunity to be heard thereon
24 have been given to such parent, guardian, or legal custodian. When the court is
25 determining if an order is appropriate, it shall consider:

- 26 (1) The best interests of such child;
27 (2) The risk to public safety such delinquent child poses;
28 (3) Evidence of a repeated pattern of behavior by such child; and
29 (4) The extent to which enhanced involvement and supervision of such child may
30 ameliorate public safety concerns.
- 31 (b) An order issued under this Code section may require a parent, guardian, or legal
32 custodian to:
- 33 (1) Ensure that the child attends school pursuant to any law relating to compulsory
34 attendance;
35 (2) Monitor the child's school homework and studies after school;
36 (3) Attend school meetings as requested by the child's teacher, counselor, or school
37 administrator;
38 (4) Participate with the child in any counseling or treatment deemed necessary, after
39 consideration of employment and other family needs, and follow recommendations made
40 by such professionals;
41 (5) Provide transportation for the child to attend counseling, programs, or other services
42 ordered by the court;
43 (6) Provide instruction and guidance to improve the child's behavior;
44 (7) Prohibit specific individuals from having contact with the child or from entering the
45 child's residence;
46 (8) When the child is on probation:
- 47 (A) Provide transportation to the probation office or any other counseling or program
48 directed by the child's probation officer;
49 (B) Cooperate with the child's probation officer and answer all of his or her questions
50 truthfully; and
51 (C) Allow access to the child upon the request of the probation officer;
- 52 (9) Enter into and successfully complete a substance abuse program approved by the
53 court;
54 (10) Abstain from offensive conduct against the child;
55 (11) Pay for the costs and expenses of the child's counseling, treatment, or other services
56 in the same manner as set forth in subsection (c) of Code Section 15-11-36;
57 (12) Pay restitution as set forth in Code Section 17-14-5;
58 (13) Pay any judgment entered pursuant to Code Section 51-2-3; and
59 (14) Take any other action or refrain from any other action that the court finds
60 reasonably related to the child's treatment, rehabilitation, or welfare and the safety of the
61 public.

62 (c) After notice and opportunity for hearing afforded to a person subject to an order
 63 entered under this Code section, such order may be modified or extended for a further
 64 specified period, or both, or may be terminated if the court finds that the best interests of
 65 the child and the public will be served thereby.

66 (d) An order entered pursuant to this Code section may be enforced by citation to show
 67 cause for contempt of court by reason of any violation thereof and, when protection of the
 68 welfare of a child so requires, by the issuance of a warrant to take the alleged violator into
 69 custody and bring him or her before the court."

70 **SECTION 1-2.**

71 Said chapter is further amended by revising Code Section 15-11-39, relating to risk
 72 assessments or risk and needs assessments for community based risk reduction programs and
 73 case plans, by adding a new subsection to read as follows:

74 "(f) In any jurisdiction within which a risk reduction program has been established, such
 75 court may issue an order authorized by Code Section 15-11-29.1."

76 **SECTION 1-3.**

77 Said chapter is further amended in Code Section 15-11-442, relating to the disposition
 78 hearing for a child in need of services, by revising paragraphs (9) and (10) of subsection (b)
 79 as follows:

80 "(9) Any order authorized for the disposition of a delinquent child except that a child in
 81 need of services shall not be placed in a secure residential facility or nonsecure residential
 82 facility nor shall such facility accept such child;

83 (10) Any order authorized under Code Section 15-11-29.1; or

84 ~~(10)~~(11) Any combination of the dispositions set forth in paragraphs (1) through ~~(9)~~ (10)
 85 of this subsection as the court deems to be in the best interests of a child and the public."

86 **SECTION 1-4.**

87 Said chapter is further amended in Code Section 15-11-601, relating to the disposition of a
 88 delinquent act, by deleting "or" at the end of subparagraph (a)(10)(B), by replacing the period
 89 with "; or" at the end of paragraph (11) of subsection (a), and by adding a new paragraph to
 90 read as follows:

91 "(12) Any order authorized under Code Section 15-11-29.1."

92 **PART II**

93 **SECTION 2-1.**

94 Said chapter is further amended by revising paragraphs (4) through (6) of subsection (d) of
 95 Code Section 15-11-653, relating to the evaluation of a child's mental condition, procedures,
 96 written reports, and additional evaluations, as follows:

- 97 "(4) A recommendation on the appropriate treatment or services;
 98 (5) A recommendation as to the least restrictive setting in which competency remediation
 99 services may be effectively provided to such child if he or she is in a secure residential
 100 facility or nonsecure residential facility and how such detention should continue;
 101 ~~(5)(6)~~ When appropriate, recommendations for modifications of court procedure which
 102 may help compensate for mental competency weaknesses; and
 103 ~~(6)(7)~~ Any relevant medication history."

104 **SECTION 2-2.**

105 Said chapter is further amended by revising subsections (d) and (g) of Code Section
 106 15-11-656, relating to the disposition of an incompetent child, as follows:

107 "(d) All court orders determining incompetency shall include specific written findings by
 108 the court as to the nature of the incompetency and the mandated outpatient competency
 109 remediation services. If such child is in an out-of-home placement, the court shall specify
 110 the type of competency remediation services to be performed at such child's location. A
 111 child may be placed in a ~~crisis stabilization unit, as such term is defined in Code Section~~
 112 ~~37-1-29, or a psychiatric residential treatment facility operated by DBHDD or other~~
 113 ~~program, not to include DJJ facilities;~~ facility or program authorized or designated by
 114 DBHDD if the court makes a finding by clear and convincing evidence that:

- 115 ~~(1) A child is mentally ill or developmentally disabled and meets the requirements for~~
 116 ~~civil commitment pursuant to Chapters 3 and 4 of Title 37; and~~
 117 ~~(2) All~~ all available less restrictive alternatives, including treatment in community
 118 residential facilities or community settings which would offer an opportunity for
 119 improvement of a child's condition, are inappropriate."

120 "(g)(1) If a child is detained in a secure residential facility or nonsecure residential
 121 facility and the court determines that such child is incompetent to proceed, within five
 122 days of such determination the court shall issue an order to ~~immediately~~:

- 123 (A) Immediately release such child to the appropriate parent, guardian, or legal
 124 custodian; or

125 (B) Detain such child in the least restrictive setting, if such child is alleged to have
126 committed a delinquent act and the court finds by clear and convincing evidence that
127 such child's detention or care is required:

128 (i) To reduce the likelihood that he or she may inflict serious bodily harm to others;

129 (ii) Because he or she has a demonstrated pattern of theft or destruction of property
130 such that detention is required to protect the property of others; or

131 (iii) Because detention is necessary to secure his or her presence in court to protect
132 the jurisdiction and processes of the court.

133 (2) If such child is unrestorably incompetent to proceed, such child shall not be detained
134 in a secure residential facility or nonsecure residential facility after a comprehensive
135 services plan has been adopted as provided in Code Section 15-11-451. If such child is
136 incompetent to proceed but his or her incompetence may be remediated, such child shall
137 not be detained in a secure residential facility or nonsecure residential facility for any
138 longer period of time than is allowed for the disposition of a delinquent act under Code
139 Section 15-11-601 or for the disposition of a class A designated felony act or class B
140 designated felony act under Code Section 15-11-602, as applicable."

141 **PART III**

142 **SECTION 3-1.**

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