

ADOPTED

Representative Abrams of the 89th offers the following amendment:

1 *Amend the committee substitute to SB 186 (LC 33 6979S) by striking line 4 and inserting in*
2 *lieu thereof the following:*

3 an associate degree; to amend Chapter 1 of Title 20 of the Official Code of Georgia
4 Annotated, relating to general education provisions, so as to provide for a kinship caregiver
5 to give legal consent in the form of an affidavit for a child residing with such kinship
6 caregiver to receive educational services and medical services directly related to academic
7 enrollment and to participate in curricular or extracurricular activities for which parental
8 consent is usually required; to provide a short title; to provide for definitions; to provide that
9 falsifying a kinship caregiver's affidavit shall constitute false swearing; to provide an
10 affidavit form; to provide for related matters; to repeal conflicting laws; and for other

11 *By inserting between lines 24 and 25 the following:*

12 Chapter 1 of Title 20 of the Official Code of Georgia Annotated, relating to general
13 education provisions, is amended by enacting a new article to read as follows:

14 "ARTICLE 1A

15 20-1-14.

16 This article shall be known and may be cited as 'The Caregiver Educational Consent Act.'

17 20-1-15.

18 (a) As used in this article, the term:

19 (1) 'Child' means any individual under 18 years of age.

20 (2) 'Fictive kin' means an individual who is known to a child as a relative but is not in
21 fact related by blood or marriage to such child and with whom such child has resided or
22 had significant contact.

23 (3) 'Kinship caregiver' means a grandparent, great-grandparent, aunt, uncle, great aunt,
24 great uncle, cousin, sibling, or fictive kin who has assumed responsibility for raising a
25 child in an informal, noncustodial, or guardianship capacity upon the parents or legal
26 custodians of such child:

27 (A) Losing or abdicating the ability to care for such child; or

28 (B) Being unable to ensure that the child will attend school for reasons, including, but
29 not limited to:

- 30 (i) A parent or legal custodian being unable to provide care due to the death of a
 31 parent or legal custodian;
 32 (ii) A serious illness or terminal illness of a parent or legal custodian;
 33 (iii) The physical or mental condition of the parents or legal custodians such that
 34 proper care and supervision of the child cannot be provided;
 35 (iv) The incarceration of a parent or legal custodian;
 36 (v) The inability to locate the parents or legal custodians;
 37 (vi) The loss or uninhabitability of the child's home as the result of a natural disaster;
 38 or
 39 (vii) A period of active military duty of the parents or legal custodians exceeding 24
 40 months.
- 41 (4) 'Legal custodian' means a person that has been awarded permanent custody of a child
 42 by court order.
- 43 (5) 'Parent' means the legal father or the legal mother of a child.
- 44 (6) 'Reasonable efforts' means actions that a reasonable individual would find sufficient
 45 to determine whether one conclusion is more likely than the other.

46 20-1-16.

- 47 (a) A kinship caregiver shall be authorized, on behalf of a child residing with the kinship
 48 caregiver, which child is not in the custody of the Division of Family and Children Services
 49 of the Department of Human Services, to give legal consent for such child to:
- 50 (1) Receive any educational services;
 51 (2) Receive medical services directly related to academic enrollment; or
 52 (3) Participate in any curricular or extracurricular activities
- 53 for which parental consent is usually required by executing the affidavit described in Code
 54 Section 20-1-18. The affidavit shall not be valid for more than one year after the date on
 55 which it is executed.
- 56 (b) Upon transmitting to a school an executed affidavit described in Code Section 20-1-18,
 57 the kinship caregiver shall serve as the school's point of contact for the child regarding
 58 truancy, discipline, and educational progress for as long as such affidavit shall continue to
 59 be in effect.
- 60 (c) The decision of a kinship caregiver to consent to or refuse educational services or
 61 medical services directly related to academic enrollment or any curricular or extracurricular
 62 activities for a child residing with the kinship caregiver shall be superseded by any
 63 contravening decision of a parent or a person having legal custody of the child, provided
 64 that the decision of the parent or legal custodian does not jeopardize the life, health, safety,
 65 or welfare of the child.

66 (d) Reasonable efforts shall be made by the kinship caregiver to locate at least one of the
67 child's parents prior to the notarization and submission of the affidavit set forth in Code
68 Section 20-1-18.

69 (e) Nothing in this Code section shall apply to, or give authority for, an abortion as
70 provided in Code Section 15-11-682 or any other provision of law.

71 20-1-17.

72 (a) No person that acts in good faith reliance on a properly executed kinship caregiver's
73 affidavit, having no actual knowledge of any facts contrary to those stated in the affidavit,
74 shall be subject to civil liability or criminal prosecution, or to professional disciplinary
75 procedure, for any action which would have been proper if the facts had been as they
76 believed them to be. This subsection shall apply even if educational services or medical
77 services directly related to academic enrollment or any curricular or extracurricular
78 activities are rendered to a child in contravention of the wishes of the parent or legal
79 custodian of such child; provided, however, that the person rendering the educational
80 services or medical services directly related to academic enrollment or any curricular or
81 extracurricular activities shall not have actual knowledge of the wishes of the parent or
82 legal custodian.

83 (b) A person that relies on a properly executed kinship caregiver's affidavit has no
84 obligation to make further inquiry or investigation. Nothing in this article shall relieve any
85 person of responsibility for violations of other provisions of law, rules, or regulations.

86 (c) If a child ceases to reside with a kinship caregiver for a period in excess of 30 days,
87 such kinship caregiver shall, not later than 30 days after such period, notify all parties to
88 whom he or she has transmitted the affidavit or to whom he or she has caused the affidavit
89 to be transmitted.

90 (d) Any individual who knowingly provides false information in executing the affidavit
91 required by this article commits the offense of false swearing within the meaning of Code
92 Section 16-10-71 and shall be subject to the penalties prescribed by such Code section.

93 20-1-18.

94 (a) A kinship caregiver's affidavit shall be invalid unless it substantially contains, in not
95 less than ten-point boldface type or a reasonable equivalent thereof, the form set forth in
96 subsection (b) of this Code section. The warning statement shall be enclosed in a box with
97 three-point rule lines.

98 (b) The kinship caregiver's affidavit shall be substantially in the following form:

'KINSHIP CAREGIVER'S AFFIDAVIT'

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Use of this affidavit is authorized by O.C.G.A. Section 20-1-16.

INSTRUCTIONS: Please print clearly.

I hereby certify that the child named below lives in my home and I am 18 years of age or older.

1. Name of child: _____

2. Child's date of birth: _____

3. My full name (kinship caregiver giving authorization): _____

4. My home address: _____

5. I am a kinship caregiver.

6. I have assumed kinship caregiver status because of one or more of the following circumstances (check at least one):

A parent being unable to provide care due to the death of the other parent;

A serious illness or terminal illness of a parent;

The physical or mental condition of the parent or the child such that proper care and supervision of the child cannot be provided by the parent;

The incarceration of a parent;

The loss or uninhabitability of the child's home as the result of a natural disaster;

A period of active military duty of a parent exceeding 24 months; or

I am unable to locate a parent or parents at this time to notify them of my intended authorization because (list reasons):

_____.

7. Names of parent(s) or legal custodian(s): _____

8. Address of parent(s) or legal custodian(s): _____

9. Phone numbers and email addresses of parent(s) or legal custodian(s):

10. Kinship caregiver's date of birth: _____

11. Kinship caregiver's State of Georgia driver's license number or identification card number: _____

WARNING: DO NOT SIGN THIS FORM IF ANY OF THE STATEMENTS ABOVE ARE INCORRECT OR YOU WILL BE COMMITTING A CRIME PUNISHABLE BY A FINE, IMPRISONMENT, OR BOTH.

132 I recognize that if I knowingly and willfully make a false statement in this affidavit, I will
133 be guilty of the crime of false swearing.

134 _____
135 (Kinship caregiver's signature)

136 _____
137 (Kinship caregiver's printed name)

138 Sworn to and subscribed
139 before me this _____
140 day of _____.
141 _____

142 Notary public (SEAL)
143 My commission expires: _____.

144 NOTICES:

- 145 1. This declaration does not affect the rights of the named child's parent or legal
- 146 guardian regarding the care, custody, and control of the child and does not mean that
- 147 the kinship caregiver has legal custody of the child.
- 148 2. A person that relies on this affidavit has no obligation to make any further inquiry
- 149 or investigation.
- 150 3. This affidavit is not valid for more than one year after the date on which it is
- 151 executed.

152 ADDITIONAL INFORMATION:

153 TO KINSHIP CAREGIVERS:

- 154 1. If the child stops living with you for a period of more than 30 days, you are required
- 155 to provide notice not later than 30 days after such period to anyone to whom you have
- 156 given this affidavit as well as anyone of whom you have actual knowledge who
- 157 received the affidavit from a third party.
- 158 2. If you do not have the information in item 11 of the affidavit (State of Georgia
- 159 driver's license or identification card), you must provide another form of identification
- 160 such as your social security number.

161 TO SCHOOL OFFICIALS:

162 The school system may require additional reasonable evidence that the kinship
163 caregiver resides at the address provided in item 4 of the affidavit.

164 TO HEALTH CARE PROVIDERS AND HEALTH CARE SERVICE PLANS:

165 1. No person that acts in good faith reliance upon a kinship caregiver's affidavit to
166 render educational services or medical services directly related to academic enrollment
167 or any curricular or extracurricular activities, without actual knowledge of facts
168 contrary to those stated in the affidavit, shall be subject to criminal prosecution or civil
169 liability to any person, or subject to any professional disciplinary action, for such
170 reliance if the applicable portions of the form are completed.

171 2. This affidavit does not confer dependency for health care coverage purposes.'

172 20-1-19.

173 Nothing in this article shall be construed to supersede Article 4 of Chapter 9 of Title 19,
174 the 'Power of Attorney for the Care of a Minor Child Act.'

175 **SECTION 3.**