

Senate Bill 225

By: Senators Walker III of the 20th, Kirk of the 13th, Miller of the 49th, Strickland of the 17th, Tillery of the 19th and others

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Article 1 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated,
2 relating to general provisions regarding the Juvenile Code, so as to bring such provisions in
3 conformity with the federal Social Security Act and the Family First Prevention Services
4 Act; to amend Articles 3 and 4 of Chapter 11 of Title 15 of the Official Code of Georgia
5 Annotated, relating to dependency proceedings and termination of parental rights,
6 respectively, so as to provide for the special treatment of Native American children involved
7 in dependency or termination of parental rights proceedings as required by federal law; to
8 amend Article 1 of Chapter 5 of Title 49 of the Official Code of Georgia Annotated, relating
9 to children and youth services, so as to comply with the John H. Chafee Foster Care Program
10 for Successful Transition to Adulthood; to amend Article 2 of Chapter 13 of Title 50 of the
11 Official Code of Georgia Annotated, relating to the Office of State Administrative Hearings,
12 so as to provide for compliance with Titles IV-B and IV-E of the federal Social Security Act
13 regarding final decision-making authority in contested cases; to provide for related matters;
14 to provide for an effective date; to repeal conflicting laws; and for other purposes.

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

16 **SECTION 1.**

17 Article 1 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to
18 general provisions regarding the Juvenile Code, is amended by adding new paragraphs to
19 Code Section 15-11-2, relating to definitions, as follows:

20 "(32.1) 'Family and permanency team' shall consist of all appropriate biological family
21 members, relatives, and fictive kin of the child, as well as, as appropriate, professionals
22 who are a resource to the family of the child, such as teachers, medical or mental health
23 providers who have treated the child, or clergy, and not more than two members of the
24 case planning team or permanency planning team selected by a child who is age 14 or
25 older. The two members selected by the child shall not be a foster parent of, or
26 caseworker for, the child. DFCS may reject an individual selected by the child if DFCS

27 has good cause to believe that the individual would not act in the best interest of the
 28 child."

29 "(60.1) 'Qualified individual' means a trained professional or licensed clinician who is
 30 not an employee of the department and who is not connected to, or affiliated with, any
 31 placement setting in which children are placed by the department.

32 (60.2) 'Qualified residential treatment program' means a program that:

33 (A) Has a trauma-informed treatment model that is designed to address the needs,
 34 including clinical needs as appropriate, of children with serious emotional or behavioral
 35 disorders or disturbances and, with respect to a child, is able to implement the treatment
 36 identified for the child by the assessment to determine appropriateness of placement as
 37 provided for in Code Section 15-11-219;

38 (B) Has registered or licensed nursing staff and other licensed clinical staff who:

39 (i) Provide care within the scope of their practice; and

40 (ii) Are available 24 hours a day and seven days a week;

41 (C) To the extent appropriate, and in accordance with the child's best interests,
 42 facilitates participation of family members in the child's treatment program;

43 (D) Facilitates outreach to the family members of the child, including siblings;

44 (E) Documents how the outreach is made, including contact information, and maintains
 45 contact information for any known biological family and fictive kin of the child;

46 (F) Documents how family members are integrated into the treatment process for the
 47 child, including post-discharge, and how sibling connections are maintained;

48 (G) Provides discharge planning and family-based aftercare support for at least six
 49 months post-discharge; and

50 (H) Is licensed in accordance with 42 U.S.C. Section 471(a)(10) and accredited in
 51 accordance with 42 U.S.C. Section 672(k)(4)."

52 **SECTION 2.**

53 Article 3 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to
 54 dependency proceedings, is amended by adding a new Code section to read as follows:

55 "15-11-100.1.

56 A proceeding under this article shall not be subject to this article to the extent that it is
 57 governed by the Indian Child Welfare Act, P.L. 95-608, as amended, Chapter 21 of Title
 58 25 of the United States Code. In those circumstances, compliance with such federal law
 59 shall be required."

SECTION 3.

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61 Said article is further amended by revising paragraph (3) of subsection (b) of Code Section
62 15-11-201, relating to DFCS case plan and contents, as follows:

63 "(3)(A) A description of the type of home or institution in which such child is to be
64 placed, including a discussion of the safety and appropriateness of the placement;.

65 (B) If a child is placed in a qualified residential treatment program, DFCS must
66 document:

67 (i) Reasonable and good faith efforts to identify and include all the individuals of the
68 child's family and permanency team;

69 (ii) All contact information for members of the family and permanency team;

70 (iii) All contact information for other family members and fictive kin who are not
71 part of the family and permanency team;

72 (iv) Evidence that meetings of the family and permanency team, including meetings
73 relating to the assessment required by Code Section 15-11-219, are held at a time and
74 place convenient for family;

75 (v) If reunification is the goal, evidence demonstrating that the parent from whom the
76 child was removed provided input on the members of the family and permanency
77 team;

78 (vi) Evidence that the assessment required by Code Section 15-11-219 is determined
79 in conjunction with the family and permanency team;

80 (vii) The placement preferences of the family and permanency team relative to the
81 assessment that recognizes children should be placed with their siblings unless there
82 is a finding by the court that such placement is contrary to their best interest; and

83 (viii) If the placement preferences of the family and permanency team and child are
84 not the placement setting recommended by the qualified individual conducting the
85 assessment under Code Section 15-11-219, the reasons why the preferences of the
86 team and of the child were not recommended.

87 (C) If a child is placed in a qualified residential treatment program for more than six
88 consecutive or nonconsecutive months, DFCS must maintain:

89 (i) Documentation of the assessment completed by a qualified individual, including
90 written recommendations regarding the placement that will provide the child with the
91 most effective level of care in the least restrictive environment and how that
92 placement is consistent with the permanency goals established for the child; and

93 (ii) Documentation of the determination and approval or disapproval of the placement
94 in a qualified residential treatment program by the court;"

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SECTION 4.

96 Said article is further amended by adding a new subsection to Code Section 15-11-216,
97 relating to periodic review hearings, to read as follows:

98 "(d.1) At each review hearing held with respect to a child who remains placed in a
99 qualified residential treatment program, the department shall submit evidence documenting
100 that:

101 (1) Ongoing assessment of the strengths and needs of the child continues to support the
102 determination that the needs of the child cannot be met through placement in a foster
103 family home;

104 (2) Placement in a qualified residential treatment program provides the most effective
105 and appropriate level of care for the child in the least restrictive environment;

106 (3) Placement in a qualified residential treatment program is consistent with the short-
107 and long-term goals for the child, as specified in the permanency plan for the child;

108 (4) The specific treatment or service needs that will be met for the child in the placement
109 and the length of time the child is expected to need the treatment or services; and

110 (5) The efforts made by the department to prepare the child to return home or to be
111 placed with a fit and willing relative, a legal guardian, or an adoptive parent, or in a foster
112 family home."

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SECTION 5.

114 Said article is further amended by adding new Code sections to read as follows:

115 "15-11-219.

116 (a) Before a child's placement in a qualified residential treatment program, but no later
117 than 30 days following the start of such placement, a qualified individual shall:

118 (1) Assess the strengths and needs of the child using an age-appropriate, evidence-based,
119 validated, functional assessment tool;

120 (2) Determine whether the needs of the child can be met with family members or through
121 placement in a foster family home or, if not, which DFCS approved authorized setting
122 would provide the most effective and appropriate level of care for the child in the least
123 restrictive environment and be consistent with the short- and long-term goals for the
124 child, as specified in the permanency plan for the child; and

125 (3) Develop a list of child-specific short- and long-term mental and behavioral health
126 goals.

127 (b) The qualified individual conducting the assessment shall work in conjunction with the
128 family and permanency team for the child while conducting and making the assessment.

129 (c) If the qualified individual conducting the assessment determines the child should not
130 be placed in a foster family home, the qualified individual shall specify in writing:

131 (1) The reasons why the needs of the child cannot be met by the family of the child or
132 in a foster family home. A shortage or lack of foster family homes shall not be an
133 acceptable reason for determining that the needs of the child cannot be met in a foster
134 family home; and

135 (2) Why the recommended placement in a qualified residential treatment program is the
136 setting that will provide the child with the most effective and appropriate level of care in
137 the least restrictive environment and how that placement is consistent with the short- and
138 long-term goals for the child, as specified in the permanency plan for the child.

139 15-11-220.

140 (a) Within 60 days of the start of a child's placement in a qualified residential treatment
141 program, the court must:

142 (1) Consider the assessment required by Code Section 15-11-219 determination, and
143 documentation made by the qualified individual in approving the placement;

144 (2) Determine whether the needs of the child can be met through placement in a foster
145 family home or, if not, whether placement of the child in a qualified residential treatment
146 program provides the most effective and appropriate level of care for the child in the least
147 restrictive environment;

148 (3) Determine whether placement in a qualified residential treatment program is
149 consistent with the short- and long-term goals for the child, as specified in the
150 permanency plan for the child;

151 (4) Determine whether it is in the best interest of the child to be placed in a qualified
152 residential treatment program and whether, for that reason, it is not in the best interest of
153 the child or the child's siblings to be placed together; and

154 (5) Approve or disapprove the qualified residential treatment program placement by
155 entering written findings of fact on the record. Placement or a change of legal custody
156 by the court outside DFCS shall relieve DFCS of further responsibility for a child
157 adjudicated as a dependent child except for any provision of services ordered by the court
158 to ensure the continuation of reunification services to such child's family when
159 appropriate.

160 (b) Documentation of the determination and approval or disapproval of the placement in
161 a qualified residential treatment program by the court shall be included in and made part
162 of the case plan for the child."

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SECTION 6.

164 Said article is further amended in Code Section 15-11-231, relating to permanency planning
 165 report, by deleting "and" at the end of subparagraph (9)(E), by replacing the period with ";
 166 and" at the end of paragraph (10), and by adding a new paragraph to read as follows:

167 "(11) For a child who remains placed in a qualified residential treatment program,
 168 documentation that:

169 (A) Ongoing assessment of the strengths and needs of the child continues to support
 170 the determination that the needs of the child cannot be met through placement in a
 171 foster family home;

172 (B) Placement in a qualified residential treatment program provides the most effective
 173 and appropriate level of care for the child in the least restrictive environment;

174 (C) Placement in a qualified residential treatment program is consistent with the short-
 175 and long-term goals for the child, as specified in the permanency plan for the child;

176 (D) The specific treatment or service needs that will be met for the child in the
 177 placement and the length of time the child is expected to need the treatment or services;
 178 and

179 (E) The efforts made by the department to prepare the child to return home or to be
 180 placed with a fit and willing relative, a legal guardian, or an adoptive parent, or in a
 181 foster family home."

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SECTION 7.

183 Said article is further amended in subsection (a) of Code Section 15-11-232, relating to
 184 permanency planning hearing and findings, by deleting "and" at the end of subparagraph
 185 (9)(C), by replacing the period with "; and" at the end of paragraph (10), and by adding a new
 186 paragraph to read as follows:

187 "(11) In the case of a child placed in a qualified residential treatment program:

188 (A) Whether DFCS has documented ongoing assessments of the strengths and needs
 189 of the child that continues to support the determination that the needs of the child
 190 cannot be met through placement in a foster family home;

191 (B) Whether DFCS has documented that placement in a qualified residential treatment
 192 program provides the most effective and appropriate level of care for the child in the
 193 least restrictive environment;

194 (C) Whether DFCS has documented that the child's placement in a qualified residential
 195 treatment program is consistent with the short- and long-term goals for the child, as
 196 specified in the permanency plan for the child;

197 (D) Whether DFCS has documented the specific treatment or service needs that will
 198 be met for the child in the placement and the length of time the child is expected to
 199 need the treatment or services; and
 200 (E) Whether DFCS has documented their efforts to prepare the child to return home
 201 or to be placed with a fit and willing relative, a legal guardian, or an adoptive parent,
 202 or in a foster family home."

203 **SECTION 8.**

204 Article 4 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to
 205 termination of parental rights, is amended by adding a new Code section to read as follows:
 206 "15-11-260.1.
 207 A proceeding under this article shall not be subject to this article to the extent that it is
 208 governed by the Indian Child Welfare Act, P.L. 95-608, as amended, Chapter 21 of Title
 209 25 of the United States Code. In those circumstances, compliance with such federal law
 210 shall be required."

211 **SECTION 9.**

212 Article 1 of Chapter 5 of Title 49 of the Official Code of Georgia Annotated, relating to
 213 children and youth services, is amended by revising paragraph (11) of subsection (a) of Code
 214 Section 49-5-8, relating to powers and duties of the Department of Human Services, as
 215 follows:

216 "(11) Each youth who is leaving foster care by reason of having attained 18 years of age,
 217 unless the child has been in foster care for less than six months, with, if the child is
 218 eligible to receive such document, an official or certified copy of the United States birth
 219 certificate of the child, a social security card issued by the Commissioner of Social
 220 Security, health insurance information, a copy of the child's medical records, and a
 221 driver's license or identification card issued by a state in accordance with the requirements
 222 of Section 202 of the REAL ID Act of 2005, and any official documentation necessary
 223 to prove that the child was previously in foster care. Provision of records in accordance
 224 with this paragraph shall not be considered a violation of subsection (b) of Code Section
 225 49-5-40; and"

226 **SECTION 10.**

227 Article 2 of Chapter 13 of Title 50 of the Official Code of Georgia Annotated, relating to the
 228 Office of State Administrative Hearings, is amended by revising paragraph (1) of subsection
 229 (d) of Code Section 50-13-41, relating to hearing procedures, by revising as follows:

230 "(d)(1) As used in this subsection, the term "reviewing agency" shall mean the ultimate
231 decision maker in a contested case that is a constitutional board or commission; an
232 elected constitutional officer in the executive branch of this state; or a board, bureau,
233 commission, or other agency of the executive branch of this state created for the purpose
234 of licensing or otherwise regulating or controlling any profession, business or trade if
235 members thereof are appointed by the Governor; or the Department of Human Services
236 in a contested case where the such department is required to be the ultimate decision
237 maker by federal law or regulations governing titles IV-B and IV-E of the federal Social
238 Security Act."

239 **SECTION 11.**

240 This Act shall become effective upon its approval by the Governor or upon its becoming law
241 without such approval.

242 **SECTION 12.**

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