Senate Bill 292

By: Senators Hamrick of the 30th, Harp of the 29th, Brown of the 26th, Ramsey, Sr. of the 43rd, Jones of the 10th and others

A BILL TO BE ENTITLED

AN ACT

To amend Title 15 of the Official Code of Georgia Annotated, relating to courts, so as to substantially revise, supersede, and modernize provisions relating to juvenile proceedings; to provide for purpose statements; to provide for definitions; to provide for general provisions; to provide for juvenile court administration; to provide for deprivation proceedings; to provide for venue; to provide for taking children into care; to provide for preliminary protective hearings; to provide for petitions alleging deprivation; to provide for summons and service; to provide for preadjudication procedures; to provide for adjudication; to provide for predisposition social study; to provide for family reunification determinations; to provide for disposition of deprived children; to provide for permanency plan hearings for deprived children; to provide for permanent guardianship; to provide for termination of parental rights; to provide for petitions to terminate parental rights and summons; to provide for hearings on such petitions; to provide for grounds for terminating parental rights; to provide for disposition of children whose parental rights have been terminated; to provide for independent living services; to provide for children in need of services; to provide for informal procedures for children in need of services; to provide for formal court proceedings for children in need of services; to provide for preadjudication custody and release of children in need of services; to provide for a petition seeking an adjudication that a child is in need of services and summons; to provide for adjudication, disposition, and reviews; to provide for a permanency plan for children in need of services; to provide for mental health issues; to provide for delinquency; to provide for custody and release of a child; to provide for intake or arraignment; to provide for informal adjustment; to provide for a petition alleging delinquency and summons; to provide for preadjudication procedures for delinquency proceedings; to provide for transfers to superior court; to provide for adjudication of delinquency; to provide for predisposition investigation; to provide for disposition hearings for delinquent children; to provide for permanency plans for delinquent children; to provide for traffic offenses; to provide for competency in delinquency cases; to provide for parental notification of abortions; to provide for access to hearings and records; to provide for emancipation of minors; to provide for the Office of the Child Advocate for

the Protection of Children; to amend Article 1 of Chapter 5 of Title 49 of the Official Code of Georgia Annotated, relating to children and youth services so as to provide for an appeal procedure when the Division of Family and Children Services of the Department of Human Resources fails to provide aftercare and transitional services to certain children; to provide for the Department of Human Resources to provide for performance measures for an independent living skills program; to amend the Official Code of Georgia Annotated so as to conform provisions to the new Chapter 11 of Title 15 and correct cross-references; to provide for related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to juvenile proceedings, is amended by revising said chapter in its entirety as follows:

"CHAPTER 11

ARTICLE 1

15-11-1.

The purpose of this chapter is to secure for each child who comes within the jurisdiction of the juvenile court such care and guidance, preferably in his or her own home, as will secure the child's moral, emotional, mental, and physical welfare as well as the safety of both the child and community. It is the intent of the General Assembly to promote a juvenile justice system that will protect the community, impose accountability for violations of law, provide treatment and rehabilitation, and equip juvenile offenders with competencies to live responsibly and productively. It is the intent of the General Assembly to preserve and strengthen family relationships, countenancing the removal of a child from his or her home only when state intervention is essential to protect the child and enable him or her to live in security and stability. In every proceeding, this chapter seeks to guarantee due process of law, as required by the Constitutions of the United States and the State of Georgia, through which every child and parent and all other interested parties are assured fair hearings at which legal rights are recognized and enforced. Above all, this chapter shall be liberally construed to reflect that the paramount child welfare policy of this state is to determine and ensure the best interests of its children.

15-11-2.

As used in this chapter, the term:

(1) 'Abandonment' or 'abandoned' means any conduct on the part of a parent, guardian, or legal custodian showing an intent to forgo parental duties or relinquish parental claims. Intent may be evidenced by:

(A) Failure, for a period of at least six months, to communicate meaningfully with a child;

(B) Failure, for a period of at least six months, to maintain regular visitation with a child;

(C) Leaving a child with another person without provision for the child's support for a period of at least six months;

(D) Failure, for a period of at least six months, to participate in any plan or program designed to reunite the parent, guardian, or legal custodian with a child;

(E) Leaving a child without affording means of identifying the child or the parent, guardian, or legal custodian and:

(i) The identity of the parent, guardian, or legal custodian cannot be ascertained despite diligent searching; and

(ii) The parent, guardian, or legal custodian has not come forward to claim the child within three months following the finding of the child;

(F) Being absent from the home for a period of time that creates a substantial risk of serious harm to a child left in the home;

(G) Failure to respond, for a period of at least six months, to notice of child protective proceedings; or

(H) Any other conduct indicating an intent to forgo parental duties or relinquish parental claims.

(2) 'Abuse' means:

(A) Any nonaccidental physical injury or physical injury which is inconsistent with the explanation given for it suffered by a child as the result of the acts or omissions of a person responsible for the care of the child;

(B) Emotional abuse;

(C) Sexual abuse or sexual exploitation;

(D) Prenatal abuse; or

(E) The commission of an act of family violence as defined in Code Section 19-13-1 in the presence of a child. An act includes a single act, multiple acts, or a continuing course of conduct. As used in this subparagraph, the term 'presence' means physically present or able to see or hear.

96 (3) 'Adult' means any individual who is not a child as defined in paragraph (10) of this
97 Code section.
98 (4) 'Affiliate court appointed special advocate program' means a locally operated
99 program operating with the approval of the local juvenile court which screens, trains, and
100 supervises volunteers to advocate for the best interests of an abused and neglected child
101 in deprivation proceedings.
102 (5) 'Aggravated circumstances' means the parent has:
103 (A) Abandoned an infant;
104 (B) Attempted, conspired to attempt, or has subjected a child or a sibling of the child
105 to great bodily harm;
106 (C) Attempted, conspired to attempt, or has subjected a child or a sibling of the child
107 to torture, chronic abuse, sexual abuse, or sexual exploitation; or
108 (D) Committed the murder of the other parent of a child.
109 (6) 'Biological father' means the male who impregnated the biological mother resulting
110 in the birth of the child.
111 (7) 'Business day' means Mondays through Fridays and shall not include weekends or
112 legal holidays.
113 (8) 'Caregiver' means any person providing a residence for a child or any person legally
114 obligated to provide or secure adequate care for a child, including a parent, guardian, or
115 legal custodian.
116 (9) 'Case plan' means a plan which is designed to ensure that a child receives protection,
117 proper care, and case management and may include services for the child, the child's
118 parent, guardian, or legal custodian, and other caregivers.
119 (10) 'Child' means any individual who is:
120 (A) Under the age of 18 years;
121 (B) Under the age of 17 years if alleged to have committed a delinquent act;
122 (C) Under the age of 22 years and in the legal custody of DFCS;
123 (D) Under the age of 23 years and receiving independent living services through
124 DFCS; or
125 (E) Under the age of 21 years who committed an act of delinquency before reaching
126 the age of 17 years and who has been placed under the supervision of the court or on
127 probation to the court for the purpose of enforcing orders of the court.
128 (11) 'Child in need of services' means:
129 (A) A child who is found to be in need of care, guidance, counseling, structure,
130 supervision, treatment, or rehabilitation and who is found to be:
131 (i) Subject to compulsory school attendance and who is habitually and without good
132 and sufficient cause truant from school;

(ii) Habitually disobedient of the reasonable and lawful commands of his or her parent, guardian, or legal custodian and is ungovernable or places himself or herself or others in unsafe circumstances;

(iii) A runaway;

(iv) A child who has committed an offense applicable only to a child;

(v) A child who wanders or loiters about the streets of any city or in or about any highway or any public place between the hours of 12:00 Midnight and 5:00 A.M.;

(vi) A child who disobeys the terms of supervision contained in a court order which has been directed to such child who has been adjudicated a child in need of services;

(vii) A child who patronizes any bar where alcoholic beverages are being sold, unaccompanied by his or her parent, guardian, or legal custodian, or who possesses alcoholic beverages; or

(viii) A child under the age of 16 who engages in private, unforced, noncommercial acts of sexual conduct with another child under the age of 16;

(B) A child who has committed a delinquent act and is found to be in need of supervision but not of treatment or rehabilitation; or

(C) A child who is alleged to have committed a delinquent act and is unrestorably incompetent to stand trial.

(12) 'Community rehabilitation center' means a rehabilitation and custodial center established within a county for the purpose of assisting in the rehabilitation of delinquent children and children in need of services in a neighborhood and family environment in cooperation with community educational, medical, and social agencies. Such center shall:

(A) Be located within any county having a juvenile court presided over by at least one full-time judge exercising jurisdiction exclusively over juvenile matters; and

(B) Be operated by a nonprofit corporation organized under Chapter 3 of Title 14, the 'Georgia Nonprofit Corporation Code,' and have a full-time chief executive officer. The charter, bylaws, and method of selecting the board of directors and chief executive officer of such nonprofit corporation shall be subject to the unanimous approval of the chief judge of the judicial circuit in which the county is located, the judge or judges of the juvenile court, the superintendent of the county school district, and the commissioner of juvenile justice, which approval shall be in writing and shall be appended to the charter and bylaws of the nonprofit organization. Any amendment of the charter or bylaws of the nonprofit corporation shall be subject to the same written approval as the original charter and bylaws.

(13) 'Complaint' is the initial document setting out the circumstances that resulted in the child being brought before the court.

170 (14) 'Court' means the juvenile court or the court exercising jurisdiction over juvenile
171 matters.
172 (15) 'Court appointed special advocate' or 'CASA' means a community volunteer who:
173 (A) Has been screened and trained regarding deprivation, child development, and
174 juvenile court proceedings;
175 (B) Has met all the requirements of an affiliate court appointed special advocate
176 program;
177 (C) Is being actively supervised by an affiliate court appointed special advocate
178 program; and
179 (D) Has been sworn in by a judge of the juvenile court in the court or circuit in which
180 he or she wishes to serve.
181 (16) 'Criminal justice purposes' means the performance of any activity directly involving
182 the investigation, detection, apprehension, detention, pretrial release, post-trial release,
183 prosecution, adjudication, correctional supervision, or rehabilitation of children or adults
184 who are accused of, convicted of, adjudicated of, or charged with crimes, delinquent acts,
185 or the collection, storage, and dissemination of criminal history record information.
186 (17) 'Delinquent act' means:
187 (A) An act committed by a child designated a crime by the laws of this state, or by the
188 laws of another state if the act occurred in that state, under federal laws, or by local
189 ordinance, and the crime shall not be an offense applicable only to a child or a juvenile
190 traffic offense;
191 (B) The act of disobeying the terms of supervision contained in a court order which has
192 been directed to a child who has been adjudged to have committed a delinquent act; or
193 (C) Failing to appear as required by a citation issued with regard to a violation of Code
194 Section 3-3-23.
195 (18) 'Delinquent child' means a child who has committed a delinquent act and is in need
196 of treatment or rehabilitation.
197 (19) 'Department' means the Department of Human Resources.
198 (20) 'Deprived child' means a child who:
199 (A) Has been abused or neglected:
200 (B) Has been placed for care or adoption in violation of law; or
201 (C) Is without a parent, guardian, or legal custodian.
202 (21) 'Designated felony act' means a delinquent act committed by a child 14 years of age
203 or older which, if committed by an adult, would be one or more of the following crimes:
204 (A) Aggravated assault;
205 (B) Aggravated battery or battery in violation of Code Section 16-5-23.1 if the victim
206 is a teacher or other school personnel;

(C) Aggravated child molestation;

(D) Aggravated sexual battery;

(E) Aggravated sodomy;

(F) Armed robbery;

(G) Arson in the first or second degree;

(H) Attempted murder;

(I) Carrying or possession of a weapon in violation of subsection (b) of Code Section 16-11-127.1;

(J) Conspiracy in violation of Article 4 of Chapter 7 of Title 16;

(K) Escape in violation of Code Section 16-10-52 if the child has previously been adjudicated to have committed a designated felony;

(L) Hijacking a motor vehicle;

(M) Kidnapping or attempted kidnapping;

(N) Murder;

(O) Possession, manufacture, or distribution of destructive devices and any other violation of Code Section 16-7-82 or 16-7-84;

(P) Racketeering in violation of Code Section 16-14-4;

(Q) Rape;

(R) Robbery;

(S) Trafficking of certain controlled substances in violation of Code Section 16-13-31;

(T) Voluntary manslaughter;

(U) Any violation of Code Section 16-15-4;

(V) Any subsequent violation of Code Sections 16-8-2 through 16-8-9, if the property which was the subject of the theft was a motor vehicle and the child committing the violation has had one or more separate, prior adjudications of delinquency based upon a violation of Code Sections 16-8-2 through 16-8-9, provided that the prior adjudications of delinquency shall not have arisen out of the same transaction or occurrence or series of events related in time and location;

(W) Any subsequent violation of Code Section 16-7-85 or 16-7-87, if the child committing the violation has had one or more separate, prior adjudications of delinquency based upon a violation of Code Section 16-7-85 or 16-7-87, provided that the prior adjudications of delinquency shall not have arisen out of the same transaction or occurrence or series of events related in time and location;

(X) Any subsequent violation of subsection (b) of Code Section 16-11-132, if the child committing the violation has had one or more separate, prior adjudications of delinquency based upon a violation of subsection (b) of Code Section 16-11-132,

243 provided that the prior adjudications of delinquency shall not have arisen out of the
244 same transaction or occurrence or series of events related in time and location; or
245 (Y) Any other act which, if committed by an adult, would be a felony, if the child
246 committing the act has three times previously been adjudicated delinquent for acts
247 which, if committed by an adult, would have been felonies, provided that the prior
248 adjudications of delinquency shall not have arisen out of the same transaction or
249 occurrence or series of events related in time and location.
250 (22) 'Developmental level' is a child's ability to understand and communicate, taking into
251 account such factors as age, mental capacity, level of education, cultural background, and
252 degree of language acquisition.
253 (23) 'DFCS' means the Division of Family and Children Services of the department.
254 (24) 'DJJ' means the Department of Juvenile Justice.
255 (25) 'DMHDDAD' means the Division of Mental Health, Developmental Disabilities and
256 Addictive Diseases of the department.
257 (26) 'Eligible shelter care placement' or 'eligible shelter care' means placement in foster
258 family homes or child care institutions as defined in 42 U.S.C. Section 672(c). Such
259 placement excludes any detention facility or other facility operated primarily for the
260 purpose of detention of a child adjudicated delinquent.
261 (27) 'Emancipation' means termination of the rights of a parent to the custody, control,
262 services, and earnings of a child.
263 (28) 'Emotional abuse' means any mental injury to a child's intellectual or psychological
264 capacity as evidenced by an observable and substantial impairment in a child's ability to
265 function within the child's normal range of performance and behavior as the result of the
266 acts or omissions of a person responsible for the care of the child, if the impairment is
267 diagnosed and confirmed by a licensed physician or mental health professional.
268 (29) 'Evaluation' means a comprehensive, individualized examination of a child by an
269 examiner that may include the administration of one or more assessment instruments.
270 The purpose of an evaluation may include diagnosing the type and extent of a child's
271 behavioral health disorders and needs, making specific recommendations, and assessing
272 a child's legal competencies.
273 (30) 'Examiner' means a licensed psychologist or psychiatrist who has expertise in child
274 development specific to severe or chronic disability of children attributable to intellectual
275 impairment or mental illness and has received training in forensic evaluation procedures
276 through formal instruction, professional supervision, or both.
277 (31) 'Guardian ad litem' means an individual, not functioning as an attorney, appointed
278 to assist the court in determining the best interests of a child.

(32) 'Guardianship order' means the court judgment that establishes a permanent guardianship and enumerates a permanent guardian's rights and responsibilities concerning the care, custody, and control of a child.

(33) 'Identification data' means the fingerprints, name, race, sex, date of birth, and any other unique identifiers of a child.

(34) 'Imminent danger' means a determination that present or pending harm precludes less extreme solutions to the problem. In deprivation cases, such determination shall be based on the assessment of the following nonexclusive factors:

(A) The severity, regularity, and duration of abuse or neglect to the child;

(B) The strength of the evidence supporting the allegations of abuse or neglect;

(C) The risk that the parent will flee with the child;

(D) Any harm to the child that might result in removal; or

(E) The time to obtain a court order.

(35) 'Incriminating information' means any information that may directly or indirectly lead to the conclusion that the person in question has violated the law, including information that might be a link in an incriminating chain or provide a lead to other usable evidence.

(36) 'Indigent person' means a person who, at the time of requesting an attorney, is unable without undue financial hardship to provide for full payment of an attorney and all other necessary expenses for representation. To determine indigence, the court shall follow the standards set forth in Chapter 12 of Title 17.

(37) 'Informal adjustment' means the disposition of case other than by formal adjudication and disposition.

(38) 'Judge' means the judge of the court exercising jurisdiction over juvenile matters.

(39) 'Juvenile court intake officer' means the juvenile court judge, associate juvenile court judge, court service worker, DJJ staff member serving as an intake officer, or person employed as a juvenile probation or intake officer designated by the juvenile court judge or, where there is none, the superior court judge, which person is on duty for the purpose of determining whether any child taken into custody should be released or detained and, if detained, the appropriate place of detention.

(40) 'Legal custodian' means:

(A) A person to whom legal custody of the child has been given by order of a court; or

(B) A public or private agency or other private organization licensed or otherwise authorized by law to receive and provide care for a child to which legal custody of the child has been given by order of a court.

(41) 'Legal father' means a male who:

316 (A) Has legally adopted a child;
317 (B) Was married to the biological mother of that child at the time the child was
318 conceived or was born, unless such paternity was disproved by a final order pursuant
319 to Article 3 of Chapter 7 of Title 19;
320 (C) Married the legal mother of the child after the child was born and recognized the
321 child as his own, unless such paternity was disproved by a final order pursuant to
322 Article 3 of Chapter 7 of Title 19;
323 (D) Has been determined to be the father by a final paternity order pursuant to Article
324 3 of Chapter 7 of Title 19; or
325 (E) Has legitimated the child by a final order pursuant to Code Section 19-7-22 or by
326 voluntary acknowledgment of paternity that has not been rescinded pursuant to Code
327 Section 19-7-46.1
328 and who has not surrendered or had terminated his rights to the child.
329 (42) 'Legal mother' means the female who is the biological or adoptive mother of the
330 child and who has not surrendered or had terminated her rights to the child.
331 (43) 'Mediation' means the procedure in which a mediator facilitates communication
332 between the parties concerning the matters in dispute and explores possible solutions to
333 promote reconciliation, understanding, and settlement.
334 (44) 'Mediator' means a neutral third party who attempts to focus the attention of the
335 parties upon their needs and interests rather than upon their rights and positions and who
336 lacks the authority to impose any particular agreement upon the parties or to recommend
337 any particular disposition of the case to the court.
338 (45) 'Mentally ill' means having a disorder of thought or mood which significantly
339 impairs judgment, behavior, capacity to recognize reality, or ability to cope with the
340 ordinary demands of life.
341 (46) 'Neglect' means:
342 (A) The failure to provide proper parental care or control, subsistence, education as
343 required by law, or other care or control necessary for the child's physical, mental, or
344 emotional health or morals;
345 (B) The failure to provide the child with adequate supervision necessary for the child's
346 well-being; or
347 (C) The abandonment of a child by his or her parent, guardian, or legal custodian.
348 (47) 'Other persons who have demonstrated an ongoing commitment to the child'
349 includes but shall not be limited to:
350 (A) 'Fictive kin,' meaning a person who is known to a child as a relative, but is not, in
351 fact, related by blood or marriage to the child and with whom the child has resided or
352 had significant contact;

353 (B) 'Significant other,' meaning a person who has established a parent-like relationship
354 with a child and a spouse-like relationship with a parent of the child;
355 (C) 'Other individuals,' including but not limited to, neighbors, teachers, scout masters,
356 or parents of friends of the child and with whom a child has resided or had significant
357 contact.
358 (48) 'Parent' means either the legal father or the legal mother of the child.
359 (49) 'Party' means a child, parent, guardian, legal custodian, or other person subject to
360 any judicial proceeding under this chapter.
361 (50) 'Permanency plan' means a specific written plan prepared by DFCS designed to
362 ensure that a child is reunified with his or her family or ensure that the child quickly
363 attains a substitute long-term home when return to the child's family is not possible or is
364 not in the child's best interests.
365 (51) 'Permanent placement' means:
366 (A) Return of the legal custody of a child to the child's parent;
367 (B) Placement of a child with an adoptive parent pursuant to a final order of adoption;
368 or
369 (C) Placement of a child with a permanent guardian.
370 (52) 'Person responsible for the care of the child' means:
371 (A) A member of the child's household;
372 (B) A person exercising supervision over a child for any part of the 24 hour day; or
373 (C) Any adult who, based on relationship to the parent, guardian, or legal custodian or
374 a member of the child's household, has access to the child.
375 (53) 'Preliminary protective hearing' means the hearing held within 72 hours after a child
376 who is alleged to be abused or neglected is placed in eligible shelter care.
377 (54) 'Prenatal abuse' means exposure to chronic or severe use of alcohol or the unlawful
378 use of any controlled substance, as such term is defined in Code Section 16-13-21, which
379 results in:
380 (A) Symptoms of withdrawal in a newborn or the presence of a controlled substance
381 or a metabolic thereof in the newborn's body, blood, urine, or meconium that is not the
382 result of medical treatment; or
383 (B) Observable and harmful effects in the newborn's physical appearance or
384 functioning.
385 (55) 'Probation and intake employees' means any probation officer and any personnel of
386 a juvenile court to whom are delegated the duties of an intake officer under this chapter,
387 other than a juvenile court judge, associate juvenile court judge, or court service worker.
388 (56) 'Probation and intake services' means those services provided by the probation and
389 intake employees for the juvenile court of a county.

390 (57) 'Probation officer' means any personnel of a juvenile court or staff of DJJ to whom
391 are delegated the duties of a probation officer under this chapter, other than a juvenile
392 court judge or associate juvenile court judge.
393 (58) 'Prosecuting attorney' means the district attorney of the judicial circuit or county in
394 which juvenile proceedings are instituted or the solicitor of the juvenile court in which
395 the juvenile proceedings are instituted or such individuals' designees.
396 (59) 'Putative father registry' means the registry established and maintained pursuant to
397 subsections (d) and (e) of Code Section 19-11-9.
398 (60) 'Reasonable efforts to finalize a permanency plan for a child' means due diligence
399 and the provision of appropriate services by DFCS to:
400 (A) Reunify the child with the parent, guardian, or legal custodian from whom the
401 child was removed;
402 (B) Assess a noncustodial parent's ability to provide day-to-day care for the child and,
403 when appropriate, provide services necessary to enable the noncustodial parent to safely
404 provide care;
405 (C) Conduct a relative search as required by Code Section 15-11-211;
406 (D) When parental rights have not been terminated, facilitate and arrange for
407 appropriate visits with parents and siblings, consistent with the safety and well-being
408 of a child; and
409 (E) When a child cannot return to the parent, guardian, or legal custodian from whom
410 the child was removed, to plan for and finalize a safe and legally permanent alternative
411 home for the child, including if appropriate, through an interstate placement, and
412 preferably through adoption or guardianship of the child.
413 (61) 'Reasonably diligent search' means the efforts of DFCS to identify and locate a
414 parent whose identity or location is unknown or a relative or other person who has
415 demonstrated an ongoing commitment to a child. Such search shall be initiated at the
416 outset of a case under Article 3 of this chapter and shall be conducted throughout the
417 duration of a case, when appropriate. A reasonably diligent search shall include at a
418 minimum:
419 (A) Interviews with the child's parent during the course of an investigation, while child
420 protective services are provided, and while the child is in care;
421 (B) Interviews with the child;
422 (C) Interviews with identified relatives throughout the case;
423 (D) Interviews with any other person who is likely to have information about the
424 identity or location of the person being sought;
425 (E) Comprehensive data base searches including, but not limited to, searches of
426 employment, residence, utilities, armed forces, vehicle registration, child support

427 enforcement, law enforcement, corrections records, and any other records likely to
428 result in identifying and locating the person being sought;
429 (F) Appropriate inquiry during the course of hearings in the case; and
430 (G) Any other reasonable means that are likely to identify relatives or other persons
431 who have demonstrated an ongoing commitment to the child.
432 (62) 'Relative' means a person related to a child by blood, marriage, or adoption,
433 including the spouse of any of those persons even if the marriage was terminated by death
434 or dissolution.
435 (63) 'Restitution' means any property, lump sum, or periodic payment ordered to be made
436 to any victim. Restitution may also be in the form of services ordered to be performed
437 by a child.
438 (64) 'Screening' means a relatively brief process to identify a child who potentially may
439 have mental health or substance abuse needs, through administration of a formal
440 screening instrument, to identify a child who may warrant immediate attention or
441 intervention or a further, more comprehensive evaluation.
442 (65) 'Services' means assistance including, but not limited to, care, guidance, education,
443 counseling, supervision, treatment, and rehabilitation or any combination thereof.
444 (66) 'Sexual abuse' means a caregiver or other person responsible for the care of the child
445 employing, using, persuading, inducing, enticing, or coercing any child to engage in any
446 act which involves:
447 (A) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or
448 oral-anal, whether between persons of the same or opposite sex;
449 (B) Bestiality;
450 (C) Masturbation;
451 (D) Lewd exhibition of the genitals or pubic area of any person;
452 (E) Flagellation or torture by or upon a person who is nude;
453 (F) The condition of being fettered, bound, or otherwise physically restrained on the
454 part of a person who is nude;
455 (G) Physical contact in an act of apparent sexual stimulation or gratification with any
456 person's clothed or unclothed genitals, pubic area, or buttocks or with a female's clothed
457 or unclothed breasts;
458 (H) Defecation or urination for the purpose of sexual stimulation; or
459 (I) Penetration of the vagina or rectum by any object except when done as part of a
460 recognized medical procedure by a licensed health care professional.
461 (67) 'Sexual exploitation' means conduct by a caregiver or other person responsible for
462 the care of the child who allows, permits, encourages, or requires a child to engage in:
463 (A) Prostitution, in violation of Code Section 16-6-9; or

(B) Sexually explicit conduct for the purpose of producing any visual or print medium depicting such conduct, in violation of Code Section 16-12-100.

(68) 'Sibling' means a person with whom the child shares one or both parents in common by blood, adoption, or marriage, even if the marriage was terminated by death or dissolution.

(69) 'Statutory overnight delivery' means delivery of notice as provided in Code Section 9-10-12.

(70) 'Treatment' means any type of therapeutic intervention designed to address a child's disorders and needs as identified in an evaluation by an examiner, as defined in Code Section 15-11-650, including, but not limited to, individual therapy, group therapy, the administration of psychotropic medication, and any testing undertaken in conjunction with the treatment process.

(71) 'Visitation' means a parent, guardian, legal custodian, sibling, or other relative's period of access to a child in order to maintain parental and familial involvement in the child's life when the child is not residing with such person.

(72) 'Weekend' means Saturday or Sunday.

15-11-3.

Through direct calendaring, whenever possible, a single judge shall hear all successive cases or proceedings involving a child or family.

15-11-4.

Where procedures are not provided in this chapter, the court shall proceed in accordance with:

(1) Title 17 in a delinquency proceeding; and

(2) Chapter 11 of Title 9 in all other matters.

15-11-5.

(a) When a period of time measured in days, weeks, months, years, or other measurements of time except hours is prescribed for the exercise of any privilege or the discharge of any duty, the first day shall not be counted but the last day shall be counted; and, if the last day falls on a weekend, the party having such privilege or duty shall have through the following business day to exercise such privilege or discharge such duty.

(b) When the last day prescribed for the exercise of any privilege or the discharge of any duty falls on a public and legal holiday as set forth in Code Section 1-4-1, the party having such privilege or duty shall have through the next business day to exercise such privilege or discharge such duty.

498 (c) When the period of time prescribed is less than seven days, intermediate weekends and
499 legal holidays shall be excluded in the computation.

500 15-11-6.
501 (a) Except as provided in subsection (b) of this Code section, a child attains a specified age
502 the first second past midnight on the day of the anniversary of the child's birth.
503 (b) A child born on February 29 attains a specified age on March 1 of any year that is not
504 a leap year.

505 15-11-7.
506 (a) The juvenile court shall have jurisdiction to act as a court of inquiry with all the powers
507 and rights allowed courts of inquiry in this state and to examine or investigate into the
508 circumstances or causes of any conduct or acts of any person 17 or more years of age that
509 may be in violation of the laws of this state whenever such person is brought before the
510 court in the course of any proceeding instituted under this chapter. The court shall cause
511 the person to be apprehended and brought before it upon either a writ of summons, a
512 warrant duly issued, or by arrest.
513 (b) When, after hearing evidence, the court has reasonably ascertained that there is
514 probable cause to believe that the person has committed a misdemeanor or felony as
515 prescribed under the laws of this state, the court shall commit, bind over to the court of
516 proper jurisdiction in this state, or discharge the person. When justice shall require, the
517 court shall cause the person to make the bail as the court shall deem proper under the
518 circumstances and to cause the person to appear before the court of proper jurisdiction in
519 this state to be acted upon as provided by law.

520 15-11-8.
521 The juvenile court is a court of record having a seal. The judge and the judge's duly
522 appointed representatives shall each have power to administer oaths and affirmations.

523 15-11-9.
524 The juvenile court judge, associate juvenile court judge, and judge pro tempore shall have
525 authority to issue a warrant for the arrest of any child for an offense committed against the
526 laws of this state, based either on personal knowledge or the information of others given
527 under oath.

15-11-10.

The juvenile court shall have exclusive original jurisdiction over juvenile matters and shall be the sole court for initiating action:

(1) Concerning any child who:

(A) Is alleged to be delinquent;

(B) Is alleged to be a child in need of services;

(C) Is alleged to be deprived;

(D) Is alleged to be in need of treatment or commitment as a mentally ill or mentally retarded child;

(E) Is alleged to have committed a juvenile traffic offense as defined in Code Section 15-11-630;

(F) Has been placed under the supervision of the court or on probation to the court; provided, however, that such jurisdiction shall be for the sole purpose of completing, effectuating, and enforcing such supervision or a probation begun prior to the child's seventeenth birthday; or

(G) Has remained in foster care after the child's eighteenth birthday or who is receiving independent living services from DFCS after the child's eighteenth birthday; provided, however, that such jurisdiction shall be for the sole purpose of reviewing the status of the child and the services being provided to the child as a result of the child's independent living plan or status as a child in foster care; or

(2) Involving any proceedings:

(A) For obtaining judicial consent to the marriage, employment, or enlistment in the armed services of any child if such consent is required by law;

(B) For permanent guardianship brought pursuant to the provisions of Article 3 of this chapter;

(C) Under Code Section 39-3-2, the Interstate Compact on Juveniles, or any comparable law, enacted or adopted in this state;

(D) For the termination of the legal parent-child relationship and the rights of the biological father who is not the legal father of the child, other than that in connection with adoption proceedings under Chapter 8 of Title 19, in which the superior courts shall have concurrent jurisdiction to terminate the legal parent-child relationship and the rights of the biological father who is not the legal father of the child;

(E) For emancipation brought pursuant to the provisions of Article 11 of this chapter;

(F) Under Article 9 of this chapter, relating to prior notice to a parent, guardian, or legal custodian relative to an unemancipated minor's decision to seek an abortion; or

563 (G) Brought by a local board of education pursuant to Code Section 20-2-766.1
564 relating to court orders requiring that a parent, guardian, or legal custodian attend a
565 conference or participate in programs or treatment to improve a student's behavior.

566 15-11-11.
567 (a) The juvenile court shall have concurrent jurisdiction to hear:
568 (1) Adoption proceedings following the termination of the legal parent-child relationship
569 and the rights of the biological father who is not the legal father of the child if the
570 termination of parental rights was initiated and concluded in juvenile court;
571 (2) Any legitimation petition filed pursuant to Code Section 19-7-22 concerning a child
572 who is the subject of a deprivation proceeding;
573 (3) Any legitimation petition transferred to the court by proper order of the superior
574 court;
575 (4) The issue of custody and support when the issue is transferred by proper order of the
576 superior court; and
577 (5) Any petition for the establishment or termination of a temporary guardianship
578 transferred to the court by proper order of the probate court.
579 (b) If a demand for a jury trial as to support has been properly filed by either parent, then
580 the case shall be transferred to superior court for the jury trial.

581 15-11-12.
582 (a) Nothing in this chapter shall be construed to prevent a child from being found both
583 deprived and delinquent or both deprived and a child in need of services if there exists a
584 factual basis for such a finding.
585 (b) If a child alleged or found to be delinquent or a child in need of services is also alleged
586 or found to be deprived, deprivation proceedings may be consolidated with delinquency
587 or child in need of services proceedings to the extent consistent with due process of law as
588 provided in Articles 3, 6, and 7 of this chapter.
589 (c) The time frames and requirements of Article 3 of this chapter shall apply to cases in
590 which a child alleged or found to be a child in need of services or delinquent is placed in
591 an eligible shelter care placement and has also been alleged or found to be deprived.

592 15-11-13.
593 The court shall have jurisdiction to appoint a guardian of the person or conservator of the
594 property of any child in any proceeding authorized by this chapter. Any such appointment
595 shall be made pursuant to the same requirements of notice and hearing as are provided for

596 appointments of guardians of the persons and conservators of the properties of any child
597 by the probate court.

598 15-11-14.
599 (a) The court shall hold a hearing within 30 days of receipt of a case transferred from the
600 probate court pursuant to subsection (f) of Code Section 29-2-6 or subsection (b) of Code
601 Section 29-2-8.
602 (b) After notice and hearing, the court may make one of the following orders:
603 (1) That the temporary guardianship be established or continued if the court determines
604 that the temporary guardianship is in the best interests of the child. The order shall
605 thereafter be subject to modification only as provided in Code Section 15-11-31; or
606 (2) That the temporary guardianship be terminated if the court determines it is in the best
607 interests of the child. The child shall be returned to the parent unless the court determines
608 that there is probable cause to believe the child would be deprived in the custody of the
609 child's parent.
610 (c) A case shall proceed as a deprivation matter pursuant to the provisions of Article 3 of
611 this chapter if, after notice and hearing, the court determines:
612 (1) That it is in the best interests of the child that the temporary guardianship not be
613 established or that the temporary guardianship be terminated but there is probable cause
614 to believe the child would be deprived if returned to the parent; or
615 (2) That it is in the best interests of the child that the temporary guardianship be
616 continued over the parent's objection.
617 (d) The court may refer a case transferred from probate court to DFCS for further
618 investigation.

619 15-11-15.
620 (a) In handling divorce, alimony, habeas corpus, or other cases involving the custody of
621 a child, a superior court may transfer the question of the determination of custody, support,
622 or custody and support to the juvenile court either for investigation and a report back to the
623 superior court or for investigation and determination.
624 (b) If the referral is for investigation and determination, then the juvenile court shall
625 proceed to handle the matter in the same manner as though the action originated under this
626 chapter in compliance with the order of the superior court, except that the parties shall not
627 be entitled to obtain an appointed attorney through the juvenile court.
628 (c) At any time prior to the determination of any such question, the juvenile court may
629 transfer the jurisdiction of the question back to the referring superior court.

630 15-11-16.
631 A proceeding under this chapter may be commenced:
632 (1) By an order of transfer of a case from another court as provided in Code Section
633 15-11-11 or 15-11-567 or subsection (f) of Code Section 29-2-6 or subsection (b) of Code
634 Section 29-2-8;
635 (2) By the summons, notice to appear, or other citation in a proceeding charging a
636 juvenile traffic offense or a violation of the laws, rules, and regulations governing the
637 Georgia Department of Natural Resources Game and Fish Division; or
638 (3) By the filing of a petition for adoption or legitimation under Code Section 15-11-11,
639 or in other cases by the filing of a complaint or a petition as provided in Articles 3, 4, 6,
640 7, 9, and 11 of this chapter. The petition and all other documents in the proceeding shall
641 be entitled 'In the interest of , a child,' except upon appeal, in which event the
642 anonymity of the child shall be preserved by appropriate use of the child's initials.

643 15-11-17.
644 (a) All hearings under this chapter shall be conducted by the court without a jury. Any
645 hearing may be adjourned from time to time within the discretion of the court.
646 (b) Except as otherwise provided, all hearings shall be conducted in accordance with
647 Title 24.
648 (c) The proceedings shall be recorded by stenographic notes or by electronic, mechanical,
649 or other appropriate means.
650 (d) A juvenile court judge, an associate juvenile court judge, a judge pro tempore of the
651 juvenile court, or any person sitting as a juvenile court judge may conduct hearings in
652 connection with any proceeding under this chapter in any county within the judicial circuit.
653 When a superior court judge sits as a juvenile court judge, hearings in connection with any
654 proceeding under this chapter may be heard before such judge in any county within the
655 judicial circuit over which the judge presides.

656 15-11-18.
657 Upon application of a party, the court, or any authorized officer of the court, the clerk of
658 the court shall issue or the court on its own motion may issue subpoenas requiring
659 attendance and testimony of witnesses and production of papers at any hearing under this
660 chapter.

661 15-11-19.
662 (a) A party has the right to be present, to be heard, to present evidence material to the
663 proceedings, to cross-examine witnesses, to examine pertinent court files and records, and

664 to appeal the orders of the court; provided, however, that the court shall retain the
665 discretion to exclude a child from any part or parts of any proceeding under Article 3 of
666 this chapter if the court determines that it is not in the child's best interests to be present.
667 The attorney for the child shall not be excluded.
668 (b) A person afforded rights under this chapter shall be advised of such rights at that
669 person's first appearance before the court.

670 15-11-20.
671 (a) At any time during a proceeding under this chapter, the court may refer the case for
672 mediation except for proceedings brought pursuant to a protective order or informal family
673 services plan procedure.
674 (b) A referral order shall recite that while the parties shall attend a scheduled mediation
675 session and shall attempt to mediate in good faith, such parties are not required to reach an
676 agreement.

677 15-11-21.
678 (a) Once an order referring a case for mediation has been signed, the parties are
679 encouraged to mutually agree upon a person to be appointed as the mediator from a list of
680 mediators registered by the Georgia Office of Dispute Resolution.
681 (b) If the parties fail to agree upon a mediator within ten days after the signing of the
682 referral order or if a mediator has declined appointment, the court may appoint a mediator
683 from the list of mediators qualified for service.
684 (c) At any time during the pendency of the proceedings the court may revoke the
685 mediator's appointment upon motion of any party on the grounds of the mediator's lack of
686 qualifications or lack or impartiality.

687 15-11-22.
688 (a) A mediator shall assist the parties in formulating an agreement to mediate. Such
689 agreement shall be in writing, dated, and signed by the parties. It shall identify the
690 controversies between the parties, affirm the parties' intent to resolve such controversies
691 through mediation, and specify the circumstances under which mediation may continue.
692 (b) A mediator shall not knowingly assist the parties in reaching an agreement which
693 would be unenforceable for reasons such as fraud, duress, overreaching, the absence of
694 bargaining ability, or unconscionability.
695 (c) The mediator shall advise the parties prior to signing an agreement to mediate that each
696 of them may obtain review by an attorney of any agreement reached as a result of the
697 mediation.

698 (d) The mediator shall at all times be impartial.

699 15-11-23.

700 (a) Upon issuing a referral for mediation the court may stay the proceeding.

701 (b) Mediation shall be completed within 30 days of the order referring the matter to
702 mediation unless the time frame is extended by the court.

703 (c) The court may extend mediation for an additional 30 days.

704 15-11-24.

705 (a) Either party may withdraw and terminate further participation in mediation at any time.

706 (b) A mediator shall terminate mediation when:

707 (1) The mediator concludes that the participants are unable or unwilling to participate
708 meaningfully in the process;

709 (2) The mediator concludes that a party lacks the capacity to perceive and assert his or
710 her own interests to the degree that a fair agreement cannot be reached; or

711 (3) The mediator concludes that an agreement is unlikely.

712 15-11-25.

713 Whenever a best interests determination is required, the court shall consider and evaluate
714 all of the factors affecting the best interests of the child in the context of the child's age and
715 developmental needs. Such factors shall include:

716 (1) The physical safety and welfare of the child, including food, shelter, health, and
717 clothing;

718 (2) The mental and physical health of all individuals involved;

719 (3) Evidence of domestic violence;

720 (4) The child's background and ties, including familial, cultural, and religious;

721 (5) The child's sense of attachments, including the child's sense of security, the child's
722 sense of familiarity, and continuity of affection for the child;

723 (6) The least disruptive placement alternative for the child;

724 (7) The child's wishes and long-term goals;

725 (8) The child's community ties, including church, school, and friends;

726 (9) The child's need for permanence which includes the child's need for stability and
727 continuity of relationships with a parent, siblings, and other relatives;

728 (10) The uniqueness of every family and child;

729 (11) The risks attendant to entering and being in substitute care;

730 (12) The preferences of the persons available to care for the child; and

731 (13) Any other factors considered by the court to be relevant and proper to its
732 determination.

733 15-11-26.
734 During the pendency of any proceeding under this chapter, the court may order:
735 (1) The child to be examined by outside parties or private providers at a suitable place
736 by a physician or psychologist; provided, however, that such orders shall not be imposed
737 upon DJJ; and
738 (2) Medical or surgical treatment of a child who is suffering from a serious physical
739 condition or illness which, in the opinion of a licensed physician, requires prompt
740 treatment, even if the parent, guardian, or legal custodian has not been given notice of a
741 hearing, is not available, or without good cause informs the court of his or her refusal to
742 consent to the treatment.

743 15-11-27.
744 (a) No admission, confession, or incriminating information obtained from a child in the
745 course of any screening that is undertaken in conjunction with proceedings under this
746 chapter, including but not limited to, court ordered screenings, shall be admitted into
747 evidence in any adjudication hearing under this chapter. Such admission, confession, or
748 incriminating information may be considered by the court at disposition.
749 (b) No admission, confession, or incriminating information obtained from a child in the
750 course of any assessment or evaluation, or any treatment that is undertaken in conjunction
751 with proceedings under this chapter, including but not limited to, court ordered assessments
752 and evaluations, shall be admitted into evidence against the child, or used as a basis for
753 such evidence, in any future adjudication hearing or criminal proceeding. Such admission,
754 confession, or incriminating information may be considered by the court at disposition.

755 15-11-28.
756 (a) In any proceeding under this chapter, either on application of a party or on the court's
757 own motion, the court may make an order restraining or otherwise controlling the conduct
758 of a person if due notice of the application or motion and the grounds therefor and an
759 opportunity to be heard thereon have been given to the person against whom the order is
760 directed. Such an order may require any such person:
761 (1) To stay away from the home or the child;
762 (2) To permit a parent to visit the child at stated periods;
763 (3) To abstain from offensive conduct against the child, the child's parent, or any person
764 to whom custody of the child is awarded;

765 (4) To give proper attention to the care of the home;
766 (5) To cooperate in good faith with an agency to which custody of a child is entrusted
767 by the court or with an agency or association to which the child is referred by the court;
768 (6) To refrain from acts of commission or omission that tend to make the home not a
769 proper place for the child;
770 (7) To ensure that the child attends school pursuant to any valid law relating to
771 compulsory attendance;
772 (8) To participate with the child in any counseling or treatment deemed necessary after
773 consideration of employment and other family needs; and
774 (9) To enter into and complete successfully a substance abuse program approved by the
775 court.
776 (b) After notice and opportunity for hearing afforded to a person subject to a protective
777 order, the order may be modified or extended for a further specified period, or both, or may
778 be terminated if the court finds that the best interests of the child and the public will be
779 served thereby.
780 (c) Protective orders may be enforced by citation to show cause for contempt of court by
781 reason of any violation thereof and, where protection of the welfare of the child so requires,
782 by the issuance of a warrant to take the alleged violator into custody and bring him or her
783 before the court.

784 15-11-29.
785 A legal custodian has the right to physical custody of the child, the right to determine the
786 nature of the care and treatment of the child, including ordinary medical care, and the right
787 and duty to provide for the care, protection, training, and education and the physical,
788 mental, and moral welfare of the child, subject to the conditions and limitations of the order
789 and to the remaining rights and duties of the child's parent, guardian, or legal custodian.

790 15-11-30.
791 (a) In addition to all other inherent powers of the court to enforce its lawful orders, the
792 court may punish an adult for contempt of court by imprisonment for not more than 20
793 days or a fine not to exceed $1,000.00 for willfully disobeying an order of the court or for
794 obstructing or interfering with the proceedings of the court or the enforcement of its orders.
795 (b) The court shall restrict and limit the use of contempt powers with respect to
796 commitment of a child to a secure facility and in no event shall a child solely alleged or
797 adjudicated to be deprived be placed in a secure facility.
798 (c) A child may be placed in a secure facility for not more than 72 hours if:
799 (1) He or she is found in contempt of court;

800 (2) Less restrictive alternatives have been considered and are unavailable or
801 inappropriate or if the child has already been ordered to serve a less restrictive alternative
802 sanction but failed to comply with the sanction; and
803 (3) For a child in need of services, the requirements of Code Section 15-11-416
804 regarding the valid court order exception have been met.
805 (d) In addition or as an alternative to the punishment provided in subsection (a) of this
806 Code section, after notice and opportunity to be heard, the court may impose any or all of
807 the following sanctions when a parent, guardian, or legal custodian other than DJJ or DFCS
808 willfully violates any order issued by the court directed to him or her:
809 (1) Require the parent, guardian, or legal custodian of the child to make restitution in an
810 amount not to exceed $2,500.00 for any damage or loss caused by the child's wrongful
811 act;
812 (2) Reimburse the state for the costs of detention, treatment, or rehabilitation of the child;
813 (3) Require the parent, guardian, or legal custodian of the child to participate in a court
814 approved educational or counseling program designed to contribute to the ability to
815 provide proper parental care and supervision of the child, including, but not limited to,
816 parenting classes; or
817 (4) Require the parent, guardian, or legal custodian of the child to enter into a contract
818 or plan as a part of the disposition of any charges against the child, so as to provide for
819 the supervision and control of the child by the parent, guardian, or legal custodian and
820 reunification with the child.

821 15-11-31.
822 (a) An order of the court shall be set aside if:
823 (1) It appears that it was obtained by fraud or mistake sufficient therefor in a civil action;
824 (2) The court lacked jurisdiction over a necessary party or of the subject matter; or
825 (3) Newly discovered evidence so requires.
826 (b) An order of the court may also be changed, modified, or vacated on the ground that
827 changed circumstances so require in the best interests of the child except an order of
828 dismissal following a contested adjudicatory hearing.
829 (c) An order committing a child to DJJ may only be modified after the child has been
830 transferred to DJJ custody upon motion of DJJ.
831 (d) Any party to the proceeding, the probation officer, or any other person having
832 supervision or legal custody of or an interest in the child may petition the court for the
833 relief provided in this Code section. Such petition shall set forth in clear and concise
834 language the grounds upon which the relief is requested.

835 (e) After such petition is filed, the court shall fix a time for hearing and shall cause notice
836 to be served on the parties to the proceeding or those affected by the relief sought. After
837 the hearing, the court shall deny or grant relief as the evidence warrants.

838 15-11-32.
839 (a) Whenever an order of disposition incorporates a reunification plan and the residence
840 of the parent is not in the county of the court with jurisdiction or the residence of the parent
841 changes to a county other than the county of the court with jurisdiction, the court may
842 transfer jurisdiction to the juvenile court of the residence of the parent to whom the
843 reunification plan is directed.
844 (b) Within 30 days of the filing of the transfer order, the transferring court shall provide
845 the receiving court with certified copies of the adjudication order, the order of disposition,
846 the order of transfer, the case plan, and any other court documents deemed necessary by
847 the sending court to enable the receiving court to assume jurisdiction over the matter.
848 (c) Compliance with this Code section shall terminate jurisdiction in the transferring court
849 and confer jurisdiction in the receiving court.

850 15-11-33.
851 A child shall not be committed to an adult correctional facility or other facility used
852 primarily for the execution of sentences of persons convicted of a crime; provided,
853 however, that upon reaching the age of 17 years, a person may be transferred to an adult
854 correctional facility.

855 15-11-34.
856 In all cases of final judgments of the juvenile court, appeals shall be taken to the Court of
857 Appeals or the Supreme Court in the same manner as appeals from the superior court.
858 However, no such judgment or order shall be superseded except in the discretion of the trial
859 court; rather, the judgment or order of the court shall stand until reversed or modified by
860 the reviewing court.

861 15-11-35.
862 (a) The following expenses shall be a charge upon the funds of the county upon
863 certification thereof by the court:
864 (1) The cost of medical and other examinations and treatment of a child ordered by the
865 court;

866 (2) The cost of care and support of a child committed by the court to the legal custody
867 of an individual or a public or private agency other than DJJ, but the court may order
868 supplemental payments, if such are necessary or desirable for services;
869 (3) Reasonable compensation for services and related expenses of an attorney appointed
870 by the court, when appointed by the court to represent the child and when appointed by
871 the court to conduct the proceedings;
872 (4) Reasonable compensation for a guardian ad litem;
873 (5) The expense of service of summons, notices, and subpoenas, travel expenses of
874 witnesses, transportation, subsistence, and detention of the child, and other like expenses
875 incurred in the proceedings under this chapter; and
876 (6) The cost of counseling and counsel and advice required or provided under the
877 provisions of Code Section 15-11-212 or 15-11-601.
878 (b) For a child not committed to the legal custody of DJJ, the county, upon certification
879 by the court, shall reimburse DJJ for reasonable and necessary expenses incurred for a
880 child's subsistence, detention, care, and other like expenses.
881 (c) If, after due notice to the parent or other person legally obligated to care for and
882 support the child and after affording such person an opportunity to be heard, the court finds
883 that such person is financially able to pay all or part of the costs and expenses outlined in
884 subsection (a) of this Code section, the court may order such person to pay the same and
885 prescribe the manner of payment. In addition, the court may order payment from the parent
886 or other legally obligated person or entity to reimburse all or part of the costs and expenses
887 of the department or DJJ for treatment, care, and support of the child. Unless otherwise
888 ordered, payment shall be made to the clerk of the court for remittance to the person or
889 agency, including the department or DJJ, to whom compensation is due or, if the costs and
890 expenses have been paid by the county, to the appropriate officer of the county.

891 15-11-36.
892 (a) The court may collect supervision fees from those who are placed under the court's
893 formal or informal supervision in order that the court may use those fees to expand the
894 provision of the following types of ancillary services:
895 (1) Housing in nonsecure facilities;
896 (2) Educational services, tutorial services, or both;
897 (3) Counseling and diagnostic testing;
898 (4) Mediation;
899 (5) Transportation to and from court ordered services;
900 (6) Truancy intervention services;
901 (7) Restitution programs;

902 (8) Job development or work experience programs;
903 (9) Community services; and
904 (10) Any other additional programs or services needed to meet the best interests,
905 development, and rehabilitation of the child.
906 (b) The juvenile court may order each delinquent child or child in need of services who
907 receives supervision to pay to the clerk of the court:
908 (1) An initial court supervision user's fee of not less than $10.00 nor more than $200.00;
909 and
910 (2) A court supervision user's fee of not less than $2.00 nor more than $30.00 for each
911 month that the child receives supervision.
912 The child and each parent, guardian, or legal custodian of the child may be jointly and
913 severally liable for the payment of such fee and shall be subject to the enforcement
914 procedure in subsection (c) of Code Section 15-11-135. The judge shall provide that any
915 such fees shall be imposed on such terms and conditions as shall assure that the funds for
916 the payment are from moneys earned by the child. All moneys collected by the clerk under
917 this subsection shall be transferred to the county treasurer, or such other county official or
918 employee who performs duties previously performed by the treasurer, who shall deposit
919 the moneys into a county supplemental juvenile services fund. The governing authority of
920 the county shall appropriate moneys from the county supplemental juvenile services fund
921 to the juvenile court for the court's discretionary use in providing supplemental community
922 based services described in subsection (a) of this Code section to child offenders. These
923 funds shall be administered by the county and the court may draw upon them by submitting
924 invoices to the county. The county supplemental juvenile services fund may be used only
925 for these services. Any moneys remaining in the fund at the end of the county fiscal year
926 shall not revert to any other fund but shall continue in the county supplemental juvenile
927 services fund. The county supplemental juvenile services fund may not be used to replace
928 other funding of services.
929 (c) The clerk of the court shall be responsible for collections of fees as ordered by the
930 court.
931 (d) For the purpose of this Code section, the term 'guardian' or 'legal custodian' shall not
932 be interpreted or construed to include the department or DJJ.

933 15-11-37.
934 (a) Any court may order the establishment of a community based risk reduction program,
935 within the geographical jurisdiction of the court, for the purpose of utilizing available
936 community resources in assessment and intervention in cases of delinquency, deprivation,
937 or children in need of services. Subject to the procedures, requirements, and supervision

938 established in the order creating such program, any individual and any public or private
939 agency or entity may participate in the program.
940 (b) As part of a risk reduction program, a court may implement or adopt an early
941 intervention program designed to identify children and families who are at risk of
942 becoming involved with the court. Such early intervention program shall be for the
943 purpose of developing and implementing intervention actions or plans to divert the children
944 and their families from becoming involved in future cases in the court. The court's
945 involvement shall be for the limited purpose of facilitating the development of the program
946 and for the purpose of protecting the confidentiality of the children and families
947 participating in the program.
948 (c) As part of an early intervention program, the court may enter into protocol agreements
949 with school systems within the court's jurisdiction, the county department of family and
950 children services, the county department of health, DJJ, any state or local department or
951 agency, any mental health agency or institution, local physicians or health care providers,
952 licensed counselors and social workers, and any other social service, charitable, or other
953 entity or any other agency or individual providing educational or treatment services to
954 families and children within the jurisdiction of the court. Such protocol agreements shall
955 authorize the exchange of confidential information in the same manner and subject to the
956 same restrictions, conditions, and penalties as provided in Code Section 15-11-39.
957 (d) When any agency or entity participating in a protocol agreement identifies a child who
958 is at risk of becoming delinquent, deprived, or a child in need of services, the agency or
959 entity shall refer the case to a multiagency staffing panel. The panel shall develop a
960 multiagency intervention plan for the child. The child or the parent, or both, may be
961 present during any review of the child's case by the panel. The parent, guardian, or legal
962 custodian of the child shall be notified of the plan by the agency making the referral or by
963 a person or entity designated by the panel to administer the program. The staff of the court,
964 but not the judge, shall work with the other agencies involved to educate the parent and the
965 child on the importance of following the plan and on the consequences if either the parent
966 or the child is referred to the court. If an intervention plan is developed for a child and the
967 parent, guardian, or legal custodian consents to the plan, the failure to comply with the plan
968 or any portion thereof may constitute the basis for a referral to DFCS.

969 15-11-38.
970 (a) In any jurisdiction within which a risk reduction program has been established, when
971 a child comes before the court for disposition, the court may order that an assessment be
972 made of the child and the circumstances resulting in the child being before the court.

973 (b) The assessment shall be developed by assembling existing information and
974 individualized plans of the agencies involved in providing services to the child and his or
975 her parent, guardian, or legal custodian. If the assessment demonstrates a need for a case
976 plan, the court may order that a case plan be developed by a panel representing community
977 agencies as authorized by the court. The case plan shall contain the proposed actions and
978 alternatives for the proper and efficient use of available community resources to assist the
979 child.
980 (c) The case plan shall be served on the child and the child's parent, guardian, or legal
981 custodian. The case plan shall also include a cover letter which contains the following
982 information:
983 (1) Sources to explain the process, procedures, and penalties for not responding to the
984 court order in the prescribed time frame; and
985 (2) The deadline for responding to the court order and stating objections to the case plan
986 or any portion thereof is ten days from the date of service.
987 (d) If no objection is made or if the child, parent, guardian, or legal custodian consents to
988 the case plan, the case plan shall be incorporated into and made a part of the disposition
989 order entered in the case by entry of a supplemental order. The case plan may be modified
990 by the court at any time the child is under the jurisdiction of the court.
991 (e) If a child or a parent, guardian, or legal custodian objects to the case plan, the court
992 shall conduct a hearing. The court may decline to adopt the case plan or may confirm or
993 modify the case plan. In implementing a case plan, the court shall have available all of the
994 protective powers set forth in Code Section 15-11-28, without the necessity of a show
995 cause hearing, unless objection is made to the case plan.

996 15-11-39.
997 (a) Notwithstanding any provision contained in this chapter or in any rule or regulation
998 adopted by any department, board, or agency of the state to the contrary, the court and any
999 individual, public or private agency, or other entity participating in a community based risk
1000 reduction program may exchange, as necessary, information, medical records, school
1001 records, records of adjudication, treatment records, and any other records or information
1002 which may aid in the assessment of and intervention with the children and families in the
1003 program if such exchange of information is ordered by the court or consented to by the
1004 parties. Such information shall be used by such individuals and agencies only for the
1005 purposes provided in this chapter and as authorized by the court for the purpose of
1006 implementing the case plan and for the purposes permitted under each agency's own rules
1007 and regulations. Such information shall not be released to any other individual or agency
1008 except as may be necessary to effect the appropriate treatment or intervention as provided

in the case plan. Such information shall otherwise remain confidential as required by state and federal law and the court may punish any violations of confidentiality as contempt of court.

(b) Any person who authorizes or permits any unauthorized person or agency to have access to confidential records or reports of child abuse shall be guilty of a misdemeanor. Any person who knowingly and under false pretenses obtains or attempts to obtain confidential records or reports of child abuse or information contained therein shall be guilty of a misdemeanor.

(c) Confidential records or reports of child abuse and information obtained from such records may not be made a part of any record which is open to the public except that a prosecuting attorney may use and make public that record or information in the course of any criminal prosecution for any offense which constitutes or results from child abuse.

(d) This Code section shall not abridge the provisions relating to confidentiality of patient or client records and shall not serve to destroy or in any way abridge the confidential or privileged character thereof.

ARTICLE 2

15-11-50.

(a) There is created a juvenile court in every county in the state.

(b) Except where election is provided by local law, the judge or a majority of the judges of the superior court in each circuit in the state may appoint one or more qualified persons as judge of the juvenile courts of the circuit. Such superior court judge or judges shall establish the total number of circuit-wide juvenile court judges and shall establish whether the judge or judges shall be full time or part time, or a combination of full time and part time. Each circuit-wide judge appointed will have the authority to act as judge of each juvenile court in each county of the circuit.

(c) If no person is appointed as a juvenile court judge for a circuit, then a superior court judge of the circuit shall as part of the duties of the superior court judge assume the duties of the juvenile court judge in all counties in the circuit in which a separate juvenile court judgeship has not been established.

(d) All juvenile court judgeships established on or before October 1, 2000, their methods of compensation, selection, and operation shall continue until such time as one or more circuit-wide juvenile court judges are appointed. However, in any circuit where a superior court judge assumes the duties of the juvenile court judge, such circuit shall not be entitled to the state funds provided for in Code Section 15-11-52.

1043 (e) When one or more circuit-wide juvenile court judges are appointed or elected, any
1044 juvenile court judge in office at that time shall be authorized to fulfill his or her term of
1045 office. The jurisdiction of each judge shall be circuit wide.
1046 (f) After the initial appointments and prior to any subsequent appointment or
1047 reappointment of any part-time or full-time juvenile court judge, the judge or judges
1048 responsible for making the appointment shall publish notice of the vacancy of the juvenile
1049 court judgeship once a month for three months prior to such appointment or reappointment.
1050 Such notice shall be published in the official legal organ of each of the counties in the
1051 circuit where the juvenile court judge has venue. The expense of such publication shall be
1052 paid by the county governing authority in the county where such notice is published.
1053 (g) In the event that more than one juvenile court judge is appointed, one judge shall be
1054 designated presiding judge.
1055 (h) In any case in which action under this Code section is to be taken by a superior court
1056 judge of the circuit, such action shall be taken as follows:
1057 (1) Where there are one or two superior court judges, such action shall be taken by the
1058 chief judge of the circuit; and
1059 (2) Where there are more than two superior court judges, such action shall be taken by
1060 a majority vote of the judges of the circuit.

1061 15-11-51.
1062 (a) No person shall be judge of the juvenile court unless, at the time of his or her
1063 appointment, he or she has attained the age of 30 years, has been a citizen of the state for
1064 three years, is a member of the State Bar of Georgia, and has practiced law for five years.
1065 (b) A juvenile court judge shall be eligible for reappointment or election.

1066 15-11-52.
1067 (a) Each appointed juvenile court judge shall serve for a term of four years.
1068 (b) The compensation of the full-time or part-time juvenile court judges shall be set by the
1069 superior court with the approval of the governing authority or governing authorities of the
1070 county or counties for which the juvenile court judge is appointed.
1071 (c) Out of funds appropriated to the judicial branch of government, the state shall
1072 contribute toward the salary of the judges on a per circuit basis in the following amounts:
1073 (1) Each circuit with one or more juvenile court judges who are not superior court judges
1074 assuming the duties of juvenile court judges shall receive a state base grant of
1075 $85,000.00;
1076 (2) In addition to this base amount, each circuit which has more than four superior court
1077 judges is eligible for additional state grants. For each superior court judge who exceeds

1078 the base of four judges, the circuit shall be eligible for an additional grant in an amount
1079 equal to one-fourth of the base amount of the state grant;
1080 (3) In circuits where the superior court judges elect to use the state grant for one or more
1081 part-time judges, the amount of the state grant shall be as follows:
1082 (A) For each part-time judge who works one day weekly. $17,000.00
1083 (B) For each part-time judge who works two days weekly. 34,000.00
1084 (C) For each part-time judge who works three days weekly. 51,000.00
1085 (D) For each part-time judge who works four days weekly. 68,000.00;
1086 provided, however, that a grant for one or more part-time judges shall not exceed the
1087 amount the circuit is eligible for in accordance with paragraphs (1) and (2) of this
1088 subsection; and
1089 (4) All state grants provided by this subsection shall be spent solely on salaries for
1090 juvenile court judges and shall not be used for any other purposes.

1091 15-11-53.
1092 (a) It shall be unlawful for any full-time juvenile court judge to engage in any practice of
1093 law outside his or her role as a juvenile court judge.
1094 (b) It shall be unlawful for a part-time judge of any juvenile court to engage directly or
1095 indirectly in the practice of law in his or her own name or in the name of another as a
1096 partner in any manner in any case, proceeding, or matter of any kind in the court to which
1097 he or she is assigned or in any other court in any case, proceeding, or any other matters of
1098 which it has pending jurisdiction or has had jurisdiction.
1099 (c) It shall be unlawful for any juvenile court judge, full time or part time, to give advice
1100 or counsel to any person on any matter of any kind whatsoever which has arisen directly
1101 or indirectly in court, except such advice or counsel as a judge is called upon to give while
1102 performing the duties of a juvenile court judge.

1103 15-11-54.
1104 (a) Each juvenile court shall be assigned and attached to the superior court of the county
1105 for administrative purposes.
1106 (b) The governing authority of the county of residence of each juvenile court judge shall
1107 offer the juvenile court judge insurance benefits and any other benefits except retirement
1108 or pension benefits equivalent to those offered to employees of the county, with a right to
1109 contribution from other counties in the circuit for a pro rata contribution toward the costs
1110 of such benefits, based on county population. Counties shall continue to provide
1111 membership in retirement plans available to county employees for any juvenile court judge

1112 in office before July 1, 1998, who did not become a member of the Georgia Judicial
1113 Retirement System provided by Chapter 23 of Title 47.
1114 (c) Except for state base grants provided by Code Section 15-11-52, all expenditures of the
1115 court are declared to be an expense of the court and payable out of the county treasury with
1116 the approval of the governing authority or governing authorities of the county or counties
1117 for which the juvenile court judge is appointed.

1118 15-11-55.
1119 (a) To the extent that the provisions of this article conflict with a local constitutional
1120 amendment authorizing the election of a juvenile court judge and with the provisions of a
1121 local Act authorized by such local constitutional amendment to provide for the term of
1122 office, vacancies in office, qualifications, compensation, and full-time or part-time status
1123 of a juvenile court judge or judges, the provisions of such local constitutional amendment
1124 and such local Act shall govern.
1125 (b) The state grants provided by Code Section 15-11-52 shall be provided to any circuit
1126 encompassing a juvenile court governed by the provisions of a local constitutional
1127 amendment and a local Act in the same manner as other circuits, except that, in any circuit
1128 with one or more elected juvenile court judges, the elected juvenile court judge who is
1129 senior in duration of service as a juvenile court judge shall establish, subject to other
1130 applicable provisions of law, the total number of circuit-wide juvenile court judges,
1131 whether the judge or judges shall be full time or part time or a combination of full time and
1132 part time, and the compensation of any part time juvenile court judge or judges.

1133 15-11-56.
1134 (a) No person who is serving as a full-time juvenile court judge shall at the same time hold
1135 the office of judge of any other class of court of this state.
1136 (b) No person serving as a juvenile court judge after being elected juvenile court judge
1137 pursuant to a local law authorized by a constitutional amendment shall at the same time
1138 hold the office of judge of any other class of court of this state.
1139 (c) Nothing in this Code section shall prevent any duly appointed or elected juvenile court
1140 judge from sitting by designation as a superior court judge pursuant to Code Section
1141 15-1-9.1.

1142 15-11-57.
1143 (a) Whenever a juvenile court judge is appointed it shall be the duty of the clerk of the
1144 superior court to forward to the Secretary of State and to the Council of Juvenile Court
1145 Judges a certified copy of the order of appointment. The order of appointment shall set out

1146 the name of the person appointed, the term of office, the effective date of the appointment,
1147 the name of the person being succeeded, if any, and whether the office was vacated by
1148 resignation, death, or otherwise. Upon receipt of such order, the Secretary of State shall
1149 issue a commission as for superior court judges.
1150 (b) Whenever an associate juvenile court judge is appointed to serve in a juvenile court,
1151 the clerk of the juvenile court shall forward a certified copy of the order of appointment to
1152 the Council of Juvenile Court Judges.

1153 15-11-58.
1154 (a) All of the judges and associate judges of the courts exercising jurisdiction over children
1155 shall constitute a Council of Juvenile Court Judges. The council shall annually elect from
1156 among its members a judge to serve as presiding judge and chairperson of the council.
1157 (b) The Council of Juvenile Court Judges:
1158 (1) Shall meet at stated times to be fixed by it or on call of the chairperson;
1159 (2) May establish general policies for the conduct of courts exercising jurisdiction over
1160 children;
1161 (3) May promulgate uniform rules and forms governing procedures and practices of the
1162 courts;
1163 (4) Shall publish an annual report of the work of the courts exercising jurisdiction over
1164 children, which shall include statistical and other data on the courts' work and services,
1165 research studies the council may make of the problems of children and families dealt with
1166 by the courts, and any recommendations for legislation; and
1167 (5) Shall be authorized to inspect and copy records of the courts, law enforcement
1168 agencies, the department, and DJJ for the purpose of compiling statistical data on
1169 children.
1170 (c) Subject to the approval of the Council of Juvenile Court Judges, the presiding judge
1171 of the council shall appoint a chief administrative and executive officer for the Council of
1172 Juvenile Court Judges who shall have the title of director of the Council of Juvenile Court
1173 Judges. Under the general supervision of the presiding judge of the council and within the
1174 policies established by the Council of Juvenile Court Judges, the director shall:
1175 (1) Provide consultation to the courts regarding the administration of court services and
1176 the recruitment and training of personnel;
1177 (2) Make recommendations to the Council of Juvenile Court Judges for improvement in
1178 court services;
1179 (3) With the approval of the presiding judge, appoint consultants and necessary clerical
1180 personnel to perform the duties assigned to the Council of Juvenile Court Judges and the
1181 director;

1182 (4) Collect necessary statistics and prepare an annual report of the work of the courts;
1183 (5) Promulgate in cooperation with DJJ standard procedures for coordinating state and
1184 local probation services throughout the state; and
1185 (6) Perform such other duties as the presiding judge of the council shall specify.

1186 15-11-59.
1187 (a) The Council of Juvenile Court Judges, in conjunction with the Institute of Continuing
1188 Judicial Education of Georgia, shall establish seminars for all judges and associate juvenile
1189 court judges exercising juvenile court jurisdiction and may make provisions relative to such
1190 seminars by court rules properly adopted.
1191 (b) Seminars shall offer instruction and training in juvenile law and procedure, child
1192 development and psychology, sociological theories relative to delinquency and breakdown
1193 of the family structure, and such other training and activities as the Council of Juvenile
1194 Court Judges may determine would promote the quality of justice in the juvenile court
1195 system.
1196 (c) Expenses of administration of seminar programs and actual expenses incurred by the
1197 judges or associate juvenile court judges in attending such seminars shall be paid from state
1198 funds appropriated for the Council of Juvenile Court Judges for such purpose, from federal
1199 funds available to the Council of Juvenile Court Judges for such purpose, or from other
1200 appropriate sources. Expenses for judges and associate juvenile court judges shall not
1201 exceed the allowances allowed members of the General Assembly.
1202 (d) Each judge and associate juvenile court judge exercising juvenile jurisdiction shall
1203 receive training appropriate to the role and participate in at least 12 hours of continuing
1204 legal education or continuing judicial education established or approved by the Council of
1205 Juvenile Court Judges each year and meet such rules as established by the Council of
1206 Juvenile Court Judges pertaining to such training. Superior court judges may meet this
1207 requirement by attending seminars held in conjunction with the seminars for superior court
1208 judges provided by the Institute of Continuing Judicial Education of Georgia. Judges and
1209 associate juvenile court judges shall not exercise juvenile court jurisdiction unless the
1210 Council of Juvenile Court Judges certifies that annual training has been accomplished or
1211 unless the judge is in the first year of his or her initial appointment; provided, however, that
1212 the Council of Juvenile Court Judges may in hardship cases extend deadlines for
1213 compliance with this Code section.

1214 15-11-60.
1215 (a) A judge may appoint one or more persons to serve as associate juvenile court judges
1216 in juvenile matters on a full-time or part-time basis. The associate juvenile court judge

1217 shall serve at the pleasure of the judge, and his or her salary shall be fixed by the judge
1218 with the approval of the governing authority or governing authorities of the county or
1219 counties for which the associate juvenile court judge is appointed. The salary of each
1220 associate juvenile court judge shall be paid from county funds.
1221 (b) Each associate juvenile court judge shall have the same qualifications as required for
1222 a judge of the juvenile court as provided in Code Section 15-11-51; provided, however, that
1223 any person serving as an associate juvenile court judge on July 1, 2011, shall be qualified
1224 for appointment thereafter to serve as an associate juvenile court judge.

1225 15-11-61.
1226 (a) The judge may appoint one or more persons to serve at the pleasure of the judge as
1227 associate juvenile court traffic judges on a full-time or part-time basis.
1228 (b) An associate juvenile court traffic judge shall be a member of the State Bar of Georgia.
1229 (c) The compensation of associate juvenile court traffic judges shall be fixed by the judge
1230 with the approval of the governing authority of the county and shall be paid in equal
1231 monthly installments from county funds, unless otherwise provided by law.

1232 15-11-62.
1233 (a) In the event of the disqualification, illness, or absence of the judge of the juvenile
1234 court, the judge of the juvenile court may appoint any member of the State Bar of Georgia
1235 who is resident in the judicial circuit in which the court lies and has practiced law for five
1236 years, any judge or senior judge of the superior courts, or any duly appointed juvenile court
1237 judge to serve as judge pro tempore of the juvenile court. In the event the judge of the
1238 juvenile court is absent or unable to make such appointment, the judge of the superior court
1239 of that county may so appoint.
1240 (b) The person appointed shall have the authority to preside in the stead of the disqualified,
1241 ill, or absent judge and shall be paid from the county treasury such emolument as the
1242 appointing judge shall prescribe; provided, however, that the emolument shall not exceed
1243 the compensation received by the regular juvenile court judge for such services.

1244 15-11-63.
1245 (a) The judge of the juvenile court shall have the authority to appoint clerks and any other
1246 personnel necessary for the execution of the purposes of this chapter.
1247 (b) The salary, tenure, compensation, and all other conditions of employment of such
1248 employees shall be fixed by the judge, with the approval of the governing authority of the
1249 county. The salaries of the employees shall be paid out of county funds.

1250 (c) Any employee of the court may be removed for cause by the judge of the court, the
1251 reasons therefor to be assigned in writing.

1252 15-11-64.
1253 (a) Any person who is appointed as or is performing the duties of a clerk of the juvenile
1254 court shall satisfactorily complete 20 hours of training in the performance of the duties of
1255 a clerk of the juvenile court within the first 12 months following such appointment or the
1256 first performance of such duties.
1257 (b) In each year after the initial appointment, any person who is appointed as or is
1258 performing the duties of a clerk of the juvenile court shall satisfactorily complete in that
1259 year 12 hours of additional training in the performance of such person's duties as clerk.
1260 (c) Training pursuant to this Code section shall be provided by the Institute of Continuing
1261 Judicial Education of Georgia. Upon satisfactory completion of such training, a certificate
1262 issued by the institute shall be placed into the minutes of the juvenile court record in the
1263 county in which such person serves as a clerk of the juvenile court. All reasonable
1264 expenses of such training including, but not limited to, any tuition fixed by such institution
1265 shall be paid from county funds by the governing authority of the county for which the
1266 person serves as a clerk of the juvenile court, unless funding is provided from other
1267 sources.
1268 (d) A judge of the juvenile court shall appoint a clerk pro tempore for that court in order
1269 for the regular clerk to attend required training. Such clerk pro tempore shall not be
1270 required to meet the training requirements for performing the clerk's duties.
1271 (e) The provisions of this Code section shall not apply to clerks of juvenile courts who also
1272 act as clerks of superior courts and who already have mandatory training requirements in
1273 such capacity.

1274 15-11-65.
1275 (a) The judge may appoint one or more probation and intake officers.
1276 (b) The salaries of the probation and intake officers shall be fixed by the judge with the
1277 approval of the governing authority of the county or counties for which he or she is
1278 appointed and shall be payable from county funds.

1279 15-11-66.
1280 (a) A county juvenile probation officer or DJJ staff member serving as a juvenile probation
1281 officer:
1282 (1) Shall make investigations, reports, and recommendations to the court as directed by
1283 this chapter;

(2) Shall supervise and assist a child placed on probation or under the protective supervision or care of such probation officer by order of the court or other authority of law;

(3) Shall make appropriate referrals to other private or public agencies of the community if such assistance appears to be needed or desirable;

(4) May take into custody and detain a child who is under the supervision or care of such probation officer if the probation officer has reasonable cause to believe that the child's health or safety or that of another is in imminent danger, or that the child may abscond or be removed from the jurisdiction of the court, or when so ordered by the court pursuant to this chapter;

(5) May not conduct accusatory proceedings against a child who is or may be under such probation officer's care or supervision;

(6) May not perform duties in support of the prosecuting attorney;

(7) Shall perform all other functions designated by this chapter or by order of the court pursuant thereto. Any of the functions specified in this Code section may be performed in another state if authorized by the court located in this state and permitted by the laws of the other state; and

(8) Other laws to the contrary notwithstanding, no county juvenile probation officer or DJJ staff serving as probation officer shall be liable for the acts of a child not detained or taken into custody when, in the judgment of such officer, such detention or custody is not warranted.

(b) Notwithstanding subsection (a) of this Code section, DJJ, as the primary employer, shall maintain sole authority over the duties and responsibilities of all DJJ staff members serving as probation officers.

15-11-67.

(a) A county juvenile intake officer or DJJ staff member serving as intake officer:

(1) Shall receive and examine complaints and charges of delinquency, deprivation, or that a child is in need of services for the purpose of considering the commencement of proceedings under this chapter;

(2) Shall make appropriate referrals to other private or public agencies of the community if such assistance appears to be needed or desirable;

(3) Shall compile on a regular basis the case files or a report on those cases that were informally adjusted for review by the judge;

(4) May not conduct accusatory proceedings against a child or perform duties in support of the prosecuting attorney;

1319 (5) Shall perform all other functions designated by this chapter or by order of the court
1320 pursuant thereto; and
1321 (6) Except as provided in Article I, Section II, Paragraph IX(d) of the Constitution of this
1322 state, no county juvenile intake officer, or DJJ staff member serving as juvenile intake
1323 officer shall be liable for the acts of a child not detained or taken into custody when, in
1324 the judgment of such officer, such detention or custody is not warranted.
1325 (b) Notwithstanding subsection (a) of this Code section, DJJ, as the primary employer,
1326 shall maintain sole authority over the duties and responsibilities of all DJJ staff members
1327 serving as intake officers.

1328 15-11-68.
1329 (a) The intake and probation services of the juvenile court of each county may be
1330 transferred to and become a part of the state-wide juvenile and intake services and be fully
1331 funded through DJJ. The intake and probation employees of juvenile courts of those
1332 counties whose intake and probation services are transferred pursuant to this Code section
1333 shall become DJJ employees on the date of such transfer and on and after that date such
1334 employees shall be subject to the salary schedules and other DJJ personnel policies, except
1335 that the salaries of such employees shall not be reduced as a result of becoming DJJ
1336 employees.
1337 (b) The intake and probation services of the juvenile court of a county may be transferred
1338 to DJJ by local Act of the General Assembly which approves such transfer.
1339 (c) Persons who were probation and intake employees of the juvenile court of a county on
1340 June 30, 1996, but who were transferred as probation and intake employees to and became
1341 a part of the state-wide juvenile and intake services system fully funded through DJJ before
1342 January 1, 1999, shall be covered employees in the classified service of the state merit
1343 system.

1344 ARTICLE 3
1345 Part 1

1346 15-11-100.
1347 The purpose of this article is:
1348 (1) To assist and protect children whose physical or mental health and welfare is
1349 substantially at risk of harm from abuse, neglect, or exploitation and who may be further
1350 threatened by the conduct of others by providing for the resolution of deprivation
1351 proceedings in juvenile court;

1352 (2) To ensure that deprivation proceedings are conducted expeditiously to avoid delays
1353 in permanency plans for children;
1354 (3) To provide the greatest protection as promptly as possible for children; and
1355 (4) To ensure that the health, safety, and best interests of the child be the paramount
1356 concern in all deprivation proceedings.

1357 15-11-101.
1358 (a) If necessary, the investigator of a report of child abuse and neglect may apply to the
1359 court for certain medical examinations and evaluations of a child or other children in the
1360 household.
1361 (b) Upon a showing of probable cause in an affidavit executed by the applicant, the court
1362 may order a physical examination and evaluation of a child or other children in the
1363 household by a physician. Such order may be granted ex parte.
1364 (c) Upon a showing of probable cause in an affidavit executed by the applicant and after
1365 a hearing, the court may order a psychological or psychiatric examination and evaluation
1366 of a child or other children in the household by a psychologist, psychiatrist, or other
1367 licensed mental health professional.
1368 (d) Upon a showing of probable cause in an affidavit executed by the applicant and after
1369 a hearing, the court may order a forensic examination and evaluation of a child or other
1370 children in the household by a psychologist, psychiatrist, or other licensed mental health
1371 professional.
1372 (e) Upon a showing of probable cause in an affidavit executed by the applicant and after
1373 a hearing, the court may order a physical, psychological, or psychiatric examination of a
1374 child's parent, guardian, or legal custodian.

1375 15-11-102.
1376 (a) The preliminary protective hearing shall be held promptly and no later than 72 hours
1377 after a child is placed in eligible shelter care, provided that, if the 72 hour time frame
1378 expires on a weekend or legal holiday, such hearing shall be held on the next day which is
1379 not a weekend or legal holiday.
1380 (b) If a child was never taken into protective custody or is released from eligible shelter
1381 care at the preliminary protective hearing, the following time frames apply:
1382 (1) The petition for deprivation shall be filed within 30 days of the child's release;
1383 (2) Summons shall be served at least 72 hours before the adjudication hearing;
1384 (3) The adjudication hearing shall be held no later than 60 days after the filing of the
1385 petition for deprivation; and

1386 (4) If the dispositional hearing is not held in conjunction with the adjudication hearing,
1387 it shall be held and completed within 30 days after the conclusion of the adjudication
1388 hearing.
1389 (c) If a child is not released from eligible shelter care at the preliminary protective hearing,
1390 the following time frames apply:
1391 (1) The petition for deprivation shall be filed within five days of the preliminary
1392 protective hearing;
1393 (2) Summons shall be served at least 72 hours before the adjudication hearing;
1394 (3) The adjudication hearing shall be held no later than ten days after the filing of the
1395 petition;
1396 (4) DFCS shall submit to the court its written report within 30 days of the date a child
1397 who is placed in the custody of DFCS is removed from the home and at each subsequent
1398 review of the disposition order. If the DFCS report does not contain a plan for
1399 reunification services, the nonreunification hearing shall be held no later than 30 days
1400 from the time the report is filed; and
1401 (5) If the dispositional hearing is not held in conjunction with the adjudication hearing,
1402 it shall be held and completed within 30 days after the conclusion of the adjudication
1403 hearing.
1404 (d) An initial periodic review hearing shall be held within 75 days following a child's
1405 removal from his or her home. An additional periodic review shall be held within four
1406 months following such initial review.
1407 (e) Permanency plan hearings shall be held no later than 30 days after DFCS has submitted
1408 a written report to the court which does not provide a plan for reunification services or:
1409 (1) For children under seven years of age at the time a petition for deprivation is filed,
1410 no later than nine months after the child is considered to have entered foster care,
1411 whichever comes first. Thereafter a permanency plan hearing shall be held every six
1412 months while the child continues in DFCS custody or more frequently as deemed
1413 necessary by the court until the court determines that the child's permanency plan and
1414 goal have been achieved; and
1415 (2) For children seven years of age and older at the time a petition is filed, no later than
1416 12 months after the child is considered to have entered foster care, whichever comes first.
1417 Thereafter a permanency plan hearing shall be held every six months while the child
1418 continues in DFCS custody or more frequently as deemed necessary by the court until the
1419 court determines that the child's permanency plan and goal have been achieved.
1420 (f) A supplemental order of the court adopting a child's permanency plan shall be entered
1421 within 30 days after the court has determined that reunification efforts need not be made
1422 by DFCS.

1423 15-11-103.

1424 (a) The child and any other party to a proceeding under this article shall have the right to
1425 a qualified and independent attorney at all stages of the proceedings under this article.

1426 (b) The court shall appoint an attorney for a child alleged to be deprived. The appointment
1427 shall be made as soon as practicable to ensure adequate representation of such child and,
1428 in any event, before the first court hearing that may substantially affect the interests of such
1429 child.

1430 (c) A child's attorney owes to the child the duties imposed by the law of this state in an
1431 attorney-client relationship.

1432 (d) A child's attorney shall not serve as guardian ad litem in a proceeding involving the
1433 child.

1434 (e) Before an attorney may be appointed to represent a child, he or she shall have received
1435 training appropriate to the role that is administered or approved by the Office of the Child
1436 Advocate for the Protection of Children. Preappointment training shall be satisfied within
1437 an attorney's existing continuing legal education obligations and shall not require the
1438 attorney to complete additional training hours in addition to the hours currently required
1439 by the State Bar of Georgia.

1440 (f) If an attorney has been appointed to represent a child in a prior proceeding under this
1441 chapter, the court, when possible, shall appoint the same attorney to represent the child in
1442 any subsequent proceeding.

1443 (g) An attorney appointed to represent a child in a deprivation proceeding shall continue
1444 the representation in any subsequent appeals unless excused by the court.

1445 (h) Neither a child nor a representative of a child may waive a child's right to an attorney
1446 in a deprivation proceeding.

1447 (i) A party other than a child shall be informed of his or her right to an attorney prior to
1448 any hearing. A party other than a child shall be given an opportunity to:

1449 (1) Obtain and employ an attorney of the party's own choice;

1450 (2) Obtain a court appointed attorney if the court determines that the party is indigent;
1451 or

1452 (3) Waive the right to an attorney.

1453 15-11-104.

1454 (a) If a court determines that a guardian ad litem is necessary to assist the court in
1455 determining the best interests of the child, the court shall appoint a guardian ad litem for
1456 a child alleged to be deprived:

1457 (1) At the request of the child's attorney;

1458 (2) On the court's own motion; or

1459 (3) On motion by any party.
1460 (b) A party to the proceeding, the employee or representative of a party to the proceeding,
1461 or any other individual with a conflict of interest shall not be appointed as guardian ad
1462 litem.
1463 (c) A court shall appoint a court appointed special advocate (CASA) to act as guardian ad
1464 litem whenever possible.
1465 (d) An attorney appointed as a guardian ad litem may only take those actions that may be
1466 taken by a guardian ad litem who is not an attorney.
1467 (e) A lay guardian shall not engage in activities which could reasonably be construed as
1468 the practice of law.
1469 (f) Before the appointment as a guardian ad litem, such person shall have received training
1470 appropriate to the role as guardian ad litem which is administered or approved by the
1471 Office of the Child Advocate for the Protection of Children. For attorneys, preappointment
1472 guardian ad litem training shall be satisfied within the attorney's existing continuing legal
1473 education obligations and shall not require the attorney to complete additional training
1474 hours in addition to the hours currently required by the State Bar of Georgia.
1475 (g) Any volunteer guardian ad litem authorized and acting in good faith, in the absence of
1476 fraud or malice, and in accordance with the duties required by this Code section or Code
1477 Section 15-11-106, shall have immunity from any liability, civil or criminal, that might
1478 otherwise be incurred or imposed as a result of taking or failing to take any action pursuant
1479 to this Code section or Code Section 15-11-106.
1480 (h) The court may remove a guardian ad litem from a case upon finding that the guardian
1481 ad litem acted in a manner contrary to a child's best interests, has not appropriately
1482 participated in the case, or if the court otherwise deems continued service as unwanted or
1483 unnecessary.

1484 15-11-105.
1485 (a) A guardian ad litem shall advocate for a child's best interests in the proceeding for
1486 which the guardian ad litem has been appointed.
1487 (b) In determining the child's best interests, a guardian ad litem shall consider and evaluate
1488 all of the factors affecting the best interests of the child in the context of a child's age and
1489 developmental needs. Such factors shall include:
1490 (1) The physical safety and welfare of the child, including food, shelter, health, and
1491 clothing;
1492 (2) The mental and physical health of all individuals involved;
1493 (3) Evidence of domestic violence;
1494 (4) A child's background and ties, including familial, cultural, and religious;

1495 (5) A child's sense of attachments, including a child's sense of security, a child's sense
1496 of familiarity, and continuity of affection for the child;
1497 (6) The least disruptive placement alternative for a child;
1498 (7) A child's wishes and long-term goals;
1499 (8) A child's community ties, including church, school, and friends;
1500 (9) A child's need for permanence which includes the child's need for stability and
1501 continuity of relationships with a parent, siblings, and other relatives;
1502 (10) The uniqueness of every family and child;
1503 (11) The risks attendant to entering and being in substitute care;
1504 (12) The preferences of the persons available to care for the child; and
1505 (13) Any other factors considered by the guardian ad litem to be relevant and proper to
1506 his or her determination.
1507 (c) Unless a child's circumstances render the following duties and responsibilities
1508 unreasonable, a guardian ad litem shall at a minimum:
1509 (1) In a manner appropriate to a child's developmental level, maintain regular and
1510 sufficient in-person contact with the child, meet with and interview the child prior to
1511 custody hearings, adjudication hearings, disposition hearings, judicial reviews, and any
1512 other hearings scheduled in accordance with the provisions of this chapter;
1513 (2) In a manner appropriate to the child's developmental level, ascertain the child's needs,
1514 circumstances, and views;
1515 (3) Conduct an independent assessment to determine the facts and circumstances
1516 surrounding the case;
1517 (4) Consult with the child's attorney regarding the issues in the proceeding;
1518 (5) Communicate with health care, mental health care, and other professionals involved
1519 with the child's case;
1520 (6) Review educational, medical, and psychological reports relating to the child and the
1521 respondents;
1522 (7) Review all court related documents;
1523 (8) Attend all court hearings and other proceedings to advocate for the child's best
1524 interests;
1525 (9) Advocate for timely court hearings to obtain permanency for the child;
1526 (10) Protect the cultural needs of the child;
1527 (11) Contact the child prior to any proposed change in the child's placement;
1528 (12) Contact the child after changes in the child's placement;
1529 (13) Attend citizen panel review hearings concerning the child and if unable to attend the
1530 hearings, forward to the panel a letter setting forth the child's status during the period

1531 since the last citizen panel review and include an assessment of the DFCS permanency
1532 and treatment plans;
1533 (14) Provide written reports to the court and the parties on the child's best interests which
1534 shall include, but not be limited to, recommendations regarding placement of the child,
1535 updates on the child's adjustment to placement, DFCS' and respondent's compliance with
1536 prior court orders and treatment plans, the child's degree of participation during
1537 visitations, and any other recommendations based on the best interests of the child;
1538 (15) When appropriate, encourage settlement and the use of any alternative forms of
1539 dispute resolution and participate in such processes to the extent permitted; and
1540 (16) Monitor compliance with the case plan and all court orders.
1541 (d) A guardian ad litem shall receive notices, pleadings, or other documents required to
1542 be provided to or served upon a party.
1543 (e) A guardian ad litem shall not also serve as a child's attorney.
1544 (f) Upon presentation of an order appointing a guardian ad litem, such guardian ad litem
1545 shall have access to all records and information relevant to a child's case when such records
1546 and information are not otherwise protected from disclosure pursuant to Code Section
1547 19-7-5. Such records and information shall not include records and information provided
1548 under Article 12 of this chapter or provided under Chapter 4A of Title 49.
1549 (g) All records and information acquired or reviewed by a guardian ad litem during the
1550 course of his or her appointment shall be deemed confidential and shall not be disclosed
1551 except as ordered by the court.
1552 (h) Except as provided in Code Section 49-5-41, regarding access to records, any guardian
1553 ad litem who discloses confidential information obtained during the course of his or her
1554 appointment, in violation of law, shall be guilty of a misdemeanor. A guardian ad litem
1555 shall maintain all information and records regarding mental health, developmental
1556 disability, and substance abuse according to the confidentiality requirements contained in
1557 Code Sections 37-3-166, 37-4-125, or 37-7-166, as applicable.
1558 (i) In the event of a change of venue, the original guardian ad litem shall, as soon as
1559 possible, communicate with the appointed guardian ad litem in the new venue and shall
1560 forward all pertinent information to the new guardian ad litem.

1561 15-11-106.
1562 (a) A guardian ad litem shall be entitled to:
1563 (1) Receive a copy of each pleading or other record filed with the court in the
1564 proceedings; and
1565 (2) Receive notice of, attend, and participate in each hearing in the proceedings.

1566 (b) A guardian ad litem shall not engage in ex parte contact with the court except as
1567 otherwise authorized by law.
1568 (c) A guardian ad litem shall not take any action that may be taken only by an attorney
1569 licensed in this state, including making opening and closing statements or examining
1570 witnesses in court or engaging in discovery.
1571 (d) The court, the child, or any other party may compel a guardian ad litem for a child to
1572 attend a trial or hearing relating to the child and to testify as necessary for the proper
1573 disposition of a proceeding.
1574 (e) The court shall ensure that any guardian ad litem for a child has the opportunity to
1575 testify about his or her analysis or recommendations regarding the best interests of the child
1576 in accordance with Title 24 or, if present at the hearing and available for
1577 cross-examination, submit a report setting forth:
1578 (1) The guardian ad litem's recommendations regarding the best interests of the child;
1579 and
1580 (2) The reasons for the guardian ad litem's recommendations, including the identification
1581 of any reports upon which he or she has relied.
1582 (f) A guardian ad litem's report shall not be admitted into evidence prior to the disposition
1583 hearing except in accordance with Title 24.
1584 (g) A guardian ad litem for a child may be called as a witness for the purpose of
1585 cross-examination regarding the guardian ad litem's report even if the guardian ad litem is
1586 not listed as a witness by a party.

1587 15-11-107.
1588 (a) A parent, guardian, or legal custodian's reliance on prayer or other religious
1589 nonmedical means for healing in lieu of medical care, in the exercise of religious beliefs,
1590 shall not be the sole basis for considering his or her child to be a deprived child; provided,
1591 however, that the religious rights of a parent, guardian, or legal custodian shall not limit the
1592 access of a child to medical care in a life-threatening situation or when the condition will
1593 result in serious disability.
1594 (b) In order to make a determination as to whether a child is in a life-threatening situation
1595 or that the child's condition will result in serious disability, the court may order a medical
1596 evaluation of the child.
1597 (c) If the court determines, on the basis of any relevant evidence before the court,
1598 including the court ordered medical evaluation and the affidavit of the attending physician,
1599 that a child is in a life-threatening situation or that a child's condition will result in serious
1600 disability, the court may order that medical treatment be provided for a child.

1601 (d) A child whose parent, guardian, or legal custodian inhibits or interferes with the
1602 provision of medical treatment in accordance with a court order shall be considered to be
1603 deprived and the court may find the parent, guardian, or legal custodian in contempt and
1604 enter any order authorized by and in accordance with the provisions of Code Section
1605 15-11-30.

1606 15-11-108.
1607 (a) The court shall give to all parties written notice of the date, time, place, and purpose
1608 of the following postadjudication hearings or reviews:
1609 (1) Nonreunification hearings;
1610 (2) Disposition hearings;
1611 (3) Periodic review hearings;
1612 (4) Periodic reviews by judicial citizen review panel;
1613 (5) Permanency plan hearings;
1614 (6) Termination of parental rights hearings; and
1615 (7) Termination of parental rights review hearings.
1616 (b) Issuance and service of summons, when appropriate, shall comply with the
1617 requirements of Code Sections 15-11-160 and 15-11-161.
1618 (c) Unless otherwise provided in this chapter, written notice shall be delivered to the
1619 recipient at least 72 hours before the hearing or review by United States mail, e-mail, or
1620 hand delivery at the discretion of DFCS.

1621 15-11-109.
1622 (a) In advance of each hearing or review, DFCS shall give written notice of the date, time,
1623 place, and purpose of the review or hearing to the caregiver of the child, the foster parent
1624 of the child, any preadoptive parent, or any relative providing care for the child including
1625 the right to be heard. The written notice shall be delivered to the recipient at least 72 hours
1626 before the review or hearing by United States mail, e-mail, or hand delivery at the
1627 discretion of DFCS.
1628 (b) Notice of a hearing or review shall not be construed to require a legal custodian, foster
1629 parent, preadoptive parent, or relative caring for the child to be made a party to the hearing
1630 or review solely on the basis of such notice and opportunity to be heard.

1631 15-11-110.
1632 (a) Upon written request of an attorney for the parent, guardian, legal custodian, child, or
1633 petitioner, the court may continue any hearing under this article beyond the time limit
1634 within which the hearing is otherwise required to be held; provided, however, that no

1635 continuance shall be granted that is contrary to the interests of the child. In considering a
1636 child's interests, the court shall give substantial weight to a child's need for prompt
1637 resolution of his or her custody status, the need to provide a child with a stable
1638 environment, and the damage to a child of prolonged temporary placements.
1639 (b) Continuances shall be granted only upon a showing of good cause and only for that
1640 period of time shown to be necessary by the evidence presented at the hearing on the
1641 motion. Whenever any continuance is granted, the facts proved which require the
1642 continuance shall be entered in the court record.
1643 (c) Written notice of a motion for continuance shall be filed at least two business days
1644 prior to the date set for a hearing, together with affidavits or declarations detailing specific
1645 facts showing why a continuance is necessary, unless the court for good cause entertains
1646 an oral motion for continuance.
1647 (d) A stipulation between attorneys or the convenience of the parties shall not constitute
1648 good cause. Except as otherwise provided by judicial rules governing attorney conflict
1649 resolution, a pending criminal prosecution or family law matter shall not constitute good
1650 cause. The need for discovery shall not constitute good cause.
1651 (e) In any case in which a parent, guardian, legal custodian, or child is represented by an
1652 attorney and no objection is made to an order continuing any such hearing beyond the time
1653 limit, the absence of such an objection shall be deemed a consent to the continuance;
1654 provided, however, that even with consent, the court shall decide whether to grant the
1655 continuance in accordance with subsection (a) of this Code section.

1656 15-11-111.
1657 (a) At any hearing held with respect to a child, the court in its discretion, and based upon
1658 the evidence, may enter an order:
1659 (1) Accepting or rejecting any DFCS report;
1660 (2) Ordering an additional evaluation; or
1661 (3) Undertaking such other review as it deems necessary and appropriate to determine
1662 the disposition that is in the child's best interests.
1663 (b) The court's order:
1664 (1) May incorporate all or part of the DFCS report; and
1665 (2) Shall include findings of fact which reflect the court's consideration of the oral and
1666 written testimony offered by all parties, as well as nonparties, who are required to be
1667 provided with notice and a right to be heard in any hearing to be held with respect to the
1668 child, and DFCS.

1669 15-11-112.
1670 (a) When a child is removed from his or her home the court shall order reasonable
1671 visitation that is consistent with the age and developmental needs of the child if the court
1672 finds that it is in the child's best interests. The court's order shall specify the frequency,
1673 duration, and terms of visitation including whether or not visitation shall be supervised or
1674 unsupervised.
1675 (b) There shall be a presumption that visitation shall be unsupervised unless the court finds
1676 that unsupervised visitation is not in the child's best interests.
1677 (c) Within 30 days of the court finding that there is a lack of substantial progress towards
1678 completion of a case plan, the court shall review the terms of visitation and determine
1679 whether the terms continue to be appropriate for the child or whether the terms need to be
1680 modified.

1681 15-11-113.
1682 When a child is alleged to be deprived, the date the child is considered to have entered
1683 foster care shall be the date of the first judicial finding that a child has been subjected to
1684 child abuse or neglect or the date that is 60 days after the date on which a child is removed
1685 from his or her home, whichever is earlier.

1686 Part 2

1687 15-11-125.
1688 (a) A proceeding under this article may be commenced:
1689 (1) In the county in which a child legally resides; or
1690 (2) In the county in which a child is present when the proceeding is commenced if
1691 deprivation is alleged to have occurred in that county.
1692 (b) For the convenience of the parties, the court may transfer the proceeding to the county
1693 in which a child legally resides. If the proceeding is transferred, certified copies of all legal
1694 and social documents and records pertaining to the proceeding on file with the clerk of
1695 court shall accompany the transfer.

1696 Part 3

1697 15-11-130.
1698 (a) Notwithstanding Code Sections 15-11-133 and 15-11-135, DFCS shall be authorized
1699 to provide emergency care and supervision to any child without seeking a court order for
1700 a period not to exceed seven days when:

1701 (1) As a result of an emergency or illness, the person who has physical and legal custody
1702 of a child is unable to provide for the care and supervision of the child, and such person
1703 or a law enforcement officer, emergency personnel employed by a licensed ambulance
1704 provider, fire rescue personnel, or a hospital administrator or his or her designee requests
1705 that DFCS exercise such emergency custody; and
1706 (2) The child is not at imminent risk of abuse or neglect, other than the risks arising from
1707 being without a caretaker.
1708 (b) During the period when a child is in the temporary care and supervision of DFCS,
1709 DFCS shall endeavor to place the child with a relative of the parent, guardian, or legal
1710 custodian, in eligible shelter care, or in emergency foster care or shall make other
1711 appropriate placement arrangements. DFCS shall have the same rights and powers with
1712 regard to the child as does the parent, guardian, or legal custodian including the right to
1713 consent to medical treatment.
1714 (c) Immediately upon receiving custody of a child, DFCS shall begin a diligent search for
1715 a relative or other designee of the parent who can provide for the care and supervision of
1716 the child.
1717 (d) At any time during such seven-day period, and upon notification to DFCS that the
1718 parent, guardian, or legal custodian or a relative or designee thereof, is able to provide care
1719 to and exercise control over the child, DFCS shall release the child to the person having
1720 custody of the child at the time the child was taken into DFCS custody or to such person's
1721 relative or designee.
1722 (e) Upon the expiration of such seven-day period, if the child has not been released or if
1723 DFCS determines that there is an issue of neglect, abandonment, or abuse, DFCS shall
1724 promptly contact a juvenile court intake officer or bring the child before the juvenile court.
1725 If, upon making an investigation, the intake or other authorized officer of the court finds
1726 that eligible shelter care is warranted for the child, then, for purposes of this chapter, the
1727 child shall be deemed to have been placed in eligible shelter care at the time such finding
1728 was made and DFCS may file a deprivation petition.
1729 (f) DFCS and its successors, agents, assigns, and employees shall be immune from any and
1730 all liability for providing care and supervision in accordance with this Code section, for
1731 consenting to medical treatment for the child, and for releasing the child.

1732 15-11-131.
1733 (a) Notwithstanding Code Section 15-11-133, a physician, licensed to practice medicine
1734 in this state who is treating a child may take or retain temporary protective custody of the
1735 child, without a court order and without the consent of a parent, guardian, or legal
1736 custodian, provided that:

1737 (1) The physician has reasonable cause to believe that the child is in a circumstance or
1738 condition that presents an imminent danger to the child's life or health as a result of
1739 suspected abuse or neglect; or
1740 (2) There is reasonable cause to believe that the child has been abused or neglected and
1741 there is not sufficient time for a court order to be obtained for temporary custody of the
1742 child before the child may be removed from the presence of the physician.
1743 (b) A physician holding a child in temporary protective custody shall:
1744 (1) Make reasonable and diligent efforts to inform the parents, guardian, or legal
1745 custodian of the child of the whereabouts of the child;
1746 (2) As soon as possible, make a report of the suspected abuse or neglect which caused
1747 him or her to take temporary custody of the child and inform DFCS that the child has
1748 been held in temporary custody; and
1749 (3) Not later than 24 hours after the child is held in temporary custody:
1750 (A) Contact a juvenile court intake officer, and inform such intake officer that the child
1751 is in imminent danger to his or her life or health as a result of suspected abuse or
1752 neglect; or
1753 (B) Contact a law enforcement officer who shall take the child and promptly bring the
1754 child before a juvenile court intake officer.
1755 (c) A child who meets the requirements for inpatient admission shall be retained in the
1756 hospital or institution until such time as the child is medically ready for discharge. Upon
1757 notification by the hospital or institution to DFCS that a child who is not eligible for
1758 inpatient admission or who is medically ready for discharge has been taken into custody
1759 by a physician and the child has been placed in DFCS custody, DFCS shall take physical
1760 custody of the child within six hours of being notified.
1761 (d) If the intake officer determines that the child is to be placed in eligible shelter care and
1762 the court orders that the child be placed in DFCS custody, then:
1763 (1) If the child remains in the physical care of the physician, DFCS shall take physical
1764 possession of the child within six hours of being notified by the physician, unless the
1765 child meets the criteria for admission to a hospital or other medical institution or facility;
1766 or
1767 (2) If the child has been brought before the court by a law enforcement officer, DFCS
1768 shall promptly take physical possession of the child.
1769 (e) If the intake officer determines that the child should not be placed in eligible shelter
1770 care, the child shall be released.
1771 (f) If the child is placed in eligible shelter care, then the court shall notify the child's
1772 parents, guardian, or legal custodian, the physician, and DFCS of the preliminary protective
1773 hearing which is to be held within 72 hours.

1774 (g) If after the preliminary protective hearing the child is not released, DFCS shall file a
1775 petition alleging deprivation in accordance with this article, provided that there is a
1776 continued belief that the child's life or health is in danger as a result of suspected abuse or
1777 neglect.
1778 (h) Any hospital or physician authorized and acting in good faith and in accordance with
1779 acceptable medical practice in the treatment of a child under this Code section shall have
1780 immunity from any liability, civil or criminal, that might otherwise be incurred or imposed
1781 as a result of taking or failing to take any action pursuant to this Code section. This Code
1782 section shall not be construed as imposing any additional duty not already otherwise
1783 imposed by law.

1784 15-11-132.
1785 (a) In exceptional circumstances the facts supporting the issuance of an order of removal
1786 and the exceptional circumstances may be relayed orally, including telephonically, to the
1787 judge or a designated judicial intake officer, and the order directing that a child be taken
1788 into custody may be issued orally or electronically.
1789 (b) When a child is taken into custody under exceptional circumstances, an affidavit or
1790 sworn complaint containing the information previously relayed orally, including
1791 telephonically, shall be filed with the clerk of the court the next business day, and a written
1792 order shall be issued if not previously issued. The written order shall include the court's
1793 findings of fact supporting the necessity for the child's removal in order to safeguard the
1794 child's welfare and shall designate the child's legal custodian.
1795 (c) The affidavit or sworn complaint filed after the child has been placed shall indicate
1796 whether the child was released to the child's parent, guardian, or legal custodian or remains
1797 removed.
1798 (d) DFCS shall promptly notify the parent, guardian, or legal custodian of the nature of the
1799 allegations and, if the child is not released, of the time and place of the preliminary
1800 protective hearing.

1801 15-11-133.
1802 (a) A child may be removed from his or her home, without the consent of the child's
1803 parents, guardian, or legal custodian:
1804 (1) Pursuant to an order of the court under this article; or
1805 (2) By a law enforcement officer or duly authorized officer of the court if the child is in
1806 imminent danger of abuse or neglect if he or she remains in the home.
1807 (b) Upon removing a child from his or her home, the law enforcement officer or duly
1808 authorized officer of the court shall:

1809 (1) Immediately deliver the child to a medical facility if the child is believed to suffer
1810 from a serious physical condition or illness which requires prompt treatment, and, upon
1811 delivery, shall promptly contact DFCS;
1812 (2) Bring the child immediately before the juvenile court or promptly contact a juvenile
1813 court intake officer; and
1814 (3) Promptly give notice to the court and the child's parents, guardian, or legal custodian
1815 that the child is in protective custody, together with a statement of the reasons for taking
1816 the child into protective custody.
1817 (c) The removal of child from his or her home by a law enforcement officer shall not be
1818 deemed an arrest.
1819 (d) A law enforcement officer removing a child from his or her home has all the privileges
1820 and immunities of a law enforcement officer making an arrest.
1821 (e) DFCS shall promptly contact a juvenile court intake officer for issuance of a court
1822 order upon being notified by a law enforcement or a duly authorized officer of the court
1823 that such officer has taken a child into protective custody and delivered the child to a
1824 medical facility.
1825 (f) An intake officer shall immediately determine if the child should be released, remain
1826 in protective custody, or be brought before the court upon being contacted by a law
1827 enforcement officer, duly authorized officer of the court, or DFCS that a child has been
1828 taken into protective custody.

1829 15-11-134.
1830 (a) Any order authorizing the removal of a child from his or her home shall be based on
1831 a finding by the court that:
1832 (1) Continuation in the home would be contrary to the child's welfare; and
1833 (2) Removal is in the child's best interests.
1834 (b) Such findings shall be made on an individualized case-by-case basis and shall be
1835 documented in the court's written order.

1836 15-11-135.
1837 (a) A child taken into custody shall not be placed in eligible shelter care prior to the
1838 hearing on the petition unless:
1839 (1) Eligible shelter care is required to protect the child;
1840 (2) The child has no parent, guardian, or legal custodian or other person able to provide
1841 supervision and care and return him or her to the court when required; or
1842 (3) An order for the child's eligible shelter care has been made by the court.

1843 (b) No child alleged or adjudicated to be deprived shall be detained in any jail, adult
1844 lockup, or adult detention facility, nor shall a child be detained in a regional youth
1845 detention center or youth development campus unless the child is also alleged or
1846 adjudicated to be delinquent, and the court determines that the requirements for detention
1847 under Article 7 of this chapter are met.
1848 (c) A child alleged to be deprived may be placed in eligible shelter care only in:
1849 (1) A licensed foster home or a home approved by the court which may be a public or
1850 private home or the home of the noncustodial parent or of a relative;
1851 (2) A facility operated by a licensed child welfare agency; or
1852 (3) A licensed shelter care facility approved by the court.
1853 (d) The actual physical placement of a child pursuant to this Code section shall require the
1854 approval of the judge of the juvenile court or his or her designee.
1855 (e) In any case in which a child is taken into protective custody, the child shall be placed
1856 together with any siblings who are also in protective custody, to the extent that it is
1857 practical and appropriate, or DFCS shall include a statement in its report and case plan of
1858 continuing efforts to place the siblings together or why such efforts are not appropriate.

1859 Part 4

1860 15-11-145.
1861 (a) If a child alleged to be deprived is removed from his or her home and is not returned
1862 home, the preliminary protective hearing shall be held promptly and not later than 72 hours
1863 after the child is placed in eligible shelter care; provided, however, that if the 72 hour time
1864 frame expires on a weekend or legal holiday, the hearing shall be held on the next day
1865 which is not a weekend or legal holiday.
1866 (b) Reasonable oral or written notice of the preliminary protective hearing, stating the
1867 time, place, and purpose of the hearing, shall be given to the child and, if such person can
1868 be found, to the child's parent, guardian, or legal custodian.
1869 (c) If a parent, guardian, or legal custodian has not been notified of the preliminary
1870 protective hearing and did not appear or waive appearance at such hearing and thereafter
1871 files an affidavit showing such facts, the court shall rehear the matter without unnecessary
1872 delay and shall order the child's release unless it appears from such hearing that the child's
1873 eligible shelter care is warranted or required.
1874 (d) The following persons shall have the right to participate in the preliminary protective
1875 hearing:
1876 (1) The child's parent, guardian, or legal custodian, unless such person cannot be located
1877 or fails to appear in response to the notice;

1878 (2) The child's attorney and guardian ad litem if a guardian ad litem has been appointed;
1879 (3) The child, unless the court finds, after considering evidence of harm to the child that
1880 will result from the child's presence at the proceeding, that being present is not in the
1881 child's best interests;
1882 (4) The parent's attorney if an attorney has been retained or appointed;
1883 (5) The assigned DFCS caseworker; and
1884 (6) The attorney for DFCS.
1885 (e) The court may allow the following parties to be present at the preliminary protective
1886 hearing, if the court finds it is in the best interests of the child:
1887 (1) Any relative or other person who has demonstrated an ongoing commitment to the
1888 child with whom the child might be placed;
1889 (2) An advocate as requested by the parent, guardian, or legal custodian; and
1890 (3) Other persons who have knowledge of or an interest in the welfare of the child.
1891 (f) At the commencement of the preliminary protective hearing, the court shall inform the
1892 parties of:
1893 (1) The contents of the complaint in terms understandable to the child and parent,
1894 guardian, or legal custodian;
1895 (2) The nature of the proceedings in terms understandable to the child and parent,
1896 guardian, or legal custodian;
1897 (3) Their due process rights including their right to an attorney and to an appointed
1898 attorney if they are indigent persons, the right to call witnesses and to cross-examine all
1899 witnesses, the right to present evidence, and the right to a trial by the court on the
1900 allegations in the complaint or petition.
1901 (g) If the child is not released at the preliminary protective hearing, a petition for
1902 deprivation shall be made and presented to the court within five days of such hearing.

1903 15-11-146.
1904 (a) At the preliminary protective hearing, the court shall determine:
1905 (1) Whether there is probable cause to believe the child is deprived; and
1906 (2) That protective custody of the child is necessary to prevent abuse or neglect pending
1907 the hearing on the deprivation petition.
1908 (b) The court:
1909 (1) On finding that the complainant has not proved either of the required elements
1910 prescribed in subsection (a) of this Code section, shall dismiss the case and shall return
1911 the child to the child's parent, guardian, or legal custodian;

1912 (2) On finding that the complainant has not met the burden of proving that protective
1913 custody is necessary, shall return the child to the child's parent, guardian, or legal
1914 custodian pending the hearing on the deprivation petition; or
1915 (3) On finding that the complainant has met the burden prescribed in subsection (a) of
1916 this Code section, may place the child in the temporary custody of DFCS pending the
1917 hearing on the deprivation petition.
1918 (c) A court's order removing a child from the child's home shall be based upon a finding
1919 that:
1920 (1) Continuation in the home would be contrary to the child's welfare; and
1921 (2) Removal is in the child's best interests.
1922 (d) The court shall make written findings as to whether DFCS has made reasonable efforts
1923 to prevent or eliminate the need for removal of the child from the home and to make it
1924 possible for the child to safely return home. When the court finds that no services were
1925 provided but that reasonable services would not have eliminated the need for protective
1926 custody, the court shall consider DFCS to have made reasonable efforts to prevent or
1927 eliminate the need for protective custody. The court shall include in the written findings
1928 a brief description of what preventive and reunification efforts were made by DFCS.
1929 (e) In determining whether a child shall be removed or continued out of the home, the
1930 court shall consider whether the provision of reasonable services can prevent or eliminate
1931 the need to separate the family. The court shall make a written finding in every order of
1932 removal that describes why it is in the best interests of the child that the child be removed
1933 from the home or continued in eligible shelter care.
1934 (f) To aid the court in making the required written findings, DFCS shall present written
1935 documentation to the court outlining the reasonable efforts made to prevent taking the child
1936 into protective custody and to provide services to make it possible for the child to safely
1937 return home and why protective custody is in the best interests of the child.

1938 Part 5

1939 15-11-150.
1940 A petition alleging deprivation may be made by DFCS or a law enforcement officer who
1941 has knowledge of the facts alleged or is informed of the facts alleged and believes that such
1942 facts are true.

1943 15-11-151.
1944 (a) If a child was removed from his or her home, the petition alleging deprivation shall be
1945 filed within five days of the preliminary protective hearing.

1946 (b) If the child was never removed from his or her home or if the child was removed from
1947 his or her home but was released from protective custody at the preliminary protective
1948 hearing, the petition alleging deprivation shall be filed within 30 days of the child's release.
1949 (c) Upon a showing of good cause and notice to all parties, the court may grant a requested
1950 extension of time for filing a petition alleging deprivation in accordance with the best
1951 interests of the child. The court shall issue a written order reciting the facts justifying the
1952 extension.
1953 (d) If a petition alleging deprivation is not filed within the required time frame, the
1954 complaint shall be dismissed without prejudice.

1955 15-11-152.
1956 A petition alleging deprivation shall be verified and may be on information and belief and
1957 shall set forth plainly and with particularity:
1958 (1) The facts which bring the child within the jurisdiction of the court, with a statement
1959 that it is in the best interests of the child and the public that the proceeding be brought;
1960 (2) The name, date of birth, and residence address of the child on whose behalf the
1961 petition is brought;
1962 (3) The name and residence address of the parent, guardian, or legal custodian of the
1963 child; or, if the child's parent, guardian, or legal custodian resides or cannot be found
1964 within the state or if such person's place of residence address is unknown, the name of
1965 any known adult relative residing within the county or, if there is none, the known adult
1966 relative residing nearest to the location of the court;
1967 (4) Whether the child is in protective custody and, if so, the place of his or her eligible
1968 shelter care and the time the child was taken into protective custody; and
1969 (5) Whether any of the matters required by this Code section are unknown.

1970 15-11-153.
1971 (a) The petitioner may amend the petition alleging delinquency at any time:
1972 (1) To cure defects of form; and
1973 (2) Prior to the adjudication hearing, to include new allegations of fact or requests for
1974 adjudication.
1975 (b) When the petition is amended to include new allegations of fact or requests for
1976 adjudication, the petition shall be served in accordance with Code Sections 15-11-160 and
1977 15-11-161.
1978 (c) The court shall grant the parties such additional time to prepare as may be required to
1979 ensure a full and fair hearing; provided, however, that when a child is in protective custody

or in detention, the adjudication hearing shall not be delayed more than ten days beyond the time originally fixed for the hearing.

Part 6

15-11-160.

(a) The court shall direct the issuance of a summons to the child if the child is 14 years of age or older, the child's parent, guardian, or legal custodian, the child's attorney, the child's guardian ad litem, if any, and any other persons who appear to the court to be proper or necessary parties to the proceeding, requiring them to appear before the court at the time fixed to answer the allegations of the petition alleging deprivation. A copy of the petition alleging deprivation shall accompany the summons unless the summons is served by publication, in which case the published summons shall indicate the general nature of the allegations and where a copy of the petition alleging deprivation can be obtained.

(b) The summons shall state that a party is entitled to an attorney in the proceedings and that the court will appoint an attorney if the party is unable without undue financial hardship to employ an attorney.

(c) The court may endorse upon the summons an order directing the parent, guardian, or legal custodian of the child to appear personally at the hearing and directing the person having the physical custody or control of the child to bring the child to the hearing.

(d) A party other than the child may waive service of summons by written stipulation or by voluntary appearance at the hearing.

15-11-161.

(a) If a party to be served with a summons is within this state and can be found, the summons shall be served upon him or her personally as soon as possible and at least 24 hours before the adjudication hearing.

(b) If a party to be served is within this state and cannot be found but his or her address is known or can be ascertained with reasonable diligence, the summons shall be served upon such party at least five days before the adjudication hearing by mailing him or her a copy by registered or certified mail or statutory overnight delivery, return receipt requested.

(c) If a party to be served is outside this state but his or her address is known or can be ascertained with reasonable diligence, service of the summons shall be made at least five days before the adjudication hearing either by delivering a copy to such party personally or by mailing a copy to him or her by registered or certified mail or statutory overnight delivery, return receipt requested.

2013 (d) If, after reasonable effort, a party to be served with a summons cannot be found and
2014 such party's address cannot be ascertained, whether he or she is within or outside this state,
2015 the court may order service of the summons upon him or her by publication. The
2016 adjudication hearing shall not be earlier than five days after the date of the last publication.
2017 (e)(1) Service by publication shall be made once a week for four consecutive weeks in
2018 the official organ of the county where the petition alleging deprivation has been filed.
2019 Service shall be deemed complete upon the date of the last publication.
2020 (2) When served by publication, the notice shall contain the names of the parties, except
2021 that the anonymity of the child shall be preserved by the use of appropriate initials, and
2022 the date the petition alleging deprivation was filed. The notice shall indicate the general
2023 nature of the allegations and where a copy of the petition alleging deprivation can be
2024 obtained and require the party to be served by publication to appear before the court at
2025 the time fixed to answer the allegations of the petition alleging deprivation.
2026 (3) Within 15 days after the filing of the order of service by publication, the clerk of
2027 court shall mail a copy of the notice, a copy of the order of service by publication, and
2028 a copy of the petition alleging deprivation to the last known address of the party being
2029 served by publication.
2030 (f) Service of the summons may be made by any suitable person under the direction of the
2031 court.
2032 (g) The court may authorize the payment from county funds of the costs of service and of
2033 necessary travel expenses incurred by persons summoned or otherwise required to appear
2034 at the hearing.

2035 15-11-162.
2036 (a) In the event a parent, guardian, or legal custodian of the child willfully fails to appear
2037 personally at a hearing after being ordered to so appear or the parent, guardian, or legal
2038 custodian of the child willfully fails to bring the child to a hearing after being so directed,
2039 the court may issue an order against the person, directing the person to appear before the
2040 court to show cause why he or she should not be held in contempt of court.
2041 (b) If the parent, guardian, or legal custodian fails to appear in response to an order to
2042 show cause, the court may issue a bench warrant directing that the parent, guardian, or
2043 legal custodian be brought before the court without delay to show cause why he or she
2044 should not be held in contempt and the court may enter any order authorized by and in
2045 accordance with the provisions of Code Section 15-11-30.

2046 15-11-163.
2047 (a) If service of summons upon a party is made by publication, the court may conduct a
2048 provisional hearing upon the allegations of the petition alleging deprivation and enter an
2049 interlocutory order of disposition if:
2050 (1) The petition alleges deprivation of the child;
2051 (2) The summons served upon any party:
2052 (A) States that prior to the final hearing on such petition a provisional hearing will be
2053 held at a specified time and place;
2054 (B) Requires the party who is served other than by publication to appear and answer
2055 the allegations of the petition alleging deprivation at the provisional hearing;
2056 (C) States further that findings of fact and orders of disposition made pursuant to the
2057 provisional hearing will become final at the final hearing unless the party served by
2058 publication appears at the final hearing; and
2059 (D) Otherwise conforms to the requirements of Code Section 15-11-160; and
2060 (3) The child is personally before the court at the provisional hearing.
2061 (b) Findings of fact and orders of disposition shall have only interlocutory effect pending
2062 final hearing on the petition alleging deprivation.
2063 (c) If the party served by publication fails to appear at the final hearing on the petition
2064 alleging deprivation, the findings of fact and interlocutory orders made shall become final
2065 without further evidence. If the party appears at the final hearing, the findings and orders
2066 shall be vacated and disregarded and the hearing shall proceed upon the allegations of such
2067 petition without regard to this Code section.

2068 Part 7

2069 15-11-170.
2070 Chapter 11 of Title 9, the 'Georgia Civil Practice Act,' shall govern discovery in
2071 proceedings in juvenile court, except as otherwise provided in this Code section as follows:
2072 (1) Upon presentation by the child's attorney and guardian ad litem, if any, of the order
2073 of appointment which contains an order for exchange of information, any state or local
2074 agency, department, authority, or institution and any school, hospital, physician, or other
2075 health or mental health care provider shall permit the child's attorney and guardian ad
2076 litem, if any, to inspect and copy any records relating to the child involved in the case
2077 without the consent of the child or the child's parent, guardian, or legal custodian;
2078 (2) Unless a shorter time frame is ordered by the court, a party receiving a written
2079 request for discovery shall comply with the written request within ten days or provide a
2080 written explanation of the reasons for noncompliance to the parties and the court; and

2081 (3) No deposition shall be taken of a child unless the court orders the deposition, under
2082 such conditions as the court may order, on the ground that the deposition would further
2083 the purposes of this chapter.

2084 Part 8

2085 15-11-180.
2086 The petitioner shall have the burden of proving the allegations of a deprivation petition by
2087 clear and convincing evidence.

2088 15-11-181.
2089 (a) The court shall fix a time for the adjudication hearing. If the child is in eligible shelter
2090 care, the hearing shall be held no later than ten days after the filing of the petition alleging
2091 deprivation. If the child is not in eligible shelter care, the adjudication hearing shall be held
2092 no later than 60 days after the filing of the petition alleging deprivation. If adjudication is
2093 not completed within 60 days from the date the child was taken into protective custody, the
2094 petition alleging deprivation may be dismissed without prejudice.
2095 (b) The following persons shall have the right to participate in the adjudication hearing:
2096 (1) The child's parent, guardian, or legal custodian, unless such person cannot be located
2097 or fails to appear in response to the notice;
2098 (2) The child's attorney and guardian ad litem, if a guardian ad litem has been appointed;
2099 (3) The child, unless the court finds, after considering evidence of harm to the child that
2100 will result from the child's presence at the proceeding, that being present is not in the
2101 child's best interests;
2102 (4) The attorneys for the parent, guardian, or legal custodian if attorneys have been
2103 retained or appointed;
2104 (5) The assigned DFCS caseworker; and
2105 (6) The attorney for DFCS.
2106 (c) If the court finds it is in the best interests of the child, the court may allow the
2107 following to be present at the adjudication hearing:
2108 (1) Any relative or other person who has demonstrated an ongoing commitment to the
2109 child with whom the child might be placed;
2110 (2) An advocate as requested by the parent, guardian, or legal custodian; and
2111 (3) Other persons who have knowledge of or an interest in the welfare of the child.
2112 (d) Except as provided in this subsection, the adjudication hearing shall be conducted in
2113 accordance with Title 24. Testimony or other evidence relevant to the deprivation of a

2114 child or the cause of such condition may not be excluded on any ground of privilege,
2115 except in the case of:
2116 (1) Communications between a party and his or her attorney; and
2117 (2) Confessions or communications between a priest, rabbi, or duly ordained minister or
2118 similar functionary and his or her confidential communicant.
2119 (e) After hearing the evidence, the court shall make and file specific written findings as
2120 to whether the child is a deprived child.
2121 (f) If the court finds that the child is not a deprived child, it shall dismiss the petition
2122 alleging deprivation and order the child discharged from eligible shelter care or other
2123 restriction previously ordered.
2124 (g) If the court finds that the child is deprived, the court shall proceed immediately or at
2125 a postponed hearing to make a proper disposition of the case.
2126 (h) If the court finds that a child is deprived, the court shall also make and file a finding
2127 whether such deprivation is the result of alcohol abuse or drug abuse by a parent, guardian,
2128 or legal custodian.
2129 (i) If the disposition hearing is held on the same day as the adjudication hearing, the court
2130 shall schedule the dates and times for the first periodic review hearing and for the
2131 permanency plan hearing.

2132 Part 9

2133 15-11-190.
2134 If the allegations of the petition alleging deprivation are admitted or after an adjudication
2135 hearing the court has found the child to be deprived, the court may direct that a written
2136 social study and report be made by DFCS.

2137 15-11-191.
2138 Each social study shall include, but shall not be limited to, a factual discussion of each of
2139 the following subjects:
2140 (1) What plan, if any, for the return of the child to his or her parent and for achieving
2141 legal permanency for the child if efforts to reunify fail, is recommended to the court;
2142 (2) Whether the best interests of the child will be served by granting reasonable visitation
2143 rights to his or her grandparents or other relatives, in order to maintain and strengthen the
2144 child's family relationships;
2145 (3) Whether the child has siblings under the court's jurisdiction, and, if so:
2146 (A) The nature of the relationship between the child and his or her sibling;

2147 (B) Whether the siblings were raised together in the same home and whether the
2148 siblings have shared significant common experiences or have existing close and strong
2149 bonds;
2150 (C) Whether the child expresses a desire to visit or live with his or her sibling and
2151 whether ongoing contact is in the child's best interests;
2152 (D) The appropriateness of developing or maintaining the sibling relationships;
2153 (E) If the siblings are not placed together in the same home, why the siblings are not
2154 placed together and what efforts are being made to place the siblings together or why
2155 those efforts are not appropriate;
2156 (F) If the siblings are not placed together, the frequency and nature of the visits
2157 between siblings; and
2158 (G) The impact of the sibling relationship on the child's placement and planning for
2159 legal permanence;
2160 (4) The appropriateness of any relative placement; and
2161 (5) Whether the caregiver desires and is willing to provide legal permanency for the
2162 child if reunification is unsuccessful.

2163 Part 10

2164 15-11-200.
2165 (a) Within 30 days of the date a child who is placed in DFCS custody is removed from the
2166 home and at each subsequent review of the disposition order, DFCS shall submit a written
2167 report to the court which shall either:
2168 (1) Include a case plan for a reunification of the family; or
2169 (2) Include a statement of the factual basis for determining that a plan for reunification
2170 is not appropriate.
2171 (b) The report submitted by DFCS shall become a discrete part of the case record in a
2172 format determined by DFCS and shall be made available to the child if the child is 14 years
2173 of age or older, the child's attorney, the child's guardian ad litem, if any, and the parent,
2174 guardian, or legal custodian of the child. The contents of the report shall be determined at
2175 a meeting to be held by DFCS in consultation with the judicial citizen review panel, if one
2176 is designated by the court for such purpose, and the parent, guardian, or legal custodian and
2177 child, when available. The parent, guardian, or legal custodian, the child if the child is 14
2178 years of age or older, the child's attorney, and the child's guardian ad litem, if any, shall be
2179 given written notice of the meeting at least five days in advance of such meeting and shall
2180 be advised that the report will be submitted to the court for consideration as an order of the
2181 court. The report submitted to the court shall also contain any dissenting recommendations

of the judicial citizen review panel, if applicable, and any recommendations of the parent, guardian, or legal custodian, if such are available.

(c) If the court adopts a report that contains a case plan for reunification services, it shall be in effect until modification by the court. The case plan shall address each reason requiring removal and shall, at a minimum, comply with the requirements of Code Section 15-11-201.

(d) If the submitted report contains a proposed case plan for reunification services:

(1) DFCS shall provide the caregiver, the foster parent, and any preadoptive parent or relative providing care for the child with a copy of those portions of the court approved case plan that involve the permanency goal and the services to be provided to the child;

(2) A copy of the report and case plan shall be delivered to the parent, guardian, or legal custodian by United States mail, e-mail, or hand delivery at the discretion of DFCS at the same time the report and case plan are transmitted to the court, along with written notice that the report will be considered by the court without a hearing unless, within five days from the date the copy of the report and case plan were delivered, the parent, guardian, or legal custodian requests a hearing before the court to review the report and case plan; and

(3) If no hearing is requested, the court shall enter a disposition order or supplemental order incorporating all elements of the case plan for reunification services which the court finds essential to reunification, specifying what shall be accomplished by all parties before reunification of the family can be achieved.

(e) When a recommendation is made that reunification services are not appropriate and should not be allowed, the report submitted by DFCS shall address each reason requiring removal and shall contain at least the following:

(1) The purpose for which the child was placed in eligible shelter care, including a statement of the reasons why the child cannot be adequately and safely protected at home and the harm which may occur if the child remains in the home and a description of the services offered and the services provided to prevent removal of the child from the home; and

(2) A clear statement describing all of the reasons supporting a finding that reunification of a child with the child's parent will be detrimental to the child and that reunification services therefore need not be provided, including specific findings as to whether any of the grounds for terminating parental rights exist.

15-11-201.

(a) The case plan shall be designed to achieve placement in the most appropriate, least restrictive, and most family-like setting available and in close proximity to the parent's

2218 home, consistent with the best interests and special needs of the child, and which considers
2219 the placement's proximity to the school in which the child is enrolled at the time of
2220 placement.
2221 (b) The case plan shall be developed by DFCS and the child's parent, guardian, or legal
2222 custodian. The case plan shall include, but shall not be limited to, all of the following:
2223 (1) A description of the circumstances that resulted in the child being placed under the
2224 jurisdiction of the court and in eligible shelter care;
2225 (2) An assessment of the child's and family's strengths and needs and the type of
2226 placement best equipped to meet those needs;
2227 (3) A description of the type of home or institution in which the child is to be placed,
2228 including a discussion of the safety and appropriateness of the placement;
2229 (4) Specific time-limited goals and related activities designed to enable the safe return
2230 of the child to his or her home, or, in the event that return to his or her home is not
2231 possible, activities designed to result in permanent placement or emancipation;
2232 (5) Assignment of specific responsibility for accomplishing the planned activities;
2233 (6) The projected date of completion of the case plan objectives;
2234 (7) The date time-limited services will be terminated;
2235 (8) A schedule of visits between the child and his or her siblings and other appropriate
2236 family members and an explanation if no visits are scheduled;
2237 (9) When placement is made in a foster family home, group home, or other child care
2238 institution that is either a substantial distance from the home of the child's parent,
2239 guardian, or legal custodian or out-of-state, the case plan shall specify the reasons why
2240 the placement is the most appropriate and is in the best interests of the child;
2241 (10) When an out-of-state group home placement is recommended or made, the case plan
2242 shall comply with Code Section 39-3-2, the Interstate Compact on the Placement of
2243 Children. In addition, documentation of the recommendation of the multidisciplinary
2244 team and the rationale for such particular placement shall be included. The case plan
2245 shall also address what in-state services or facilities were used or considered and why
2246 they were not recommended;
2247 (11) If applicable, a summary of efforts made to place siblings together, unless it has
2248 been determined that placement together is not in the best interests of one or more
2249 siblings;
2250 (12) An account of health and education information about the child including school
2251 records, immunizations, known medical problems, any known medications the child may
2252 be taking, names and addresses of the child's health and educational providers; the child's
2253 grade level performance; assurances that the child's placement in foster care takes into

2254 account proximity to the school in which the child was enrolled at the time of placement;
2255 and other relevant health and educational information;
2256 (13) A recommendation for a permanency plan for the child. If, after considering
2257 reunification, adoptive placement, or permanent guardianship, DFCS recommends
2258 placement in another planned permanent living arrangement, the case plan shall include
2259 documentation of a compelling reason or reasons why termination of parental rights is
2260 not in the child's best interests. For purposes of this paragraph, a 'compelling reason' shall
2261 have the same meaning as in paragraph (2) of subsection (b) of Code Section 15-11-233;
2262 (14) A statement that the parent, guardian, or legal custodian and the child have had an
2263 opportunity to participate in the development of the case plan, to review the case plan,
2264 to sign the case plan, and to receive a copy of the plan, or an explanation about why he
2265 or she was not able to participate or sign the case plan;
2266 (15) For a child in out-of-home care who is 14 years of age or older, a written description
2267 of the programs and services which will help the child prepare for the transition from
2268 foster care to independent living; and
2269 (16) The identity of the person within DFCS or other agency who is directly responsible
2270 for ensuring that the case plan is implemented.

2271 15-11-202.
2272 (a) Except as provided in subsection (a) of Code Section 15-11-203, reasonable efforts
2273 shall be made to preserve or reunify families:
2274 (1) Prior to the placement of a child in DFCS custody to prevent the need for removing
2275 the child from the child's home; or
2276 (2) To eliminate the need for removal and make it possible for a child to return safely to
2277 the child's home at the earliest possible time.
2278 (b) In determining reasonable efforts to be made with respect to a child and in making such
2279 reasonable efforts, the child's health and safety shall be the paramount concern.
2280 (c) Reasonable efforts are made upon the exercise of due diligence by DFCS to use
2281 appropriate services to meet the needs of the child and the child's family. Services may
2282 include those provided by DFCS and other services available in the community.
2283 (d) The court shall be required to review the appropriateness of DFCS' reasonable efforts
2284 at each stage of the proceedings.
2285 (e)(1) At the preliminary protective hearing, DFCS has the burden of demonstrating that:
2286 (A) It has made reasonable efforts to prevent placement of a child in eligible shelter
2287 care;

2288 (B) There are no appropriate services or efforts which could allow the child to safely
2289 remain in the home given the particular circumstances of the child and family at the
2290 time of the child's removal; or
2291 (C) Reasonable efforts to prevent placement and to reunify the child with the child's
2292 family are not required because of the existence of one or more of the circumstances
2293 enumerated in subsection (a) of Code Section 15-11-203.
2294 (2) At the adjudication hearing, DFCS has the burden of demonstrating that:
2295 (A) It has made reasonable efforts to eliminate the need for removal of the child from
2296 the child's home and to reunify the child with the child's family at the earliest possible
2297 time; or
2298 (B) Reasonable efforts to prevent placement and to reunify the child with the child's
2299 family are not required because of the existence of one or more of the circumstances
2300 enumerated in subsection (a) of Code Section 15-11-203.
2301 (3) At every other hearing, DFCS has the burden of demonstrating that:
2302 (A) It has made reasonable efforts to eliminate the need for removal of the child from
2303 the child's home and to reunify the child with the child's family at the earliest possible
2304 time; or
2305 (B) It has made reasonable efforts to finalize an alternative permanent home for the
2306 child.
2307 (f) When determining whether reasonable efforts have been made, the court shall consider
2308 whether services to the child and family were:
2309 (1) Relevant to the safety and protection of the child;
2310 (2) Adequate to meet the needs of the child and family;
2311 (3) Culturally appropriate;
2312 (4) Available and accessible;
2313 (5) Consistent and timely; and
2314 (6) Realistic under the circumstances.
2315 (g) A finding that reasonable efforts have not been made shall not preclude the entry of an
2316 order authorizing the child's placement when the court finds that placement is necessary
2317 for the protection of the child. When efforts to prevent the need for the child's placement
2318 were precluded by an immediate threat of harm to the child, the court may find that the
2319 placement of the child in the absence of such efforts was reasonable.
2320 (h) Reasonable efforts to place a child for adoption or with a guardian or legal custodian
2321 may be made concurrently with reasonable efforts to reunify. When DFCS decides to
2322 concurrently make reasonable efforts for both reunification and permanent placement away
2323 from the parent, guardian, or legal custodian, DFCS shall disclose its decision and both

2324 plans to all parties and the court. When DFCS discloses its decision to proceed on both
2325 plans, the court's review of reasonable efforts shall include efforts under both plans.
2326 (i) An order placing or continuing the placement of a child in DFCS custody shall contain,
2327 but shall not be limited to, written findings of facts stating:
2328 (1) That the child's continuation in or return to the child's own home would be contrary
2329 to the child's welfare;
2330 (2) Whether reasonable efforts have been made to prevent or eliminate the need for
2331 placement of the child, unless the court has determined that such efforts are not required
2332 or shall cease; and
2333 (3) Whether reasonable efforts should continue to be made to prevent or eliminate the
2334 need for placement, unless the court has previously determined that such efforts are not
2335 required or shall cease.

2336 15-11-203.
2337 (a) The court may direct that reasonable efforts to eliminate the need for placement of the
2338 child shall not be required or shall cease if the court determines and makes written findings
2339 of fact that:
2340 (1) The parent has subjected the child to aggravated circumstances;
2341 (2) The parent has been convicted of the murder of another child of the parent;
2342 (3) The parent has been convicted of the voluntary manslaughter of another child of the
2343 parent;
2344 (4) The parent has been convicted of the voluntary manslaughter of the other parent of
2345 the child;
2346 (5) The parent has been convicted of aiding or abetting, attempting, conspiring, or
2347 soliciting to commit murder or voluntary manslaughter of another child of the parent;
2348 (6) The parent has been convicted of aiding or abetting, attempting, conspiring, or
2349 soliciting to commit murder or voluntary manslaughter of the other parent of the child;
2350 (7) The parent has been convicted of committing a felony assault that results in serious
2351 bodily injury to the child or another child of the parent; or
2352 (8) The parental rights of the parent to a sibling have been terminated involuntarily and
2353 the circumstances leading to the termination of parental rights to that sibling have not
2354 been resolved.
2355 (b) If the court determines that one or more of the circumstances enumerated in
2356 subsection (a) of this Code section exist or DFCS has submitted a written report to the
2357 court which does not contain a plan for reunification services then:
2358 (1) A permanency plan hearing shall be held for the child within 30 days; and

2359 (2) Reasonable efforts shall be made to place the child in a timely manner in accordance
2360 with the permanency plan and to complete whatever steps are necessary to finalize the
2361 permanent placement of the child.

2362 15-11-204.
2363 (a) If the DFCS report does not contain a plan for reunification services, the court shall
2364 hold a nonreunification hearing to review the report and the determination that a plan for
2365 reunification services is not appropriate.
2366 (b) The nonreunification hearing shall be held no later than 30 days from the time the
2367 DFCS report is filed. Notice of the nonreunification hearing shall be provided, by
2368 summons, to the child if the child is 14 years of age or older, the child's parent, guardian,
2369 or legal custodian, the child's attorney, the child's guardian ad litem, if any, and specified
2370 nonparties entitled to notice.
2371 (c) At the nonreunification hearing:
2372 (1) DFCS shall notify the court whether and when it intends to proceed with termination
2373 of parental rights; and
2374 (2) The court shall also hold a permanency plan hearing, at which the court shall
2375 consider in-state and out-of-state permanent placement options for the child, and shall
2376 incorporate a permanency plan for the child in its order.
2377 (d) DFCS shall have the burden of demonstrating by clear and convincing evidence that
2378 a reunification plan is not appropriate considering the health and safety of the child and the
2379 child's need for permanence. There shall be a presumption that reunification services are
2380 detrimental to the child and should not be provided if the court finds by clear and
2381 convincing evidence that:
2382 (1) The parent has unjustifiably failed to comply with a previously ordered plan designed
2383 to reunite the family;
2384 (2) A child has been removed from the home on at least two previous occasions and
2385 reunification services were made available on those occasions;
2386 (3) A ground for terminating parental rights exists; or
2387 (4) Any of the circumstances set out in subsection (a) of Code Section 15-11-203 exist,
2388 making it unnecessary to provide reasonable efforts to reunify.
2389 (e) If the court has entered an order finding that reasonable efforts to reunify a child with
2390 his or her family are not required but the court finds further that referral for termination of
2391 parental rights and adoption is not in the best interests of the child, the court may, upon
2392 proper petition, enter a custody order, which shall remain in effect until the child's
2393 eighteenth birthday, placing the child in the custody of a permanent guardian pursuant to
2394 the provisions of this article.

2395 Part 11

2396 15-11-210.

2397 (a) If not held in conjunction with the adjudication hearing, the disposition hearing shall
2398 be held and completed within 30 days after the conclusion of the adjudication hearing.

2399 (b) The court may consider any evidence, including hearsay evidence, that the court finds
2400 to be relevant, reliable, and necessary to determine the needs of the child and the most
2401 appropriate disposition.

2402 (c) Before determining the appropriate disposition, the court shall receive in evidence:

2403 (1) The social study report, if applicable, made by DFCS and the child's proposed written
2404 case plan. The social study report and case plan shall be filed with the court not less than
2405 48 hours before the disposition hearing;

2406 (2) Any study or evaluation made by a guardian ad litem appointed by the court;

2407 (3) Any psychological, medical, developmental, or educational study or evaluation of the
2408 child; and

2409 (4) Other relevant and material evidence as may be offered, including, but not limited
2410 to, the willingness of the caregiver to provide legal permanency for the child if
2411 reunification is unsuccessful.

2412 (d) Prior to the disposition hearing, and upon request, the parties and their attorneys shall
2413 be afforded an opportunity to examine any written reports received by the court.

2414 (e)(1) Portions of written reports received by the court which are not relied on by the
2415 court in reaching its decision, which if revealed would be prejudicial to the interests of
2416 the child or any party to the proceeding, may be withheld in the court's discretion.
2417 Confidential sources of information need not be disclosed.

2418 (2) Parties and their attorneys shall be given the opportunity to controvert written reports
2419 received by the court and to cross-examine individuals making such reports.

2420 (f) At the conclusion of the disposition hearing, the court shall set the time and date for the
2421 first periodic review hearing and the permanency plan hearing.

2422 15-11-211.

2423 (a) Before final disposition, a reasonably diligent search for a parent or relative of the child
2424 or other persons who have demonstrated an ongoing commitment to the child shall be
2425 conducted by DFCS.

2426 (b) The search required by subsection (a) of this Code section shall be completed,
2427 documented in writing, and filed with the court within 30 days from the date on which the
2428 child was removed from the home.

2429 (c) After the completion of the search required by subsection (a) of this Code section,
2430 DFCS shall have a continuing duty to search for relatives or other persons who have
2431 demonstrated an ongoing commitment to the child and with whom it may be appropriate
2432 to place the child until such relatives or persons are found or until the child is placed for
2433 adoption unless DFCS is excused from such search by the court.

2434 15-11-212.
2435 (a) The court may make any of the following orders of disposition or a combination of
2436 those best suited to the protection and physical, emotional, mental, and moral welfare of
2437 the child:
2438 (1) Permit the child to remain with his or her parent, guardian, or legal custodian subject
2439 to conditions and limitations as the court prescribes, including supervision as directed by
2440 the court for the protection of the child;
2441 (2) Grant or transfer temporary legal custody to any of these persons or entities:
2442 (A) Any individual, including a biological parent, who, after study by the probation
2443 officer or other person or agency designated by the court, is found by the court to be
2444 qualified to receive and care for the child;
2445 (B) An agency or other private organization licensed or otherwise authorized by law
2446 to receive and provide care for the child;
2447 (C) Any public agency authorized by law to receive and provide care for the child;
2448 provided, however, that for the purpose of this Code section, the term 'public agency'
2449 shall not include DJJ; or
2450 (D) An individual in another state with or without supervision by an appropriate officer
2451 pursuant to the requirements of the Code Section 29-3-2, the Interstate Compact on the
2452 Placement of Children;
2453 (3) Transfer jurisdiction over the child in accordance with the requirements of Code
2454 Section 29-3-2, the Interstate Compact on the Placement of Children;
2455 (4) Order the child and such child's parent, guardian, or legal custodian to participate in
2456 counseling or in counsel and advice as determined by the court. Such counseling and
2457 counsel and advice may be provided by the court, court personnel, probation officers,
2458 professional counselors or social workers, psychologists, physicians, qualified volunteers,
2459 or appropriate public, private, or volunteer agencies as directed by the court and shall be
2460 designed to assist in deterring future conditions of deprivation or other conduct or
2461 conditions which would be harmful to the child or society;
2462 (5) Order the parent, guardian, or legal custodian of the child to participate in a court
2463 approved educational or counseling program designed to contribute to the ability of the

2464 parent, guardian, or legal custodian to provide proper parental care and supervision of the
2465 child, including, but not limited to, parenting classes;
2466 (6) Order DFCS to implement and the child's parent, guardian, or legal custodian to
2467 cooperate with any plan approved by the court; or
2468 (7) Order temporary child support for a child to be paid by that person or those persons
2469 determined to be legally obligated to support the child. In determining such temporary
2470 child support, the court shall apply the child support guidelines provided in Code Section
2471 19-6-15 and the implementation and any review of the order shall be held as provided in
2472 Code Section 19-6-15. Where there is an existing order of a superior court or other court
2473 of competent jurisdiction, the court may order the child support obligor in the existing
2474 order to make payments to the child's caretaker on a temporary basis but shall not
2475 otherwise modify the terms of the existing order. A copy of the juvenile court's order
2476 shall be filed in the clerk's office of the court that entered the existing order. Temporary
2477 child support orders entered pursuant to this paragraph shall be enforceable by the court's
2478 contempt powers so long as the court is entitled to exercise jurisdiction over the
2479 deprivation case.
2480 (b) The transfer of temporary legal custody may be subject to conditions and limitations
2481 the court may prescribe. Such conditions and limitations shall include a provision that the
2482 court shall approve or direct the return of the physical custody of the child to the child's
2483 parent, guardian, or legal custodian either upon the occurrence of specified circumstances
2484 or at the direction of the court. The return of physical custody of the child to the child's
2485 parent, guardian, or legal custodian may be made subject to conditions and limitations the
2486 court may prescribe including, but not limited to, supervision for the protection of the child.
2487 (c) A child found to be deprived shall not be committed to or confined in an institution or
2488 other facility designed or operated for the benefit of delinquent children unless the child
2489 is also found to be delinquent and the child's detention is warranted under the requirements
2490 of Article 7 of this chapter.
2491 (d) After transferring temporary legal custody of a child to DFCS, the court may at any
2492 time conduct sua sponte a judicial review of the current placement plan being provided to
2493 the child. After its review, the court may order DFCS to comply with the current
2494 placement plan, order DFCS to devise a new placement plan, or make any other order
2495 relative to placement or custody outside DFCS as the court finds to be in the best interests
2496 of the child. Placement or a change of custody by the court outside DFCS shall relieve
2497 DFCS of further responsibility for the child except for any provision of services ordered
2498 by the court to ensure the continuation of reunification services to the family when
2499 appropriate.

2500 (e) A court shall not be required to make an order of disposition regarding a child who is
2501 discharged from a facility in which the child was hospitalized or habilitated pursuant to
2502 Chapter 3, 4, or 7 of Title 37 unless the child is to be discharged into the physical custody
2503 of any person who had such custody when the court made its most recent finding that the
2504 child was deprived.
2505 (f) If a child is found to be a deprived child and the deprivation is found to have been the
2506 result of alcohol or other drug abuse by a parent, guardian, or legal custodian and the court
2507 orders transfer of temporary legal custody of the child, the court shall be authorized to
2508 further order that legal custody of the child may not be transferred back to the child's
2509 parent, guardian, or legal custodian unless the parent, guardian, or legal custodian
2510 undergoes substance abuse treatment and random substance abuse screenings and those
2511 screenings remain negative for a period of no less than six consecutive months.
2512 (g) If the court finds that DFCS preventive or reunification efforts have not been
2513 reasonable but that further efforts could not permit the child to safely remain at home, the
2514 court may nevertheless authorize or continue the removal of the child.
2515 (h) When the case plan requires concurrent permanency plan, the court shall review the
2516 reasonable efforts of DFCS to recruit, identify, and make a placement in a home in which
2517 a relative, foster parent, or other person who has demonstrated an ongoing commitment to
2518 the child has agreed to provide a legally permanent home for the child in the event
2519 reunification efforts are not successful.

2520 15-11-213.
2521 Any order of disposition shall contain written findings of fact to support the disposition and
2522 case plan ordered. Before making an order of disposition, the court shall consider the
2523 following:
2524 (1) Why the best interests and safety of the child are served by the disposition and case
2525 plan ordered including but not limited to:
2526 (A) The interaction and interrelationship of the child with his or her parent, siblings,
2527 and any other person who may significantly affect the child's best interests;
2528 (B) The child's adjustment to his or her home, school, and community;
2529 (C) The mental and physical health of all individuals involved;
2530 (D) The wishes of the child as to the child's placement;
2531 (E) The wishes of the child's parent, guardian, or legal custodian as to the child's
2532 custody;
2533 (F) Whether there exists a relative of the child or other individual who, after study by
2534 DFCS, is found to be qualified to receive and care for the child; and

2535 (G) The ability of the parent, guardian, or legal custodian to care for the child in the
2536 home so that no harm will result to the child;
2537 (2) The availability of services recommended in the case plan;
2538 (3) What alternative dispositions or services under the case plan were considered by the
2539 court and why such dispositions or services were not appropriate in the instant case;
2540 (4) The appropriateness of the particular placement made or to be made by the placing
2541 agency; and
2542 (5) Whether reasonable efforts were made to prevent or eliminate the necessity of the
2543 child's removal and to reunify the family after removal unless reasonable efforts were not
2544 required. The court's findings should include a brief description of what preventive and
2545 reunification efforts were made and why further efforts could not have prevented or
2546 eliminated the necessity of removal.

2547 15-11-214.
2548 (a) An order of disposition in a deprivation proceeding shall continue in force for not more
2549 than two years except an order:
2550 (1) Placing a deprived child in DFCS custody; or
2551 (2) Appointing a guardian of the person or conservator of the property of a child.
2552 (b) An order of disposition placing a deprived child in DFCS custody shall continue in
2553 force for 12 months after the date the child is considered to have entered foster care.
2554 (c) The court may sooner terminate its order of disposition placing a deprived child in
2555 DFCS custody or extend its duration for further periods.
2556 (d) The court may terminate an order of disposition of a child adjudicated as deprived or
2557 an extension of such a disposition order prior to its expiration, on or without an application
2558 of a party, if it appears to the court that the purposes of the order have been accomplished.
2559 (e) Unless a child remains in DFCS custody or continues to receive services from DFCS,
2560 as allowed by Article 5 of this chapter, when a child adjudicated as deprived reaches 18
2561 years of age, all orders affecting him or her then in force terminate and he or she shall be
2562 discharged from further obligation or control.

2563 15-11-215.
2564 (a) The court which made a disposition or supplemental order granting temporary custody
2565 of a child to DFCS may grant one or more extensions of custody if:
2566 (1) A hearing is held upon DFCS motion prior to the expiration of the order;
2567 (2) Reasonable notice of the factual basis of the motion and of the hearing and
2568 opportunity to be heard are given to the child if the child is 14 years of age or older, the

2569 child's parent, guardian, or legal custodian, the child's attorney, the child's guardian ad
2570 litem, if any, and to specified nonparties entitled to notice;
2571 (3) DFCS includes in the motion to extend custody the specific factual basis for the
2572 compelling reason an extension of custody is needed and how such an extension is in the
2573 best interests of the child;
2574 (4) The court finds that there is a compelling reason that the extension is necessary to
2575 accomplish the purposes of the order and such an extension is in the child's best interests;
2576 and
2577 (5) The extension does not exceed 12 months from the expiration of the prior order.
2578 (b) The court which made a disposition or supplemental order granting temporary custody
2579 of a child to a party other than DFCS may grant one or more extensions of custody if:
2580 (1) A hearing is held prior to the expiration of the order upon motion of a party or on the
2581 court's own motion;
2582 (2) Reasonable notice of the factual basis of the motion to extend custody and of the
2583 hearing and opportunity to be heard are given to the child if the child is 14 years of age
2584 or older, the child's parent, guardian, or legal custodian, the child's attorney, and the
2585 child's guardian ad litem, if any;
2586 (3) The party making the motion to extend custody includes in the motion the specific
2587 factual basis for the compelling reason an extension of custody is needed and how such
2588 an extension is in the best interests of the child;
2589 (4) The court finds that there is a compelling reason that the extension is necessary to
2590 accomplish the purposes of the order and such an extension is in the child's best interests;
2591 and
2592 (5) The extension does not exceed two years from the expiration of the prior order.
2593 (c) The DFCS motion to extend custody shall include a factual statement indicating the
2594 number of times DFCS has requested an extension of custody, the reasons it has requested
2595 such extensions, and the number of times an extension has been granted.
2596 (d) DFCS shall file its motion to extend custody at least 60 days prior to the expiration
2597 date of the order granting temporary custody.
2598 (e) If an order granting temporary custody expires before DFCS files its motion to extend
2599 custody, DFCS may file a new motion to extend custody within seven days of the order's
2600 expiration date.

2601 15-11-216.
2602 (a) Not less than five days in advance of any placement change, DFCS shall notify the
2603 court, a child who is 14 years of age or older, the child's parent, guardian, or legal
2604 custodian, the person or agency with physical custody of the child, the child's attorney, the

2605 child's guardian ad litem, if any, and any other attorney of record of such change in the
2606 location of the child's placement while the child is in DFCS custody.
2607 (b) If the child's health or welfare may be endangered by any delay in changing the child's
2608 placement, the court and all attorneys of record shall be notified of such placement change
2609 within 24 hours of such change.
2610 (c) A child who is 14 years of age or older, the child's parent, guardian, or legal custodian,
2611 the person or agency with physical custody of the child, the child's attorney or guardian ad
2612 litem, if any, and any attorney of record may request a hearing with regard to the child's
2613 case plan or the permanency plan in order for the court to consider the change in the
2614 location of the child's placement and any changes to the case plan or permanency plan
2615 resulting from the child's change in placement location. The hearing shall be held within
2616 five days of receiving notice of a change in the location of the child's placement and prior
2617 to any such placement change, unless the child's health or welfare may be endangered by
2618 any delay in changing the child's placement.
2619 (d) At the hearing to consider the child's case plan and permanency plan, the court shall
2620 consider the case plan and permanency plan recommendations made by DFCS, including
2621 a recommendation as to the location of the placement of the child, and shall make findings
2622 of fact upon which the court relied in determining to reject or accept the case plan or
2623 permanency plan and the recommendations made by DFCS, including the location of the
2624 child's placement.
2625 (e) If the court rejects DFCS recommendations, the court shall demonstrate that DFCS
2626 recommendations were considered and explain why it did not follow such
2627 recommendations. If the court rejects DFCS case plan and permanency plan
2628 recommendations, including the change in the location of the placement of the child, the
2629 court may order DFCS to devise a new case plan and permanency plan recommendation,
2630 including a new recommendation as to the location of the child within the resources of the
2631 department, or make any other order relative to placement or custody outside the
2632 department as the court finds to be in the best interests of the child and consistent with the
2633 policy that children in DFCS custody should have stable placements.
2634 (f) Placement or a change of legal custody by the court outside the department shall relieve
2635 the department of further responsibility for the child except for any provision of services
2636 ordered by the court to ensure the continuation of reunification services to the family when
2637 appropriate.

2638 15-11-217.
2639 (a) All cases of children in DFCS custody shall be initially reviewed within 75 days
2640 following the child's removal from his or her home and shall be conducted by the court.

2641 An additional periodic review shall be held within four months following the initial review
2642 and shall be conducted by the court or by judicial citizen review panels established by the
2643 court, as the court directs, meeting such standards and using such procedures as are
2644 established by court rule by the Supreme Court of Georgia, with the advice and consent of
2645 the Council of Juvenile Court Judges. The court shall have the discretion to schedule any
2646 subsequent review hearings as necessary.
2647 (b) At any periodic review hearing, the paramount concern shall be the health and safety
2648 of the child.
2649 (c) At the initial 75 day periodic review, the court shall approve the completion of the
2650 relative search, schedule the subsequent four month review to be conducted by the court
2651 or a citizen judicial review panel, and shall determine:
2652 (1) Whether the child continues to be a deprived child;
2653 (2) Whether the existing case plan is still the best case plan for the child and the child's
2654 family and whether any changes need to be made to the case plan including whether a
2655 concurrent case plan for nonreunification is appropriate;
2656 (3) The extent of compliance with the case plan by all participants;
2657 (4) The appropriateness of any recommended changes to the child's placement;
2658 (5) Whether appropriate progress is being made on the permanency plan;
2659 (6) Whether all legally required services are being provided to the child, the foster
2660 parents if there are foster parents, and the child's parent, guardian, or legal custodian;
2661 (7) Whether visitation is appropriate and, if so, approve and establish a reasonable
2662 visitation schedule consistent with the age and developmental needs of the child;
2663 (8) Whether, for a child who is 14 years of age or older, the services needed to assist the
2664 child to make a transition from eligible shelter care to independent living are being
2665 provided; and
2666 (9) Whether reasonable efforts continue to be made to prevent or eliminate the necessity
2667 of the child's removal and to reunify the family after removal, unless reasonable efforts
2668 were not required.
2669 (d) If at any review subsequent to the initial 75 day review the court finds that there is a
2670 lack of substantial progress towards completion of the case plan, the court shall order
2671 DFCS to develop a case plan for nonreunification.
2672 (e) At the time of each review of a child in DFCS custody, DFCS shall notify the court
2673 whether and when it intends to proceed with the termination of parental rights.

2674 15-11-218.
2675 (a) In the event the periodic review of a case is conducted by a judicial citizen review
2676 panel, the panel shall transmit and its report and that of DFCS, including its findings and

2677 recommendations together with DFCS proposed revised plan for reunification or other
2678 permanency plan, if necessary, to the court and the parent within five days after the review.
2679 (b) DFCS shall provide the caregiver of the child, the foster parents of the child if there
2680 are foster parents, and any preadoptive parents or relatives providing care for the child with
2681 a copy of those portions of the report of the judicial citizen review panel that involve the
2682 recommended permanency goal and the recommended services to be provided to the child.
2683 (c) Any party may request a hearing on the proposed revised plan in writing within five
2684 days after receiving a copy of the plan.
2685 (d) If no hearing is requested or scheduled by the court on its own motion, the court shall
2686 review the proposed revised plan and enter a supplemental order incorporating a revised
2687 plan as part of its disposition in the case. In the event that a hearing is held, the court shall,
2688 after hearing evidence, enter a supplemental order incorporating all elements that the court
2689 finds essential in the proposed revised plan.
2690 (e) Notwithstanding subsections (c) and (d) of this Code section, if the judicial citizen
2691 review panel finds that there is a lack of substantial progress towards completion of the
2692 case plan, the court shall schedule a hearing within 30 days of such finding to determine
2693 whether a case plan for nonreunification is appropriate.
2694 (f) If the judicial citizen review panel determines that the parent has unjustifiably failed
2695 to comply with the ordered plan designed to reunite the family and that such failure is
2696 significant enough to warrant consideration of termination of parental rights, the panel may
2697 make a recommendation to DFCS and the child's attorney that a petition for termination
2698 of parental rights should be prepared.

2699 15-11-219.
2700 (a) At the conclusion of a periodic review hearing, or upon review of a report by a judicial
2701 citizen review panel, the court shall issue written findings of fact that include:
2702 (1) Why the child continues to be a deprived child;
2703 (2) Whether the existing case plan is still the best case plan for the child and the child's
2704 family and whether any changes need to be made to the case plan including whether a
2705 concurrent case plan for nonreunification is appropriate;
2706 (3) The extent of compliance with the case plan by all participants;
2707 (4) The basis for any changes to the child's placement;
2708 (5) Whether visitation is or continues to be appropriate;
2709 (6) A description of progress being made on the permanency plan;
2710 (7) Whether all legally required services are being provided to the child, the foster
2711 parents if there are foster parents, and the child's parent, guardian, or legal custodian;

2712 (8) Whether, for a child who is 14 years of age or older, the services needed to assist the
2713 child to make a transition from eligible shelter care to independent living are being
2714 provided; and
2715 (9) Whether reasonable efforts continue to be made to prevent or eliminate the necessity
2716 of the child's removal and to reunify the family after removal, unless reasonable efforts
2717 were not required.
2718 (b) At the conclusion of a periodic review hearing, or upon review of a report by a judicial
2719 citizen review panel, the court shall order one of the following dispositions:
2720 (1) Return the child to the home of his or her parent, guardian, or legal custodian with
2721 or without court imposed conditions;
2722 (2) Allow the child to continue in the current custodial placement because the current
2723 placement is appropriate for the child's needs;
2724 (3) Allow the child to continue in the current custodial placement although the current
2725 placement is no longer appropriate for the child's needs and direct DFCS to devise
2726 another plan which shall:
2727 (A) Be submitted within ten days for court approval;
2728 (B) Be furnished to all parties after court approval of the revised plan; and
2729 (C) Be provided to the caregiver of the child, the foster parents of the child if there are
2730 foster parents , and any preadoptive parents or relative providing care for the child with
2731 a copy of those portions of the court approved revised plan that involve the permanency
2732 goal and the services to be provided to the child; or
2733 (4) Make additional orders regarding the treatment plan or placement of the child to
2734 protect the child's best interests if the court determines DFCS has failed in implementing
2735 any material provision of the case plan or abused its discretion in the placement or
2736 proposed placement of the child.

2737 Part 12

2738 15-11-230.
2739 (a) The court shall hold a permanency plan hearing to determine the future permanent legal
2740 status of each child in DFCS custody.
2741 (b) The permanency plan hearing, which considers in-state and out-of-state placement
2742 options for the child, shall be held:
2743 (1) No later than 30 days after DFCS has submitted a written report to the court which
2744 does not contain a plan for reunification services;
2745 (2) For children under seven years of age at the time a petition is filed, no later than nine
2746 months after the child has entered eligible shelter care;

2747 (3) For children seven years of age and older at the time a petition is filed, no later than
2748 12 months after the child has entered eligible shelter care; or
2749 (4) For a child in a sibling group whose members were removed from the home at the
2750 same time and in which one member of the sibling group was under seven years of age
2751 at the time a petition for deprivation was filed, the permanency plan hearing shall be held
2752 no later than nine months after the child has entered eligible shelter care.
2753 (c) After the initial permanency plan hearing has occurred, a permanency plan hearing
2754 shall be held not less frequently than every six months during the time the child continues
2755 in DFCS custody or more frequently as deemed necessary by the court until the court
2756 determines that the child's permanency plan and goal have been achieved.
2757 (d) The child, the child's parent, guardian, or legal custodian, the child's attorney, the
2758 child's guardian ad litem, if any, the foster parents of the child if there are foster parents,
2759 any preadoptive parent or relatives providing care for the child, and other parties shall be
2760 given written notice of a permanency plan hearing at least five days in advance of such
2761 hearing and shall be advised that the permanency plan recommended by DFCS will be
2762 submitted to the court for consideration as the order of the court.
2763 (e) The court shall consult with the child, in an age-appropriate manner, regarding the
2764 proposed permanency plan for the child.

2765 15-11-231.
2766 At least five days prior to the permanency plan hearing, DFCS shall submit for the court's
2767 consideration a report recommending a permanency plan for the child. The report shall
2768 include documentation of the steps to be taken by DFCS to finalize the permanent
2769 placement for the child and shall include, but shall not be limited to:
2770 (1) The name, address, and telephone number of the child's parent, guardian, and legal
2771 custodian;
2772 (2) The date on which the child was removed from his or her home and the date on
2773 which the child was placed in eligible shelter care;
2774 (3) The location and type of home or facility in which the child is currently held or
2775 placed and the location and type of home or facility in which the child will be placed;
2776 (4) The basis for the decision to hold the child in protective custody or to place the child
2777 outside of his or her home;
2778 (5) A statement as to the availability of a safe and appropriate placement with a fit and
2779 willing relative of the child or other person who has demonstrated an ongoing
2780 commitment to the child or a statement as to why placement with the relative or other
2781 person is not safe or appropriate;

2782 (6) If as a result of the placement the child has been or will be transferred from the
2783 school in which the child is or most recently was enrolled, documentation that a
2784 placement that would maintain the child in that school is unavailable, inappropriate, or
2785 that the child's transfer to another school would be in the child's best interests;
2786 (7) A plan for ensuring the safety and appropriateness of the placement and a description
2787 of the services provided to meet the needs of the child and family, including a discussion
2788 of services that have been investigated and considered and are not available or likely to
2789 become available within a reasonable time to meet the needs of the child or, if available,
2790 why such services are not safe or appropriate;
2791 (8) The goal of the permanency plan which shall include:
2792 (A) Whether and, if applicable, when the child shall be returned to the child's parent;
2793 (B) Whether and, if applicable, when the child shall be referred for termination of
2794 parental rights and adoption;
2795 (C) Whether and, if applicable, when the child shall be placed with a permanent
2796 guardian; or
2797 (D) In the case in which DFCS has documented a compelling reason that none of the
2798 foregoing options would be in the best interests of the child, whether, and if applicable,
2799 when the child shall be placed in another planned permanent living arrangement;
2800 (9) If the child is 14 years of age or older, a description of the programs and services that
2801 are or will be provided to assist the child in preparing for the transition from eligible
2802 shelter care to independent living. The description shall include all of the following:
2803 (A) The anticipated age at which the child will be discharged from eligible shelter care;
2804 (B) The anticipated amount of time available in which to prepare the child for the
2805 transition from eligible shelter care to independent living;
2806 (C) The anticipated location and living situation of the child on discharge from eligible
2807 shelter care;
2808 (D) A description of the assessment processes, tools, and methods that have been or
2809 will be used to determine the programs and services that are or will be provided to
2810 assist the child in preparing for the transition from eligible shelter care to independent
2811 living; and
2812 (E) The rationale for each program or service that is or will be provided to assist the
2813 child in preparing for the transition from eligible shelter care to independent living, the
2814 time frames for delivering such programs or services, and the intended outcome of such
2815 programs or services; and
2816 (10) When the recommended permanency plan is referral for termination of parental
2817 rights and adoption or placement in another home, a description of specific recruitment
2818 efforts such as the use of state, regional, and national adoption exchanges, including

2819 electronic exchange systems, to facilitate orderly and timely in-state and interstate
2820 placements.

2821 15-11-232.
2822 (a) At the permanency plan hearing, the court shall make written findings of fact that
2823 include the following:
2824 (1) Whether DFCS has made reasonable efforts to finalize the permanency plan which
2825 is in effect at the time of the hearing;
2826 (2) The continuing necessity for and the safety and appropriateness of the placement;
2827 (3) Compliance with the permanency plan by DFCS and any other service providers, the
2828 child's parent, and the child's guardian or legal custodian, if any;
2829 (4) Efforts to involve appropriate service providers in addition to DFCS staff in planning
2830 to meet the special needs of the child and the child's parent, guardian, or legal custodian;
2831 (5) Efforts to eliminate the causes for the child's placement outside of his or her home
2832 and toward returning the child safely to his or her home or obtaining a permanent
2833 placement for the child;
2834 (6) The date by which it is likely that the child will be returned to his or her home, placed
2835 for adoption, or placed with a permanent guardian or in some other alternative permanent
2836 placement;
2837 (7) Whether, in the case of child placed out-of-state, the out-of-state placement continues
2838 to be appropriate and in the best interests of the child; and
2839 (8) In the case of a child who is 14 years of age or older, the services needed to assist the
2840 child to make a transition from foster care to independent living.
2841 (b) The permanency plan incorporated in the court's order shall include:
2842 (1) Whether and, if applicable, when the child shall be returned to the child's parent;
2843 (2) Whether and, if applicable, when the child shall be referred for termination of
2844 parental rights and adoption; or
2845 (3) Whether and, if applicable, when the child shall be placed with a permanent guardian.
2846 (c) If the court finds that there is a compelling reason that it would not be in the child's best
2847 interests to be returned to the parent, referred for termination of parental rights and
2848 adoption, or placed with a permanent guardian, then the court's order shall document the
2849 compelling reason and provide that the child should be placed in another planned
2850 permanent living arrangement as defined in the court's order.
2851 (d) A supplemental order of the court adopting the permanency plan shall be entered
2852 within 30 days after the court has determined that reunification efforts shall not be made
2853 by DFCS.

2854 15-11-233.

2855 (a) Except as provided in subsection (b) of this Code section, DFCS shall file a petition to
2856 terminate the parental rights of the child's parent or, if such a petition has been filed by
2857 another party, seek to be joined as a party to the petition, and, concurrently, to identify,
2858 recruit, process, and approve a qualified family for an adoption if:

2859 (1) A child has been in foster care under the responsibility of DFCS for 15 of the most
2860 recent 22 months;

2861 (2) The court has made a determination that the parent has subjected the child to
2862 aggravated circumstances;

2863 (3) The court has made a determination that the child is an abandoned infant; or

2864 (4) The court has made a determination that the parent has been convicted of:

2865 (A) The murder of another child of the parent;

2866 (B) Voluntary manslaughter of another child of the parent;

2867 (C) Voluntary manslaughter of the other parent of the child;

2868 (D) Aiding or abetting, attempting, conspiring, or soliciting to commit murder or
2869 voluntary manslaughter of another child of the parent;

2870 (E) Aiding or abetting, attempting, conspiring, or soliciting to commit murder or
2871 voluntary manslaughter of the other parent of the child; or

2872 (F) Committing felony assault that has resulted in serious bodily injury to the child or
2873 to another child of the parent.

2874 (b) Termination of parental rights may not be in the best interests of the child when:

2875 (1) The child is being cared for by a relative;

2876 (2) The case plan documents a compelling reason for determining that filing such a
2877 petition would not be in the best interests of the child. Such compelling reasons may
2878 include, but shall not be limited to:

2879 (A) The parent is successfully participating in services that will make it possible for
2880 the child to safely return home;

2881 (B) Another permanency plan is better suited to meet the health and safety needs of the
2882 child. Documentation that another permanent plan is better suited to meet the health
2883 and safety needs of the child may include documentation that:

2884 (i) The child is 14 years of age or older and objects to termination of parental rights.
2885 Prior to accepting a child's objection, the court shall personally question the child in
2886 chambers to determine whether the objection is the voluntary and knowing choice of
2887 the child;

2888 (ii) The child is 16 years of age or older and specifically requests that emancipation
2889 be established as his or her permanent plan;

2890 (iii) The parent and the child have a significant bond, but the parent is unable to care
2891 for the child because of an emotional or physical disability, and the child's caregiver
2892 has committed to raising the child to the age of majority and facilitating visitation
2893 with the disabled parent;
2894 (iv) The child is in a residential treatment facility that provides services specifically
2895 designed to address the child's treatment needs, and the court determines that the
2896 child's needs could not be served by a less restrictive placement;
2897 (C) The child is living with a relative who is unable or unwilling to adopt the child, but
2898 who is willing and capable of providing the child with a stable and permanent home
2899 environment, and the removal of the child from the physical custody of his or her
2900 relative would be detrimental to the child's emotional well-being;
2901 (D) The court or judicial citizen review panel, in a prior hearing or review, determined
2902 that while the case plan was to reunify the family, DFCS did not make reasonable
2903 efforts;
2904 (E) The child is an unaccompanied refugee or there are international legal obligations
2905 or foreign policy reasons that would preclude terminating parental rights; or
2906 (3) DFCS has not provided to the family of the child services deemed necessary for the
2907 safe return of the child to the child's home, consistent with the specific time frames for
2908 the accomplishment of the case plan goals.
2909 (c) The recommendation by DFCS that termination of parental rights is not in the best
2910 interests of the child shall be based on the present family circumstances of the child and
2911 shall not preclude a different recommendation at a later date if the child's family
2912 circumstances change.

2913 Part 13

2914 15-11-240.
2915 (a) In addition to the jurisdiction to appoint guardians pursuant to Code Section 15-11-13,
2916 the juvenile court shall be vested with jurisdiction to appoint a permanent guardian for a
2917 child whose custody is a subject of controversy before the court as a result of an
2918 adjudication that the child is deprived in accordance with this article. Prior to the entry of
2919 such an order, the court shall:
2920 (1) Find that reasonable efforts to reunify the child with his or her parents would be
2921 detrimental to the child or find that the living parents of the child have consented to the
2922 permanent guardianship;
2923 (2) Find that termination of parental rights and adoption is not in the best interests of the
2924 child;

2925 (3) Find that the proposed permanent guardian can provide a safe and permanent home
2926 for the child;
2927 (4) Find that the appointment of a permanent guardian for the child is in the best interests
2928 of the child and that the individual chosen as the child's permanent guardian is the
2929 individual most appropriate to be the child's permanent guardian taking into consideration
2930 the best interests of the child; and
2931 (5) If the child is 14 years of age or older, find that the appointment of a permanent
2932 guardian for the child is in the best interests of the child and that the individual chosen
2933 by such child as the child's permanent guardian is the individual most appropriate to be
2934 the child's permanent guardian taking into consideration the best interests of the child.
2935 (b) The court may enter an order of support on behalf of the child against the parents of
2936 the child in accordance with paragraph (7) of subsection (a) of Code Section 15-11-212.

2937 15-11-241
2938 The petition for the appointment of a permanent guardian pursuant to this part shall set
2939 forth:
2940 (1) The facts upon which the court's jurisdiction is based;
2941 (2) The name and date of birth of the child;
2942 (3) The name, address, and county of domicile of the petitioner and the petitioner's
2943 relationship to the child, if any, and, if different from the petitioner, the name, address,
2944 and county of domicile of the individual nominated by the petitioner to serve as guardian
2945 and that individual's relationship to the child, if any;
2946 (4) A statement that:
2947 (A) Reasonable efforts to reunify the child with his or her parents would be detrimental
2948 to the child;
2949 (B) Termination of parental rights and adoption is not in the best interests of the child;
2950 (C) The proposed guardian can provide a safe and permanent home for the child;
2951 (D) The appointment of a permanent guardian for the child is in the best interests of
2952 the child and that the individual chosen as the child's guardian is the individual most
2953 appropriate to be the child's permanent guardian taking into consideration the best
2954 interests of the child; and
2955 (E) If the child is 14 years of age or older, that the appointment of a permanent
2956 guardian for the child is in the best interests of the child and that the individual chosen
2957 by such child as the child's permanent guardian is the most appropriate individual to be
2958 the child's permanent guardian taking into consideration the best interests of the child;
2959 (5) Whether the child was born out of wedlock and, if so, the name and address of the
2960 biological father, if known;

2961 (6) Whether, to the petitioner's knowledge, there exists any notarized or witnessed
2962 document made by a parent of the child that deals with the guardianship of the child and
2963 the name and address of any designee named in the document;
2964 (7) In addition to the petitioner and the nominated guardian and, if the parent has not
2965 consented to the permanent guardianship, the names and addresses of the following
2966 relatives of the child whose whereabouts are known:
2967 (A) The adult siblings of the child; provided however, that not more than three adult
2968 siblings need to be listed;
2969 (B) If there is no adult sibling of the child, the grandparents of the child; provided,
2970 however, that not more than three grandparents need to be listed; or
2971 (C) If there is no grandparent of the child, any three of the nearest adult relatives of the
2972 child determined according to Code Section 53-2-1 of the 'Revised Probate Code of
2973 1998';
2974 (8) Whether a temporary guardian has been appointed for the child or a petition for the
2975 appointment of a temporary guardian has been filed or is being filed; and
2976 (9) The reason for any omission in the petition for appointment of a permanent guardian
2977 for the child in the event full particulars are lacking.

2978 15-11-242.
2979 (a) Permanent guardianship orders entered pursuant to Code Section 15-11-240 shall:
2980 (1) Remain in effect until the child reaches the age of 18 or becomes emancipated;
2981 (2) Not be subject to review by the court except as provided in Code Section 15-11-244;
2982 and
2983 (3) Establish a reasonable visitation schedule which allows the child to maintain
2984 meaningful contact with his or her parents through personal visits, telephone calls, letters,
2985 or other forms of communication or specifically include any restriction on a parent's right
2986 to visitation.
2987 (b) A permanent guardian shall have the rights and duties of a permanent guardian as
2988 provided in Code Sections 29-2-21, 29-2-22, and 29-2-23 and shall take the oath required
2989 of a guardian as provided in Code Section 29-2-24.

2990 15-11-243.
2991 (a) Notice of a guardianship petition pursuant to this part shall be given in accordance with
2992 subsection (c) of Code Section 29-2-17 except that, if the parents have consented to the
2993 guardianship, notice of the petition shall not be required to be given to:
2994 (1) The adult siblings of the child;
2995 (2) The grandparents of the child; or

2996 (3) The nearest adult relatives of the child as determined in accordance with Code
2997 Section 53-2-1 of the 'Revised Probate Code of 1998.'
2998 (b) The hearing shall be conducted in accordance with Code Section 29-2-18, to determine
2999 the best interests of the child, and in reaching its determination the court shall consider
3000 Code Section 15-11-240.

3001 15-11-244.
3002 (a) The court shall retain jurisdiction over a guardianship action under this part for the sole
3003 purpose of entering an order following the filing of a petition to modify, vacate, or revoke
3004 the guardianship and appoint a new guardian.
3005 (b) The superior courts shall have concurrent jurisdiction for enforcement or modification
3006 of any child support or visitation order entered pursuant to Code Section 15-11-240.
3007 (c) The guardianship shall be modified, vacated, or revoked based upon a finding, by clear
3008 and convincing evidence, that there has been a material change in the circumstances of the
3009 child or the guardian and that such modification, vacation, or revocation of the
3010 guardianship order and the appointment of a new guardian is in the best interests of the
3011 child. Appointment of a new guardian shall be subject to the provisions of Code Sections
3012 15-11-240 and 15-11-241.

3013 ARTICLE 4
3014 Part 1

3015 15-11-260.
3016 (a) The purpose of this article is:
3017 (1) To protect a child whose parent is unwilling or unable to provide safety and care
3018 adequate to meet his or her physical, emotional, and mental health needs by providing a
3019 judicial process for the termination of all parental rights and responsibilities;
3020 (2) To eliminate the need for a child to wait unreasonable periods of time for his or her
3021 parent to correct the conditions which prevent a return to the family;
3022 (3) To ensure that the continuing needs of a child for proper physical, mental, and
3023 emotional growth and development are the decisive considerations in all proceedings;
3024 (4) To ensure that the constitutional rights of all parties are recognized and enforced in
3025 all proceedings conducted pursuant to this article while ensuring that the fundamental
3026 needs of a child are not subjugated to the interests of others; and
3027 (5) To encourage stability in the life of a child who has been adjudicated deprived and
3028 has been removed from his or her home by ensuring that all proceedings are conducted

3029 expeditiously to avoid delays in resolving the status of the parent and in achieving
3030 permanency for a child.
3031 (b) Nothing in this article shall be construed as affecting the rights of a parent other than
3032 the parent who is the subject of the proceedings.

3033 15-11-261.
3034 (a) An order terminating the parental rights of a parent shall be without limit as to duration
3035 and shall divest the parent and the child of all legal rights, powers, privileges, immunities,
3036 duties, and obligations with respect to each other, except:
3037 (1) The right of the child to receive child support from his or her parent until a final order
3038 of adoption is entered;
3039 (2) The right of the child to inherit from and through his or her parent. The right of
3040 inheritance of the child shall be terminated only by a final order of adoption;
3041 (3) The right of the child to benefits due to him or her from any third person, agency,
3042 state, or the United States based on the child's status as a child of his or her parent. This
3043 right shall be terminated only by a final order of adoption; and
3044 (4) The right of the child to pursue any civil action against his or her parent.
3045 (b) When an order terminating the parent and child relationship has been issued, the parent
3046 whose right has been terminated shall not thereafter be entitled to notice of proceedings for
3047 the adoption of the child by another, nor has the parent any right to object to the adoption
3048 or otherwise to participate in such proceedings.
3049 (c) The relationship between the child and his or her siblings shall not be severed until that
3050 relationship is terminated by final order of adoption.
3051 (d) A relative whose relationship to the child is derived through the parent whose parental
3052 rights are terminated shall be considered to be a relative of the child for purposes of
3053 placement of, and permanency plan for, the child until such relationship is terminated by
3054 final order of adoption.

3055 15-11-262.
3056 (a) The child and any other party to a proceeding under this article shall have the right to
3057 a qualified and independent attorney at all stages of the proceedings under this article.
3058 (b) The court shall appoint an attorney for the child in a termination of parental rights
3059 proceeding. The appointment shall be made as soon as practicable to ensure adequate
3060 representation of the child and, in any event, before the first court hearing that may
3061 substantially affect the interests of the child.
3062 (c) A child's attorney owes to the child the duties imposed by the law of this state in an
3063 attorney-client relationship.

3064 (d) The court shall appoint a guardian ad litem for the child in a termination proceeding:
3065 (1) At the request of the child's attorney; or
3066 (2) Upon the court's own motion if it determines that a guardian ad litem is necessary to
3067 assist the court in determining the best interests of the child.
3068 (e) The role of a guardian ad litem in a termination of parental rights proceeding shall be
3069 the same role as provided for in all deprivation proceedings under Article 3 of this chapter.
3070 (f) A person appointed as a child's attorney shall have received training that is
3071 administered or approved by the Office of the Child Advocate for the Protection of
3072 Children prior to being appointed. Such preappointment training shall be satisfied within
3073 an attorney's existing continuing legal education obligations and shall not require the
3074 attorney to complete additional training hours in addition to those currently required by the
3075 State Bar of Georgia.
3076 (g) If an attorney has been appointed to represent a child in a prior proceeding under this
3077 chapter, the court, when possible, shall appoint the same attorney to represent the child in
3078 any subsequent proceeding.
3079 (h) An attorney appointed to represent a child in a deprivation proceeding shall continue
3080 the representation in any subsequent appeals unless excused by the court.
3081 (i) Neither the child nor a representative of the child may waive the right to an attorney in
3082 a termination proceeding.
3083 (j) A party other than a child shall be informed of his or her right to an attorney prior to
3084 the adjudication hearing and prior to any other hearing at which a party could be subjected
3085 to the loss of residual parental rights. A party other than a child shall be given an
3086 opportunity to:
3087 (1) Obtain and employ an attorney of the party's own choice;
3088 (2) To obtain a court appointed attorney if the court determines that the party is indigent;
3089 or
3090 (3) Waive the right to an attorney.

3091 15-11-263.
3092 (a) Upon motion of any party or the court, the court may require a physical or mental
3093 evaluation of any parent, stepparent, guardian, legal custodian, or child.
3094 (b) The cost of any ordered evaluation shall be paid by the moving party unless
3095 apportioned by the court, in its discretion, to any other party or parties.

3096 15-11-264.
3097 Chapter 11 of Title 9, the 'Georgia Civil Practice Act,' shall govern discovery in
3098 proceedings in juvenile court, except as otherwise provided in this Code section as follows:

3099 (1) Upon presentation by the child's attorney and guardian ad litem, if any, of the order
3100 of appointment which contains an order for exchange of information, any state or local
3101 agency, department, authority, or institution and any school, hospital, physician, or other
3102 health or mental health care provider shall permit the child's attorney and guardian ad
3103 litem, if any, to inspect and copy any records relating to the child involved in the case
3104 without the consent of the child or the child's parent, guardian, or legal custodian;
3105 (2) Unless a shorter time frame is ordered by the court, a party receiving a written
3106 request for discovery shall comply with such request within ten days of such request or
3107 provide a written explanation of the reasons for noncompliance to the parties and the
3108 court; and
3109 (3) No deposition shall be taken of a child unless the court orders the deposition, under
3110 such conditions as the court may specify, on the ground that the deposition would further
3111 the purposes of this chapter.

3112 15-11-265.
3113 Once a petition to terminate parental rights has been filed, the parent shall thereafter be
3114 without authority to execute an act of surrender or otherwise to affect the custody of the
3115 child except the parent may:
3116 (1) Execute an act of surrender in favor of DFCS; and
3117 (2) Consent to a judgment terminating his or her parental rights.

3118 Part 2

3119 15-11-270.
3120 (a) A proceeding under this article may be commenced in the county in which the child
3121 legally resides. When a child is in DFCS custody at the time a termination petition is filed,
3122 the child assumes the residence of the county in which DFCS is located for purposes of
3123 determining the child's legal residence.
3124 (b) For the convenience of the parties, the court may transfer proceedings to the county in
3125 which the parent legally resides. If a proceeding is transferred, certified copies of all legal
3126 and social documents and records pertaining to the proceeding on file with the clerk of
3127 court shall accompany the transfer.

3128 Part 3

3129 15-11-280.

3130 (a) A petition to terminate parental rights and all subsequent court documents in such
3131 proceeding shall be entitled 'In the interest of , a child.', except upon appeal, in which
3132 event the anonymity of the child shall be preserved by use of appropriate initials. The
3133 petition shall be in writing.

3134 (b) The petition to terminate parental rights shall be made, verified, and endorsed by the
3135 court as provided in Article 3 of this chapter for a petition alleging deprivation.

3136 (c) The petition to terminate parental rights shall:

3137 (1) State clearly that an order for termination of parental rights is requested and that the
3138 effect of the order will be as stated in Code Section 15-11-260;

3139 (2) State the statutory ground, as provided in Code Section 15-11-310, on which the
3140 petition is based; and

3141 (3) Set forth plainly and with particularity:

3142 (A) The facts which bring the child within the jurisdiction of the court, with a
3143 statement that it is in the best interests of the child and the public that the proceeding
3144 be brought;

3145 (B) The name, age, date of birth, and residence address of the child on whose behalf
3146 the petition is brought;

3147 (C) The name and residence address of the parent, guardian, or legal custodian of the
3148 child; or, if the child's parent, guardian, or legal custodian resides or cannot be found
3149 within this state or if such person's place of residence address is unknown, the name of
3150 any known adult relative residing within the county or, if there is none, the known adult
3151 relative residing nearest to the location of the court;

3152 (D) Whether the child is in protective custody and, if so, the place of his or her eligible
3153 shelter care and the time the child was taken into protective custody; and

3154 (E) Whether any of the matters required by this paragraph are unknown.

3155 (d) When a petition seeks termination of the rights of a biological father who is not the
3156 legal father and who has not surrendered his rights to the child, the petition shall include
3157 a certificate from the putative father registry disclosing the name, address, and social
3158 security number of any registrant acknowledging paternity of the child or indicating the
3159 possibility of paternity of a child of the child's mother for a period beginning no later than
3160 two years immediately preceding the child's date of birth. The certificate shall document
3161 a search of the registry on or after the date of the filing of the petition and shall include a
3162 statement that the registry is current as to filings of registrants as of the date of the petition
3163 or as of a date later than the date of the petition to terminate parental rights.

3164 (e) A copy of any voluntary surrender or written consent, if any, previously executed by
3165 the parent shall be attached to the petition to terminate parental rights.

3166 15-11-281.
3167 (a) The court shall direct the issuance of a summons to the child if the child is 14 years of
3168 age or older, the child's mother, legal father or biological father, guardian, legal custodian,
3169 the child's attorney, the child's guardian ad litem, if any, and any other persons who appear
3170 to the court to be proper or necessary parties to the proceeding, requiring them to appear
3171 before the court at the time fixed to answer the allegations of the petition to terminate
3172 parental rights. A copy of such petition shall accompany the summons unless the summons
3173 is served by publication, in which case the published summons shall indicate the general
3174 nature of the allegations and where a copy of such petition can be obtained.
3175 (b) The summons shall include the notice of effect of a termination judgment as set forth
3176 in Code Section 15-11-284 and shall state that a party is entitled to an attorney in the
3177 proceedings and that the court will appoint an attorney if the party is an indigent person.
3178 (c) The court may endorse upon the summons an order directing the parent, guardian, or
3179 legal custodian of the child to appear personally at the hearing or directing the person
3180 having the physical custody or control of the child to bring the child to the hearing.
3181 (d) A party other than the child may waive service of summons by written stipulation or
3182 by voluntary appearance at the hearing.

3183 15-11-282.
3184 (a) If a party to be served with a summons is within this state and can be found, the
3185 summons shall be served upon him or her personally as soon as possible and at least 30
3186 days before the termination of parental rights hearing.
3187 (b) If a party to be served is within this state and cannot be found but his or her address is
3188 known or can be ascertained with reasonable diligence, the summons shall be served upon
3189 such party at least 30 days before the termination of parental rights hearing by mailing him
3190 or her a copy by registered or certified mail or statutory overnight delivery, return receipt
3191 requested.
3192 (c) If a party to be served is outside this state but his or her address is known or can be
3193 ascertained with reasonable diligence, service of the summons shall be made at least 30
3194 days before the termination of parental rights hearing either by delivering a copy to such
3195 party personally or by mailing a copy to him or her by registered or certified mail or
3196 statutory overnight delivery, return receipt request.
3197 (d) If, after reasonable effort, a party to be served with a summons cannot be found and
3198 such party's address cannot be ascertained, whether he or she is within or outside this state,

3199 the court may order service of the summons upon him or her by publication. The
3200 termination of parental rights hearing shall not be earlier than 31 days after the date of the
3201 last publication.
3202 (e)(1) Service by publication shall be made once a week for four consecutive weeks in
3203 the official organ of the county where the petition to terminate parental rights has been
3204 filed. Service shall be deemed complete upon the date of the last publication.
3205 (2) When served by publication, the notice shall contain the names of the parties, except
3206 that the anonymity of the child shall be preserved by the use of appropriate initials, and
3207 the date the petition to terminate parental rights was filed. The notice shall indicate the
3208 general nature of the allegations and where a copy of the petition to terminate parental
3209 rights can be obtained and require the party to be served by publication to appear before
3210 the court at the time fixed to answer the allegations of the petition to terminate parental
3211 rights.
3212 (3) A free copy of the petition to terminate parental rights shall be available to the parent
3213 from the court during business hours or, upon request, shall be mailed to the parent.
3214 (4) Within 15 days after the filing of the order of service by publication, the clerk of
3215 court shall mail a copy of the notice, a copy of the order of service by publication, and
3216 a copy of the petition to terminate parental rights to the absent parent's last known
3217 address.
3218 (f) Service of the summons may be made by any suitable person under the direction of the
3219 court.
3220 (g) The court may authorize the payment from county funds of the costs of service and of
3221 necessary travel expenses incurred by persons summoned or otherwise required to appear
3222 at the hearing.

3223 15-11-283.
3224 (a) Unless he has surrendered all parental rights to the child, a summons shall be served
3225 on:
3226 (1) A biological father who is the legal father of the child;
3227 (2) A biological father whose paternity has been previously established in a judicial
3228 proceeding to which the father was a party;
3229 (3) A biological father whose identity is known to the petitioner or the petitioner's
3230 attorney;
3231 (4) A biological father who is a registrant on the putative father registry and has
3232 acknowledged paternity of the child;

3233 (5) A biological father who is a registrant on the putative father registry who has
3234 indicated possible paternity of a child born to the child's mother during a period
3235 beginning two years immediately preceding the child's date of birth; or
3236 (6) A biological father who, if the court finds from the evidence including but not limited
3237 to the affidavit of the child's mother, has performed any of the following acts:
3238 (A) Lived with the child;
3239 (B) Contributed to the child's support;
3240 (C) Made any attempt to legitimate the child; or
3241 (D) Provided support or medical care for the mother either during her pregnancy or
3242 during her hospitalization for the birth of the child.
3243 (b) Notice shall be given to a biological father by the following methods:
3244 (1) If a biological father is within this state and can be found, the summons shall be
3245 served upon him personally as soon as possible and least 30 days before the termination
3246 of parental rights hearing;
3247 (2) If a biological father is outside this state but his address is known or can be
3248 ascertained with reasonable diligence, service of summons shall be made at least 30 days
3249 before the termination of parental rights hearing either by delivering a copy to him
3250 personally or by mailing a copy to him by registered or certified mail or statutory
3251 overnight delivery, return receipt requested; or
3252 (3) If, after reasonable effort, a biological father to be served with summons cannot be
3253 found and his address cannot be ascertained, whether he is within or outside this state, the
3254 court may order service of summons upon him by publication. The termination of
3255 parental rights hearing shall not be earlier than 31 days after the date of the last
3256 publication. Service by publication shall be as follows:
3257 (A) Service by publication shall be made once a week for four consecutive weeks in
3258 the official organ of the county where the petition to terminate parental rights has been
3259 filed and of the county of the biological father's last known address. Service shall be
3260 deemed complete upon the date of the last publication;
3261 (B) When served by publication, the notice shall contain the names of the parties,
3262 except that the anonymity of the child shall be preserved by the use of appropriate
3263 initials, and the date the petition to terminate parental rights was filed. The notice shall
3264 indicate the general nature of the allegations and where a copy of the petition to
3265 terminate parental rights can be obtained and require the biological father to appear
3266 before the court at the time fixed to answer the allegations of the petition to terminate
3267 parental rights;

3268 (C) A free copy of the petition to terminate parental rights shall be available to the
3269 biological father from the court during business hours or, upon request, shall be mailed
3270 to the biological father; and
3271 (D) Within 15 days after the filing of the order of service by publication, the clerk of
3272 court shall mail a copy of the notice, a copy of the order of service by publication, and
3273 a copy of the petition to terminate parental rights to the biological father's last known
3274 address.
3275 (c) The notice shall advise the biological father who is not the legal father that he shall lose
3276 all rights to the child and will not be entitled to object to the termination of his rights to the
3277 child unless, within 30 days of receipt of notice, he files:
3278 (1) A petition to legitimate the child; and
3279 (2) Notice of the filing of the petition to legitimate with the court in which the
3280 termination of parental rights proceeding is pending.
3281 (d) If the identity of the biological father is not known to the petitioner or the petitioner's
3282 attorney and the biological father would not be entitled to notice in accordance with
3283 subsection (a) of this Code section, then it shall be rebuttably presumed that he is not
3284 entitled to notice of the proceedings. The court shall be authorized to require the mother
3285 to execute an affidavit supporting the presumption or show cause before the court if she
3286 refuses. Absent evidence rebutting the presumption, no further inquiry or notice shall be
3287 required by the court, and the court shall enter an order terminating the rights of the father.
3288 (e) The court shall enter an order terminating all the parental rights of a biological father,
3289 including any right to object thereafter to such proceedings:
3290 (1) Who fails to file a timely petition to legitimate the child and notice in accordance
3291 with subsection (c) of this Code section;
3292 (2) Whose petition to legitimate is subsequently dismissed for failure to prosecute; or
3293 (3) Whose petition to legitimate does not result in a court order finding that he is the
3294 legal father of the child.

3295 15-11-284.
3296 The notice required to be given to the mother, the biological father, and legal father of the
3297 child shall state:
3298 'NOTICE OF EFFECT OF TERMINATION JUDGMENT
3299 Georgia law provides that you can permanently lose your rights as a parent. A petition
3300 to terminate parental rights has been filed requesting the court to terminate your parental
3301 rights to your child. A copy of the petition to terminate parental rights is attached to this
3302 notice. A court hearing of your case has been scheduled for the day of
3303 , at the Court of County.

3304 If you fail to appear, the court can terminate your rights despite your absence.
3305 If the court at the trial finds that the facts set out in the petition to terminate parental
3306 rights are true and that termination of your rights will serve the best interests of your
3307 child, the court can enter a judgment ending your rights to your child.
3308 If the judgment terminates your parental rights, you will no longer have any rights to visit
3309 or to have custody of your child or make any decisions affecting your child. Your child
3310 will be legally freed to be adopted by someone else.
3311 Even if your parental rights are terminated:
3312 (1) You will still be responsible for providing financial support (child support payments)
3313 for the child's care unless and until the child is adopted;
3314 (2) The child can still inherit from you unless and until the child is adopted; and
3315 (3) The child can still receive benefits based on his or her status as your child unless and
3316 until the child is adopted.
3317 This is a very serious matter. You should contact an attorney immediately so that you
3318 can be prepared for the court hearing. You have the right to hire an attorney and to have
3319 him or her represent you. If you cannot afford to hire an attorney, the court will appoint
3320 an attorney if the court finds that you are an indigent person. Whether or not you decide
3321 to hire an attorney, you have the right to attend the hearing of your case, to call witnesses
3322 on your behalf, and to question those witnesses brought against you.
3323 If you have any questions concerning this notice, you may call the telephone number of
3324 the clerk's office which is .'

3325 15-11-285.
3326 (a) If any person named in and properly served with summons shall without reasonable
3327 cause fail to appear or, when directed in the summons, to bring the child before the court,
3328 then the court may issue a rule nisi against the person, directing the person to appear before
3329 the court to show cause why he or she should not be held in contempt of court.
3330 (b) If the summons cannot be served or if the person to whom the summons is directed
3331 fails to obey it, the court may issue an order to take the child into protective custody.

3332 Part 4

3333 15-11-300.
3334 (a) In advance of each hearing to terminate parental rights, DFCS shall give written notice
3335 of the date, time, place, and purpose of the hearing to the caregiver of the child, the foster
3336 parents of the child if there are foster parents, any preadoptive parent, or any relative
3337 providing care for the child, including the right to be heard. The written notice shall be

3338 delivered to the recipient at least 72 hours before the review or hearing by United States
3339 mail, e-mail, or hand delivery at the discretion of DFCS.
3340 (b) This Code section shall not be construed to require a caregiver, foster parent,
3341 preadoptive parent, or relative caring for the child to be made a party to the hearing solely
3342 on the basis of such notice and right to be heard.

3343 15-11-301.
3344 (a) If no just cause has been shown for delay, all hearings contemplated by this article shall
3345 be conducted within 90 days of the date a petition to terminate parental rights is filed.
3346 (b) If no just cause for delay has been shown by written finding of fact by the court, an
3347 order of disposition shall be issued by the juvenile court no later than 30 days after the
3348 conclusion of the hearing on the petition to terminate parental rights.
3349 (c) Stenographic notes or electronic or mechanical recording of all hearings contemplated
3350 by this article shall be required. If no just cause for delay has been shown, the court
3351 reporter shall provide a transcript of the hearings no later than 30 days after a notice of
3352 appeal is filed.
3353 (d) This Code section shall not affect the right to request a rehearing or the right to appeal
3354 the juvenile court's order.

3355 15-11-302.
3356 The record of the testimony of the parties adduced in any proceeding under this article shall
3357 not be admissible in any civil, criminal, or any other cause or proceedings in any court
3358 against a person named as respondent for any purpose whatsoever, except in subsequent
3359 deprivation or termination proceedings involving the same child or deprivation or
3360 termination proceedings involving the same respondent.

3361 15-11-303.
3362 In all proceedings under this article, the standard of proof to be adduced to terminate
3363 parental rights shall be by clear and convincing evidence.

3364 Part 5

3365 15-11-310.
3366 (a) In considering the termination of parental rights, the court shall first determine whether
3367 one of the following statutory grounds for termination of parental rights has been met:
3368 (1) The parent has given written consent to termination which has been acknowledged
3369 by the court or has voluntarily surrendered the child for adoption;

(2) The parent has subjected the child to aggravated circumstances;

(3) The parent has wantonly and willfully failed to comply for a period of 12 months or longer with a decree to support the child that has been entered by a court of competent jurisdiction of this or any other state;

(4) The child is abandoned by the parent; or

(5) The child is deprived due to lack of proper parental care or control by the parent, reasonable efforts to remedy the circumstances have been unsuccessful or were not required, such cause of deprivation is likely to continue or will not likely be remedied, and the continued deprivation will cause or is likely to cause serious physical, mental, emotional, or moral harm to the child.

(b) If one of the statutory grounds for termination has been met, the court shall then consider whether termination is in the child's best interests after considering all the factors set forth in Code Section 15-11-25 as follows:

(1) The physical safety and welfare of the child, including food, shelter, health, and clothing;

(2) The mental and physical health of all individuals involved;

(3) Evidence of domestic violence;

(4) The child's background and ties, including familial, cultural, and religious;

(5) The child's sense of attachments, including the child's sense of security, the child's sense of familiarity, and continuity of affection for the child;

(6) The least disruptive placement alternative for the child;

(7) The child's wishes and long-term goals;

(8) The child's community ties, including church, school, and friends;

(9) The child's need for permanence which includes the child's need for stability and continuity of relationships with a parent, siblings, and other relatives;

(10) The uniqueness of every family and child;

(11) The risks attendant to entering and being in substitute care;

(12) The preferences of the persons available to care for the child; and

(13) Any other factors considered by the court to be relevant and proper to its determination.

(c) If the court determines that the parent has subjected the child to aggravated circumstances because the parent has committed the murder of the other parent of the child, the court shall presume that termination of parental rights is in the best interests of the child.

3404 15-11-311.
3405 (a) In determining whether the child is without proper parental care and control, the court
3406 shall consider, without being limited to, the following:
3407 (1) A medically verified deficiency of the parent's physical, mental, or emotional health
3408 of such duration or nature as to render the parent unable to provide adequately for the
3409 child;
3410 (2) Excessive use of or history of chronic unrehabilitated abuse of alcohol or narcotic or
3411 dangerous drugs or controlled substances with the effect of rendering the parent incapable
3412 of providing adequately for the physical, mental, emotional, or moral condition and needs
3413 of the child;
3414 (3) A felony conviction and imprisonment of the parent which has a demonstrably
3415 negative effect on the quality of the parent-child relationship including, but not limited
3416 to, any of the following:
3417 (A) Murder of another child of the parent;
3418 (B) Voluntary manslaughter of another child of the parent;
3419 (C) Voluntary manslaughter of the other parent of the child;
3420 (D) Aiding or abetting, attempting, conspiring, or soliciting to commit murder or
3421 voluntary manslaughter of another child of the parent;
3422 (E) Aiding or abetting, attempting, conspiring, or soliciting to commit murder or
3423 voluntary manslaughter of the other parent of the child;
3424 (F) Committing a felony assault that results in serious bodily injury to the child or
3425 another child of the parent.
3426 (4) Egregious conduct or evidence of past egregious conduct of a physically,
3427 emotionally, or sexually cruel or abusive nature by the parent toward the child or toward
3428 another child of the parent;
3429 (5) Physical, mental, or emotional neglect of the child or evidence of past physical,
3430 mental, or emotional neglect by the parent of the child or another child of the parent; and
3431 (6) Serious bodily injury or death of a sibling of a child under circumstances which
3432 constitute substantial evidence that such injury or death resulted from parental neglect or
3433 abuse.
3434 (b) In determining whether the child who is not in the custody and care of a parent is
3435 without proper parental care and control, the court shall also consider, without being
3436 limited to, whether the parent, without justifiable cause, has failed significantly for a period
3437 of six months prior to the date of the termination hearing:
3438 (1) To develop and maintain a parental bond with the child in a meaningful, supportive
3439 manner;

3440 (2) To provide for the care and support of the child as required by law or judicial decree;
3441 and
3442 (3) To comply with a court ordered plan designed to reunite the child with the parent.
3443 (c) A parent's reliance on prayer or other religious nonmedical means for healing in lieu
3444 of medical care, in the exercise of religious beliefs, shall not be the sole basis for
3445 determining the parent to be unwilling or unable to provide safety and care adequate to
3446 meet the child's physical, emotional, and mental health needs as provided in paragraph (1)
3447 of subsection (a) of this Code section or as depriving the child of proper parental care or
3448 control for purposes of this Code section and Code Section 15-11-310.

3449 Part 6

3450 15-11-320.
3451 (a) When the court finds that any ground set out in Code Section 15-11-310 is proved by
3452 clear and convincing evidence and that termination of parental rights is in the child's best
3453 interests, it shall order the termination of the parent's rights.
3454 (b) The court's order shall:
3455 (1) Contain written findings on which the order is based, including the factual basis for
3456 a determination that grounds for termination of parental rights exist and that termination
3457 is in the best interests of the child;
3458 (2) Be conclusive and binding on all parties from the date of entry;
3459 (3) Grant custody of the child in accordance with Code Section 15-11-321; and
3460 (4) Inform the parent of his or her right to use the services of the Georgia Adoption
3461 Reunion Registry although failure to include such information shall not affect the validity
3462 of the judgment.
3463 (c) If the court does not order the termination of parental rights but the court finds that
3464 there is clear and convincing evidence that the child is deprived, the court may enter a
3465 disposition order in accordance with the provisions of Article 3 of this chapter.
3466 (d) The court shall transmit a copy of every final order terminating the parental rights of
3467 a parent to the Office of Adoptions of the department within 15 days of the filing of such
3468 order.

3469 15-11-321.
3470 (a) A placement may be made only if the court finds that the placement is in the best
3471 interests of the child.
3472 (b) A guardian or legal custodian shall submit to the jurisdiction of the court for purposes
3473 of placement.

3474 (c) If, upon the entering of an order terminating the parental rights of a parent, there is no
3475 parent having parental rights, the child shall be placed in the most appropriate placement
3476 for the child in the following order of priority:
3477 (1) With a relative willing to adopt the child if, after study by the probation officer or
3478 other designee of the court, the child's relative is found by the court to be qualified to
3479 receive and care for the child;
3480 (2) In the custody of the department or to a licensed child-placing agency willing to
3481 accept custody for the purpose of placing the child for adoption;
3482 (3) With a relative or other suitable individual on the condition that the person becomes
3483 the guardian of the person of the child pursuant to the court's authority under Code
3484 Section 15-11-113 if, after study by the probation officer or other designee of the court,
3485 the person is found by the court to be qualified to receive and care for the child;
3486 (4) In the custody of the department or to a licensed child-placing agency willing to
3487 accept custody for the purpose of placing the child in a foster home.
3488 (d) In addition to its rights as a legal custodian, the department has the authority to consent
3489 to the adoption of the child.

3490 15-11-322.
3491 (a) Except in those cases in which the child was placed pursuant to paragraph (3) or (4) of
3492 subsection (c) of Code Section 15-11-321, if a petition seeking the adoption of the child is
3493 not filed within six months after the date of the disposition order, the court shall then, and
3494 at least every six months thereafter as long as the child remains unadopted, review the
3495 circumstances of the child to determine what efforts have been made to assure that the child
3496 will be adopted. The court shall:
3497 (1) Make written findings regarding whether reasonable efforts have been made to move
3498 the child to permanency;
3499 (2) Evaluate whether, in light of any change in circumstances, the permanency plan for
3500 the child remains appropriate; and
3501 (3) Enter such orders as it deems necessary to further adoption or if appropriate, other
3502 permanency options, including, but not limited to, another placement.
3503 (b) In those cases in which the child was placed with a guardian of the child's person,
3504 within 60 days after such appointment and within 60 days after each anniversary date of
3505 such appointment, the guardian shall file with the court a personal status report of the child
3506 which shall include:
3507 (1) A description of the child's general condition, changes since the last report, and the
3508 child's needs;

3509 (2) All addresses of the child during the reporting period and the living arrangements of
3510 the child for all addresses; and
3511 (3) Recommendations for any modification of the guardianship order.

3512 15-11-323.
3513 (a) A child who has not been adopted after the passage of at least three years from the date
3514 the court terminated parental rights and for whom the court has determined that adoption
3515 is no longer the permanent plan may petition the court to reinstate parental rights pursuant
3516 to the modification of orders procedure prescribed by Code Section 15-11-31. The child
3517 may file the petition to reinstate parental rights prior to the expiration of such three-year
3518 period if the department or licensed child-placing agency that is responsible for the custody
3519 and supervision of the child and the child stipulate that the child is no longer likely to be
3520 adopted. A child 14 years of age or older shall sign the petition in the absence of a
3521 showing of good cause as to why the child could not do so.
3522 (b) If it appears that the best interests of the child may be promoted by reinstatement of
3523 parental rights, the court shall order that a hearing be held and shall cause notice to be
3524 served by United States mail to DFCS, to the child's attorney of record, guardian ad litem,
3525 if any, foster parents if there are any, and to the child's former parent whose parental rights
3526 were terminated. The parent and foster parents if there are any shall have a right to be
3527 heard at the hearing to reinstate parental rights but shall not be parties at such hearing, and
3528 such hearing may be conducted in their absence. The child's motion shall be dismissed if
3529 the parent cannot be located.
3530 (c) The court shall grant the petition if it finds by clear and convincing evidence that the
3531 child is no longer likely to be adopted and that reinstatement of parental rights is in the
3532 child's best interests. In determining whether reinstatement is in the child's best interests
3533 the court shall consider, but shall not be limited to, the following:
3534 (1) Whether the parent whose rights are to be reinstated is a fit parent and has remedied
3535 his or her deficits as provided in the record of the prior termination proceedings and prior
3536 termination order;
3537 (2) The age and maturity of the child and the ability of the child to express his or her
3538 preference;
3539 (3) Whether the reinstatement of parental rights will present a risk to the child's health,
3540 welfare, or safety; and
3541 (4) Other material changes in circumstances, if any, that may have occurred which
3542 warrant the granting of the petition.
3543 (d) If the court grants the petition to reinstate parental rights, a review hearing will be
3544 scheduled within six months. During such period, the court may order that the child be

immediately placed in the custody of the parent or, if the court determines that a transition period is necessary, order DFCS to provide transition services to the family as appropriate.

(e) An order granted under this Code section reinstates the parental rights to the child. Such reinstatement shall be a recognition that the situation of the parent and child has changed since the time of the termination of parental rights and reunification is now appropriate.

(f) This Code section is intended to be retroactive and applied to any child who is under the jurisdiction of the court at the time of the hearing regardless of the date parental rights were terminated.

ARTICLE 5

15-11-350.

As used in article, the term:

(1) 'Independent life skills assessment' means an assessment of a child upon reaching 16 years of age to determine the specific life skills services that are most appropriate for such child.

(2) 'Independent living assessment' means a comprehensive assessment conducted during the month following a child's seventeenth birthday to determine such child's skills and abilities to live independently and become self-sufficient.

(3) 'Life skills services' includes, but shall not be limited to, independent living skills training, including training to develop banking and budgeting skills, interviewing skills, parenting skills, educational support, employment training, basic legal skills, and counseling.

(4) 'Preindependent living assessment' means an initial assessment of a child's strengths and needs to determine the preindependent living services that are most appropriate for such child.

(5) 'Preindependent living services' includes, but shall not be limited to, life skills training, educational field trips, and mentoring.

(6) 'Subsidized independent living services' means living arrangements that allow the child to live independently of the daily care and supervision of an adult in a setting that is not required to be licensed.

(7) 'Young adult' means a person who has reached the age of 18 but is not yet 23 years of age.

3577 15-11-351.

3578 (a) DFCS shall administer a system of independent living transition services to enable
3579 adolescents and young adults in foster care and young adults who exit foster care at age 18
3580 to make the transition to self-sufficiency as adults.

3581 (b) The goals of independent living transition services shall be to assist adolescents and
3582 young adults in foster care and young adults who were formerly in foster care to obtain life
3583 skills and education for independent living and employment, to enjoy a quality of life
3584 appropriate for their age, and to assume personal responsibility for becoming self-sufficient
3585 adults.

3586 (c) In providing independent living services for children, DFCS shall balance the goals of
3587 normalcy and safety for a child and provide caregivers with as much flexibility as possible
3588 to enable such child to live as normal a life as possible and participate in age-appropriate
3589 extracurricular, enrichment, and social activities. In turn, caregivers shall take reasonable
3590 steps to determine the appropriateness of the activity in consideration of the child's age,
3591 maturity, and developmental level.

3592 (d) DFCS shall establish a continuum of services for eligible children in foster care and
3593 eligible young adults who were formerly in foster care which accomplish the goals for the
3594 system of independent living transition services.

3595 (e) For children in foster care, independent living transition services shall not be an
3596 alternative to adoption. Independent living transition services may occur concurrently with
3597 continued efforts to locate and achieve placement in adoptive families for adolescents in
3598 foster care.

3599 15-11-352.

3600 (a) DFCS shall provide independent living services to children who have reached 14 years
3601 of age but are not yet 18 years of age and who are in foster care. Children to be served
3602 shall meet the eligibility requirements set forth for specific services as provided in this
3603 article.

3604 (b) DFCS shall provide independent living services to young adults who have reached 18
3605 years of age but are not yet 23 years of age and who were in foster care when they turned
3606 18 years of age. Young adults to be served shall meet the eligibility requirements set forth
3607 for specific services in this article.

3608 (c) DFCS shall develop objective criteria for determining eligibility benefits and services
3609 available under this article.

3610 15-11-353.
3611 (a) DFCS shall provide adolescents and young adults with opportunities to participate in
3612 life skills activities in their foster families and communities which are reasonable and
3613 appropriate for their respective ages and shall provide them with services to build such
3614 skills and increase their ability to live independently and become self-sufficient. DFCS
3615 shall:
3616 (1) Develop a list of age-appropriate activities and responsibilities to be offered to all
3617 children involved in independent living transition services and their foster parents;
3618 (2) Provide training for staff and foster parents to address the issues of adolescents in
3619 foster care in transitioning to adulthood, which shall include information on supporting
3620 education and employment and providing opportunities to participate in appropriate daily
3621 activities;
3622 (3) Develop procedures to maximize the authority of foster parents to approve
3623 participation in age-appropriate activities of children in their care;
3624 (4) Provide opportunities for adolescents in foster care to interact with mentors; and
3625 (5) Develop and implement procedures for adolescents to directly access and manage the
3626 personal allowance they receive from DFCS in order to learn responsibility and
3627 participate in age-appropriate life skills activities.
3628 (b) Each child in foster care, his or her foster parents, and DFCS or the community based
3629 provider shall set early achievement and career goals for the child's postsecondary
3630 educational and work experience. DFCS and community based providers shall implement
3631 a model to help ensure that children in foster care are ready for postsecondary education
3632 and the workplace as follows:
3633 (1) A child in foster care entering the ninth grade, the child's foster parents, and DFCS
3634 or a community based provider shall be active participants in choosing a postsecondary
3635 goal based upon both the abilities and interests of the child. Such goal shall
3636 accommodate the needs of the child served in exceptional education programs to the
3637 extent appropriate for the child. A child in foster care, with the assistance of the child's
3638 foster parents, and DFCS or a community based provider shall set a postsecondary goal
3639 including, but not limited to:
3640 (A) Attending a four-year college or university, a community college plus university,
3641 or a military academy;
3642 (B) Receiving a two-year postsecondary degree;
3643 (C) Attaining a postsecondary career and technical certificate or credential;
3644 (D) Beginning immediate employment after completion of a high school diploma or
3645 its equivalent; or
3646 (E) Enlisting in the military;

3647 (2) In order to assist a child in achieving his or her chosen goal, DFCS or a community
3648 based provider shall, with the participation of the child and foster parents, identify:
3649 (A) The core courses necessary to qualify for a chosen goal;
3650 (B) Any elective courses which would provide additional help in reaching a chosen
3651 goal;
3652 (C) The grade point requirement and any additional information necessary to achieve
3653 a specific goal; and
3654 (D) A teacher, other school staff member, employee of DFCS or a community based
3655 care provider, or community volunteer who would be willing to work with the child as
3656 an academic advocate or mentor if foster parent involvement is insufficient or
3657 unavailable;
3658 (3) In order to complement educational goals, DFCS and community based providers are
3659 encouraged to form partnerships with the business community to support internships,
3660 apprenticeships, or other work related opportunities; and
3661 (4) DFCS and community based providers shall ensure that a child and the child's foster
3662 parents are made aware of the postsecondary goals available and shall assist in
3663 identifying the coursework necessary to enable the child to reach the chosen goal.
3664 (c) A child in foster care and a young adult formerly in foster care shall be encouraged to
3665 take part in learning opportunities that result from participation in community service
3666 activities.
3667 (d) A child in foster care and a young adult formerly in foster care shall be provided with
3668 the opportunity to change from one postsecondary goal to another, and each postsecondary
3669 goal shall allow for changes in each individual's needs and preferences. Any change,
3670 particularly a change that will result in additional time required to achieve a goal, shall be
3671 made with the guidance and assistance of DFCS or a community based provider.

3672 15-11-354.
3673 DFCS shall provide transition to independence services to children in foster care who meet
3674 prescribed conditions and are determined eligible by DFCS. The service categories
3675 available to children in foster care which facilitate successful transition into adulthood are:
3676 (1) Preindependent living services;
3677 (2) Life skills services; and
3678 (3) Subsidized independent living services.

3679 15-11-355.

3680 (a) A child who has reached 14 years of age but is not yet 16 years of age who is in foster
3681 care shall be eligible for preindependent living services. The specific services to be
3682 provided to a child shall be determined using a preindependent living assessment.

3683 (b) DFCS shall conduct an annual staffing for each child who has reached 14 years of age
3684 but is not yet 16 years of age to ensure that the preindependent living training and services
3685 to be provided as determined by the preindependent living assessment are being received
3686 and to evaluate the progress of the child in developing the needed independent living skills.

3687 (c) At the first annual staffing that occurs following a child's fourteenth birthday, and at
3688 each subsequent staffing, DFCS shall provide to each child detailed information on any
3689 grants, scholarships, and waivers that are available and should be sought by the child with
3690 assistance from DFCS.

3691 (d) Information related to both the preindependent living assessment and all staffings,
3692 which shall be reduced to writing and signed by the child, shall be included as a part of the
3693 written report required to be provided to the court at each periodic review hearing.

3694 15-11-356.

3695 (a) A child who has reached 16 years of age but is not yet 18 years of age who is in foster
3696 care shall be eligible for life skills services.

3697 (b) Children receiving such life skills services shall also be provided with information
3698 related to social security insurance benefits and public assistance. The specific services to
3699 be provided to a child shall be determined using an independent life skills assessment

3700 (c) DFCS shall conduct a staffing at least once every six months for each child who has
3701 reached 16 years of age but is not yet 18 years of age to ensure that the appropriate
3702 independent living training and services as determined by the independent life skills
3703 assessment are being received and to evaluate the progress of the child in developing the
3704 needed independent living skills.

3705 (d) DFCS shall provide to each child in foster care during the calendar month following
3706 the child's seventeenth birthday an independent living assessment to determine the child's
3707 skills and abilities to live independently and become self-sufficient. Based on the results
3708 of the independent living assessment, services and training shall be provided in order for
3709 the child to develop the necessary skills and abilities prior to the child's eighteenth birthday.

3710 (e) Information related to both the independent life skills assessment and all staffings,
3711 which shall be reduced to writing and signed by the child, shall be included as a part of the
3712 written report required to be provided to the court at each periodic review hearing.

3713 15-11-357.

3714 (a) A child who has reached 17 years of age but is not yet 21 years of age shall be eligible
3715 for subsidized independent living services if:

3716 (1) The child has been adjudicated deprived under Article 3 of this chapter; has been
3717 placed in licensed out-of-home care for at least six months prior to entering subsidized
3718 independent living; and has a permanency goal of independent living or long-term
3719 licensed care; and

3720 (2) The child is able to demonstrate independent living skills, as determined by DFCS
3721 using established procedures and assessments.

3722 (b) Independent living arrangements established for a child shall be part of an overall plan
3723 leading to the total independence of the child from DFCS supervision. Such plan shall
3724 include, but shall not be limited to:

3725 (1) A description of the skills of the child and a plan for learning additional identified
3726 skills;

3727 (2) The behavior that the child has exhibited which indicates an ability to be responsible
3728 and a plan for developing additional responsibilities, as appropriate;

3729 (3) A plan for future educational, vocational, and training skills;

3730 (4) Present financial and budgeting capabilities and a plan for improving resources and
3731 ability;

3732 (5) A description of a proposed residence;

3733 (6) Documentation that the child understands the specific consequences of his or her
3734 conduct in an independent living program;

3735 (7) Documentation of proposed services to be provided by DFCS and other agencies,
3736 including the type of service and the nature and frequency of contact; and

3737 (8) A plan for maintaining or developing relationships with family, other adults, friends,
3738 and the community, as appropriate.

3739 (c) Subsidy payments in an amount established by DFCS may be made directly to a child
3740 under the direct supervision of a caseworker or other responsible adult approved by DFCS.

3741 15-11-358.

3742 DFCS shall provide or arrange for the following services to young adults formerly in foster
3743 care who meet the prescribed conditions and are determined eligible by DFCS:

3744 (1) Aftercare support services which are available to such young adults in their efforts
3745 to continue to develop the skills and abilities necessary for independent living; and

3746 (2) Transitional short-term services.

3747 15-11-359.
3748 (a) A young adult who left foster care at 18 years of age but who requests services prior
3749 to reaching 23 years of age shall be eligible for aftercare support services.
3750 (b) Aftercare support services include, but shall not be limited to:
3751 (1) Mentoring and tutoring;
3752 (2) Mental health services and substance abuse counseling;
3753 (3) Life skills classes, including, but not limited to, credit management, preventive health
3754 activities, and basic legal skills;
3755 (4) Parenting classes;
3756 (5) Job skills training;
3757 (6) Counselor consultations; and
3758 (7) Temporary financial assistance.
3759 (c) The specific services to be provided under this Code section shall be determined by an
3760 aftercare services assessment and may be provided by DFCS or through referrals in the
3761 community. Temporary assistance provided to prevent homelessness shall be provided as
3762 expeditiously as possible and within the limitations defined by DFCS.

3763 15-11-360.
3764 (a) In addition to any services provided through aftercare support, a young adult formerly
3765 in foster care may receive other appropriate transitional services, which may include
3766 financial, housing, counseling, employment, education, mental health, disability, and other
3767 services, if the young adult demonstrates that the services are critical to the young adult's
3768 own efforts to achieve self-sufficiency and to develop a personal support system.
3769 (b) A young adult shall be eligible to apply for transitional support services if he or she
3770 was a deprived child, was living in licensed foster care or in subsidized independent living
3771 at the time of his or her eighteenth birthday, and had spent at least six months living in
3772 foster care before his or her eighteenth birthday.
3773 (c) If at any time transitional support services are no longer critical to the young adult's
3774 own efforts to achieve self-sufficiency and to develop a personal support system, the
3775 provision of such services may be terminated.

3776 15-11-361.
3777 Payment of aftercare or transitional support funds shall be made directly to the recipient
3778 unless the recipient requests in writing to the community based provider, or DFCS, that the
3779 payments or a portion of the payments be made directly on the recipient's behalf to a third
3780 party in order to secure services such as housing, counseling, education, or employment
3781 training as part of the young adult's own efforts to achieve self-sufficiency.

3782 15-11-362.
3783 (a) A judicial review of the independent living services being provided to a child shall be
3784 held:
3785 (1) For a child who has reached 14 years of age but is not 18 years of age, during the
3786 periodic review and permanency plan hearings under Article 3 of this chapter; or
3787 (2) For a young adult, at least annually.
3788 (b) In addition to the periodic review and permanency plan hearings under Article 3 of this
3789 chapter, the court shall hold a hearing to review the status of the child within 90 days after
3790 a child's seventeenth birthday. Such hearing may be held concurrently with a periodic
3791 review or permanency plan hearing. If necessary, the court may review the status of the
3792 child more frequently during the year prior to the child's eighteenth birthday.
3793 (c) At each periodic review, in addition to any information or report provided to the court,
3794 the foster parent, legal custodian, guardian ad litem, if any, and the child shall be given the
3795 opportunity to provide the court with any information relevant to the child's best interests
3796 as it relates to independent living transition services. In addition to any information or
3797 report provided to the court, DFCS shall include in its social study report written
3798 verification that the child has been:
3799 (1) Provided with a current Medicaid card and has been provided all necessary
3800 information concerning the Medicaid program sufficient to prepare the child to apply for
3801 coverage upon reaching age 18, if such application would be appropriate;
3802 (2) Provided with a certified copy of his or her birth certificate and, if the child does not
3803 have a valid driver's license, a valid Georgia identification card;
3804 (3) Provided information relating to federal social security insurance benefits if the child
3805 is eligible for such benefits. If the child has received such benefits and the benefits are
3806 being held in trust for the child, a full accounting of such funds shall be provided and the
3807 child shall be informed about how to access such funds;
3808 (4) Provided with information and training related to budgeting skills, interviewing
3809 skills, parenting skills, and basic legal skills;
3810 (5) Provided with essential banking skills including an open bank account or
3811 identification necessary to open an account;
3812 (6) Provided with information on public assistance and how to apply;
3813 (7) Provided a clear understanding of where he or she will be living on his or her
3814 eighteenth birthday, how living expenses will be paid, and what educational program or
3815 school he or she will be enrolled in; and
3816 (8) Encouraged to attend all judicial review hearings occurring after his or her
3817 seventeenth birthday.

3818 (d) At the first judicial review hearing held subsequent to a child's seventeenth birthday,
3819 DFCS shall provide the court with an updated case plan that includes specific information
3820 related to independent living services that have been provided since the child's fourteenth
3821 birthday or since the date the child came into foster care, whichever came later.
3822 (e) At the time of a periodic review hearing held, if, in the opinion of the court, DFCS has
3823 not complied with its obligations as specified in the written case plan or in the provision
3824 of independent living services, the court shall issue a show cause order. If cause is shown
3825 for failure to comply, the court shall give DFCS 30 days within which to comply and, on
3826 failure to comply with this or any subsequent order, DFCS may be held in contempt.

3827 15-11-363.
3828 The department shall promulgate regulations to administer this article and shall follow the
3829 requirements of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The
3830 department shall complete the development of all procedures, systems, assessments, and
3831 other items required by this article by January 1, 2013.

3832 ARTICLE 6
3833 Part 1

3834 15-11-380.
3835 The purpose of this article is:
3836 (1) To acknowledge that certain behaviors or conditions occurring within a family or
3837 school environment indicate that a child is experiencing serious difficulties and is in need
3838 of services and corrective action in order to protect the child from the irreversibility of
3839 certain choices and to protect the integrity of the family;
3840 (2) To make other family members aware of their contributions to their family's
3841 problems and to encourage family members to accept the responsibility to participate in
3842 any program of care ordered by the court;
3843 (3) To provide a child with a program of treatment, care, guidance, counseling, structure,
3844 supervision, and rehabilitation which the child needs to assist him or her in becoming a
3845 responsible and productive member of society; and
3846 (4) To ensure the cooperation and coordination of all agencies having responsibility to
3847 supply services to any member of the family referred to the court.

3848 15-11-381.
3849 As used in this article, the term:

3850 (1) 'Habilitation' means the process by which a child is helped to acquire and maintain
3851 those life skills which will enable him or her to cope more effectively with the demands
3852 of his or her own person and of his or her environment and to raise the level of his or her
3853 physical, mental, social, and vocational abilities.
3854 (2) 'Home detention' means court ordered confinement of a child with his or her parent,
3855 guardian, legal custodian, or in some other specified home for 24 hours a day unless
3856 otherwise prescribed by written court order, under which the child is permitted out of the
3857 residence only at such hours and in the company of persons specified in the court order
3858 establishing the home detention. Home detention shall be monitored by DJJ or court
3859 based probation.
3860 (3) 'Mental health plan' means an interagency treatment, habilitation, support, or
3861 supervision plan developed at an interagency meeting of state or local agency
3862 representatives, parties, and other interested persons following a court's finding that a
3863 child is not mentally competent, as defined in Code Section 15-11-651, to stand trial. A
3864 mental health plan shall be submitted to the court for approval as part of the disposition
3865 of the child's case.
3866 (4) 'Nonsecure facility' means a public or private facility which does not include
3867 construction fixtures such as locked rooms and buildings, fences, or other physical
3868 structures designed to physically restrict the movements and activities of a child in
3869 custody.
3870 (5) 'Plan manager' means a person who is under the supervision of the court and is
3871 appointed by the court to convene a meeting of all relevant parties for the purpose of
3872 developing a mental health plan. A plan manager shall be responsible for collecting all
3873 previous histories of the child including, but not limited to, evaluations, assessments,
3874 treatment summaries, and school records.
3875 (6) 'Runaway' means a child who without just cause and without the consent of his or her
3876 parent, guardian, or legal custodian is absent from his or her home or place of abode for
3877 at least 24 hours.
3878 (7) 'Status offense' means an act prohibited by law which would not be an offense if
3879 committed by an adult.
3880 (8) 'Truant' means having ten or more days of unexcused absences from school in the
3881 current academic year.
3882 (9) 'Valid court order' means a court order issued by a judge to a child alleged or found
3883 to have committed a status offense and:
3884 (A) Who was brought before the court and made subject to the order;
3885 (B) Whose future conduct is regulated by the order;

3886 (C) Who was given verbal and written warning of the consequences of violating the
3887 order at the time the order was issued and whose attorney, parent, guardian, or legal
3888 custodian was also provided with written notice of the consequences of violating the
3889 order, and the notice is reflected in the court record; and
3890 (D) Who was afforded due process prior to the issuance of the order.

3891 Part 2

3892 15-11-390.
3893 (a) A complaint alleging a child is in need of services may be filed by a parent, guardian,
3894 or legal custodian, DFCS, a school official, a law enforcement officer, a guardian ad litem,
3895 or a prosecuting attorney who has knowledge of the facts alleged or is informed and
3896 believes that such facts are true.
3897 (b) The complaint shall set forth plainly and with particularity:
3898 (1) The name, date of birth, and residence address of the child on whose behalf the
3899 complaint is being filed;
3900 (2) The names and residence addresses of the parent, guardian, or legal custodian, any
3901 other family members, or any other individuals living within the child's home;
3902 (3) The name of any public institution or agency having the responsibility or ability to
3903 supply services alleged to be needed by the child; and
3904 (4) Whether any of the matters required by this subsection are unknown.
3905 (c) When a school official is filing a complaint, information shall be included which shows
3906 that:
3907 (1) The legally liable school district has sought to resolve the expressed problem through
3908 available educational approaches; and
3909 (2) The school district has sought to engage the parent, guardian, or legal custodian in
3910 solving the problem but such person has been unwilling or unable to do so, that the
3911 problem remains, and that court intervention is needed.
3912 (d) When a school official is filing a complaint involving a child who is eligible or
3913 suspected to be eligible for services under the federal Individuals with Disabilities
3914 Education Act or Section 504 of the federal Rehabilitation Act of 1973, information shall
3915 be included which demonstrates that the legally liable school district:
3916 (1) Has determined that the child is eligible or suspected to be eligible under the federal
3917 Individuals with Disabilities Education Act or Section 504 of the federal Rehabilitation
3918 Act of 1973; and
3919 (2) Has reviewed for appropriateness the child's current individualized education
3920 program (IEP) and placement and has made modifications where appropriate.

3921 (e) The intake officer shall be responsible for receiving complaints alleging that a child is
3922 in need of services.

3923 15-11-391.
3924 (a) Upon the filing of a complaint alleging that a child is in need of services, the intake
3925 officer shall convene a multidisciplinary conference to be attended by the child, the child's
3926 parent, guardian, or legal custodian, DFCS, and any other agency or public institution
3927 having legal responsibility or discretionary authority to supply services to the family except
3928 in emergencies or when the court or the intake officer determines it to be inappropriate or
3929 futile.
3930 (b) The intake officer shall determine whether a mandatory conference is inappropriate or
3931 futile based on:
3932 (1) A screening of the child; and
3933 (2) If a parent, guardian, or legal custodian has filed the complaint, the nature of that
3934 parent, guardian, or legal custodian's participation in and compliance with previous
3935 mandatory conferences or informal family services plan agreements, if any.
3936 (c) Upon application to the court by the plan manager or upon the motion of any party or
3937 upon the court's own motion, the court shall issue an order for good cause to any person
3938 determined by the court to be a required participant in the mandatory multidisciplinary
3939 conference and who is required by federal or state law to protect the privacy of health
3940 information in his or her possession relating to the child alleged to be in need of services
3941 or to such child's primary caregiver. Such order shall require such person to comply with
3942 the convening of the multidisciplinary conference and to cooperate with the plan manager
3943 by disclosing relevant protected health information as ordered by the court. The relevant
3944 health information required to be disclosed by the court order shall be used only for the
3945 purposes of developing and implementing a mental health plan that is reasonably related
3946 to the promotion of the care, guidance, counseling, structure, supervision, treatment, or
3947 rehabilitation of the child or the child's primary caregiver for the benefit of such child. For
3948 the purposes of this subsection, good cause shall exist when the protected health
3949 information being sought is reasonably related to the child alleged to be in need of services.

3950 15-11-392.
3951 (a) After the mandatory multidisciplinary conference, the child, the child's parent,
3952 guardian, or legal custodian, DFCS, and any other member of the conference may effect
3953 an informal family services plan agreement.
3954 (b) An informal family services plan agreement shall include:

3955 (1) The identification of the conduct of the child, the child's parent, guardian, or legal
3956 custodian, or any family member which is causing serious harm to the child and the
3957 services needed by that individual to mitigate or eliminate the problems within the
3958 family;
3959 (2) A description of the services which are needed for the child, the child's parent,
3960 guardian, or legal custodian, or other family members, the availability of such services
3961 within the community, and a plan for ensuring that any such services that are available
3962 will be secured and delivered;
3963 (3) A description of all expected action to be taken by the child, the child's parent,
3964 guardian, or legal custodian, or other family members;
3965 (4) The identification of DFCS caseworker assigned to the case and who is directly
3966 responsible for assuring that the informal family services plan agreement is implemented;
3967 and
3968 (5) An estimate of the time anticipated to be necessary in order to accomplish the goals
3969 set out in the informal family services plan agreement.
3970 (c) The informal family services plan agreement shall set forth in writing the terms and
3971 conditions agreed to by the parties as evidenced by their signature thereto.
3972 (d) The informal family services plan agreement shall demonstrate that the child and the
3973 child's parent, guardian, or legal custodian understand his or her right to an adjudication
3974 hearing on their need for services and shall also demonstrate that they consent to its terms
3975 with knowledge that consent is not obligatory and with knowledge of the effect of such
3976 agreement.
3977 (e) The duration of the informal family services plan agreement shall not exceed six
3978 months; however, the court may extend such agreement for one additional period not to
3979 exceed six months.

3980 Part 3

3981 15-11-400.
3982 DFCS shall be the lead agency and shall have the primary responsibility for the monitoring
3983 and management of child in need of services cases under this article.

3984 15-11-401.
3985 (a) The continued custody hearing for a child in need of services shall be held promptly
3986 and no later than:
3987 (1) Twenty-four hours after a child is taken into temporary custody if the child is being
3988 held in a secure juvenile detention facility; or

(2) Seventy-two hours after the child is placed in eligible shelter care, provided that, if the 72 hour time frame expires on a weekend or legal holiday, the hearing shall be held on the next day which is not a weekend or legal holiday.

(b) If a child was never taken into temporary custody or is released from temporary custody at the continued custody hearing, the following time frames apply:

(1) The petition for a child in need of services shall be filed:

(A) Within 30 days of the intake officer's determination that a mandatory conference would be inappropriate or futile;

(B) Within 30 days of the child's release from temporary custody if the court determines that the mandatory conference would be inappropriate or futile;

(C) Within 30 days of a court determination that continuing participation in the informal family services plan procedure would be inappropriate or futile; or

(D) Within 30 days of the conclusion of the period governed by the informal family services plan agreement if the child and family have not achieved the goals set out in such agreement and there are reasonable grounds to believe that the child is still in need of services. If no petition for a child in need of services is filed within the required time frame, the complaint may be dismissed without prejudice;

(2) Summons shall be served at least 24 hours before the adjudication hearing;

(3) The adjudication hearing shall be scheduled to be held no later than 60 days after the filing of the petition for a child in need of services; and

(4) If not held in conjunction with the adjudication hearing, the disposition hearing shall be held and completed within 30 days after the conclusion of the adjudication hearing.

(c) If a child is not released from temporary custody at the continued custody hearing, the following time frames apply:

(1) The petition for a child in need of services shall be filed within five days of the continued custody hearing;

(2) Summons shall be served at least 72 hours before the adjudication hearing;

(3) The adjudication hearing shall be scheduled to be held no later than ten days after the filing of the petition for a child in need of services; and

(4) If not held in conjunction with the adjudication hearing, the disposition hearing shall be held and completed within 30 days after the conclusion of the adjudication hearing.

15-11-402.

(a) A proceeding under this article may be commenced in the county in which the act complained of took place.

4023 (b) If a proceeding is commenced in the county in which the act complained of took place,
4024 the court shall transfer the case to the county in which the child legally resides for further
4025 proceedings.
4026 (c) When a proceeding is transferred, certified copies of all legal and social documents and
4027 records pertaining to the proceeding on file with the clerk of court shall accompany such
4028 transfer.

4029 15-11-403.
4030 (a) A child shall have the right to a qualified and independent attorney at all stages of
4031 proceedings under this article.
4032 (b) The court shall appoint an attorney for a child alleged to be a child in need of services.
4033 (c) The court shall appoint a guardian ad litem for a child alleged to be a child in need of
4034 services:
4035 (1) At the request of the child's attorney; or
4036 (2) Upon the court's own motion if it determines that a guardian ad litem is necessary to
4037 assist the court in determining the best interests of the child.
4038 (d) The role of a guardian ad litem in a proceeding for a child in need of services shall be
4039 the same role as provided for in all deprivation proceedings under Article 3 of this chapter.
4040 (e) If an attorney or a guardian ad litem has previously been appointed for the child in a
4041 deprivation or delinquency proceeding, the court, when possible, shall appoint the same
4042 attorney or guardian ad litem.
4043 (f) An attorney appointed to represent the child in a proceeding for a child in need of
4044 services shall continue the representation in any subsequent appeals unless excused by the
4045 court.
4046 (g) Neither the child nor a representative of the child may waive the right to an attorney
4047 in a proceeding for a child in need of services.
4048 (h) A child shall be informed of his or her right to an attorney at or prior to the first
4049 mandatory conference and prior to the first court proceeding for a child in need of services.
4050 A child shall be given an opportunity to:
4051 (1) Obtain and employ an attorney of the child's own choice; or
4052 (2) To obtain a court appointed attorney if the court determines that the child is indigent.

4053 15-11-404.
4054 A continuance shall be granted only upon a showing of good cause and only for that period
4055 of time shown to be necessary by the moving party at the hearing on such motion.
4056 Whenever any continuance is granted, the facts which require the continuance shall be
4057 entered into the court record.

4058 15-11-405.
4059 If a child is alleged or found to be a child in need of services and is placed in an eligible
4060 shelter care placement, the child shall be required to have a case plan. In addition to the
4061 case plan requirements of Code Section 15-11-201, a case plan shall include:
4062 (1) A description of the child's strengths and needs;
4063 (2) A description of specific parental strengths and needs;
4064 (3) A description of other personal, family, or environmental problems that may
4065 contribute to the child's behaviors;
4066 (4) A description of the safety, physical, and mental health needs of the child;
4067 (5) Identification of the least restrictive placement to safeguard the child's best interests
4068 and protect the community;
4069 (6) An assessment of the availability of community resources to address the child's and
4070 family's needs;
4071 (7) An assessment of the availability of court diversion services; and
4072 (8) An assessment of the availability of other preventive measures.

4073 15-11-406.
4074 Any proceeding or other processes or actions alleging for the first time that a child is a
4075 runaway shall be terminated or dismissed upon the request of the parent, guardian, or legal
4076 custodian of the child.

4077 Part 4

4078 15-11-410.
4079 (a) A child may be taken into temporary custody under this article:
4080 (1) Pursuant to a court order; or
4081 (2) By a law enforcement officer when there are reasonable grounds to believe that a
4082 child has run away from his or her parent, guardian, or legal custodian or the
4083 circumstances are such as to endanger the child's health or welfare unless immediate
4084 action is taken.
4085 (b) Before entering an order authorizing temporary custody, the court shall determine
4086 whether continuation in the home is contrary to the child's welfare and whether there are
4087 available services that would prevent the need for custody. The court shall make such
4088 determination on a case-by-case basis and shall make written findings of fact referencing
4089 any and all evidence relied upon in reaching its decision.
4090 (c) A person taking a child into temporary custody shall deliver the child, with all
4091 reasonable speed and without first taking the child elsewhere, to a medical facility if the

4092 child is believed to suffer from a serious physical condition or illness which requires
4093 prompt treatment and, upon delivery, shall promptly contact a juvenile court intake officer.
4094 Immediately upon being notified by the person taking a child into custody, the intake
4095 officer shall determine if such child should be released, remain in temporary custody, or
4096 be brought before the court.

4097 15-11-411.
4098 (a) A person taking a child into temporary custody shall not exercise custody over the
4099 child except for a period of 12 hours. A child taken into temporary custody may be placed
4100 in a nonsecure facility for a child in need of services.
4101 (b) Counties and municipalities shall be authorized to establish nonsecure facilities where
4102 a child who is suspected of being a child in need of services may be placed until the parent,
4103 guardian, or legal custodian assumes custody of the child.
4104 (c) Immediately after a child is brought into a nonsecure facility, every effort shall be
4105 made to contact the parents, guardian, or legal custodian of the child.
4106 (d) If a parent, guardian, or legal custodian has not assumed custody of the child in a
4107 nonsecure facility at the end of the 12 hour period, the court shall be notified and shall
4108 place the child in the least restrictive placement consistent with the child's needs for
4109 protection or control in the following order of priority:
4110 (1) In the custody of the child's parents, guardian, or legal custodian upon their promise
4111 to bring the child before the court when requested by the court;
4112 (2) In the custody of DFCS which shall promptly arrange for eligible shelter care
4113 placement of the child.

4114 15-11-412.
4115 (a) For purposes of this Code section, the term 'separately' means a sight and sound
4116 separation in holding cells and sleeping quarters and shall not apply to dining facilities,
4117 educational activities, and daily program activities where adequate adult supervision is
4118 provided.
4119 (b) A child may be held in a secure juvenile detention facility until a continued custody
4120 hearing is held, provided that such child is not held in a secure detention facility for more
4121 than 24 hours, can be detained separately from children who have been adjudicated
4122 delinquent, and any of the following apply:
4123 (1) It is alleged that the child is a runaway;
4124 (2) It is alleged that the child is habitually disobedient of the reasonable and lawful
4125 commands of his or her parent, guardian, or legal custodian and is ungovernable; or
4126 (3) The child has previously failed to appear at a scheduled hearing.

4127 (c) A child placed in a secure detention facility pursuant to subsection (b) of this Code
4128 section shall be appointed an attorney prior to the continued custody hearing.
4129 (d) In no case shall a child in custody be detained in a jail, adult lock-up, or other adult
4130 detention facility.

4131 15-11-413.
4132 (a) If the child is being held in a secure juvenile detention facility, a continued custody
4133 hearing shall be held within 24 hours. If such hearing is not held within the time specified,
4134 the child shall be released from temporary detention in accordance with subsection (d) of
4135 Code Section 15-11-411 and with authorization of the detaining authority.
4136 (b) If a child is not being held in a secure juvenile detention facility and has not been
4137 released to the custody of the child's parent, guardian, or legal custodian, a hearing shall
4138 be held promptly and not later than 72 hours after the child is placed in eligible shelter care,
4139 provided that, if the 72 hour time frame expires on a weekend or legal holiday, the hearing
4140 shall be held on the next day which is not a weekend or legal holiday.
4141 (c) At the commencement of the continued custody hearing, the court shall inform the
4142 parties of:
4143 (1) The nature of the allegations;
4144 (2) The nature of the proceedings;
4145 (3) The possible consequences or dispositions that may apply to the child's case
4146 following adjudication; and
4147 (4) Due process rights, including the right to an attorney and to an appointed attorney;
4148 the privilege against self-incrimination; that the child may remain silent and that anything
4149 said may be used against the child; the right to confront anyone who testifies against the
4150 child and to cross-examine any persons who appear against the child; the right of the
4151 child to testify and to compel other witnesses to attend and testify in his or her own
4152 behalf; the right of the child to a speedy adjudication hearing; and the right to appeal and
4153 be provided with a transcript for such purpose.

4154 15-11-414.
4155 (a) At the continued custody hearing, the court shall determine whether there is probable
4156 cause to believe that the child has committed a status offense or is otherwise a child in need
4157 of services and that continued custody is necessary.
4158 (b) If the court determines there is probable cause to believe that the child has committed
4159 a status offense or is otherwise in need of services, the court may order that the child:
4160 (1) Be released to the custody of a parent, guardian, or legal custodian; or

4161 (2) Be placed in the least restrictive preadjudication placement consistent with the child's
4162 need for protection and control as authorized by Code Section 15-11-411 and in
4163 accordance with Code Section 15-11-415.
4164 (c) If the court determines there is probable cause to believe that the child has committed
4165 a status offense or is otherwise in need of services, the court shall:
4166 (1) Refer the child and the child's family for a mandatory conference;
4167 (2) Order that a petition for a child in need of services be filed and set a date for an
4168 adjudication hearing if the court determines that a mandatory conference would be
4169 inappropriate or futile; or
4170 (3) When a child and his or her family are already participating in informal family
4171 services plan procedures, order that a petition for a child in need of services be filed and
4172 set a date for an adjudication hearing if the court determines that continuing participation
4173 in the informal family services plan procedures would be inappropriate or futile.
4174 (d) Following the continued custody hearing, the court may detain a child in a secure
4175 juvenile detention facility for up to 24 hours, excluding weekends and legal holidays, only
4176 for the purpose of providing adequate time to arrange for an appropriate alternative
4177 placement pending the adjudication hearing.
4178 (e) All orders shall contain written findings as to the form or conditions of release. If a
4179 child cannot be returned to the custody of his or her parent, guardian, or legal custodian at
4180 the hearing, the court shall state the facts upon which the continued custody is based. The
4181 court shall make the following findings of fact referencing any and all evidence relied upon
4182 to make its determinations:
4183 (1) Whether continuation in the home of the parent, guardian, or legal custodian is
4184 contrary to the child's welfare; and
4185 (2) Whether reasonable efforts have been made to safely maintain the child in the home
4186 of his or her parent, guardian, or legal custodian and to prevent or eliminate the need for
4187 removal. Such finding shall be made at the continued custody hearing if possible but in
4188 no case later than 60 days following the child's removal from the home.

4189 15-11-415.
4190 (a) Restraints on the freedom of a child prior to adjudication shall be imposed only when
4191 there is probable cause to believe that the child committed the act of which he or she is
4192 accused, there is clear and convincing evidence that the child's freedom should be
4193 restrained, that no less restrictive alternatives will suffice, and:
4194 (1) The child's detention or care is required to reduce the likelihood that the child may
4195 inflict serious bodily harm on others during the interim period;

4196 (2) The child's detention is necessary to secure the child's presence in court to protect the
4197 jurisdiction and processes of the court; or
4198 (3) An order for the child's detention has been made by the court.
4199 (b) A child shall not be detained:
4200 (1) To punish, treat, or rehabilitate the child;
4201 (2) To allow a parent, guardian, or legal custodian to avoid his or her legal
4202 responsibilities;
4203 (3) To satisfy demands by a victim, law enforcement, or the community;
4204 (4) To permit more convenient administrative access to the child;
4205 (5) To facilitate further interrogation or investigation; or
4206 (6) Due to a lack of a more appropriate facility.
4207 (c) Whenever a child cannot be unconditionally released, conditional or supervised release
4208 that results in the least necessary interference with the liberty of the child shall be favored
4209 over more intrusive alternatives.
4210 (d) Whenever the curtailment of a child's freedom is permitted, the exercise of authority
4211 shall reflect the following values:
4212 (1) Respect for the privacy, dignity, and individuality of the child and his or her family;
4213 (2) Protection of the psychological and physical health of the child;
4214 (3) Tolerance of the diverse values and preferences among different groups and
4215 individuals;
4216 (4) Assurance of equality of treatment by race, class, ethnicity, and sex;
4217 (5) Avoidance of regimentation and depersonalization of the child;
4218 (6) Avoidance of stigmatization of the child; and
4219 (7) Assurance that the child has been informed of his or her right to consult with an
4220 attorney and that, if the child cannot afford an attorney, one will be provided.
4221 (e) Before entering an order authorizing detention, the court shall determine whether
4222 continuation in the home is contrary to the child's welfare and whether there are available
4223 services that would prevent or eliminate the need for detention. The court shall make such
4224 determination on a case-by-case basis and shall make written findings of fact referencing
4225 any and all evidence relied upon in reaching its decision.
4226 (f) If a child can remain in the custody of his or her parent, guardian, or legal custodian
4227 through the provision of services to prevent the need for removal, the court shall order that
4228 such services shall be provided.

4229 15-11-416.
4230 (a) A child alleged or found to have committed a status offense may be held in a secure
4231 juvenile detention facility for more than 24 hours if:

4232 (1) The child is alleged to have violated a valid court order; and
4233 (2) At the continued custody hearing, the court finds that there is probable cause to
4234 believe that the child violated the court order.
4235 (b) If there is probable cause to believe that the child violated a valid court order, the child
4236 may be held in a secure juvenile detention facility until a violation hearing is held but in
4237 no event shall a child's detention prior to a violation hearing exceed 72 hours, excluding
4238 weekends and legal holidays.
4239 (c) At a violation hearing, the court may order that the child be placed in a secure juvenile
4240 detention facility if the court:
4241 (1) Affirms that the requirements for a valid court order were met at the time the original
4242 order finding the child to have committed a status offense was issued;
4243 (2) Finds that the child was afforded due process rights; and
4244 (3) Received and reviewed a written report prepared by DFCS that described the
4245 behavior of the child and the circumstances under which the child was brought before the
4246 court and made subject to such order; determined the reasons for the child's behavior; and
4247 determined whether all dispositions other than secure confinement have been exhausted
4248 or are clearly inappropriate.
4249 (d) A child in need of services who is alleged or found to have violated a valid court order
4250 remains a child in need of services and shall not be considered a delinquent child by virtue
4251 of such conduct.
4252 (e) If a child is to be held in secure detention under the valid court order exception, the
4253 report prepared by DFCS in accordance with subsection (c) of this Code section shall be
4254 provided to DJJ as the detention agency.

4255 Part 5

4256 15-11-420.
4257 All proceedings seeking an adjudication that a child is in need of services shall be initiated
4258 by a petition filed by the prosecuting attorney.

4259 15-11-421.
4260 (a) If a child is not released from temporary custody at the continued custody hearing, a
4261 petition seeking an adjudication that a child is in need of services shall be filed within five
4262 days of the continued custody hearing.
4263 (b) If the child was never taken into temporary custody or is released from temporary
4264 custody at the continued custody hearing, the petition seeking an adjudication that a child
4265 is in need of services shall be filed:

4266 (1) Within 30 days of the intake officer's determination that a mandatory conference
4267 would be inappropriate or futile;
4268 (2) Within 30 days of the child's release from temporary custody if the court determines
4269 that the mandatory conference would be inappropriate or futile;
4270 (3) Within 30 days of a court determination that continuing participation in the informal
4271 family services plan procedure would be inappropriate or futile; or
4272 (4) Within 30 days of the conclusion of the period governed by the informal family
4273 services plan agreement if the child and family have not achieved the goals set out in such
4274 agreement and there are reasonable grounds to believe that the child is still in need of
4275 services.
4276 (c) Upon a showing of good cause and notice to all parties, the court may grant a requested
4277 extension of time for filing a petition seeking an adjudication that a child is in need of
4278 services in accordance with the best interests of the child. The court shall issue a written
4279 order reciting the facts justifying the extension.
4280 (d) If no petition seeking an adjudication that a child is in need of services is filed within
4281 the required time frame, the complaint may be dismissed without prejudice.

4282 15-11-422.
4283 (a) The petition seeking an adjudication that a child is in need of services shall be verified
4284 and may be on information and belief. It shall set forth plainly and with particularity:
4285 (1) The facts which bring the child within the jurisdiction of the court, with a statement
4286 that it is in the best interests of the child and the public that the proceeding be brought;
4287 (2) The name, date of birth, and residence address of the child on whose behalf such
4288 petition is being brought;
4289 (3) The name and residence address of the parent, guardian, or legal custodian of the
4290 child; or, if the child's parent, guardian, or legal custodian resides or cannot be found
4291 within the state, the name of any known adult relative residing within the county or, if
4292 there is none, the known adult relative residing nearest to the location of the court;
4293 (4) The name, age, and residence address of any other family member living within the
4294 child's home;
4295 (5) Whether all available and appropriate attempts to encourage voluntary use of
4296 community services by the family have been exhausted; and
4297 (6) Whether any of the matters required by this subsection are unknown.
4298 (b) If a petition seeking an adjudication that a child is in need of services is based on a
4299 complaint filed by a school official, such petition shall be dismissed unless it includes
4300 information which shows that:

4301 (1) The legally liable school district has sought to resolve the expressed problem through
4302 available educational approaches; and
4303 (2) The school district has sought to engage the parent, guardian, or legal custodian in
4304 solving the problem but any such individual has been unwilling or unable to do so; that
4305 the problem remains, and that court intervention is needed.
4306 (c) If a petition seeking an adjudication that a child is in need of services is based on a
4307 complaint filed by a school official involving a child who is eligible or suspected to be
4308 eligible for services under the federal Individuals with Disabilities Education Act or
4309 Section 504 of the federal Rehabilitation Act, such petition shall be dismissed unless it
4310 includes information which demonstrates that the legally liable school district:
4311 (1) Has determined that the child is eligible or suspected to be eligible under the federal
4312 Individuals with Disabilities Education Act or Section 504 of the federal Rehabilitation
4313 Act; and
4314 (2) Has reviewed for appropriateness the child's current individualized education
4315 program (IEP) and placement and has made modifications where appropriate.

4316 15-11-423.
4317 (a) The court shall direct the issuance of a summons to the child, the child's parent,
4318 guardian, or legal custodian, DFCS and any other public agencies or institutions providing
4319 services, and any other persons who appear to the court to be proper or necessary parties
4320 to the child in need of services proceeding requiring them to appear before the court at the
4321 time fixed to answer the allegations of the petition seeking an adjudication that a child is
4322 in need of services. A copy of such petition shall accompany the summons.
4323 (b) The summons shall state that a party is entitled to an attorney in the proceedings and
4324 that the court will appoint an attorney if the party is an indigent person.
4325 (c) A party other than the child may waive service of summons by written stipulation or
4326 by voluntary appearance at the hearing.

4327 15-11-424.
4328 (a) If a party to be served with a summons is within this state and can be found, the
4329 summons shall be served upon him or her personally as soon as possible and at least 24
4330 hours before the adjudication hearing.
4331 (b) If a party to be served is within this state and cannot be found but his or her address is
4332 known or can be ascertained with reasonable diligence, the summons shall be served upon
4333 such party at least five days before the adjudication hearing by mailing him or her a copy
4334 by registered or certified mail or statutory overnight delivery, return receipt requested.

4335 (c) If a party to be served is outside this state but his or her address is known or can be
4336 ascertained with reasonable diligence, service of the summons shall be made at least five
4337 days before the adjudication hearing either by delivering a copy to such party personally
4338 or by mailing a copy to him or her by registered or certified mail or statutory overnight
4339 delivery, return receipt requested.
4340 (d) Service of the summons may be made by any suitable person under the direction of the
4341 court.
4342 (e) The court may authorize payment from county funds of the costs of service and of
4343 necessary travel expenses incurred by persons summoned or otherwise required to appear
4344 at the hearing on the petition seeking an adjudication that a child is in need of services.

4345 15-11-425.
4346 (a) In the event a parent, guardian, or legal custodian of the child willfully fails to appear
4347 personally at a hearing on the petition seeking an adjudication that a child is in need of
4348 services after being ordered to so appear or the parent, guardian, or legal custodian of the
4349 child willfully fails to bring the child to such hearing after being so directed, the court may
4350 issue a rule nisi against the person directing the person to appear before the court to show
4351 cause why he or she should not be held in contempt of court.
4352 (b) If the parent, guardian, or legal custodian fails to appear in response to an order to
4353 show cause, the court may issue a bench warrant directing that the parent, guardian, or
4354 legal custodian be brought before the court without delay to show cause why he or she
4355 should not be held in contempt and the court may enter any order authorized by the
4356 provisions of Code Section 15-11-30.
4357 (c) In the event an agency representative willfully fails to appear at a mandatory
4358 conference or a hearing on the petition seeking an adjudication that a child is in need of
4359 services after being ordered to so appear, the court may direct the appropriate agency
4360 representative to appear before the court to show cause why a contempt order should not
4361 issue.
4362 (d) If a child 16 years of age or older fails to appear at a hearing on the petition seeking
4363 an adjudication that a child is in need of services after being ordered to so appear, the court
4364 may issue a bench warrant requiring that the child be brought before the court without
4365 delay and the court may enter any order authorized by and in accordance with the
4366 provisions of Code Section 15-11-30.
4367 (e) If there is sworn testimony that a child 14 years of age but not yet 16 years of age
4368 willfully refuses to appear at a hearing on the petition seeking an adjudication that a child
4369 is in need of services after being ordered to so appear, the court may issue a bench warrant

requiring that the child be brought before the court and the court may enter any order authorized by and in accordance with the provisions of Code Section 15-11-30.

Part 6

15-11-440.

The petitioner has the burden of proving the allegations of a child in need of services petition beyond a reasonable doubt.

15-11-441.

(a) If a child is in continued custody but not in secure detention, the adjudication hearing shall be scheduled to be held no later than ten days after the filing of the petition seeking an adjudication that a child is in need of services. If the child is not in continued custody, the adjudication hearing shall be scheduled to be held no later than 60 days after the filing of such petition.

(b) At the conclusion of the adjudication hearing, the court shall determine whether the child is a child in need of services.

15-11-442.

(a) If the court finds the child is in need of services, a final disposition hearing shall be held and completed within 30 days of the conclusion of the adjudication hearing.

(b) The court shall order the least restrictive and most appropriate disposition. Such disposition may include:

(1) Permitting the child to remain with the child's caregiver without limitations or conditions;

(2) Permitting the child to remain with the child's caregiver subject to such limitations and conditions as the court may prescribe, including ordering the child, the family, or both to undergo physical examination or treatment, accept individual or family counseling, or submit to psychiatric examination or treatment or psychological examination or treatment as determined by the court;

(3) Placing the child on probation on such terms and conditions as deemed in the best interests of the child and the public. An order granting probation to a child in need of services may be revoked on the ground that the terms and conditions of the probation have not been observed;

(4) Requiring that the child perform community service in a manner prescribed by the court and under the supervision of an individual designated by the court;

4402 (5) Requiring that the child make restitution. A restitution order may remain in force and
4403 effect simultaneously with another order of the court. Payment of funds shall be made
4404 by the child or the child's family or employer directly to the clerk of the juvenile court
4405 entering the order or another employee of that court designated by the judge, and such
4406 court shall disburse such funds in the manner authorized in the order. While an order
4407 requiring restitution is in effect, the court may transfer enforcement of its order to:
4408 (A) The juvenile court of the county of the child's residence and its probation staff, if
4409 the child changes his or her place of residence; or
4410 (B) A superior court once the child reaches 18 years of age if the child thereafter comes
4411 under the jurisdiction of the superior court;
4412 (6) Imposing a fine on a child who has committed an offense which, if committed by an
4413 adult, would be a violation under the criminal laws of this state or has violated an
4414 ordinance or bylaw of a county, city, town, or consolidated government. Such fine shall
4415 not exceed the fine which may be imposed against an adult for the same offense;
4416 (7) Requiring the child to attend structured after-school or evening programs or other
4417 court approved programs as well as requiring supervision of the child during the time of
4418 the day in which the child most often used to perform the acts complained of in the
4419 petition alleging that the child is in need of services;
4420 (8) Any order authorized for the disposition of a deprived child;
4421 (9) Assigning the child to the custody of a private or public institution or agency
4422 including committing the child to DJJ. A child shall not be placed in a correctional
4423 facility designed and operated exclusively for delinquent children, nor shall such facility
4424 accept the child, unless the child has violated a valid court order; or
4425 (10) Any combination of the dispositions set forth in paragraphs (1) through (9) of this
4426 subsection as the court deems to be in the best interests of the child and the public.
4427 (c) The court may make orders relative to the support and maintenance of the child during
4428 the period after the child's eighteenth birthday as permitted by law.
4429 (d) All disposition orders shall include written findings as to the basis for the disposition
4430 and such conditions as the court imposes and a specific plan of the services to be provided.

4431 15-11-443.
4432 (a) An order of disposition shall be in effect for the shortest time necessary to accomplish
4433 the purposes of the order and for not more than two years. A written disposition order shall
4434 state the length of time the order is to be in effect. An order of extension may be made if:
4435 (1) A hearing is held prior to the expiration of the order upon motion of DFCS, DJJ, the
4436 prosecuting attorney, or on the court's own motion;

4437 (2) Reasonable notice of the factual basis of the motion and of the hearing and
4438 opportunity to be heard are given to the parties affected;
4439 (3) The court finds that the extension is necessary to accomplish the purposes of the
4440 order extended; and
4441 (4) The extension does not exceed two years from the expiration of the prior order.
4442 (b) The court may terminate an order of disposition or an extension of such a disposition
4443 order prior to its expiration, on its own motion or an application of a party, if it appears to
4444 the court that the purposes of the order have been accomplished.
4445 (c) When a child reaches 18 years of age, all orders affecting him or her then in force shall
4446 terminate and he or she shall be discharged from further obligation or control.

4447 15-11-444.
4448 (a) An order granting probation to a child found to be a child in need of services may be
4449 revoked on the ground that the conditions of probation have been violated.
4450 (b) Any violation of a condition of probation may be reported to the prosecuting attorney
4451 who may file a motion in court for revocation of probation. A motion for revocation of
4452 probation shall contain specific factual allegations constituting each violation of a condition
4453 of probation.
4454 (c) The motion shall be served upon the child, his or her attorney, and parent, guardian,
4455 or legal custodian in accordance with the provisions of Code Section 15-11-424.
4456 (d) If a child is taken into custody because of the alleged violation of probation, the
4457 provisions governing the detention of a child under this article shall apply.
4458 (e) A revocation hearing shall be scheduled to be held no later than 30 days after the filing
4459 of a motion to revoke probation or, if the child has been detained as a result of the filing
4460 of the motion for revocation, in accordance with Code Section 15-11-416.
4461 (f) If the court finds, beyond a reasonable doubt, that a child violated the terms and
4462 conditions of probation, the court may:
4463 (1) Extend probation;
4464 (2) Impose additional conditions of probation; or
4465 (3) Make any disposition that could have been made at the time probation was imposed.

4466 15-11-445.
4467 The court shall review the disposition of a child in need of services at least once within
4468 three months after such disposition and at least every six months thereafter so long as the
4469 order of disposition is in effect.

Part 7

15-11-450.

The periodic review hearing requirements under Article 3 of this chapter shall apply to proceedings involving a child alleged or found to be a child in need of services and placed in an eligible shelter care placement.

15-11-451.

(a) The permanency plan requirements under Article 3 of this chapter shall apply to proceedings involving a child alleged or found to be a child in need of services and placed in an eligible shelter care placement.

(b) In addition to those compelling reasons set forth in Code Section 15-11-233, a compelling reason for determining that filing a termination of parental rights petition is not in the best interests of a child in need of services may include, but shall not be limited to:

(1) The child needs continued out-of-home placement for an additional number of months and the parent, guardian, or legal custodian has cooperated with referrals, visitation, and family conferences as well as therapy;

(2) The child is habitually truant and absconds from the home, the current placement setting has an on-site school with therapeutic intervention and restricted leave policies, and the child and parent are cooperative with services and referrals; or

(3) The child is uncooperative with services or referrals.

Part 8

15-11-460.

(a) After determining, in accordance with the provisions of Article 8 of this chapter, that a child who has been alleged to have committed a delinquent act is unrestorably incompetent to stand trial and the court makes a finding that the child is a child in need of services, the court shall appoint a plan manager, if one has not already been appointed, to direct the development of a mental health plan for such child.

(b) A mental health plan shall be developed at a meeting of all relevant parties convened by the plan manager. The plan manager shall request that the following persons attend such meeting:

(1) The parent, guardian, or legal custodian of the child;

(2) The child's attorney;

(3) The prosecuting attorney;

(4) The child's guardian ad litem, if any;

4503 (5) Mental health or mental retardation representatives;
4504 (6) The child's caseworker;
4505 (7) A representative from the child's school; and
4506 (8) Any family member of the child who has shown an interest and involvement in the
4507 child's well-being.
4508 (c) The plan manager may request that other relevant persons attend the mental health plan
4509 meeting including but not limited to the following:
4510 (1) A representative from the Division of Public Health;
4511 (2) A DFCS caseworker; and
4512 (3) Representatives of the public and private resources to be utilized in the plan.
4513 (d) The plan manager shall be responsible for collecting all previous histories of the child,
4514 including, but not limited to, previous evaluations, assessments, and school records and for
4515 making such histories available for consideration by the persons at the mental health plan
4516 meeting.
4517 (e) Unless a time extension is granted by the court, the plan manager shall submit the
4518 mental health plan to the court within 30 days of the entry of the court's disposition order
4519 for a child found to be unrestorably incompetent to stand trial under Article 8 of this
4520 chapter. The plan shall include the following:
4521 (1) An outline of the specific provisions for supervision of the child for protection of the
4522 community and the child;
4523 (2) An outline of a plan designed to provide treatment, habilitation, support, or
4524 supervision services in the least restrictive environment;
4525 (3) If the child's evaluation recommends treatment in a secure environment, certification
4526 by the plan manager that all other appropriate community based treatment options have
4527 been exhausted; and
4528 (4) Identification of all parties, including the child, agency representatives, and other
4529 persons responsible for each element of the plan.
4530 (f) The plan manager shall also be responsible for:
4531 (1) Convening a meeting of all parties and representatives of all agencies prior to the
4532 mental health plan hearing and review hearings;
4533 (2) Identifying to the court any person who should provide testimony at the mental health
4534 plan hearing; and
4535 (3) Monitoring the mental health plan, presenting to the court amendments to the plan
4536 as needed, and presenting evidence to the court for the reapproval of the plan at
4537 subsequent review hearings.

4538 15-11-461.
4539 (a) The court shall hold a mental health plan hearing within 30 days after the mental health
4540 plan has been submitted to the court for the purpose of approving the plan. Thereafter, the
4541 court shall hold a mental health plan hearing every six months for the purpose of reviewing
4542 the child's condition and approving the mental health plan.
4543 (b) The persons required to be notified of the mental health plan hearing and witnesses
4544 identified by the plan manager shall be given at least ten days' prior notice of the hearing
4545 and any subsequent hearing to review the child's condition and shall be afforded an
4546 opportunity to be heard at any such hearing. The victim, if any, of the child's alleged
4547 delinquent act shall also be provided with the same ten days' prior notice and shall be
4548 afforded an opportunity to be heard and to present a victim impact statement to the court
4549 at the mental health plan hearing. The judge shall make a determination regarding
4550 sequestration of witnesses in order to protect the privileges and confidentiality rights of the
4551 child.
4552 (c) At the mental health plan hearing, the court shall enter an order incorporating a mental
4553 health plan as part of the disposition of the mental health plan hearing. At the time of the
4554 disposition, the child shall be placed in an appropriate treatment setting, as recommended
4555 by the examiner, unless the child has already been placed in an appropriate treatment
4556 setting pursuant to subsection (g) of Code Section 15-11-656.
4557 (d) If, during the mental health plan hearing or any subsequent review hearing, the court
4558 determines that the child meets criteria for civil commitment, the child shall be committed
4559 to a secure treatment facility.
4560 (e) At any time, in the event of a change in circumstances regarding the child, the court on
4561 its own motion or on the motion of the attorney representing the child, any guardian ad
4562 litem for the child, the prosecuting attorney, or the plan manager may set a hearing for
4563 review of the mental health plan and any proposed amendments to such plan. The court
4564 may issue an appropriate order incorporating an amended plan.
4565 (f) If a child is under a mental health plan when he or she reaches the age of 18, the plan
4566 manager shall make a referral for appropriate adult services.

4567 ARTICLE 7
4568 Part 1

4569 15-11-470.
4570 The purpose of this article is:
4571 (1) Consistent with the protection of the public interest, to hold a child committing
4572 delinquent acts accountable for his or her actions, taking into account the child's age,

education, mental and physical condition, background, and all other relevant factors but to mitigate the adult consequences of criminal behavior;

(2) To accord due process of law to each child who is accused of having committed a delinquent act;

(3) To provide for a child committing delinquent acts programs of supervision, care, and rehabilitation which ensure balanced attention to the protection of the community, the imposition of accountability, and the development of competencies to enable a child to become a responsible and productive member of the community;

(4) To promote a continuum of services for a child and his or her family from prevention to aftercare, considering, whenever possible, prevention, diversion, and early intervention, including an emphasis on community based alternatives;

(5) To provide effective sanctions to acts of juvenile delinquency; and

(6) To strengthen families and to successfully reintegrate children into homes and communities.

15-11-471.

As used in this article, the term:

(1) 'AIDS transmitting crime' means aggravated child molestation, aggravated sodomy, child molestation, incest, prostitution, rape, sodomy, solicitation of sodomy, statutory rape, or any offense involving a violation of Article 2 of Chapter 13 of Title 16 if such offense involves heroin, cocaine, derivatives of either, or any other controlled substance in Schedule I, II, III, IV, or V and that other substance is commonly intravenously injected, as determined by the regulations of the department.

(2) 'Arraignment' means the formal act of calling the child into open court, informing him or her of the allegations of the petition alleging delinquency, and the entry of a preliminary statement, if any, indicating whether the child shall admit or deny the allegations of such petition.

(3) 'Determined to be infected with HIV' means having a confirmed positive human immunodeficiency virus ('HIV') test or having been clinically diagnosed as having AIDS.

(4) 'Electronic recording' includes motion picture, audiotape, videotape, or digital recording.

(5) 'HIV test' means any antibody, antigen, viral particle, viral culture, or other test to indicate the presence of HIV in the human body, which test has been approved for such purposes by the regulations of the department.

(6) 'Intensive supervision' means the monitoring of a child's activities on a more frequent basis than regular aftercare supervision, pursuant to regulations of the commissioner of juvenile justice.

4609 (7) 'Preadjudication custody' begins when an intake officer or other authorized officer
4610 of the court authorizes the placement of a child in a regional youth detention center.

4611 15-11-472.
4612 (a) A detention hearing shall be held promptly and no later than:
4613 (1) Two business days after the child is placed in preadjudication custody if the child is
4614 taken into custody without an arrest warrant; or
4615 (2) Three business days after the child is placed in preadjudication custody if the child
4616 is taken into custody pursuant to an arrest warrant.
4617 (b) If a child is placed in preadjudication custody without an arrest warrant and the
4618 detention hearing cannot be held within 48 hours because the expiration of the 48 hours
4619 falls on a weekend or legal holiday, the court shall review the decision to detain a child and
4620 make a finding based on probable cause within 48 hours of the child being placed in
4621 preadjudication custody.
4622 (c) If a child is released from preadjudication custody at the detention hearing or was never
4623 taken into custody, the following time frames apply:
4624 (1) If filed, the petition alleging delinquency shall be filed within 30 days of the filing
4625 of the complaint or within 30 days of the child's release from preadjudication custody;
4626 (2) Summons shall be served at least 72 hours before the adjudication hearing;
4627 (3) The arraignment hearing shall be scheduled no later than 30 days after the filing of
4628 the petition alleging delinquency;
4629 (4) The adjudication hearing shall be held no later than 60 days from the filing of the
4630 petition alleging delinquency; and
4631 (5) The disposition hearing shall be held within 30 days of the adjudication hearing
4632 unless the court makes written findings of fact explaining the delay.
4633 (d) If a child is not released from preadjudication custody at the detention hearing, the
4634 following time frames apply:
4635 (1) The petition alleging delinquency shall be filed within 72 hours of the detention
4636 hearing;
4637 (2) Summons shall be served at least 72 hours before the adjudication hearing;
4638 (3) The adjudication hearing shall be held no later than ten days after the filing of the
4639 petition alleging delinquency; and
4640 (4) The disposition hearing shall be held within 30 days of the adjudication hearing
4641 unless the court makes written findings of fact explaining the delay.

4642 15-11-473.
4643 (a) A prosecuting attorney shall conduct delinquency proceedings on behalf of the state.

(b) Except as provided in Article 10 of this chapter, in any delinquency proceeding, the prosecuting attorney shall be entitled to complete access to all court files, probation files, hearing transcripts, delinquency reports, and any other juvenile court records. It shall be the duty of the clerk, probation officers of the juvenile court, and DJJ to assist the prosecuting attorney in obtaining any requested items.

15-11-474.

(a) The child and the state shall be parties at all stages of delinquency proceedings.

(b) The child's parent, guardian, or legal custodian shall have the right to notice, the right to be present in the courtroom, and the opportunity to be heard at all stages of delinquency proceedings.

(c) DJJ shall receive notice of the disposition hearing.

15-11-475.

(a) A child shall have the right to be represented by an attorney at all proceedings under this article.

(b) A child's parent, guardian, or legal custodian shall not waive the child's right to be represented by an attorney.

(c) A child may waive the right to an attorney only after consultation with an attorney.

(d) Prior to the detention hearing, if any, the court shall appoint a qualified and competent attorney to represent the child unless an attorney has been retained and appears on behalf of the child. Nothing in this subsection shall prohibit a judge from releasing a child from detention prior to appointment of an attorney.

(e) Upon presentation by an attorney for the child of the order of appointment or a court order specifically allowing such access, any state or local agency, department, authority, or institution and any school, hospital, physician, or other health or mental health care provider shall permit the child's attorney to inspect and copy, without the consent of the child or the child's parent, guardian, or legal custodian, any records relating to the child involved in the case.

15-11-476.

(a) The court shall appoint a separate guardian ad litem whenever:

(1) A child appears before the court without a parent, guardian, or legal custodian;

(2) It appears to the court that the child's parent, guardian, or legal custodian is incapable or unwilling to make decisions in the best interests of the child with respect to proceedings under this article such that there may be a conflict of interest between the child and his or her parent, guardian, or legal custodian; or

4678 (3) The court finds that it is otherwise in the child's best interests to do so.
4679 (b) The role of a guardian ad litem in a delinquency proceeding shall be the same role as
4680 provided for in all deprivation proceedings under Article 3 of this chapter.
4681 (c) Neither the child's attorney nor the child's parent, guardian, or legal custodian shall
4682 prohibit or impede access to the child by the guardian ad litem.

4683 15-11-477.
4684 A continuance shall be granted only upon a showing of good cause and only for that period
4685 of time shown to be necessary by the moving party at the hearing on the motion.
4686 Whenever any continuance is granted, the facts which require the continuance shall be
4687 entered into the court record.

4688 15-11-478.
4689 Statements made in the course of intake screening of a child or in the course of treatment,
4690 evaluation, or any other related services shall be inadmissible and shall not be considered
4691 by the court.

4692 15-11-479.
4693 (a) When a child enters a denial to the petition alleging delinquency, jeopardy attaches
4694 when the first witness is sworn at the adjudication hearing.
4695 (b) When a child enters an admission to the petition alleging delinquency, jeopardy
4696 attaches when the court accepts the admission.

4697 15-11-480.
4698 (a) When a child is alleged to be delinquent and is placed in an eligible shelter care
4699 placement, DJJ shall develop and complete the child's case plan. When the child is in
4700 DFCS custody, DJJ shall cooperate with DFCS in developing and completing the child's
4701 case plan.
4702 (b) In addition to the case plan requirements of Code Section 15-11-201, the case plan for
4703 a child in delinquency proceedings shall include:
4704 (1) A description of the child's strengths and needs;
4705 (2) A description of specific parental strengths and needs;
4706 (3) A description of other personal, family, or environmental problems that contribute
4707 to the child's delinquent behaviors;
4708 (4) A description of the safety, physical, and mental health needs of the child;
4709 (5) Identification of the least restrictive placement to safeguard the child's best interests
4710 and protect the community;

4711 (6) An assessment of the availability of community resources to address the child's and
4712 family's needs;
4713 (7) An assessment of the availability of court diversion services; and
4714 (8) An assessment of the availability of other preventive measures.

4715 15-11-481.
4716 (a) In any delinquency proceeding, the juvenile court shall notify any victim of the alleged
4717 delinquent act that the victim may submit a victim impact statement if:
4718 (1) The child's alleged conduct would constitute a felony if committed by an adult and
4719 caused physical, psychological, or economic injury to the victim; or
4720 (2) The child's alleged conduct would constitute a misdemeanor if committed by an adult
4721 and caused serious physical injury or death to the victim.
4722 (b) A victim impact statement shall be attached to the case file and may be used by the
4723 prosecuting attorney or the judge during any stage of the proceedings against the child after
4724 adjudication.
4725 (c) A victim impact statement shall:
4726 (1) Identify the victim of the offense and the perpetrator;
4727 (2) Itemize any economic loss suffered by the victim as a result of the offense;
4728 (3) Identify any physical injury suffered by the victim as a result of the offense, along
4729 with its seriousness and permanence;
4730 (4) Describe any change in the victim's personal welfare or familial relationships as a
4731 result of the offense;
4732 (5) Identify any request for physical or psychological services initiated by the victim or
4733 the victim's family as a result of the offense; and
4734 (6) Contain any other information related to the impact of the offense upon the victim
4735 that the court requires.
4736 (d) The victim may complete a victim impact statement and submit it to the juvenile court.
4737 If the victim is unable to do so because of the victim's mental, emotional, or physical
4738 incapacity, or because of the victim's age, the victim's attorney or a family member may
4739 complete a victim impact statement on behalf of the victim.
4740 (e) In the manner prescribed by rule of court, the court shall provide the child with a copy
4741 of the victim impact statement within two business days prior to any hearing at which it is
4742 to be considered and allow the child to have the opportunity to rebut the victim's written
4743 statements.
4744 (f) No disposition of the child shall be invalidated because of failure to comply with the
4745 provisions of this Code section. This Code section shall not be construed to create any
4746 cause of action or any right of appeal on behalf of any person.

4747 15-11-482.
4748 In accordance with Code Sections 15-11-29 and 15-11-31, DJJ may release a child in DJJ
4749 custody in connection with legal holidays and available resources to transport the child.

4750 Part 2

4751 15-11-490.
4752 (a) A proceeding under this article may be commenced:
4753 (1) In the county in which the child legally resides; or
4754 (2) In any county in which the alleged delinquent acts occurred.
4755 (b) If the adjudicating court finds that a nonresident child has committed a delinquent act,
4756 the adjudicating court may retain jurisdiction over the disposition of the nonresident child
4757 or may transfer the proceeding to the county of the child's residence for disposition. Like
4758 transfer may be made if the residence of the child changes pending the proceeding.
4759 (c) If the adjudicating court retains jurisdiction, prior to making any order for disposition
4760 of the nonresident child, the adjudicating court shall communicate to the court of the
4761 county of the child's residence the fact that the child has been found to have committed a
4762 delinquent act. Such communication shall state the date upon which the adjudicating court
4763 plans to enter an order for disposition of the nonresident child and shall request any
4764 information or recommendations relevant to the disposition of the nonresident child. Any
4765 such recommendation shall be considered by but shall not be binding upon the adjudicating
4766 court in making its order for disposition.
4767 (d) When any case is transferred, certified copies of all documents and records pertaining
4768 to the case on file with the clerk of the court shall accompany the transfer.

4769 Part 3

4770 15-11-500.
4771 If it appears from a filed affidavit or from sworn testimony before the court that the
4772 conduct, condition, or surroundings of the child are endangering the child's health or
4773 welfare or those of others or that the child may abscond or be removed from the
4774 jurisdiction of the court or will not be brought before the court, notwithstanding the service
4775 of the summons, the court may endorse upon the summons an order that a law enforcement
4776 officer shall serve the summons and take the child into immediate custody and bring the
4777 child forthwith before the court.

4778 15-11-501.
4779 (a) A child may be taken into custody:
4780 (1) Pursuant to an order of the court under this article, including an order to a DJJ
4781 employee to apprehend:
4782 (A) A child who has escaped from an institution or facility operated by DJJ; or
4783 (B) A child who has been placed under supervision and who has violated its
4784 conditions;
4785 (2) Pursuant to the laws of arrest; or
4786 (3) By a law enforcement officer or duly authorized officer of the court if there are
4787 reasonable grounds to believe that the child has committed a delinquent act.
4788 (b) A law enforcement officer taking a child into custody shall promptly give notice
4789 together with a statement of the reasons for taking the child into custody to a parent,
4790 guardian, or legal custodian and to the court.
4791 (c) When a child who is taken into custody has committed an act which would constitute
4792 a felony if committed by an adult, the juvenile court, within 48 hours after it learns of the
4793 child having been taken into custody, shall notify the prosecuting attorney of the judicial
4794 circuit in which the juvenile proceedings are to be instituted.

4795 15-11-502.
4796 (a) A person taking a child into custody, with all reasonable speed and without first taking
4797 the child elsewhere, shall:
4798 (1) Immediately release the child, without bond, to the child's parent, guardian, or legal
4799 custodian upon their promise to bring the child before the court when requested by the
4800 court;
4801 (2) Immediately deliver the child to a medical facility if the child is believed to suffer
4802 from a serious physical condition or illness which requires prompt treatment and, upon
4803 delivery, shall promptly contact a juvenile court intake officer. Immediately upon being
4804 notified by the person taking a child into custody, the intake officer shall determine if the
4805 child should be released, remain in protective custody, or be brought before the court; or
4806 (3) Bring the child immediately before the juvenile court or promptly contact a juvenile
4807 court intake officer. The court or intake officer shall determine if the child should be
4808 released or detained. All determinations and court orders regarding detention shall
4809 comply with the requirements of this article and shall be based on an individual
4810 assessment of the child and the child's circumstances. Such assessment shall include
4811 completion and review of a detention assessment instrument developed by the Governor's
4812 Office for Children and Families in consultation with DJJ and the Council of Juvenile
4813 Court Judges.

4814 (b) Notwithstanding subsection (a) of this Code section, a law enforcement officer may
4815 detain a child for a reasonable period of time sufficient to conduct interrogations and
4816 perform routine law enforcement procedures including, but not limited to, fingerprinting,
4817 photographing, and the preparation of any necessary records.
4818 (c) Prior to a detention hearing, a child shall be placed in detention, if necessary, only in
4819 such places as are authorized by Code Section 15-11-504.

4820 15-11-503.
4821 (a) Restraints on the freedom of a child prior to adjudication shall be imposed only when
4822 there is probable cause to believe that the child committed the act of which he or she is
4823 accused, that there is clear and convincing evidence that the child's freedom should be
4824 restrained, that no less restrictive alternatives will suffice, and that:
4825 (1) The child's detention or care is required to reduce the likelihood that the child may
4826 inflict serious bodily harm on others during the interim period;
4827 (2) The child has a demonstrated pattern of theft or destruction of property such that
4828 detention is required to protect the property of others;
4829 (3) The child's detention is necessary to secure the child's presence in court to protect the
4830 jurisdiction and processes of the court; or
4831 (4) An order for the child's detention has been made by the court.
4832 (b) All children who are detained shall be informed of their right to bail as provided by
4833 Code Section 15-11-507.
4834 (c) A child shall not be detained:
4835 (1) To punish, treat, or rehabilitate the child;
4836 (2) To allow a parent to avoid his or her legal responsibilities;
4837 (3) To satisfy demands by a victim, law enforcement, or the community;
4838 (4) To permit more convenient administrative access to the child;
4839 (5) To facilitate further interrogation or investigation; or
4840 (6) Due to a lack of a more appropriate facility.
4841 (d) Whenever a child cannot be unconditionally released, conditional or supervised release
4842 that results in the least necessary interference with the liberty of the child shall be favored
4843 over more intrusive alternatives.
4844 (e) Whenever the curtailment of a child's freedom is permitted, the exercise of authority
4845 shall reflect the following values:
4846 (1) Respect for the privacy, dignity, and individuality of the child and his or her family;
4847 (2) Protection of the psychological and physical health of the child;
4848 (3) Tolerance of the diverse values and preferences among different groups and
4849 individuals;

4850 (4) Assurance of equality of treatment by race, class, ethnicity, and sex;
4851 (5) Avoidance of regimentation and depersonalization of the child;
4852 (6) Avoidance of stigmatization of the child; and
4853 (7) Assurance that the child has been informed of his or her right to consult with an
4854 attorney and that, if the child is an indigent person, an attorney will be provided.
4855 (f) Before entering an order authorizing detention, the court shall determine whether
4856 continuation in the home is contrary to the child's welfare and whether there are available
4857 services that would prevent or eliminate the need for detention. The court shall make that
4858 determination on a case-by-case basis and shall make written findings of fact referencing
4859 any and all evidence relied upon in reaching its decision.
4860 (g) If the child can remain in the custody of his or her parent, guardian, or legal custodian,
4861 through the provision of services to prevent the need for removal, the court shall order that
4862 such services shall be provided.

4863 15-11-504.
4864 (a) A child alleged to be delinquent may be detained only in:
4865 (1) A licensed foster home;
4866 (2) A home approved by the court which may be a public or private home;
4867 (3) The home of a noncustodial parent or of a relative;
4868 (4) A facility operated by a licensed child welfare agency; or
4869 (5) A detention home or center for delinquent children which is under the direction or
4870 supervision of the court or other public authority or of a private agency approved by the
4871 court.
4872 (b) Placement shall be made in the least restrictive facility available consistent with the
4873 best interests of the child.
4874 (c) A child 15 years of age or older and alleged to be delinquent may be held in a jail or
4875 other facility for the detention of adults for identification or processing procedures or while
4876 awaiting transportation only as long as necessary to complete such activities for up to six
4877 hours, or for up to 24 hours in nonmetropolitan areas, if all of the following apply:
4878 (1) The child is detained for the commission of a crime that would constitute a
4879 designated felony or a serious violent felony as defined in Code Section 17-10-6.1;
4880 (2) The child is awaiting a detention hearing;
4881 (3) The child's detention hearing is scheduled within 24 hours after being taken into
4882 custody, excluding weekends and legal holidays;
4883 (4) There is no existing acceptable alternative placement for the child; and
4884 (5) The jail or other facility for the detention of adults provides sight and sound
4885 separation for juveniles which includes:

4886 (A) Total separation between juveniles and adult facility spatial areas such that there
4887 is no verbal, visual, or physical contact and there could be no haphazard or accidental
4888 contact between juvenile and adult residents in the respective facilities;
4889 (B) Total separation in all juvenile and adult program activities within the facilities,
4890 including recreation, education, counseling, health care, dining, sleeping, and general
4891 living activities;
4892 (C) Continuous visual supervision of the child; and
4893 (D) Separate juvenile and adult staff, specifically direct care staff such as recreation,
4894 education, and counseling, although specialized services staff, such as cooks,
4895 bookkeepers, and medical professionals who are not normally in contact with detainees
4896 or whose infrequent contacts occur under conditions of separation of juvenile and
4897 adults, can serve both.
4898 (d) A child shall not be transported with adults who have been charged with or convicted
4899 of a crime. DJJ may transport a child with children who have been charged with or
4900 convicted of a crime in superior court.
4901 (e) The official in charge of a jail or other facility for the detention of adult offenders or
4902 persons charged with crime shall inform the court or the intake officer immediately when
4903 a child, who appears to be under the age of 17 years, is received at such facility and shall
4904 deliver the child to the court upon request or transfer the child to the facility designated by
4905 the intake officer or the court.
4906 (f) All facilities shall maintain data on each child detained and such data shall be recorded
4907 and retained by the facility for three years and shall be made available for inspection during
4908 normal business hours by any court exercising juvenile court jurisdiction, by DJJ, and by
4909 the Council of Juvenile Court Judges. The required data are:
4910 (1) Name;
4911 (2) Date of birth;
4912 (3) Sex;
4913 (4) Race;
4914 (5) Offense or offenses for which being detained;
4915 (6) Date of and authority for confinement;
4916 (7) Date of and authority for release or transfer; and
4917 (8) Where transferred or to whom released.

4918 15-11-505.
4919 If a child is brought before the court or delivered to a detention or eligible shelter care
4920 facility designated by the court, the intake officer or other authorized officer of the court

shall immediately make an investigation and release the child unless it appears that the child's detention is warranted.

15-11-506.

(a) A detention hearing shall be held to determine whether preadjudication custody of a child is required. If such hearing is not held within the time specified, the child shall be released from detention or eligible shelter care.

(b) If a child is detained and is not released from preadjudication custody, a detention hearing shall be held promptly and not later than:

(1) Two business days after the child is placed in preadjudication custody if the child is taken into custody without an arrest warrant; or

(2) Three business days after the child is placed in preadjudication custody if the child is taken into custody pursuant to an arrest warrant.

(c) If the detention hearing cannot be held within two business days, in accordance with paragraph (1) of subsection (b) of this Code section, because the date for the hearing falls on a weekend or legal holiday, the court shall review the decision to detain a child and make a finding based on probable cause within 48 hours of the child being placed in preadjudication custody.

(d) Reasonable oral or written notice of the detention hearing, stating the time, place, and purpose of the hearing, shall be given to the child and to the child's parent, guardian, or legal custodian, if he or she can be found. In the event the child's parent, guardian, or legal custodian cannot be found, the court shall forthwith appoint a guardian ad litem for the child.

(e) If the child alleged to be delinquent is not released from preadjudication custody and a parent, guardian, or legal custodian or guardian ad litem, if any, has not been notified of the hearing and did not appear or waive appearance at the hearing and thereafter files the affidavit showing such party was not notified of such hearing, the court shall rehear the matter without unnecessary delay and shall order the child's release unless it appears from the hearing that the child's detention or eligible shelter care is required.

(f) At the commencement of the detention hearing, the court shall inform the child of:

(1) The contents of the complaint or petition;

(2) The nature of the proceedings;

(3) The right to make an application for bail, as provided by Code Section 15-11-507 and Title 17;

(4) The possible consequences or dispositions that may apply to the child's case following adjudication; and

4956 (5) Due process rights, including the right to an attorney and to an appointed attorney;
4957 the privilege against self-incrimination; that the child may remain silent and that anything
4958 said may be used against the child; the right to confront anyone who testifies against the
4959 child and to cross-examine any persons who appear against the child; the right of the
4960 child to testify and to compel other witnesses to attend and testify in his or her own
4961 behalf; the right of the child to a speedy adjudication hearing; and the right to appeal and
4962 be provided with a transcript for such purpose.
4963 (g) If the child can be returned to the custody of his or her parent, guardian, or legal
4964 custodian through the provision of services to eliminate the need for removal, the court
4965 shall release the child to the physical custody of the parent, guardian, or legal custodian and
4966 order that those services shall be provided.
4967 (h) If the child cannot be returned to the custody of the parent, guardian, or legal
4968 custodian, the court shall state the facts upon which the detention is based. The court shall
4969 make the following findings of fact referencing any and all evidence relied upon to make
4970 its determinations:
4971 (1) Whether continuation in the home of the parent, guardian, or legal custodian is
4972 contrary to the child's welfare; and
4973 (2) Whether reasonable efforts have been made to safely maintain the child in the home
4974 of his or her parent, guardian, or legal custodian and to prevent the need for removal.
4975 Such finding shall be made at the detention hearing if possible but in no case later than
4976 60 days following the child's removal from the home.
4977 (i) If the child cannot be returned to the custody of the parent, guardian, or legal custodian,
4978 the probation officer shall provide referrals for services as soon as possible to enable the
4979 child's parent, guardian, or legal custodian to obtain any assistance that may be needed to
4980 effectively provide the care and control necessary for the child to return home.

4981 15-11-507.
4982 (a) All children alleged to be delinquent shall have the same right to bail as adults.
4983 (b) The judge shall admit to bail all children in the same manner and under the same
4984 circumstances and procedures as are applicable to adults accused of the commission of
4985 crimes, with the exception that applying for, holding a hearing on the application, and
4986 granting bail for children alleged to have committed a delinquent offense may only occur:
4987 (1) At intake in accordance with Code Section 15-11-503; or
4988 (2) At the detention hearing in accordance with Code Section 15-11-506.
4989 (c) A court shall be authorized to release a child on bail if the court finds that the child:
4990 (1) Poses no significant risk of fleeing from the jurisdiction of the court or failing to
4991 appear in court when required;

(2) Poses no significant threat or danger to any person, to the community, or to any property in the community;

(3) Poses no significant risk of committing any felony pending trial; and

(4) Poses no significant risk of intimidating witnesses or otherwise obstructing the administration of justice.

(d) If the child is accused of committing an offense that would be a serious violent felony, as defined in Code Section 17-10-6.1, if committed by an adult and the child has previously been adjudicated delinquent for committing an act that would be a serious violent felony if committed by an adult, there shall be a rebuttable presumption that no condition or combination of conditions will reasonably assure the appearance of the child as required or assure the safety of any other person or the community.

(e) Any person having legal custody or an adult blood relative or stepparent shall be entitled to post bail but shall be required immediately to return the child to the individual or entity having legal custody of the child.

(f) For the purposes of this Code section, the term 'bail' shall include the releasing of a person on such person's own recognizance.

Part 4

15-11-510.

(a) If a child has not been detained after the filing of a complaint, he or she shall be promptly referred to intake or given a date for arraignment.

(b) At intake, the court, the intake officer, or other officer designated by the court shall inform the child of:

(1) The contents of the complaint;

(2) The nature of the proceedings;

(3) The possible consequences or dispositions that may apply to the child's case following adjudication; and

(4) Due process rights, including the right to an attorney and to an appointed attorney; the privilege against self-incrimination; that the child may remain silent and that anything said may be used against the child; the right to confront anyone who testifies against the child and to cross-examine any persons who appear against the child; the right of the child to testify and to compel other witnesses to attend and testify in his or her own behalf; the right of the child to a speedy adjudication hearing; and the right to appeal and be provided with a transcript for such purpose.

(c) An intake officer may elect to pursue a case through informal adjustment or other nonadjudicatory procedure in accordance with the provisions of Code Section 15-11-515.

5027 (d) If a case is to be prosecuted further and handled other than by informal adjustment or
5028 other nonadjudicatory procedure, a petition for delinquency shall be filed within 30 days
5029 of the filing of a complaint.

5030 15-11-511.
5031 (a) At arraignment, the court shall inform the child of:
5032 (1) The contents of the petition for delinquency;
5033 (2) The nature of the proceedings;
5034 (3) The possible consequences or dispositions that may apply to the child's case
5035 following adjudication; and
5036 (4) Due process rights, including the right to an attorney and to an appointed attorney;
5037 the privilege against self-incrimination; that the child may remain silent and that anything
5038 said may be used against the child; the right to confront anyone who testifies against the
5039 child and to cross-examine any persons who appear against the child; the right of the
5040 child to testify and to compel other witnesses to attend and testify in his or her own
5041 behalf; the right of the child to a speedy adjudication hearing; and the right to appeal and
5042 be provided with a transcript for such purpose.
5043 (b) The court shall appoint a qualified and competent attorney to represent the child at
5044 arraignment unless an attorney has been retained and appears on the child's behalf.
5045 (c) At arraignment the child may make a preliminary statement indicating whether he or
5046 she shall admit or deny the allegations of the complaint at the adjudication hearing but the
5047 court shall not accept an admission at arraignment.

5048 Part 5

5049 15-11-515.
5050 (a) Before a petition for informal adjustment is filed, a probation officer or other officer
5051 designated by the court, subject to the court's direction, may inform the parties of informal
5052 adjustment if it appears that:
5053 (1) The admitted facts bring the case within the jurisdiction of the court;
5054 (2) Counsel and advice without an adjudication would be in the best interests of the
5055 public and the child, taking into account at least the following factors:
5056 (A) The nature of the alleged offense;
5057 (B) The age and individual circumstances of the child;
5058 (C) The child's prior record, if any;
5059 (D) Recommendations for informal adjustment made by the complainant or the victim;
5060 and

5061 (E) Services to meet the child's needs and problems may be unavailable within the
5062 formal court system or may be provided more effectively by alternative community
5063 programs; and
5064 (3) The child and the child's parent, guardian, or legal custodian consent with knowledge
5065 that consent is not obligatory.
5066 (b) The giving of counsel and advice shall not extend beyond three months unless
5067 extended by the court for an additional period not to exceed three months and shall not
5068 authorize the detention of the child if not otherwise permitted by this article.
5069 (c) An incriminating statement made by a participant to the person giving counsel or
5070 advice and in the discussion or conferences incident thereto shall not be used against the
5071 declarant over objection in any hearing except in a hearing on disposition in a juvenile
5072 court proceeding or in a criminal proceeding upon conviction for the purpose of a
5073 presentence investigation.
5074 (d) If a child is alleged to have committed a felony, the case shall not be subject to
5075 informal adjustment, counsel, or advice without the prior consent of the district attorney
5076 or his or her authorized representative.

5077 Part 6

5078 15-11-520.
5079 A petition alleging delinquency shall be filed only by the prosecuting attorney.

5080 15-11-521.
5081 (a) If a child is in detention prior to adjudication, the petition alleging delinquency shall
5082 be filed not later than 72 hours after the detention hearing. If no petition alleging
5083 delinquency is filed within the applicable time, the child shall be released.
5084 (b) If the child is not in detention prior to adjudication, the petition alleging delinquency
5085 shall be filed within 30 days of the filing of the complaint alleging violation of a criminal
5086 law or within 30 days of the child's release pursuant to a determination that detention is not
5087 warranted.

5088 15-11-522.
5089 (a) The petition alleging delinquency shall be verified and may be on information and
5090 belief. It shall set forth plainly and with particularity:
5091 (1) The facts which bring the child within the jurisdiction of the court, with a statement
5092 that it is in the best interests of the child and the public that the proceeding be brought and
5093 that the child is in need of supervision, treatment, or rehabilitation, as the case may be;

5094 (2) The name, age, and residence address of the child on whose behalf such petition is
5095 brought;
5096 (3) The name and residence address of the parent, guardian, or legal custodian of the
5097 child; or, if neither the child's parent nor the child's guardian nor the child's legal
5098 custodian resides or can be found within the state or if such place of residence address is
5099 unknown, the name of any known adult relative residing within the county or, if there is
5100 none, the known adult relative residing nearest to the location of the court;
5101 (4) If the child is in custody and, if so, the place of his or her detention and the time the
5102 child was taken into custody; and
5103 (5) If the child is being charged with a designated felony act.
5104 (b) The petition alleging delinquency shall indicate if any of the matters required in this
5105 Code section are unknown.

5106 15-11-523.
5107 (a) The prosecuting attorney may amend the petition alleging delinquency at any time to
5108 cure defects of form.
5109 (b) Prior to the adjudication hearing, the prosecuting attorney may amend the petition
5110 alleging delinquency to include new charges of delinquency. However, if an amendment
5111 is made, the child may request a continuance of the adjudication hearing. A continuance
5112 may be granted by the court for such period as required in the interest of justice.
5113 (c) When a petition alleging delinquency is amended to include new charges of
5114 delinquency for adjudication, the petition shall be served in accordance with Code Sections
5115 15-11-530 and 15-11-531.
5116 (d) After jeopardy begins, a petition alleging delinquency shall not be amended to include
5117 new charges of delinquency.

5118 Part 7

5119 15-11-530.
5120 (a) The court shall direct the issuance of a summons to a child and the child's parent,
5121 guardian, or legal custodian requiring them to appear before the court at the time fixed to
5122 answer the allegations of the petition. A copy of the petition shall accompany the
5123 summons.
5124 (b) The summons shall state that a party shall be entitled to have an attorney in the
5125 proceedings and that the court will appoint an attorney if the party is an indigent person.

5126 15-11-531.
5127 (a) If a party to be served with a summons is within this state and can be found, the
5128 summons shall be served upon him or her personally as soon as possible and at least 24
5129 hours before the adjudication hearing.
5130 (b) If a party to be served is within this state and cannot be found but his or her address is
5131 known or can be ascertained with reasonable diligence, the summons shall be served upon
5132 such party at least five days before the adjudication hearing by mailing him or her a copy
5133 by registered or certified mail or statutory overnight delivery, return receipt requested.
5134 (c) If an individual to be served is outside this state but his or her address is known or can
5135 be ascertained with reasonable diligence, notice of the summons shall be made at least five
5136 days before the adjudication hearing either by delivering a copy to such party personally
5137 or by mailing a copy to him or her by registered or certified mail or statutory overnight
5138 delivery, return receipt requested.
5139 (d) Service of the summons may be made by any suitable person under the direction of the
5140 court.
5141 (e) The court may authorize payment from county funds of the costs of service and of
5142 necessary travel expenses incurred by persons summoned or otherwise required to appear
5143 at the hearing.

5144 15-11-532.
5145 (a) In the event a parent, guardian, or other legal custodian of a child willfully fails to
5146 appear personally at a hearing after being ordered to so appear or the parent, guardian, or
5147 other legal custodian of the child willfully fails to bring the child to a hearing after being
5148 so directed, the court may issue a rule nisi against the person directing the person to appear
5149 before the court to show cause why he or she should not be held in contempt of court.
5150 (b) If the parent, guardian, or legal custodian fails to appear in response to an order to
5151 show cause, the court may issue a bench warrant directing that the parent, guardian, or
5152 legal custodian be brought before the court without delay to show cause why he or she
5153 should not be held in contempt and the court may enter any order authorized by and in
5154 accordance with the provisions of Code Section 15-11-30.
5155 (c) If a child 16 years of age or older fails to appear at a hearing after being ordered to so
5156 appear, the court may issue a bench warrant requiring that the child be brought before the
5157 court without delay and the court may enter any order authorized by and in accordance with
5158 the provisions of Code Section 15-11-30.
5159 (d) If there is sworn testimony that a child 14 years of age but not yet 16 years of age
5160 willfully refuses to appear at a hearing after being ordered to so appear, the court may issue

5161 a bench warrant requiring that the child be brought before the court and the court may enter
5162 any order authorized by and in accordance with the provisions of Code Section 15-11-30.

5163 Part 8

5164 15-11-540.
5165 A delinquency petition shall be dismissed by the court upon the motion of the prosecuting
5166 attorney setting forth that there is not sufficient evidence to warrant further proceedings.

5167 15-11-541.
5168 (a) Except as limited by subsection (d) of Code Section 15-11-542, in all cases in which
5169 a child is charged with having committed a delinquent act, the child shall, upon filing a
5170 motion for discovery with the court and serving a copy of the motion to the prosecuting
5171 attorney, have full access to the following for inspection, copying, or photographing:
5172 (1) A copy of the complaint;
5173 (2) A copy of the petition for delinquency;
5174 (3) The names and last known addresses and telephone numbers of each witness to the
5175 occurrence which forms the basis of the charge;
5176 (4) A copy of any written statement made by the child or any witness that relates to the
5177 testimony of a person whom the prosecuting attorney intends to call as a witness;
5178 (5) A copy of any written statement made by any alleged coparticipant which the
5179 prosecuting attorney intends to use at a hearing;
5180 (6) Transcriptions, recordings, and summaries of any oral statement of the child or of any
5181 witness, except attorney work product;
5182 (7) Any scientific or other report which is intended to be introduced at the hearing or that
5183 pertains to physical evidence which is intended to be introduced;
5184 (8) Photographs and any physical evidence which are intended to be introduced at the
5185 hearing; and
5186 (9) Copies of the police incident report and supplemental report, if any, regarding the
5187 occurrence which forms the basis of the charge.
5188 (b) The prosecuting attorney shall disclose all evidence, known or that may become known
5189 to him or her, favorable to the child and material either to guilt or punishment.
5190 (c) If the child requests disclosure of information pursuant to subsection (a) of this Code
5191 section, it shall be the duty of the child to promptly make the following available for
5192 inspection, copying, or photographing to the prosecuting attorney:
5193 (1) The names and last known addresses and telephone numbers of each witness to the
5194 occurrence which forms the basis of the defense;

5195 (2) Any scientific or other report which is intended to be introduced at the hearing or that
5196 pertains to physical evidence which is intended to be introduced;
5197 (3) Photographs and any physical evidence which are intended to be introduced at the
5198 hearing; and
5199 (4) A copy of any written statement made by any witness that relates to the testimony of
5200 a person whom the child intends to call as a witness.
5201 (d) A request for discovery or reciprocal discovery shall be complied with promptly and
5202 not later than 48 hours prior to the adjudication hearing, except when later compliance is
5203 made necessary by the timing of the request. If the request for discovery is made fewer
5204 than 48 hours prior to the adjudication hearing, the discovery response shall be produced
5205 in a timely manner.
5206 (e) Any material or information furnished to the child pursuant to a discovery request shall
5207 remain in the exclusive custody of the child and shall only be used during the pendency of
5208 the case and shall be subject to such other terms and conditions as the court may provide.

5209 15-11-542.
5210 (a) If a request for discovery is refused, application may be made to the court for a written
5211 order granting discovery.
5212 (b) Motions to compel discovery shall certify that a request for discovery was made and
5213 was refused.
5214 (c) An order granting discovery shall require reciprocal discovery.
5215 (d) Notwithstanding subsection (a) of Code Section 15-11-541, the court may deny, in
5216 whole or in part, or otherwise limit or set conditions concerning discovery upon sufficient
5217 showing by a person or entity to whom a request for discovery is made that disclosure of
5218 the information would:
5219 (1) Jeopardize the safety of a party, witness, or confidential informant;
5220 (2) Create a substantial threat of physical or economic harm to a witness or other person;
5221 (3) Endanger the existence of physical evidence;
5222 (4) Disclose privileged information; or
5223 (5) Impede the criminal prosecution of a child who is being prosecuted as an adult or the
5224 prosecution of an adult charged with an offense arising from the same transaction or
5225 occurrence.

5226 15-11-543.
5227 (a) Upon written request by the prosecuting attorney stating the time, date, and place at
5228 which the alleged delinquent act was committed, the child shall serve upon the prosecuting
5229 attorney a written notice of the child's intention to offer a defense of alibi.

5230 (b) The notice shall state the specific place or places at which the child claims to have been
5231 at the time of the alleged delinquent act and the names, addresses, dates of birth, and
5232 telephone numbers of the witnesses, if known to the child, upon whom the child intends
5233 to rely to establish the child's alibi, unless previously supplied.
5234 (c) A request for alibi evidence shall be complied with promptly and not later than 48
5235 hours prior to the adjudication hearing, except when later compliance is made necessary
5236 by the timing of the request. If the request for alibi evidence is made fewer than 48 hours
5237 prior to the adjudication hearing, the alibi evidence shall be produced in a timely manner.
5238 (d) If the defendant withdraws the notice of intention to rely upon an alibi defense, the
5239 notice and intention to rely upon an alibi defense shall not be admissible; provided,
5240 however, that the prosecuting attorney or entity prosecuting the case may offer any other
5241 evidence regarding alibi.
5242 (e) The prosecuting attorney shall serve upon the child a written notice stating the names,
5243 addresses, dates of birth, and telephone numbers of the witnesses, if known to the state,
5244 upon whom the state intends to rely to rebut the child's evidence of alibi, unless previously
5245 supplied.

5246 15-11-544.
5247 If, subsequent to providing a discovery response, the existence of additional evidence is
5248 found, it shall be promptly provided to the state or child making the discovery request.

5249 15-11-545.
5250 Nothing contained in the provisions governing discovery procedure under this part shall
5251 prohibit the court from ordering the disclosure of any information that the court deems
5252 necessary and appropriate for proper adjudication.

5253 15-11-546.
5254 If at any time during the course of the proceedings it is brought to the attention of the court
5255 that a person or entity has failed to comply with a discovery request, the court may grant
5256 a continuance, prohibit the party from introducing in evidence the information not
5257 disclosed, or enter such other order as the court deems just under the circumstances.

5258 Part 9

5259 15-11-560.
5260 (a) Except as provided in subsection (b) of this Code section, the court shall have
5261 concurrent jurisdiction with the superior court over a child who is alleged to have

5262 committed a delinquent act which would be considered a crime if tried in a superior court
5263 and for which an adult may be punished by loss of life, imprisonment for life without
5264 possibility of parole, or confinement for life in a penal institution.
5265 (b) The superior court shall have original jurisdiction over the trial of any child 13 to 17
5266 years of age who is alleged to have committed any of the following offenses:
5267 (1) Murder;
5268 (2) Voluntary manslaughter;
5269 (3) Rape;
5270 (4) Aggravated sodomy;
5271 (5) Aggravated child molestation;
5272 (6) Aggravated sexual battery; or
5273 (7) Armed robbery if committed with a firearm.
5274 (c) The granting of bail or pretrial release of a child charged with an offense enumerated
5275 in subsection (b) of this Code section shall be governed by the provisions of Code Section
5276 17-6-1.
5277 (d) At any time before indictment, the district attorney may, after investigation and for
5278 cause, decline prosecution in the superior court of a child 13 to 17 years of age alleged to
5279 have committed an offense specified in subsection (b) of this Code section. Upon declining
5280 such prosecution in the superior court, the district attorney shall immediately cause a
5281 petition to be filed in the appropriate juvenile court for adjudication. Any case transferred
5282 by the district attorney to the juvenile court pursuant to this subsection shall be subject to
5283 the designated felony provisions of Code Section 15-11-602 and the transfer of the case
5284 from superior court to juvenile court shall constitute notice to the child that such case is
5285 subject to the designated felony provisions of Code Section 15-11-602.
5286 (e) The superior court may transfer any case involving a child 13 to 17 years of age alleged
5287 to have committed any offense enumerated in subsection (b) of this Code section and
5288 convicted of a lesser included offense not included in subsection (b) of this Code section
5289 to the juvenile court of the county of the child's residence for disposition. Upon such a
5290 transfer by the superior court, jurisdiction shall vest in the juvenile court and jurisdiction
5291 of the superior court shall terminate.
5292 (f) Within 30 days of any proceeding in which a child 13 to 17 years of age is convicted
5293 of certain offenses over which the superior court has original jurisdiction as provided in
5294 subsection (b) of this Code section or adjudicated delinquent on the basis of conduct which
5295 if committed by an adult would constitute such offenses, the superior court shall provide
5296 written notice to the school superintendent or his or her designee of the school in which
5297 such child is enrolled or, if the information is known, of the school in which such child
5298 plans to be enrolled at a future date. Such notice shall include the specific criminal offense

5299 that such child committed. A local school system to which the child is assigned may
5300 request further information from the court's file.

5301 15-11-561.
5302 (a) After a petition alleging delinquency has been filed but before the adjudication hearing,
5303 on its own motion or on a motion by the prosecuting attorney, the court may convene a
5304 hearing to determine whether to transfer the offense to the appropriate superior court for
5305 criminal trial if:
5306 (1) The petition alleges that the child has committed an offense which would be a felony
5307 if committed by an adult and the child was at least 15 years of age at the time of the
5308 commission of the offense; or
5309 (2) The court determines that there is probable cause to believe that the child committed
5310 the alleged offense.
5311 (b) At least three days prior to the scheduled transfer hearing, written notice shall be given
5312 to the child and the child's parent, guardian, or legal custodian. The notice shall contain
5313 a statement that the purpose of the hearing is to determine whether the child is to be tried
5314 in the juvenile court or transferred for trial as an adult in superior court. The child may
5315 request and the court shall grant a continuance to prepare for the transfer hearing.
5316 (c) After consideration of a probation report and any other evidence the court deems
5317 relevant, including any evidence offered by the child, the court may determine that because
5318 of the seriousness of the offense or the child's prior record, the welfare of the community
5319 requires that criminal proceedings against the child be instituted.
5320 (d) No child, either before or after reaching age 17 years of age shall be prosecuted in
5321 superior court for an offense committed before the child turned 17, unless the case has been
5322 transferred as provided in this part. In addition, no child shall be subject to criminal
5323 prosecution at any time for an offense arising out of a criminal transaction for which the
5324 juvenile court retained jurisdiction in its transfer order.

5325 15-11-562.
5326 (a) The criteria which the court shall consider in determining whether to transfer the child
5327 to superior court includes, but shall not be limited to:
5328 (1) The age of the child;
5329 (2) The seriousness of the alleged offense and whether the protection of the community
5330 requires transfer of jurisdiction;
5331 (3) Whether the alleged offense involved violence or was committed in an aggressive or
5332 premeditated manner;

5333 (4) Whether the alleged offense was against persons or property with greater weight
5334 being given to the offense against persons, especially if personal injury resulted;
5335 (5) The culpability of the child including the child's level of planning and participation
5336 in the alleged offense;
5337 (6) Whether the alleged offense is a part of a repetitive pattern of offenses which
5338 indicates that the child may be beyond rehabilitation in the juvenile justice system;
5339 (7) The record and history of the child, including experience with the juvenile justice
5340 system, other courts, supervision, commitments to juvenile institutions, and other
5341 placements;
5342 (8) The sophistication and maturity of the child as determined by consideration of the
5343 child's home and environmental situation, emotional condition, and pattern of living;
5344 (9) The program and facilities available to the juvenile court in considering disposition;
5345 and
5346 (10) Whether or not the child can benefit from the treatment or rehabilitative programs
5347 available to the juvenile court.
5348 (b) The probation officer shall prepare a written report developing fully all available
5349 information relevant to the transfer criteria. The probation officer shall submit such report
5350 to the court as soon as practicable but not later than 24 hours before the scheduled hearing.
5351 The child shall have the right to review such report and cross-examine the individual
5352 making such report.

5353 15-11-563.
5354 (a) A transfer hearing shall be conducted in accordance with the provisions of Code
5355 Section 15-11-582, except that only such evidence which pertains to the transfer criteria
5356 set out in Code Section 15-11-562 may be introduced.
5357 (b) Statements made by the child at the transfer hearing shall not be admissible against the
5358 child over objection in the criminal proceedings if transfer is ordered.

5359 15-11-564.
5360 (a) The decision of the court regarding transfer of the case shall only be an interlocutory
5361 judgment which either the child or the prosecuting attorney, or both, have the right to have
5362 reviewed by the court of appeals.
5363 (b) The pendency of an interlocutory appeal shall stay criminal proceedings in superior
5364 court. A child transferred for trial as an adult in superior court shall be detained only in
5365 those places authorized for the preadjudication detention of a child.

5366 15-11-565.
5367 (a) Prior to the entry of a judgment ordering a child's transfer or during the pendency of
5368 an appeal of a judgment ordering a child's transfer, the child shall be detained only in those
5369 places authorized for the preadjudication detention of a child.
5370 (b) After the entry of a judgment ordering transfer, a child shall be detained only in those
5371 places authorized for the detention of a child until the child reaches 17 years of age.

5372 15-11-566.
5373 (a) If the court decides to transfer the child for trial in superior court, it shall dismiss the
5374 juvenile court petition alleging delinquency, set forth the offense or offenses which are
5375 being transferred, and make the following findings of fact in its dismissal order:
5376 (1) That the court had jurisdiction of the cause and the parties;
5377 (2) That the child was represented by an attorney; and
5378 (3) That the hearing was held in the presence of the child and the child's attorney.
5379 (b) The dismissal order shall also recount the reasons underlying the decision to transfer
5380 jurisdiction.
5381 (c) A dismissal of the petition alleging delinquency terminates the jurisdiction of the
5382 juvenile court over the child as to those offenses which are transferred. If the petition
5383 alleging delinquency alleges multiple offenses that constitute a single criminal transaction,
5384 the court shall either retain or transfer all offenses relating to a single criminal transaction.
5385 (d) Once juvenile court jurisdiction is terminated, the superior court shall retain
5386 jurisdiction even though, thereafter, the child pleads guilty to, or is convicted of, a lesser
5387 included offense. The plea to, or conviction of, a lesser included offense shall not revest
5388 juvenile jurisdiction over the child.
5389 (e) A copy of the petition alleging delinquency and order of dismissal shall be sent to the
5390 district attorney of the judicial circuit in which the proceeding is taking place.
5391 (f) If the court decides not to transfer the child for trial in superior court, it shall set a date
5392 for an adjudication hearing in juvenile court on the petition alleging delinquency.

5393 15-11-567.
5394 (a) Except in those cases in which the superior court has original jurisdiction or juvenile
5395 court jurisdiction has been terminated and the child has been transferred to superior court,
5396 if it appears to any court in a criminal proceeding or a quasi-criminal proceeding that the
5397 accused is a child, the case shall forthwith be transferred to the juvenile court together with
5398 a copy of the accusatory pleading and all other papers, documents, and transcripts of
5399 testimony relating to the case.

(b) The transferring court shall order that the child be taken forthwith to the juvenile court or to a place of detention designated by the court or shall release him or her to the custody of his or her parent, guardian, legal custodian, or other person legally responsible for him or her to be brought before the juvenile court at a time designated by that court. The accusatory pleading may not serve in lieu of a petition alleging delinquency in the juvenile court.

Part 10

15-11-580.

(a) At the commencement of the adjudication hearing, the court shall address the child, in language understandable to the child, and determine whether the child is capable of understanding statements about his or her rights under this chapter.

(b) If a child is capable, the court shall inquire how the child responds to the allegations of the delinquency petition. The child may:

(1) Deny the allegations of such petition, in which case the court shall proceed to hear evidence on such petition; or

(2) Admit the allegations of such petition, in which case the court shall further inquire to determine whether there is a factual basis for adjudication. If so, the court may then adjudge the child to have committed a delinquent act.

(c) If the child stands mute, refuses to answer, or answers evasively, the court shall enter a denial of the allegations.

15-11-581.

The state shall have the burden of proving the allegations of a delinquency petition beyond a reasonable doubt.

15-11-582.

(a) The court shall fix a time for the adjudication hearing. If the child is in detention, the hearing shall be scheduled to be held no later than ten days after the filing of the delinquency petition. If the child is not in detention, the hearing shall be scheduled to be held no later than 60 days after the filing of such petition.

(b) Adjudication hearings shall be conducted:

(1) By the court without a jury;

(2) In accordance with Title 24 and Title 17; and

(3) In language understandable to the child and participants, to the fullest extent practicable.

5433 (c) The court shall determine if the allegations of the petition alleging delinquency are
5434 admitted or denied in accordance with the provisions of Code Section 15-11-580.
5435 (d) After hearing all of the evidence, the court shall make and record its findings on
5436 whether the delinquent acts ascribed to the child were committed by the child. If the court
5437 finds that the allegations of delinquency have not been established, it shall dismiss the
5438 delinquency petition and order the child released from any detention or legal custody
5439 imposed in connection with the proceedings.
5440 (e) The court shall make a finding that the child has committed a delinquent act based on
5441 a valid admission made in open court of the allegations of the delinquency petition or on
5442 the basis of proof beyond a reasonable doubt. If the court finds that the child has
5443 committed a delinquent act, the court may proceed immediately or at a postponed hearing
5444 to make disposition of the case.

5445 Part 11

5446 15-11-590.
5447 (a) After an adjudication that the child has committed a delinquent act, the court may
5448 direct that a written predisposition investigation report be prepared by the probation officer
5449 or other person designated by the court.
5450 (b) The predisposition investigation report shall contain information about the child's
5451 characteristics, family, environment, and the circumstances affecting the child's behavior
5452 as may be helpful in determining the need for treatment or rehabilitation and a proper
5453 disposition of the case, including but not limited to:
5454 (1) A summary of the facts with respect to the conduct of the child that led to the
5455 adjudication;
5456 (2) The sophistication and maturity of the child;
5457 (3) A summary of the child's home environment, family relationships, and background;
5458 (4) A summary of the child's prior contacts with the juvenile court and law enforcement
5459 agencies, including the disposition following each contact and the reasons therefor;
5460 (5) A summary of the child's educational status, including, but not limited to, the child's
5461 strengths, abilities, and special educational needs. The report shall identify appropriate
5462 educational and vocational goals for the child. Examples of appropriate goals include:
5463 (A) Attainment of a high school diploma or its equivalent;
5464 (B) Successful completion of literacy courses;
5465 (C) Successful completion of vocational courses;
5466 (D) Successful attendance and completion of the child's current grade if enrolled in
5467 school; or

5468 (E) Enrollment in an apprenticeship or a similar program;
5469 (6) A summary of the results and recommendations of any significant physical and
5470 mental examinations;
5471 (7) The seriousness of the offense to the community;
5472 (8) The nature of the offense; and
5473 (9) Whether the offense was against persons or against property with greater weight
5474 being given to offenses against persons.
5475 (c) If the court has ordered a physical or mental examination to be conducted, the report
5476 shall include a copy of the results of the examination.
5477 (d) All information shall be presented in a concise and factual manner. The report shall
5478 indicate the sources of information in the report.
5479 (e) The original report and any other material to be disclosed shall be furnished to the
5480 court, and copies shall be furnished to the child's attorney and to the prosecuting attorney
5481 at least five days prior to the disposition hearing.

5482 Part 12

5483 15-11-600.
5484 (a) After a finding that a child has committed a delinquent act, the court shall conduct a
5485 hearing for the purpose of hearing evidence as to whether the child is in need of treatment,
5486 rehabilitation, or supervision and shall make and file its findings thereon.
5487 (b) The court may proceed immediately to the disposition hearing after the adjudication
5488 hearing or conduct the disposition hearing within 30 days of the adjudication hearing. The
5489 hearing may occur later than 30 days after the adjudication hearing only if the court makes
5490 and files written findings of fact explaining the need for delay.
5491 (c) In the absence of evidence to the contrary, evidence sufficient to warrant a finding that
5492 acts have been committed which constitute a felony shall also be sufficient to sustain a
5493 finding that the child is in need of treatment or rehabilitation.
5494 (d) If the court finds that the child is not in need of treatment, rehabilitation, or
5495 supervision, it shall dismiss the proceeding and discharge the child from any detention or
5496 other restriction previously ordered.
5497 (e) If the court finds that the child is in need of supervision but not of treatment or
5498 rehabilitation, it shall find that the child is a child in need of services and enter any
5499 disposition authorized by Code Section 15-11-442.
5500 (f) The court may consider any evidence, including hearsay evidence, that the court finds
5501 to be relevant, reliable, and necessary to determine the needs of the child and the most
5502 appropriate disposition.

5503 (g)(1) Prior to the disposition hearing, and upon request, the parties and their attorneys
5504 shall be afforded an opportunity to examine any written reports received by the court.
5505 (2) Portions of such reports not relied on by the court in reaching its decision which, if
5506 revealed would be prejudicial to the interests of the child or any party to the proceeding,
5507 may be withheld in the court's discretion. Confidential sources of information need not
5508 be disclosed.
5509 (3) Parties and their attorneys shall be given the opportunity to controvert written reports
5510 received by the court and to cross-examine individuals making such reports.
5511 (h) In scheduling investigations and hearings, the court shall give priority to proceedings
5512 in which a child is in detention or has otherwise been removed from his or her home.

5513 15-11-601.
5514 (a) At the conclusion of the disposition hearing, if the child is determined to be in need of
5515 treatment or rehabilitation, the court shall enter the least restrictive disposition order
5516 appropriate in view of the seriousness of the delinquent act, the child's culpability as
5517 indicated by the circumstances of the particular case, the age of the child, the child's prior
5518 record, and the child's strengths and needs. The court may make any of the following
5519 orders of disposition, or combination of them, best suited to the child's treatment,
5520 rehabilitation, and welfare:
5521 (1) Any order authorized for the disposition of a deprived child other than placement in
5522 the temporary custody of DFCS unless the child is also found to be a deprived child;
5523 (2) An order requiring the child and the child's parent, guardian, or legal custodian to
5524 participate in counseling or in counsel and advice. Such counseling and counsel and
5525 advice may be provided by the court, court personnel, probation officers, professional
5526 counselors or social workers, psychologists, physicians, qualified volunteers, or
5527 appropriate public, private, or volunteer agencies and shall be designed to assist in
5528 deterring future delinquent acts or other conduct or conditions which would be harmful
5529 to the child or society;
5530 (3) An order placing the child on probation under conditions and limitations the court
5531 prescribes. The court may place a child on probation under the supervision of:
5532 (A) The probation officer of the court or the court of another state;
5533 (B) Any public agency authorized by law to receive and provide care for the child; or
5534 (C) Any community rehabilitation center if its chief executive officer has
5535 acknowledged in writing its willingness to accept the responsibility for the supervision
5536 of the child;
5537 (4) In any case in which a child who has not achieved a high school diploma or the
5538 equivalent is placed on probation, the court shall consider and may order as a condition

of probation that the child pursue a course of study designed to lead to achieving a high school diploma or the equivalent;

(5) An order requiring that the child perform community service in a manner prescribed by the court and under the supervision of an individual designated by the court;

(6) An order requiring that the child make restitution. Such order may remain in force and effect simultaneously with another order of the court, including, but not limited to an order of commitment to DJJ. However, no order of restitution shall be enforced while the child is in placement at a youth development center unless the commissioner of juvenile justice certifies that a restitution program is available at such center. Payment of funds shall be made by the child or the child's family or employer directly to the clerk of the juvenile court entering the order or to another employee of such court designated by the judge, and that court shall disburse such funds in the manner authorized in the order. While an order requiring restitution is in effect, the court may transfer enforcement of its order to:

(A) DJJ;

(B) The juvenile court of the county of the child's residence and its probation staff, if the child changes his or her place of residence; or

(C) The superior court once the child reaches 17 years of age if the child thereafter comes under the jurisdiction of such court;

(7) An order requiring the child remit to the general fund of the county a sum not to exceed the maximum fine applicable to an adult for commission of any of the following offenses:

(A) Any felony in the commission of which a motor vehicle is used;

(B) Driving under the influence of alcohol or drugs;

(C) Driving without proof of minimum required motor vehicle insurance;

(D) Fraudulent or fictitious use of a driver's license;

(E) Hit and run or leaving the scene of an accident;

(F) Homicide by vehicle;

(G) Manslaughter resulting from the operation of a motor vehicle;

(H) Possession of controlled substances or marijuana;

(I) Racing on highways or streets;

(J) Using a motor vehicle in fleeing or attempting to elude an officer; or

(K) Any violation of the provisions contained in Title 40 which is properly adjudicated as a delinquent act;

(8) An order suspending the child's driver's license for a period not to exceed the date on which the child reaches 18 years of age or, in the case of a child who does not have a driver's license, an order prohibiting the issuance of a driver's license to the child for a

5576 period not to exceed the date on which the child reaches 18 years of age. The court shall
5577 retain the driver's license during such period of suspension and return it to the child at the
5578 end of such period. The court shall notify the Department of Driver Services of any
5579 actions taken pursuant to this paragraph;
5580 (9) An order placing the child in an institution, camp, or other facility for delinquent
5581 children operated under the direction of the court or other local public authority; or
5582 (10) An order committing the child to DJJ.
5583 (b) In addition to any other treatment or rehabilitation, the court may order the child to
5584 serve up to a maximum of 60 days in a youth development center or, after assessment and
5585 with the court's approval, in a treatment program provided by DJJ or the juvenile court.
5586 This subsection shall apply to cases involving:
5587 (1) An offense that would be a felony if committed by an adult;
5588 (2) An offense that would be a misdemeanor of a high and aggravated nature if
5589 committed by an adult and involving bodily injury or harm or substantial likelihood of
5590 bodily injury or harm; or
5591 (3) A violation of probation involving another adjudicated delinquent act and upon the
5592 court making a finding of fact that the child has failed to respond to graduated alternative
5593 sanctions.
5594 (c) A child ordered to a youth development center under subsection (b) of this Code
5595 section and detained after the adjudication hearing in a secure facility pending placement
5596 in a youth development center shall be given credit for time served in the secured facility
5597 awaiting placement.
5598 (d) Notwithstanding the provisions of subsections (a) and (b) of this Code section, if a
5599 child is found to have committed the offense of driving under the influence, the court may
5600 make an order of disposition which, for purposes of the child's rehabilitation, imposes the
5601 same penalty, period of confinement, and period of community service which are
5602 applicable to an adult convicted of violating Code Section 40-6-391. The child shall serve
5603 any period of confinement in an institution, camp, or other facility for delinquent children
5604 operated under the direction of the court or other local public authority or, if no such
5605 facility is available, in a regional youth detention center. A previous finding that the child
5606 committed the offense of driving under the influence shall be deemed a previous conviction
5607 for purposes of this subsection. The court shall have the same authority and discretion
5608 regarding allowing service of confinement on weekends or during nonworking hours as is
5609 provided under subsection (a) of Code Section 17-10-3.1.
5610 (e) The child shall be given adequate information concerning the obligations and
5611 conditions imposed upon him or her by the disposition ordered by the court and the
5612 consequences of failure to meet such obligations and conditions. Such information shall

be given in terms understandable to the child to enable the child to conform his or her conduct to the requirements of the disposition.

15-11-602.

(a) When a child is found to have committed a designated felony act, the order of disposition shall be made within 20 days of the conclusion of the disposition hearing. The court may make one of the following orders of disposition best suited to provide for the rehabilitation of the child and the protection of the community:

(1) Any order authorized by Code Section 15-11-601 if the court finds that restrictive custody is not required; or

(2) An order placing the child in restrictive custody.

(b) Every order shall include a finding, based on a preponderance of the evidence, of whether the child requires restrictive custody. In determining whether restrictive custody is required, the court shall consider and make specific written findings of fact as to each of the following factors:

(1) The age of the child;

(2) The needs and best interests of the child;

(3) The record and background of the child;

(4) The nature and circumstances of the offense, including whether any injury involved was inflicted by the child or another participant;

(5) The need for protection of the community; and

(6) The age and physical condition of the victim.

(c) A restrictive custody order may provide that:

(1) The child be placed in DJJ custody for an initial period of five years;

(2) The child be confined in a youth development center for a period set by the order, not to be less than six months nor to exceed 60 months. All time spent in secure detention subsequent to the date of the disposition hearing and prior to placement in a youth development center shall be counted toward the period set by the order;

(3) After a period of confinement set by the court, the child may be placed under intensive supervision not to exceed 12 months; and

(4) If the child is confined in a youth development center, the child may not be released or transferred to a nonsecure facility unless by court order pursuant to Code Section 15-11-31. Such child may not be released from intensive supervision unless by court order and with the written approval of the commissioner of juvenile justice or a designated deputy. All home visits shall be carefully arranged and monitored while a child is confined in a youth development center.

(d) During the child's placement order or any extension of the restrictive custody order:

5649 (1) While in a youth development center, the child shall be permitted to participate in all
5650 youth development center services and programs and shall be eligible to receive special
5651 medical and treatment services, regardless of the time of confinement in the youth
5652 development center. A child may be eligible to participate in programs sponsored by the
5653 youth development center including community work programs and sheltered workshops
5654 under the general supervision of a youth development center staff outside of the youth
5655 development center. In cooperation and coordination with the department, the child shall
5656 be allowed to participate in state sponsored programs for evaluation and services under
5657 the Division of Rehabilitation Services of the Department of Labor and DMHDDAD;
5658 (2) The child shall not be discharged from restrictive custody unless a motion therefor
5659 is granted by the court. A motion to discharge a child from restrictive custody shall be
5660 filed not more than once every six months and shall be accompanied by a written
5661 recommendation for discharge from the child's counselor, placement supervisor, or DJJ;
5662 (3) Notwithstanding Code Section 15-11-31, DJJ or any party may move for release from
5663 restrictive custody. In determining whether a motion for release from restrictive custody
5664 should be granted in the child's best interests due to changed circumstances, the court
5665 shall consider and make specific written findings of fact as to each of the following
5666 factors:
5667 (A) The child's achievement or progress on the goals of rehabilitation;
5668 (B) The disciplinary history of the child during the period of restrictive custody and
5669 subsequent offense history;
5670 (C) The academic progress of the child during the period of restrictive custody
5671 including, if the child is receiving services under the federal Individuals with
5672 Disabilities Education Act, a review of the child's Individual Education Plan (IEP) and
5673 the child's progress toward IEP goals; and
5674 (D) The victim's impact statement submitted for purposes of this proceeding; and
5675 (4) Unless otherwise specified in the order, DJJ shall report in writing to the court not
5676 less than once every six months during the placement on the status, adjustment, and
5677 progress of the child.
5678 (e) The period of placement in a youth development center may be extended on motion by
5679 DJJ, after a disposition hearing, for two additional periods not to exceed 12 months each,
5680 provided that no placement or extension of custody may continue beyond the child's
5681 twenty-first birthday.
5682 (f) The court shall identify the school last attended by the child and the school which the
5683 child intends to attend and shall transmit a copy of the adjudication to the principals of both
5684 schools within 15 days of the adjudication. Such information shall be subject to
5685 notification, distribution, and requirements as provided in Code Section 20-2-671.

5686 15-11-603.

5687 (a) As part of any order of disposition regarding a child adjudged to have committed a
5688 delinquent act constituting an AIDS transmitting crime, the court may in its discretion and
5689 after conferring with the director of the health district, order that the child submit to an HIV
5690 test within 45 days following the adjudication of delinquency. The court shall mail DJJ a
5691 copy of the order within three days following its issuance.

5692 (b) Within 30 days following receipt of the copy of the order, DJJ shall arrange for the
5693 HIV test for the child.

5694 (c) Any child placed in the custody and control of DJJ shall be HIV tested in accordance
5695 with DJJ's policies and procedures.

5696 (d) If a child is determined to be infected with HIV, that determination and the name of
5697 the child shall be deemed to be AIDS confidential information and shall only be reported
5698 to:

5699 (1) DJJ and the department, which may disclose the name of the child if necessary to
5700 provide counseling. The department shall provide counseling to each victim of the AIDS
5701 transmitting crime or to any parent, guardian, or legal custodian of any victim who is a
5702 minor or incompetent person, if DJJ believes the crime posed a reasonable risk of
5703 transmitting HIV to the victim. Counseling shall include providing the person with
5704 information and explanations medically appropriate for such person which may include
5705 all or part of the following: accurate information regarding AIDS and HIV; an
5706 explanation of behaviors that reduce the risk of transmitting AIDS and HIV; an
5707 explanation of the confidentiality of information relating to AIDS diagnoses and HIV
5708 tests; an explanation of information regarding both social and medical implications of
5709 HIV tests; and disclosure of commonly recognized treatment or treatments for AIDS and
5710 HIV;

5711 (2) The court which ordered the HIV test; and

5712 (3) Those persons in charge of any facility to which the child has been confined by order
5713 of the court. In addition to any other restrictions regarding the confinement of a child,
5714 a child determined to be an HIV infected person may be confined separately from any
5715 other children in that facility other than those who have been determined to be infected
5716 with HIV if:

5717 (A) That child is reasonably believed to be sexually active while confined;

5718 (B) That child is reasonably believed to be sexually predatory either during or prior to
5719 detention; or

5720 (C) The commissioner of juvenile justice reasonably determines that other
5721 circumstances or conditions exist which indicate that separate confinement would be
5722 warranted.

5723 15-11-604.

5724 (a) A child found to have committed a delinquent act shall be given credit for each day
5725 spent in secure confinement awaiting adjudication and for each day spent in secure
5726 confinement, in connection with and resulting from a court order entered in the proceedings
5727 for which the sentence was imposed, and in any institution or facility for treatment or
5728 examination of a physical or mental disability. Such credit shall be applied toward the
5729 child's sentence and shall also be considered by parole authorities in determining the
5730 eligibility of the child for parole.

5731 (b) Subsection (a) of this Code section shall apply to sentences for all offenses, whether
5732 classified as violations, misdemeanors, or felonies.

5733 15-11-605.

5734 (a) A graduated alternative sanctions program for children on probation shall be
5735 established in each judicial circuit and shall be developed and organized at the community
5736 level. The graduated alternative sanctions program shall include a continuum of services
5737 for children including, but not limited to, diversion, early intervention, community
5738 alternatives to detention, appropriate confinement programs, and aftercare programs.

5739 (b) The chief or presiding judge of the juvenile court in each judicial circuit shall develop
5740 and monitor the graduated sanctions program in consultation with an advisory committee
5741 who will serve at the pleasure of the chief or presiding judge.

5742 (c) The chief or presiding judge of the juvenile court shall appoint members of the
5743 advisory committee to ensure appropriate representation from local government, local and
5744 public agencies serving children and their families, and others as may be appropriate in a
5745 particular community. The advisory committee shall consist of not more than ten members
5746 and shall include, if possible:

5747 (1) The district attorney, or that person's designee;

5748 (2) The public defender, or that person's designee;

5749 (3) A probation officer;

5750 (4) A representative from DJJ;

5751 (5) A representative from law enforcement;

5752 (6) A representative from DMHDDAD; and

5753 (7) A school superintendent, or that person's designee.

5754 (d) Each member on the advisory committee shall be appointed for a term of three years,
5755 except that the terms of the initial appointments shall be staggered as determined by the
5756 chief or presiding judge of the juvenile court. Each member shall continue in such capacity
5757 until a successor is appointed. Members shall be eligible for reappointment, and
5758 appointment may be made to fill an unexpired term.

5759 (e) The advisory committee shall annually evaluate and report to the chief or presiding
5760 judge of the juvenile court on the effectiveness and enhancement of existing graduated
5761 sanctions and the identification of new interventions. Such report shall also address
5762 measurable goals and objectives and projected costs.

5763 15-11-606.
5764 An order of disposition or adjudication shall not be a conviction of a crime and shall not
5765 impose any civil disability ordinarily resulting from a conviction nor operate to disqualify
5766 the child in any civil service application or appointment.

5767 15-11-607.
5768 (a) Except as otherwise provided in Code Section 15-11-602, an order of disposition
5769 committing a child adjudicated delinquent to DJJ continues in force for two years or until
5770 the child is sooner discharged by DJJ. The court which made the order may extend its
5771 duration for a period not to exceed two years subject to like discharge, if:
5772 (1) A hearing is held upon DJJ's motion prior to the expiration of the order;
5773 (2) Reasonable notice of the factual basis of the motion and of the hearing and an
5774 opportunity to be heard are given to the child and the parent, guardian, or legal custodian;
5775 and
5776 (3) The court finds that the extension is necessary for the treatment or rehabilitation of
5777 the child.
5778 (b) Any other order of disposition except an order of restitution as allowed by paragraph
5779 (6) or (8) of subsection (a) of Code Section 15-11-601 continues in force for not more than
5780 two years. An order of extension may be made if:
5781 (1) A hearing is held prior to the expiration of the order upon motion of DJJ, the
5782 prosecuting attorney, or on the court's own motion;
5783 (2) Reasonable notice of the factual basis of the motion and of the hearing and
5784 opportunity to be heard are given to the parties affected;
5785 (3) The court finds that the extension is necessary to accomplish the purposes of the
5786 order extended; and
5787 (4) The extension does not exceed two years from the expiration of the prior order.
5788 (c) The court may terminate an order of disposition or an extension of such a disposition
5789 order prior to its expiration, on its own motion or an application of a party, if it appears to
5790 the court that the purposes of the order have been accomplished.
5791 (d) When a child reaches 21 years of age, all orders affecting him or her then in force
5792 terminate and he or she is discharged from further obligation or control.

5793 15-11-608.

5794 (a) An order granting probation to a child found to be delinquent may be revoked on the
5795 ground that the conditions of probation have been violated.

5796 (b) Any violation of a condition of probation may be reported to the prosecuting attorney
5797 who may file a motion in the court for revocation of probation. A motion for revocation
5798 of probation shall contain specific factual allegations constituting each violation of a
5799 condition of probation.

5800 (c) The motion shall be served upon the child, his or her attorney, and his or her parent,
5801 guardian, or legal custodian in accordance with the provisions of Code Section 15-11-531.

5802 (d) If a child is taken into custody because of an alleged violation of probation, the
5803 provisions governing the detention of a child shall apply.

5804 (e) A revocation hearing shall be scheduled to be held no later than 30 days after the filing
5805 of such motion or, if the child has been detained as a result of the filing of such motion for
5806 revocation, no later than ten days after the filing of the motion.

5807 (f) If the court finds, beyond a reasonable doubt, that the child violated the terms and
5808 conditions of probation, the court may:

5809 (1) Extend probation;

5810 (2) Impose additional conditions of probation;

5811 (3) Make any disposition that could have been made at the time probation was imposed;
5812 or

5813 (4) Upon finding that graduated alternative sanctions have failed, order the child to serve
5814 up to a maximum of 60 days in a youth development center or, after assessment and with
5815 the court's approval, in a treatment program provided by DJJ or the juvenile court.

5816 (g) In the case of a designated felony, if the court finds that the child violated the terms
5817 and conditions of probation, the court shall reconsider and make specific findings of fact
5818 as to each of the factors in subsection (b) of Code Section 15-11-602 to determine whether
5819 restrictive custody is required.

5820 (h) In the case of a designated felony, if the court finds, beyond a reasonable doubt, that
5821 the child violated the terms and conditions of probation and that the order granting
5822 probation to the child shall be revoked, the child shall be given credit for time served on
5823 probation.

5824 Part 13

5825 15-11-620.

5826 (a) When a child is alleged to be both delinquent and deprived, the date the child is
5827 considered to have entered foster care shall be the date of the first judicial finding that the

5828 child has been subjected to child abuse or neglect or the date that is 60 days after the date
5829 on which the child is removed from his or her home, whichever is earlier.
5830 (b) If a child alleged or adjudicated to be delinquent is first placed in a noneligible
5831 placement but is later placed in an eligible shelter care placement within 60 days of the
5832 child's removal from the home, then the date of entry into foster care shall be 60 days from
5833 the date of removal.
5834 (c) If a child is detained in a facility operated primarily for the detention of a child
5835 determined to be delinquent pending eligible shelter care placement, and remains detained
5836 for more than 60 days, then the date of entry into foster care shall be the date the child is
5837 placed in eligible shelter care.

5838 15-11-621.
5839 The periodic review hearing requirements under Code Sections 15-11-217, 15-11-218, and
5840 15-11-219 shall apply to proceedings involving a child alleged or adjudicated to be
5841 delinquent and placed in an eligible shelter care placement.

5842 15-11-622.
5843 (a) The permanency plan requirements under Code Sections 15-11-230, 15-11-231, and
5844 15-11-232 shall apply to proceedings involving a child alleged or adjudicated to be
5845 delinquent and placed in an eligible shelter care placement.
5846 (b) In addition to the compelling reasons set forth in Code Section 15-11-233 under
5847 Article 3 of this chapter, a compelling reason for determining that filing a termination of
5848 parental rights petition is not in the best interests of a child alleged or adjudicated to be
5849 delinquent may include but shall not be limited to:
5850 (1) The child's developmental needs require continued out-of-home placement for an
5851 additional number of months, and the parent, guardian, or legal custodian has cooperated
5852 with referrals, visitation, and family conferences, as well as therapy;
5853 (2) The child is uncooperative with services or referrals; and
5854 (3) The length of the delinquency disposition affects the permanency plan.

5855 Part 14

5856 15-11-630.
5857 (a) A juvenile traffic offense consists of a violation by a child of:
5858 (1) A law or local ordinance governing the operation of a moving motor vehicle upon the
5859 streets or highways of this state or upon the waterways within or adjoining this state; or

5860 (2) Any other motor vehicle traffic law or local ordinance if the child is taken into
5861 custody and detained for its violation or is transferred to the juvenile court by the court
5862 hearing the charge.
5863 (b) The following offenses shall be acts of delinquency and shall not be handled as
5864 juvenile traffic offenses: aggressive driving, reckless driving, a four-point speeding offense,
5865 homicide by vehicle, manslaughter resulting from the operation of a vehicle, any felony in
5866 the commission of which a motor vehicle is used, racing on highways and streets, using a
5867 motor vehicle in fleeing or attempting to elude an officer, fraudulent or fictitious use of a
5868 driver's license, hit and run or leaving the scene of an accident, driving under the influence
5869 of alcohol or drugs, and any offense committed by an unlicensed driver under 16 years of
5870 age.
5871 (c) A juvenile traffic offense shall not be an act of delinquency unless the case is
5872 transferred to the delinquency calendar.
5873 (d) The summons, notice to appear, or other designation of a citation accusing a child of
5874 committing a juvenile traffic offense constitutes the commencement of the proceedings in
5875 the court of the county in which the alleged violation occurred and serves in place of a
5876 summons and petition under this article. These cases shall be filed and heard separately
5877 from other proceedings of the court. If the child is taken into custody on the charge, Code
5878 Sections 15-11-503 and 15-11-505 shall apply. If the child is, or after commencement of
5879 the proceedings becomes, a resident of another county of this state, the court in the county
5880 where the alleged traffic offense occurred may retain jurisdiction over the entire case.
5881 (e) The court shall fix a time for a hearing and shall give reasonable notice thereof to the
5882 child and, if his or her address is known, to the parent, guardian, or legal custodian. If the
5883 accusation made in the summons, notice to appear, or other designation of a citation is
5884 denied, a hearing shall be held at which the parties shall have the right to subpoena
5885 witnesses, present evidence, cross-examine witnesses, and appear by their attorney. The
5886 hearing shall be open to the public.
5887 (f) If the court finds on the admission of the child or upon the evidence that the child
5888 committed the offense charged, it may make one or more of the following orders:
5889 (1) Reprimand, counsel, or warn the child and the child's parent, guardian, or legal
5890 custodian; provided, however, that this disposition order shall not be available for any act
5891 of delinquency;
5892 (2) As a matter of probation or if the child is committed to the custody of the state, order
5893 the Department of Driver Services to suspend the child's privilege to drive under stated
5894 conditions and limitations for a period not to exceed 12 months;

5895 (3) Require the child to attend a traffic school approved by the Department of Driver
5896 Services or a substance abuse clinic or program approved by either the department or the
5897 Council of Juvenile Court Judges for a reasonable period of time;
5898 (4) Assess a fine and order the child to remit to the general fund of the county a sum not
5899 exceeding the maximum applicable to an adult for a like offense. The fine shall be
5900 subject to all additions and penalties as specified under this title and Title 47;
5901 (5) Require the child to participate in a program of community service as specified by
5902 the court;
5903 (6) Impose any sanction authorized by Code Section 15-11-442 or 15-11-601; or
5904 (7) Place the child on probation subject to the conditions and limitations imposed by
5905 Title 40 governing probation granted to adults for like offenses, but such probation shall
5906 be supervised by the court.
5907 (g) In lieu of the preceding orders, if the evidence warrants, the court may transfer the case
5908 to the delinquency calendar of the court and direct the filing and service of a summons and
5909 delinquency petition.
5910 (h) Upon finding that the child has committed a juvenile traffic offense or an act of
5911 delinquency which would be a violation of Title 40 if committed by an adult, the court shall
5912 forward, within ten days, a report of the final adjudication and disposition of the charge to
5913 the Department of Driver Services; provided, however, that this procedure shall not be
5914 applicable to those cases which have been dismissed or in which the child and the child's
5915 parent, guardian, or legal custodian have been reprimanded, counseled, or warned by the
5916 court. The Department of Driver Services shall record the adjudication and disposition of
5917 the offense on the child's permanent record, and such adjudication and disposition shall be
5918 deemed a conviction for the purpose of suspending or revoking the individual's driver's
5919 license. Such record shall also be available to law enforcement agencies and courts as are
5920 the permanent traffic records of adults.

5921 ARTICLE 8

5922 15-11-650.
5923 The purpose of this article is to:
5924 (1) Set forth procedures for a determination of a child's mental competency to stand trial;
5925 and
5926 (2) Provide a mechanism for the development and implementation of competency
5927 restoration or remediation services, when appropriate, including treatment, habilitation,
5928 support, or supervision services.

5929 15-11-651.

5930 As used in this article, the term:

5931 (1) 'Mental competency proceedings' means hearings conducted to determine whether
5932 a child is mentally competent to participate in adjudication, a disposition hearing, or a
5933 transfer proceeding.

5934 (2) 'Mental health plan' shall have the same meaning as set forth in Code Section
5935 15-11-381.

5936 (3) 'Mental retardation' means a state of significant subaverage general intellectual
5937 functioning existing concurrently with deficits in adaptive behavior and originating in the
5938 developmental period.

5939 (4) 'Mentally competent' means having sufficient present ability to understand the nature
5940 and object of the proceedings, to comprehend his or her own situation in relation to the
5941 proceedings, and to assist his or her attorney in the preparation and presentation of his or
5942 her case in all adjudication, disposition, or transfer hearings. The child's age or
5943 immaturity may be used as the basis for determining a child's competency.

5944 (5) 'Plan manager' shall have the same meaning as set forth in Code Section 15-11-381.

5945 (6) 'Remediation services' means services or interventions for a child found to be
5946 incompetent to stand trial due to age, immaturity, or for any reason other than mental
5947 illness or mental retardation including, but not limited to, services or interventions
5948 directed at remediating deficits that exist because a child is at a relatively normal,
5949 immature stage of development.

5950 (7) 'Restoration to competency services' means services or interventions directed at
5951 restoring the competency of child who has been found incompetent to stand trial due to
5952 mental illness or mental retardation.

5953 (8) 'Treatment facility' means a facility designated by the department to receive patients
5954 for psychiatric treatment as provided in Code Sections 37-3-80 through 37-3-84 and shall
5955 not include a secure detention facility operated by DJJ.

5956 15-11-652.

5957 (a) If at any time after the filing of a petition alleging delinquency the court has reason to
5958 believe that the child named in the petition may not be mentally competent to stand trial,
5959 the court on its own motion or on the motion of the attorney representing the child, any
5960 guardian ad litem for the child, the child's parent, guardian, or legal custodian, or the
5961 prosecuting attorney shall stay all delinquency proceedings relating to such petition and
5962 order a full competency evaluation of and report on the child's mental condition.

5963 (b) When a delinquency petition is filed alleging a child under the age of 14 has committed
5964 a serious violent felony, as defined in Code Section 17-10-6.1, the court shall stay all

5965 delinquency proceedings relating to such petition and order a full competency evaluation
5966 and report concerning the child's mental condition.
5967 (c) Any motion, notice of hearing, order, or other pleading relating to a child's competency
5968 to stand trial shall be served upon the child, the child's attorney, the child's guardian ad
5969 litem, if any, the child's parent, guardian, or legal custodian, the prosecuting attorney, and
5970 the victim.
5971 (d) Prior to the administration of any evaluation, the court shall appoint an attorney to
5972 represent a child if the child is not yet represented by an attorney.
5973 (e) All time limits set forth in Article 7 of this chapter for adjudication and disposition of
5974 a delinquency proceeding shall be tolled during the evaluation, adjudication, and
5975 disposition phases of the mental competency proceeding.

5976 15-11-653.
5977 (a) The court ordered evaluation and report shall be conducted by an examiner who shall
5978 consider whether a child is mentally competent to stand trial. The court shall provide the
5979 examiner with any law enforcement or court records necessary for understanding the
5980 petition alleging delinquency. The attorney for the child and the prosecuting attorney shall
5981 provide the examiner with any records from any other available sources that are deemed
5982 necessary for the competency evaluation.
5983 (b) The competency evaluation shall be performed on an outpatient basis unless the
5984 examiner determines and the court makes specific findings that hospitalization of the child
5985 for evaluation of competency is clinically appropriate and may occur in the least restrictive
5986 environment or the child is currently hospitalized in a psychiatric hospital. If
5987 hospitalization is warranted, the court may order the child sent to a hospital designated by
5988 the director of DMHDDAD as appropriate for the evaluation of a child.
5989 (c) If a child is hospitalized, the child shall be hospitalized only for such time as the
5990 director of the hospital deems necessary to perform an adequate evaluation of the child's
5991 competency.
5992 (d) An examiner who conducts the evaluation shall submit a written report to the court
5993 within 30 days from receipt of the court order requiring an evaluation. The court may, in
5994 its discretion, grant the examiner an extension in filing such report. The report shall
5995 contain the following:
5996 (1) The specific reason for the evaluation, as provided by the court or the party
5997 requesting the evaluation;
5998 (2) The evaluation procedures used, including any psychometric instruments
5999 administered, any records reviewed, and the identity of any persons interviewed;
6000 (3) Any available pertinent background information;

6001 (4) The results of a mental status exam, including the diagnosis and description of any
6002 psychiatric symptoms, cognitive deficiency, or both;
6003 (5) A description of the child's abilities and deficits in the following mental competency
6004 functions:
6005 (A) The ability to understand and appreciate the nature and object of the proceedings;
6006 (B) The ability to comprehend his or her situation in relation to the proceedings; and
6007 (C) The ability to assist his or her attorney in the preparation and presentation of his
6008 or her case;
6009 (6) An opinion regarding the potential significance of the child's mental competency,
6010 strengths, and deficits;
6011 (7) An opinion regarding whether or not the child should be considered mentally
6012 competent to stand trial; and
6013 (8) A specific statement explaining the reasoning supporting the examiner's final
6014 determination.
6015 (e) If, in the opinion of the examiner, the child should not be considered mentally
6016 competent to stand trial, the report shall also include the following:
6017 (1) An opinion as to whether there is a substantial probability that the child will attain
6018 the mental competency necessary to participate in adjudication, a disposition hearing, or
6019 a transfer hearing in the foreseeable future;
6020 (2) If the examiner believes that the child will attain mental competency,
6021 recommendations for the general level and type of remediation necessary for significant
6022 deficits;
6023 (3) A recommendation as to the appropriate treatment setting and whether residential or
6024 nonresidential treatment is required or appropriate;
6025 (4) When appropriate, recommendations for modifications of court procedure which may
6026 help compensate for mental competency weaknesses; and
6027 (5) If the child is currently receiving medication, how medication might affect the child
6028 in the proceedings.
6029 (f) If the examiner determines that the child is currently competent because of ongoing
6030 treatment with psychotropic medication, the report shall address the necessity of continuing
6031 such treatment and shall include a description of any limitation that the medication may
6032 have on competency.
6033 (g) Copies of the written evaluation report shall be provided by the court to the attorney
6034 representing the child, the prosecuting attorney or a member of his or her staff, and any
6035 guardian ad litem for the child no later than five days after receipt of the report by the
6036 court.

6037 (h) Upon a showing of good cause by any party or upon the court's own motion, the court
6038 may order additional examinations by other examiners. In no event shall more than one
6039 examination be conducted by an examiner employed by the department.

6040 15-11-654.
6041 (a) If at any time following a finding that a child is not mentally competent to stand trial,
6042 the court determines that the child is a resident of a county of this state other than the
6043 county in which the court sits, the court may transfer the proceeding to the county of the
6044 child's residence unless the alleged delinquent act would be a felony if committed by an
6045 adult.
6046 (b) When any case is transferred, certified copies of all legal, social history, health, or
6047 mental health records pertaining to the case on file with the clerk of the court shall
6048 accompany the transfer. Compliance with this Code section shall terminate jurisdiction in
6049 the sending court and initiate jurisdiction in the receiving court.
6050 (c) If the child's mental competency is restored, jurisdiction of the case may be returned
6051 to the sending court for the adjudication hearing and any subsequent proceedings.

6052 15-11-655.
6053 (a) A hearing to determine a child's mental competency to stand trial shall be conducted
6054 within 60 days after the initial court order for evaluation. The hearing may be continued
6055 by the court for good cause shown.
6056 (b) Written notice shall be given to all parties and the victim at least ten days prior to such
6057 hearing.
6058 (c) The burden of proving that the child is mentally competent shall be on the state. The
6059 standard of proof necessary for proving mental competency shall be a preponderance of the
6060 evidence.
6061 (d) At the hearing to determine mental competency to stand trial, the child's attorney and
6062 the prosecuting attorney shall have the right to:
6063 (1) Present evidence;
6064 (2) Call and examine witnesses;
6065 (3) Cross-examine witnesses; and
6066 (4) Present arguments.
6067 (e) The examiner appointed by the court shall be considered the court's witness and shall
6068 be subject to cross-examination by both the child's attorney and the prosecuting attorney.
6069 (f) The court's findings of fact shall be based on any evaluations of the child's mental
6070 condition conducted by examiners appointed by the court, any evaluations of the child's

6071 mental condition conducted by independent evaluators hired by the parties, and any
6072 additional evidence presented.
6073 (g) If the court finds that the child is mentally competent, the proceedings which have been
6074 suspended shall be resumed. The time limits under Article 7 of this chapter for
6075 adjudication and disposition of the petition shall begin to run from the date of the order
6076 finding the child mentally competent.
6077 (h) Copies of the court's findings shall be given to the same individuals to whom notice
6078 of the mental competency hearing was provided and within ten days following the issuance
6079 of such findings.

6080 15-11-656.
6081 (a) If the court initially finds that the child is incompetent to stand trial because of mental
6082 illness or mental retardation, but may be restored to competency, the court shall order that
6083 the child undergo an attempt at restoration to competency.
6084 (b) If the court initially finds that the child is incompetent to stand trial because of age or
6085 immaturity, or any other reason other than mental illness or mental retardation, but the
6086 child's incompetence may be remediated, the court shall order remediation services for the
6087 child.
6088 (c) If the child is determined to be incompetent to stand trial and:
6089 (1) The child is alleged to have committed an act that would be a felony if committed by
6090 an adult, the court shall retain jurisdiction of the child for up to two years after the date
6091 of the order of incompetency, with review hearings at least every six months to
6092 redetermine competency; or
6093 (2) The child is alleged to have committed an act that would be a misdemeanor if
6094 committed by an adult, the court shall retain jurisdiction of the child for up to 120 days
6095 after the date of the order of incompetency.
6096 (d) All court orders determining incompetency shall include specific written findings by
6097 the court as to the nature of the incompetency and whether the child requires secure or
6098 nonsecure treatment. A child may be placed in a secure treatment facility or program if the
6099 court makes a finding by clear and convincing evidence that:
6100 (1) The child is mentally ill or mentally retarded and meets the requirements for civil
6101 commitment pursuant to Chapters 3 and 4 of Title 37; and
6102 (2) All available less restrictive alternatives, including treatment in community
6103 residential facilities or community settings which would offer an opportunity for
6104 improvement of the child's condition, are inappropriate.

6105 (e) A child who is mentally incompetent to stand trial shall not be subject to transfer to
6106 superior court, adjudication, disposition, or modification of disposition so long as the
6107 mental incompetency exists.
6108 (f) If the court determines that a child is mentally incompetent to stand trial and is alleged
6109 to have committed a delinquent act which would be a misdemeanor if committed by an
6110 adult, the court may dismiss the petition without prejudice.
6111 (g) If a child is detained in a secure detention facility and the court determines that the
6112 child is mentally incompetent to stand trial, the child shall be released from detention and
6113 DMHDDAD shall place the child in an appropriate treatment setting, as recommended by
6114 the examiner, within five days of such determination.

6115 15-11-657.
6116 (a) All restoration to competency orders issued by the court shall contain:
6117 (1) The name of the competency restoration or remediation program provider and the
6118 location of the program;
6119 (2) A statement of the arrangements for the child's transportation to the program site;
6120 (3) The length of the competency restoration or remediation program;
6121 (4) A statement of the arrangements for the child's transportation after the program ends;
6122 and
6123 (5) A direction concerning the frequency of reports required by the court.
6124 (b) The competency restoration or remediation program provider shall file a written report
6125 with the court:
6126 (1) Not later than six months after the date the court orders that restoration to
6127 competency or remediation be attempted but prior to the first review hearing;
6128 (2) At the end of any period of extended treatment;
6129 (3) At any time DMHDDAD, through its restoration or remediation program provider,
6130 determines the child has attained competency; or
6131 (4) At shorter intervals designated by the court in its restoration to competency or
6132 remediation order.
6133 (c) The competency restoration or remediation program provider's written report shall
6134 include, but shall not be limited to:
6135 (1) Whether the child can be remediated or restored to competency or whether the child
6136 is likely to remain incompetent to stand trial for the foreseeable future;
6137 (2) Whether additional time is needed to remediate or restore the child to competency;
6138 and
6139 (3) If the child has attained competency, the effect, if any, of any limitations that are
6140 imposed by any medications used in the effort to remediate or restore competency.

6141 (d) When appropriate, the provider's report shall also detail:
6142 (1) Whether civil commitment proceedings pursuant to Chapters 3 and 4 of Title 37
6143 should be initiated;
6144 (2) If the child has reached the age of 18 years at the time of the competency
6145 determination, whether a referral should be made for appropriate adult services; and
6146 (3) Whether the child should be provided other services by the court.

6147 15-11-658.
6148 (a) If the court initially finds that a child is unrestorably incompetent to stand trial, the
6149 court shall dismiss the delinquency petition, find that the child is a child in need of
6150 services, appoint a plan manager, and order that procedures for a mental health plan be
6151 initiated. When appropriate, the court may:
6152 (1) Order that civil commitment proceedings pursuant to Chapters 3 and 4 of Title 37 be
6153 initiated. Such proceedings shall be instituted not less than 60 days prior to the dismissal
6154 of the delinquency petition; or
6155 (2) Order that referral be made for appropriate adult services if the child has reached the
6156 age of 18 years at the time of the competency determination.
6157 (b) If at any time after the child is ordered to undergo restoration to competency services,
6158 DMHDDAD, through its restoration program provider, determines that the child is likely
6159 to remain incompetent to stand trial for the foreseeable future, DMHDDAD shall submit
6160 a report to the court so stating.
6161 (c) Upon receipt of the DMHDDAD report, the court shall make a competency
6162 determination and shall dismiss the delinquency petition, find that the child is a child in
6163 need of services, appoint a plan manager, and order that procedures for a mental health plan
6164 be initiated. When appropriate, the court may:
6165 (1) Order that civil commitment proceedings pursuant to Chapters 3 and 4 of Title 37 be
6166 initiated. Such proceedings shall be instituted not less than 60 days prior to the dismissal
6167 of the delinquency petition; or
6168 (2) Order that referral be made for appropriate adult services if the child has reached the
6169 age of 18 years at the time of the competency determination.

6170 15-11-659.
6171 If at any time after a child is found to be incompetent to stand trial due to age, immaturity,
6172 or for any reason other than mental illness or mental retardation and is ordered to undergo
6173 competence remediation services and DMHDDAD determines that the child is likely to
6174 remain incompetent to stand trial for the foreseeable future, DMHDDAD shall submit a
6175 report and its conclusions to the court. Upon receipt of the report, the court shall:

6176 (1) Make a competency determination;
6177 (2) Order that the delinquency petition be dismissed;
6178 (3) Find that the child is a child in need of services; and
6179 (4) Order that a plan manager be appointed and that the procedures for a mental health
6180 plan be initiated.

6181 15-11-660.
6182 (a) The court shall hold a hearing to review a child's progress toward competency:
6183 (1) At least every six months;
6184 (2) At any time, on its own motion or on the motion of the prosecuting attorney, the
6185 child's attorney, or the child's guardian ad litem, if any;
6186 (3) On receipt of a report submitted by DMHDDAD; or
6187 (4) Not less than three months before the child's eighteenth birthday.
6188 (b) If at a review hearing the court finds that the child has regained competency, the
6189 suspended proceedings shall be resumed and the time limits under Article 7 of this chapter
6190 for adjudication and disposition of the petition alleging delinquency shall begin to run from
6191 the date of the order finding the child mentally competent.
6192 (c) If at a review hearing held following the court's receipt of a DMHDDAD report, the
6193 court finds that the child has not been restored to competency or that the child's
6194 incompetency has not been remediated but that the child has made substantial progress
6195 toward remediation or restoration to competency, the court may extend the competency
6196 remediation or restoration program period for an additional 60 days if the court determines
6197 by clear and convincing evidence that further participation is likely to lead to remediation
6198 or restoration to competency.
6199 (d) If at a review hearing the court finds that the child is not remediated or restored to
6200 competency and is not restorable within the time left before the child's eighteenth birthday,
6201 the court shall dismiss the delinquency petition with prejudice if the child is alleged to have
6202 committed a delinquent act which would be a misdemeanor if committed by an adult.
6203 (e) At each review hearing, the court shall also consider whether the petition alleging
6204 delinquency should be withdrawn, maintained, or dismissed, without prejudice, upon
6205 grounds other than the child's not being mentally competent. If the court dismisses the
6206 petition, the prosecuting attorney may seek to refile a petition alleging a delinquent act
6207 which would be a felony if committed by an adult if the child is later determined to be
6208 mentally competent. The prosecuting attorney may also seek transfer to superior court if
6209 the child is later determined to be mentally competent and otherwise meets all the
6210 requirements for transfer under Article 7 of this chapter.

ARTICLE 9

15-11-680.

This article shall be known and may be cited as the 'Parental Notification Act.'

15-11-681.

As used in this article, the term:

(1) 'Abortion' means the use or prescription of any instrument, medicine, drug, or any other substance or device with the intent to terminate the pregnancy of a female known to be pregnant. The term 'abortion' shall not include the use or prescription of any instrument, medicine, drug, or any other substance or device employed solely to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead unborn child who died as a result of a spontaneous abortion. The term 'abortion' also shall not include the prescription or use of contraceptives.

(2) 'Proper identification' means any document issued by a governmental agency containing a description of the person, the person's photograph, or both, including, but not limited to, a driver's license, an identification card authorized under Code Sections 40-5-100 through 40-5-104 or similar identification card issued by another state, a military identification card, a passport, or an appropriate work authorization issued by the United States Immigration and Customs Enforcement Division of the Department of Homeland Security.

(3) 'Unemancipated minor' means any person under the age of 18 who is not or has not been married or who is under the care, custody, and control of such person's parent or parents, guardian, or the juvenile court of competent jurisdiction.

15-11-682.

(a) No physician or other person shall perform an abortion upon an unemancipated minor under the age of 18 years unless:

(1)(A) The minor seeking an abortion shall be accompanied by a parent or guardian who shall show proper identification and state that the parent or guardian is the lawful parent or guardian of the minor and that the parent or guardian has been notified that an abortion is to be performed on the minor;

(B) The physician or the physician's qualified agent gives at least 24 hours' actual notice, in person or by telephone, to a parent or guardian of the pending abortion and the name and address of the place where the abortion is to be performed; provided, however, that, if the person so notified indicates that he or she has been previously informed that the minor was seeking an abortion or if the person so notified has not

been previously informed and he or she clearly expresses that he or she does not wish to consult with the minor, then in either event the abortion may proceed in accordance with Chapter 9A of Title 31; or

(C) The physician or a physician's qualified agent gives written notice of the pending abortion and the address of the place where the abortion is to be performed, sent by registered or certified mail or statutory overnight delivery, return receipt requested with delivery confirmation, addressed to a parent or guardian at the usual place of abode of the parent or guardian. Unless proof of delivery is otherwise sooner established, such notice shall be deemed delivered 48 hours after mailing. The time of mailing shall be recorded by the physician or agent in the minor's file. The abortion may be performed 24 hours after the delivery of the notice; provided, however, that, if the person so notified certifies in writing that he or she has been previously informed that the minor was seeking an abortion or if the person so notified has not been previously informed and he or she certifies in writing that he or she does not wish to consult with the minor, then in either event the abortion may proceed in accordance with Chapter 9A of Title 31; and

(2) The minor signs a consent form stating that she consents, freely and without coercion, to the abortion.

(b) If the unemancipated minor or the physician or a physician's qualified agent, as the case may be, elects not to comply with any one of the requirements of subparagraph (a)(1)(A), (a)(1)(B), or (a)(1)(C) of this Code section, or if the parent or legal guardian of the minor cannot be located, the minor may petition, on the minor's own behalf or by next friend, any juvenile court in the state for a waiver of such requirement pursuant to the procedures provided for in Code Section 15-11-684. The juvenile court shall assist the minor or next friend in preparing the petition and notices required pursuant to this Code section. Venue shall be lawful in any county, notwithstanding Code Section 15-11-29.

(c) No abortion shall be performed unless the requirements of subparagraph (a)(1)(A), (a)(1)(B), or (a)(1)(C) of this Code section have been met or the minor has obtained a court order waiving such requirements.

15-11-683.

Notwithstanding Code Sections 15-11-38.1, 15-11-39, 15-11-150, 15-11-160, 15-11-281, 15-11-424, and 15-11-531, the unemancipated minor or next friend shall be notified of the date, time, and place of the hearing in such proceedings at the time of filing the petition. The hearing shall be held within three days of the date of filing, excluding weekends and legal holidays. The parent, guardian, or legal custodian of the unemancipated minor shall not be served with the petition or with a summons or otherwise notified of the proceeding.

6281 If a hearing is not held within the time prescribed in this Code section, the petition shall be
6282 deemed granted.

6283 15-11-684.
6284 (a) An unemancipated minor may participate in proceedings in the court on such minor's
6285 own behalf and the court shall advise such minor of the right to court appointed counsel
6286 and shall provide such minor with such counsel upon request or if such minor is not already
6287 adequately represented.
6288 (b) All court proceedings under this Code section shall be conducted in a manner to
6289 preserve the complete anonymity of the parties and shall be given such precedence over
6290 other pending matters as is necessary to ensure that a decision is reached by the court as
6291 expeditiously as is possible under the circumstances of the case. In no event shall the
6292 name, address, birth date, or social security number of such minor be disclosed.
6293 (c) The requirement of subparagraph (a)(1)(A), (a)(1)(B), or (a)(1)(C) of Code Section
6294 15-11-682 shall be waived if the court finds either:
6295 (1) That the unemancipated minor is mature enough and well enough informed to make
6296 the abortion decision in consultation with her physician, independently of the wishes of
6297 such minor's parent or guardian; or
6298 (2) That the notice to a parent or, if the minor is subject to guardianship, the legal
6299 guardian pursuant to Code Section 15-11-682 would not be in the best interests of the
6300 minor.
6301 (d) A court that conducts proceedings under this Code section shall issue written and
6302 specific factual findings and legal conclusions supporting its decision and shall order that
6303 a record of the evidence be maintained. The juvenile court shall render its decision within
6304 24 hours of the conclusion of the hearing and a certified copy of same shall be furnished
6305 immediately to the minor. If the juvenile court fails to render its decision within 24 hours
6306 after the conclusion of the hearing, then the petition shall be deemed granted. All juvenile
6307 court records shall be sealed in a manner which will preserve anonymity.
6308 (e) An expedited appeal completely preserving the anonymity of the parties shall be
6309 available to any unemancipated minor to whom the court denies a waiver of notice. The
6310 appellate courts are authorized and requested to issue promptly such rules as are necessary
6311 to preserve anonymity and to ensure the expeditious disposition of procedures provided by
6312 this Code section. In no event shall the name, address, birth date, or social security number
6313 of such minor be disclosed during the expedited appeal or thereafter.
6314 (f) No filing fees shall be required of any unemancipated minor who uses the procedures
6315 provided by this Code section.

6316 15-11-685.
6317 The requirements and procedures of this article shall apply to all unemancipated minors
6318 within this state whether or not such persons are residents of this state.

6319 15-11-686.
6320 This article shall not apply when, in the best clinical judgment of the attending physician
6321 on the facts of the case before him or her, a medical emergency exists that so complicates
6322 the condition of the minor as to require an immediate abortion. A person who performs an
6323 abortion as a medical emergency under the provisions of this Code section shall certify in
6324 writing the medical indications on which this judgment was based when filing such reports
6325 as are required by law.

6326 15-11-687.
6327 Any physician or any person employed or connected with a physician, hospital, or health
6328 care facility performing abortions who acts in good faith shall be justified in relying on the
6329 representations of the unemancipated minor or of any other person providing the
6330 information required under this article. No physician or other person who furnishes
6331 professional services related to an act authorized or required by this article and who relies
6332 upon the information furnished pursuant to this article shall be held to have violated any
6333 criminal law or to be civilly liable for such reliance, provided that the physician or other
6334 person acted in good faith.

6335 15-11-688.
6336 Any person who violates the provisions of this article shall be guilty of a misdemeanor and
6337 any person who intentionally encourages another to provide false information pursuant to
6338 this article shall be guilty of a misdemeanor.

6339 ARTICLE 10

6340 15-11-700.
6341 (a) Except as otherwise provided by subsection (b) of this Code section, the general public
6342 shall be excluded from hearings involving delinquency, deprivation, or a child in need of
6343 services. Only the parties, their attorneys, witnesses, persons accompanying a party for his
6344 or her assistance, and any other persons as the court finds have a proper interest in the
6345 proceeding or in the work of the court may be admitted by the court. The court has
6346 discretion to exclude a child from any part or parts of any proceeding under Articles 3 and

4 of this chapter if the court determines that it is not in the child's best interests to be present. Counsel for the child shall not be excluded.

(b) The general public shall be admitted to:

(1) Any proceeding involving an allegation of a designated felony;

(2) Any proceeding involving an allegation of delinquency brought in the interest of any child who has previously been adjudicated delinquent; provided, however, the court shall close any delinquency hearing on an allegation of sexual assault or any delinquency hearing at which any party expects to introduce substantial evidence related to matters of deprivation;

(3) Any child support hearing;

(4) Any hearing in a legitimation action filed pursuant to Code Section 19-7-22; or

(5) At the court's discretion, any disposition hearing involving any proceeding.

(c) Notwithstanding subsection (a) of this Code section, a member of public may institute a judicial proceeding to open a closed hearing. The court shall give a member of the public an opportunity to present evidence and argument to show that the state's or child's interest in a closed hearing is overridden by the public's interest in a public hearing.

15-11-701.

(a) Upon dismissal of a petition or complaint alleging delinquency or that a child is a child in need of services or completion of the process in a case handled through informal adjustment, mediation, or other nonadjudicatory procedure, the court shall order the sealing of the files and records in the case.

(b) On application of a person who has been adjudicated delinquent or a child in need of services or on the court's own motion, and after a hearing, the court shall order the sealing of the files and records in the proceeding if the court finds that:

(1) Two years have elapsed since the final discharge of the person;

(2) Since the final discharge of the person he or she has not been convicted of a felony or of a misdemeanor involving moral turpitude or adjudicated a delinquent child or a child in need of services and no proceeding seeking conviction or adjudication is pending against the person; and

(3) The person has been rehabilitated.

(c) Reasonable notice of the hearing required by subsection (b) of this Code section shall be given to:

(1) The district attorney;

(2) DJJ, when appropriate;

(3) The authority granting the discharge if the final discharge was from an institution or from parole; and

6383 (4) The law enforcement officers or department having custody of the files and records
6384 if the files and records specified in Code Sections 15-11-702 and 15-11-708 are included
6385 in the application or motion.
6386 (d) Upon the entry of the order the proceeding shall be treated as if it had never occurred.
6387 All index references shall be deleted and the person, the court, the law enforcement
6388 officers, and the departments shall properly reply that no record exists with respect to the
6389 person upon inquiry in any matter. Copies of the order shall be sent to each agency or
6390 designated official and shall also be sent to the deputy director of the Georgia Crime
6391 Information Center. Inspection of the sealed files and records thereafter may be permitted
6392 by an order of the court upon petition by the person who is the subject of the records and
6393 otherwise only by those persons named in the order or to criminal justice officials upon
6394 petition to the court for official judicial enforcement or criminal justice purposes.

6395 15-11-702.
6396 (a)(1) Every child charged with an offense which would be a felony if committed by an
6397 adult, shall be fingerprinted and photographed upon being taken into custody.
6398 (2) Fingerprints and photographs of children shall be taken and filed separately from
6399 those of adults by law enforcement officials to be used in investigating the commission
6400 of crimes and to be made available as provided in this chapter and as may be directed by
6401 the court.
6402 (b) Fingerprint files and photographs of children may be inspected by law enforcement
6403 officers when necessary for criminal justice purposes and for the discharge of their official
6404 duties. Other inspections may be authorized by the court in individual cases upon a
6405 showing that it is necessary in the public interest.
6406 (c) If a child has been charged with an offense that if committed by an adult would be a
6407 felony or if the case is transferred to another court for prosecution, the child's fingerprints,
6408 personal identification data, and other pertinent information shall be forwarded to the
6409 Georgia Crime Information Center of the Georgia Bureau of Investigation. The center
6410 shall create a juvenile fingerprint file and enter the data into the computerized criminal
6411 history files. The Georgia Bureau of Investigation shall act as the official state repository
6412 for juvenile history data and shall be authorized to disseminate such data for the purposes
6413 specified in Code Section 15-11-708.
6414 (d) Upon application of a child, fingerprints and photographs of the child shall be removed
6415 from the file and destroyed if a petition alleging delinquency is not filed or the proceedings
6416 are dismissed after either such petition is filed or the case is transferred to the juvenile court
6417 or the child is adjudicated not to be a delinquent child. The court shall notify the deputy
6418 director of the Georgia Crime Information Center when fingerprints and photographs are

6419 destroyed, and the Georgia Bureau of Investigation shall treat such records in the same
6420 manner as expunged records pursuant to subsection (c) of Code Section 35-3-37.
6421 (e) Except as provided in subsection (a) of this Code section, without the consent of the
6422 judge, a child shall not be photographed after he or she is taken into custody unless the case
6423 is transferred to another court for prosecution.
6424 (f) Upon request, the judge or his or her designee shall release the name of any child with
6425 regard to whom a petition has been filed alleging the child committed a designated felony
6426 or alleging the child committed a delinquent act if the child has previously been
6427 adjudicated delinquent or if the child has previously been before the court on a delinquency
6428 charge and adjudication was withheld.

6429 15-11-703.
6430 The disposition of a child and evidence adduced in a hearing in the juvenile court may not
6431 be used against such child in any proceeding in any court other than for a proceeding for
6432 delinquency or a child in need of services, whether before or after reaching majority,
6433 except in the establishment of conditions of bail, plea negotiations, and sentencing in
6434 felony offenses; and, in such excepted cases, such records of dispositions and evidence
6435 shall be available to prosecuting attorneys and superior court judges and the accused and
6436 may be used in the same manner as adult records.

6437 15-11-704.
6438 (a) Except as provided in subsection (b) of this Code section and Code Sections 15-11-705
6439 and 15-11-706, all files and records of the court in a proceeding under this chapter shall be
6440 open to inspection only upon order of the court.
6441 (b) The general public shall be allowed to inspect court files and records for any
6442 proceeding that was open to the public pursuant to subsection (b) and (c) of Code Section
6443 15-11-700.
6444 (c) The judge may permit authorized representatives of recognized organizations
6445 compiling statistics for proper purposes to inspect and make abstracts from official records
6446 under whatever conditions upon their use and distribution the judge may deem proper and
6447 may punish by contempt any violation of those conditions.
6448 (d) The judge shall permit authorized representatives of DJJ, the Governor's Office for
6449 Children and Families, and the Council of Juvenile Court Judges to inspect and extract data
6450 from any court files and records for the purpose of obtaining statistics on children and to
6451 make copies pursuant to the order of the court.
6452 (e) Except as otherwise provided in Code Sections 15-11-701 and 15-11-703, the
6453 complaint, petition, order of adjudication, and order of disposition in any delinquency case

shall be disclosed upon request of the prosecuting attorney or the accused for use preliminarily to or in conjunction with a subsequent juvenile or criminal proceeding in a court of record.

15-11-705.

(a) Notwithstanding other provisions of this article, the court records of proceedings under Article 6 of this chapter shall be withheld from public inspection but shall be open to inspection by the child, juvenile probation and parole officers, a parent, guardian, or legal custodian, the child's attorney, and others entrusted with the supervision of the child. Additional access to court records may be granted by court order.

(b) It shall be unlawful for any person to disclose court records, or any part thereof, to persons other than those entitled to access under subsection (a) of this Code section, except by court order. Any person who knowingly violates this subsection shall be guilty of contempt and the court may enter any order authorized by the provisions of Code Section 15-11-30.

15-11-706.

(a) When a decision is made to handle a case through informal adjustment, mediation, or other nonadjudicatory procedure, the intake officer or other officer designated by the court shall file with the court in the county in which the child legally resides all of the following information:

(1) The child's name, address, and date of birth;

(2) The act or offense for which the child was apprehended;

(3) The diversion decision made;

(4) The nature of the child's compliance with an informal adjustment agreement; and

(5) If an informal adjustment agreement is revoked, the fact of and reasons for the revocation.

(b) Notwithstanding subsection (a) of Code Section 15-11-701, the court in the county in which the child resides shall keep a separate record for that child which shall be open to the court, the prosecuting attorney, or an officer designated by the court only for the purpose of deciding whether to handle a subsequent case through informal adjustment, mediation, or other nonadjudicatory procedure or for use in disposition of a subsequent proceeding. Any person who knowingly violates this subsection shall be guilty of contempt and the court may enter any order authorized by the provisions of Code Section 15-11-30.

6487 15-11-707.
6488 Within 30 days of any proceeding in which a child is adjudicated delinquent for a second
6489 or subsequent time or is found to have committed a designated felony act, the court shall
6490 provide written notice to the school superintendent of the school in which the child is
6491 enrolled or his or her designee or, if the information is known, of the school in which such
6492 child plans to be enrolled at a future date. Such notice shall include the specific delinquent
6493 act or designated felony that the child committed.

6494 15-11-708.
6495 (a) Law enforcement records and files concerning a child shall be kept separate from the
6496 records and files of arrests of adults.
6497 (b) Unless a charge of delinquency is transferred for criminal prosecution or the interest
6498 of national security requires or the case is one in which the general public may not be
6499 excluded from the hearings or the court otherwise orders in the interest of the child, the
6500 records and files shall not be open to public inspection nor shall their contents be disclosed
6501 to the public.
6502 (c) Inspection of the records and files shall be permitted by:
6503 (1) A juvenile court having the child before it in any proceeding;
6504 (2) The attorney for a party to the proceedings, with the consent of the court;
6505 (3) The officers of public institutions or agencies to whom the child is committed;
6506 (4) Law enforcement officers of this state, the United States, or any other jurisdiction
6507 when necessary for the discharge of their official duties;
6508 (5) A court in which the child is convicted of a criminal offense, for the purpose of a
6509 presentence report or other disposition proceeding;
6510 (6) Officials of penal institutions and other penal facilities to which the child is
6511 committed; or
6512 (7) A parole board in considering the child's parole or discharge or in exercising
6513 supervision over the child.
6514 (d) The court shall allow authorized representatives of DJJ, the Governor's Office for
6515 Children and Families, and the Council of Juvenile Court Judges to inspect and copy law
6516 enforcement records for the purpose of obtaining statistics on children.
6517 (e) Access to fingerprint records submitted to the Georgia Bureau of Investigation shall
6518 be limited to the administration of criminal justice purposes as defined in Code Section
6519 15-11-6.

6520 15-11-709.

6521 (a) Subject to the earlier sealing of certain records, the juvenile court shall make and keep
6522 records of all cases brought before it and shall preserve the records pertaining to a child in
6523 accordance with the common records retention schedules for courts approved by the State
6524 Records Committee pursuant to Code Section 50-18-92.

6525 (b) Thereafter, the court may destroy such records, except that the records of cases in
6526 which a court terminates the parental rights of a parent and the records of cases involving
6527 a petition for legitimation of a child shall be preserved permanently.

6528 (c) The juvenile court shall make official minutes consisting of all petitions and orders
6529 filed in a case and any other pleadings, certificates, proofs of publication, summonses,
6530 warrants, and other writs which may be filed and shall make social records consisting of
6531 records of investigation and treatment and other confidential information.

6532 (d) Identification data shall be maintained and shall be disseminated to criminal justice
6533 officials for official judicial enforcement or criminal justice purposes as provided in Code
6534 Section 35-3-33.

6535 (e) Nothing in this chapter shall restrict or otherwise prohibit a juvenile court clerk from
6536 electing to store for computer retrieval any or all records, dockets, indexes, or files; nor
6537 shall a juvenile court clerk be prohibited from combining or consolidating any books,
6538 dockets, files, or indexes in connection with the filing for record of papers of the kind
6539 specified in this chapter or any other law, provided that any automated or computerized
6540 record-keeping method or system shall provide for the systematic and safe preservation and
6541 retrieval of all books, dockets, records, or indexes. When the clerk of a juvenile court
6542 elects to store for computer retrieval any or all records, the same data elements used in a
6543 manual system shall be used, and the same integrity and security shall be maintained.

6544 ARTICLE 11

6545 15-11-720.

6546 (a) Emancipation may occur by operation of law or pursuant to a petition filed with the
6547 court as provided in this article by a child who is at least 16 years of age.

6548 (b) An emancipation occurs by operation of law:

6549 (1) When a child is validly married;

6550 (2) When a child reaches the age of 18 years; or

6551 (3) During the period when the child is on active duty with the armed forces of the
6552 United States.

6553 (c) An emancipation occurs by court order pursuant to a petition filed by a child with the
6554 juvenile court.

6555 15-11-721.

6556 A child seeking emancipation shall file a petition for emancipation in the juvenile court
6557 in the county where the child resides. The petition shall be signed and verified by the child,
6558 and shall include:

6559 (1) The child's full name and birth date and the county and state where the child was
6560 born;

6561 (2) A certified copy of the child's birth certificate;

6562 (3) The name and last known address of the child's parent, guardian, or legal custodian
6563 and, if no parent, guardian, or legal custodian can be found, the name and address of the
6564 child's nearest living relative residing within this state;

6565 (4) The child's present address and length of residency at that address;

6566 (5) A declaration by the child demonstrating the ability to manage his or her financial
6567 affairs together with any information necessary to support the declaration;

6568 (6) A declaration by the child demonstrating the ability to manage his or her personal and
6569 social affairs together with any information necessary to support the declaration; and

6570 (7) The names of individuals who have personal knowledge of the child's circumstances
6571 and believe that under those circumstances emancipation is in the best interests of the
6572 child. Such individuals may include any of the following:

6573 (A) A licensed physician or osteopath;

6574 (B) A registered professional nurse or licensed practical nurse;

6575 (C) A licensed psychologist;

6576 (D) A licensed professional counselor, social worker, or marriage and family therapist;

6577 (E) A school guidance counselor, school social worker, or school psychologist;

6578 (F) A school administrator, school principal, or school teacher;

6579 (G) A member of the clergy;

6580 (H) A law enforcement officer; or

6581 (I) An attorney.

6582 15-11-722.

6583 (a) Upon filing the petition, a copy of the petition for emancipation and a summons to
6584 appear at the hearing shall be served on all persons named in the petition and upon any
6585 individual who provided an affidavit for the emancipation.

6586 (b) A person served with a petition may file an answer in the juvenile court in which the
6587 petition was filed within 30 days of being served.

6588 15-11-723.

6589 (a) After a petition for emancipation is filed, the court may:

6590 (1) Appoint a guardian ad litem to investigate the allegations of the petition and to file
6591 a report with the court, including a recommendation as to whether it is in the best
6592 interests of the child that the petition for emancipation be granted;
6593 (2) Appoint an attorney for the child; and
6594 (3) Appoint an attorney for the child's parent, guardian, or legal custodian if he or she is
6595 indigent and if he or she opposes the petition.
6596 (b) After a petition for emancipation is filed, the court shall seek an affidavit from each
6597 person identified in the petition pursuant to paragraph (7) of Code Section 15-11-721 which
6598 describes why that person believes the child should be emancipated.

6599 15-11-724.
6600 A child who petitions the court for emancipation shall have the burden of showing that
6601 emancipation should be ordered by a preponderance of evidence.

6602 15-11-725.
6603 (a) The court shall issue an emancipation order if, after a hearing, it determines that
6604 emancipation is in the best interests of the child and the child has established:
6605 (1) That the child's parent, guardian, or legal custodian does not object to the petition;
6606 or, if a parent, guardian, or legal custodian objects to the petition, that the best interests
6607 of the child are served by allowing the emancipation to occur by court order;
6608 (2) That the child is a resident of this state;
6609 (3) That the child has demonstrated the ability to manage his or her financial affairs,
6610 including proof of employment or other means of support. 'Other means of support' shall
6611 not include general assistance or aid received from means-tested public assistance
6612 programs such as Temporary Assistance for Needy Families as provided in Article 9 of
6613 Chapter 4 of Title 49 or similar programs under Title IV-A of the federal Social Security
6614 Act;
6615 (4) That the child has the ability to manage his or her personal and social affairs,
6616 including, but not limited to, proof of housing; and
6617 (5) That the child understands his or her rights and responsibilities under this article as
6618 an emancipated child.
6619 (b) If the court issues an emancipation order, the court shall retain a copy of the order until
6620 the emancipated child becomes 25 years of age.
6621 (c) An emancipation obtained by fraud is voidable. Voiding an emancipation order shall
6622 not affect an obligation, responsibility, right, or interest that arose during the period of time
6623 the order was in effect.

6624 (d) The child or the child's parent, guardian, or legal custodian may appeal the court's grant
6625 or denial of an emancipation petition.

6626 15-11-726.
6627 (a) A child emancipated by court order may petition the juvenile court that issued the
6628 emancipation order to rescind such order.
6629 (b) A copy of the petition for rescission and a summons shall be served on the child's
6630 parent, guardian, or legal custodian.
6631 (c) The court shall grant the petition and rescind the order of emancipation if it finds:
6632 (1) That the child is indigent and has no means of support;
6633 (2) That the child and the child's parent, guardian, or legal custodian agree that the order
6634 should be rescinded; or
6635 (3) That there is a resumption of family relations inconsistent with the existing
6636 emancipation order.
6637 (d) If a petition for rescission is granted, the court shall issue an order rescinding the
6638 emancipation order and retain a copy of the order until the child becomes 25 years of age.
6639 (e) Rescission of an emancipation order shall not alter any contractual obligations or rights
6640 or any property rights or interests that arose during the period of time that the emancipation
6641 order was in effect.
6642 (f) The child or a parent, guardian, or legal custodian of the child may appeal the court's
6643 grant or denial of a petition for rescission of an emancipation order. The appeal shall be
6644 filed in the Court of Appeals.

6645 15-11-727.
6646 (a) A child emancipated by operation of law or by court order shall be considered to have
6647 the rights and responsibilities of an adult, except for those specific constitutional and
6648 statutory age requirements regarding voting, use of alcoholic beverages, and other health
6649 and safety regulations relevant to the child because of his or her age. The rights of a child
6650 to receive any transfer of property or money pursuant to 'The Georgia Transfers to Minors
6651 Act' under Article 5 of Chapter 5 of Title 44; under the Uniform Transfers to Minors Act,
6652 the Uniform Gift to Minors Act, or other substantially similar act of another state; or
6653 pursuant to a trust agreement shall not be affected by a declaration of an emancipation
6654 under this article.
6655 (b) A child shall be considered emancipated for the purposes of, but not limited to:
6656 (1) The right to enter into enforceable contracts, including apartment leases;
6657 (2) The right to sue or be sued in his or her own name;
6658 (3) The right to retain his or her own earnings;

6659 (4) The right to establish a separate domicile;
6660 (5) The right to act autonomously, and with the rights and responsibilities of an adult, in
6661 all business relationships, including, but not limited to, property transactions and
6662 obtaining accounts for utilities, except for those estate or property matters that the court
6663 determines may require a conservator or guardian ad litem;
6664 (6) The right to earn a living, subject only to the health and safety regulations designed
6665 to protect those under the age of 18 regardless of their legal status;
6666 (7) The right to authorize his or her own preventive health care, medical care, dental
6667 care, and mental health care, without parental knowledge or liability;
6668 (8) The right to apply for a driver's license or other state licenses for which he or she
6669 might be eligible;
6670 (9) The right to register for school;
6671 (10) The right to apply for medical assistance programs and for other welfare assistance,
6672 if needed;
6673 (11) The right, if a parent, to make decisions and give authority in caring for his or her
6674 own minor child; and
6675 (12) The right to make a will.
6676 (c) The parent, guardian, or legal custodian of a child emancipated by court order shall not
6677 be liable for any debts incurred by the child during the period of emancipation.

6678 15-11-728.
6679 (a) The duty to provide support for a child shall continue until an emancipation order is
6680 granted.
6681 (b) A child emancipated under this article shall not be considered a deprived child.
6682 (c) The provisions set forth in Code Section 19-3-2 regarding age limitations to contract
6683 for marriage shall apply to a child who has become emancipated under this article.

6684 ARTICLE 12

6685 15-11-740.
6686 (a) This article shall be known and may be cited as the 'Georgia Child Advocate for the
6687 Protection of Children Act.'
6688 (b) In keeping with this article's purpose of assisting, protecting, and restoring the security
6689 of children whose well-being is threatened, it is the intent of the General Assembly that the
6690 mission of protection of the children of this state should have the greatest legislative and
6691 executive priority. Recognizing that the needs of children must be attended to in a timely
6692 manner and that more aggressive action should be taken to protect children from abuse and

6693 neglect, the General Assembly creates the Office of the Child Advocate for the Protection
6694 of Children to provide independent oversight of persons, organizations, and agencies
6695 responsible for providing services to or caring for children who are victims of child abuse
6696 and neglect, or whose domestic situation requires intervention by the state. The Office of
6697 the Child Advocate for the Protection of Children will provide children with an avenue
6698 through which to seek relief when their rights are violated by state officials and agents
6699 entrusted with their protection and care.

6700 15-11-741.
6701 As used in this article, the term:
6702 (1) 'Advocate' or 'child advocate' means the Child Advocate for the Protection of
6703 Children established under Code Section 15-11-742.
6704 (2) 'Agency' shall have the same meaning and application as provided for in paragraph
6705 (1) of subsection (a) of Code Section 50-14-1.
6706 (3) 'Child' or 'children' means an individual receiving protective services from DFCS, for
6707 whom DFCS has an open case file, or who has been, or whose siblings, parents, or other
6708 caretakers have been the subject of a report to DFCS within the previous five years.

6709 15-11-742.
6710 (a) There is created the Office of the Child Advocate for the Protection of Children. The
6711 Governor, by executive order, shall create a nominating committee which shall consider
6712 nominees for the position of the advocate and shall make a recommendation to the
6713 Governor. Such person shall have knowledge of the child welfare system, the juvenile
6714 justice system, and the legal system and shall be qualified by training and experience to
6715 perform the duties of the office as set forth in this article.
6716 (b) The advocate shall be appointed by the Governor from a list of at least three names
6717 submitted by the nominating committee for a term of three years and until his or her
6718 successor is appointed and qualified and may be reappointed. The salary of the advocate
6719 shall not be less than $60,000.00 per year, shall be fixed by the Governor, and shall come
6720 from funds appropriated for the purposes of the advocate.
6721 (c) The Office of the Child Advocate for the Protection of Children shall be assigned to
6722 the Office of Planning and Budget for administrative purposes only, as described in Code
6723 Section 50-4-3.
6724 (d) The advocate may appoint such staff as may be deemed necessary to effectively fulfill
6725 the purposes of this article, within the limitations of the funds available for the purposes
6726 of the advocate. The duties of the staff may include the duties and powers of the advocate
6727 if performed under the direction of the advocate. The advocate and his or her staff shall

6728 receive such reimbursement for travel and other expenses as is normally allowed to state
6729 employees from funds appropriated for the purposes of the advocate.
6730 (e) The advocate shall have the authority to contract with experts in fields including but
6731 not limited to medicine, psychology, education, child development, juvenile justice, mental
6732 health, and child welfare, as needed to support the work of the advocate, utilizing funds
6733 appropriated for the purposes of the advocate.
6734 (f) Notwithstanding any other provision of state law, the advocate shall act independently
6735 of any state official, department, or agency in the performance of his or her duties.
6736 (g) The advocate or his or her designee shall be an ex officio member of the State-wide
6737 Child Abuse Prevention Panel.

6738 15-11-743.
6739 The advocate shall perform the following duties:
6740 (1) Identify, receive, investigate, and seek the resolution or referral of complaints made
6741 by or on behalf of children concerning any act, omission to act, practice, policy, or
6742 procedure of an agency or any contractor or agent thereof that may adversely affect the
6743 health, safety, or welfare of the children;
6744 (2) Refer complaints involving abused children to appropriate regulatory and law
6745 enforcement agencies;
6746 (3) Coordinate and supervise the work of the Georgia Child Fatality Review Panel
6747 created by Code Section 19-15-4 and provide such staffing and administrative support to
6748 the panel as may be necessary to enable the panel to carry out its statutory duties;
6749 (4) Report the death of any child to the chairperson of the child fatality review
6750 subcommittee of the county in which such child resided at the time of death, unless the
6751 advocate has knowledge that such death has been reported by the county medical
6752 examiner or coroner, pursuant to Code Section 19-15-3, and to provide such
6753 subcommittee access to any records of the advocate relating to such child;
6754 (5) Provide periodic reports on the work of the Office of the Child Advocate for the
6755 Protection of Children, including but not limited to an annual written report for the
6756 Governor and the General Assembly and other persons, agencies, and organizations
6757 deemed appropriate. Such reports shall include recommendations for changes in policies
6758 and procedures to improve the health, safety, and welfare of children and shall be made
6759 expeditiously in order to timely influence public policy;
6760 (6) Establish policies and procedures necessary for the Office of the Child Advocate for
6761 the Protection of Children to accomplish the purposes of this article including without
6762 limitation providing DFCS with a form of notice of availability of the Office of the Child
6763 Advocate for the Protection of Children. Such notice shall be posted prominently, by

6764 DFCS, in DFCS offices and in facilities receiving public moneys for the care and
6765 placement of children and shall include information describing the Office of the Child
6766 Advocate for the Protection of Children and procedures for contacting that office; and
6767 (7) Convene quarterly meetings with organizations, agencies, and individuals who work
6768 in the area of child protection to seek opportunities to collaborate and improve the status
6769 of children in Georgia.

6770 15-11-744.
6771 (a) The advocate shall have the following rights and powers:
6772 (1) To communicate privately, by mail or orally, with any child and with each child's
6773 parent, guardian, or legal custodian;
6774 (2) To have access to all records and files of DFCS concerning or relating to a child, and
6775 to have access, including the right to inspect, copy, and subpoena records held by clerks
6776 of the various courts, law enforcement agencies, service providers, including medical and
6777 mental health, and institutions, public or private, with whom a particular child has been
6778 either voluntarily or otherwise placed for care or from whom the child has received
6779 treatment within the state. To the extent any such information provides the names and
6780 addresses of individuals who are the subject of any confidential proceeding or statutory
6781 confidentiality provisions, such names and addresses or related information which has the
6782 effect of identifying such individuals shall not be released to the public without the
6783 consent of such individuals. The Office of the Child Advocate for the Protection of
6784 Children shall be bound by all confidentiality safeguards provided in Code Sections
6785 49-5-40 and 49-5-44. Anyone wishing to obtain records held by the Office of the Child
6786 Advocate shall petition the original agency of record where such records exist;
6787 (3) To enter and inspect any and all institutions, facilities, and residences, public and
6788 private, where a child has been placed by a court or DFCS and is currently residing.
6789 Upon entering such a place, the advocate shall notify the administrator or, in the absence
6790 of the administrator, the person in charge of the facility, before speaking to any children.
6791 After notifying the administrator or the person in charge of the facility, the advocate may
6792 communicate privately and confidentially with children in the facility, individually or in
6793 groups, or the advocate may inspect the physical plant. To the extent possible, entry and
6794 investigation provided by this Code section shall be conducted in a manner which will
6795 not significantly disrupt the provision of services to children;
6796 (4) To apply to the Governor to bring legal action in the nature of a writ of mandamus
6797 or application for injunction pursuant to Code Section 45-15-18 to require an agency to
6798 take or refrain from taking any action required or prohibited by law involving the
6799 protection of children;

6800 (5) To apply for and accept grants, gifts, and bequests of funds from other states, federal
6801 and interstate agencies, independent authorities, private firms, individuals, and
6802 foundations for the purpose of carrying out the lawful responsibilities of the Office of the
6803 Child Advocate for the Protection of Children;
6804 (6) When less formal means of resolution do not achieve appropriate results, to pursue
6805 remedies provided by this article on behalf of children for the purpose of effectively
6806 carrying out the provisions of this article; and
6807 (7) To engage in programs of public education and legislative advocacy concerning the
6808 needs of children requiring the intervention, protection, and supervision of courts and
6809 state and county agencies.
6810 (b)(1) Upon issuance by the advocate of a subpoena in accordance with this article for
6811 law enforcement investigative records concerning an ongoing investigation, the
6812 subpoenaed party may move a court with appropriate jurisdiction to quash said subpoena.
6813 (2) The court shall order a hearing on the motion to quash within five days of the filing
6814 of the motion to quash, which hearing may be continued for good cause shown by any
6815 party or by the court on its own motion. Subject to any right to an open hearing in
6816 contempt proceedings, such hearing shall be closed to the extent necessary to prevent
6817 disclosure of the identity of a confidential source; disclosure of confidential investigative
6818 or prosecution material which would endanger the life or physical safety of any person
6819 or persons; or disclosure of the existence of confidential surveillance, investigation, or
6820 grand jury materials or testimony in an ongoing criminal investigation or prosecution.
6821 Records, motions, and orders relating to a motion to quash shall be kept sealed by the
6822 court to the extent and for the time necessary to prevent public disclosure of such matters,
6823 materials, evidence, or testimony.
6824 (c) The court shall, at or before the time specified in the subpoena for compliance
6825 therewith, enter an order:
6826 (1) Enforcing the subpoena as issued;
6827 (2) Quashing or modifying the subpoena if it is unreasonable and oppressive; or
6828 (3) Conditioning enforcement of the subpoena on the advocate maintaining confidential
6829 any evidence, testimony, or other information obtained from law enforcement or
6830 prosecution sources pursuant to the subpoena until the time the criminal investigation and
6831 prosecution are concluded. Unless otherwise ordered by the court, an investigation or
6832 prosecution shall be deemed to be concluded when the information becomes subject to
6833 public inspection pursuant to Code Section 50-18-72. The court shall include in its order
6834 written findings of fact and conclusions of law.

6835 15-11-745.
6836 (a) No person shall discriminate or retaliate in any manner against any child, parent,
6837 guardian, or legal custodian of a child, employee of a facility, agency, institution or other
6838 type of provider, or any other person because of the making of a complaint or providing
6839 of information in good faith to the advocate or willfully interfere with the advocate in the
6840 performance of his or her official duties.
6841 (b) Any person violating subsection (a) of this Code section shall be guilty of a
6842 misdemeanor.

6843 15-11-746.
6844 The advocate shall be authorized to request an investigation by the Georgia Bureau of
6845 Investigation of any complaint of criminal misconduct involving a child.

6846 15-11-747.
6847 (a) There is established a Child Advocate Advisory Committee. The advisory committee
6848 shall consist of:
6849 (1) One representative of a not for profit children's agency appointed by the Governor;
6850 (2) One representative of a for profit children's agency appointed by the Lieutenant
6851 Governor;
6852 (3) One pediatrician appointed by the Speaker of the House of Representatives;
6853 (4) One social worker with experience and knowledge of child protective services who
6854 is not employed by the state appointed by the Governor;
6855 (5) One psychologist appointed by the Lieutenant Governor;
6856 (6) One attorney appointed by the Speaker of the House of Representatives from the
6857 Children and the Courts Committee of the State Bar of Georgia; and
6858 (7) One juvenile court judge appointed by the Chief Justice of the Supreme Court of
6859 Georgia.
6860 Each member of the advisory committee shall serve a two-year term and until the
6861 appointment and qualification of such member's successor. Appointments to fill vacancies
6862 in such offices shall be filled in the same manner as the original appointment.
6863 (b) The advisory committee shall meet a minimum of three times a year with the advocate
6864 and his or her staff to review and assess the following:
6865 (1) Patterns of treatment and service for children;
6866 (2) Policy implications; and
6867 (3) Necessary systemic improvements.
6868 The advisory committee shall also provide for an annual evaluation of the effectiveness of
6869 the Office of the Child Advocate for the Protection of Children."

SECTION 2.

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

"49-5-24.

(a) The department shall adopt a procedure by which a child or young adult as such terms are defined in Code Sections 15-11-2 and 15-11-350, respectively, formerly in foster care may appeal an eligibility determination or the failure of the Division of Family and Children Services of the department to provide aftercare or transitional support services, as set forth in Article 5 Chapter 11 of Title 15, or the termination of such services.

(b) The appeal procedure developed by the department shall be readily available to a child or a young adult formerly in foster care, shall provide timely decisions, and shall provide for an administrative appeal and judicial review of the administrative decision.

40-5-25.

The department shall develop outcome and other performance measures for the independent living skills program, as set forth in Article 5 Chapter 11 of Title 15, in order to maintain oversight of such program."

SECTION 3.

Code Section 1-2-8 of the Official Code of Georgia Annotated, relating to rights of minors, is revised as follows:

"1-2-8.

The law prescribes certain ages at which persons shall be considered of sufficient maturity to discharge certain civil functions, to make contracts, and to dispose of property. Prior to those ages they are minors and are, on account of that disability, unable to exercise these rights as citizens unless such minor becomes emancipated by operation of law or pursuant to Article ~~6~~ 11 of Chapter 11 of Title 15."

SECTION 4.

Code Section 5-7-1 of the Official Code of Georgia Annotated, relating to orders, decisions, or judgments appealable by the state, is amended by revising paragraph (6) of subsection (a) as follows:

"(6) From an order, decision, or judgment of a superior court transferring a case to the juvenile court pursuant to ~~subparagraph (b)(2)(B) of~~ Code Section ~~15-11-28~~ 15-11-567;"

SECTION 5.

Code Section 13-3-20 of the Official Code of Georgia Annotated, relating to minors and contracts for property or valuable consideration and contracts for necessities, is revised as follows:

"13-3-20.

(a) Generally the contract of a minor is voidable. If in a contractual transaction a minor receives property or other valuable consideration and, after arrival at the age of 18, retains possession of such property or continues to enjoy the benefit of such other valuable consideration, the minor shall have thereby ratified or affirmed the contract and it shall be binding on him or her. Such contractual transaction shall also be binding upon any minor who becomes emancipated by operation of law or pursuant to Article ~~6~~ 11 of Chapter 11 of Title 15.

(b) The contract of a minor for necessaries shall be binding on the minor as if the minor were 18 years of age except that the party furnishing them to the minor shall prove that the parent or guardian of such minor had failed or refused to supply sufficient necessaries for the minor, that the minor was emancipated by operation of law, or the minor was emancipated pursuant to Article ~~6~~ 11 of Chapter 11 of Title 15."

SECTION 6.

Said title is further amended by revising subsection (e) of Code Section 15-23-7, relating to collection of additional legal costs in civil actions for purposes of providing court-connected or court-referred alternative dispute resolution programs, as follows:

"(e) Juvenile court supervision fees collected pursuant to Code Section ~~15-11-71~~ 15-11-36 may be used for mediation services provided by court programs pursuant to this chapter."

SECTION 7.

Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is amended by revising paragraph (3) of subsection (a) of Code Section 16-5-45, relating to interference with custody, as follows:

"(3) 'Lawful custody' means that custody inherent in the natural parents, that custody awarded by proper authority as provided in Code Section ~~15-11-45~~ 15-11-133, or that custody awarded to a parent, guardian, or other person by a court of competent jurisdiction."

SECTION 8.

Said title is further amended by revising paragraph (3) of subsection (a) of Code Section 16-10-52, relating to escape, as follows:

"(3) Having been adjudicated of a delinquent ~~or unruly~~ act or a juvenile traffic offense, or as a child in need of services subject to lawful custody or lawful confinement, intentionally escapes from lawful custody or from any place of lawful confinement;"

SECTION 9.

Said title is further amended by revising paragraph (3) of subsection (c) of Code Section 16-11-101.1, relating to furnishing a pistol or revolver to a person under the age of 18 years, as follows:

"(3) In addition to any other act which violates this subsection, a parent or legal guardian shall be deemed to have violated this subsection if such parent or legal guardian furnishes to or permits possession of a pistol or revolver by any minor who has been convicted of a forcible felony or forcible misdemeanor, as defined in Code Section 16-1-3, or who has been adjudicated delinquent under the provisions of Article ~~1~~ 7 of Chapter 11 of Title 15 for an offense which would constitute a forcible felony or forcible misdemeanor, as defined in Code Section 16-1-3, if such minor were an adult."

SECTION 10.

Said title is further amended by revising subsection (b) of Code Section 16-11-127.1, relating to carrying weapons within school safety zones, at school functions, or on school property, as follows:

"(b) Except as otherwise provided in subsection (c) of this Code section, it shall be unlawful for any person to carry to or to possess or have under such person's control while within a school safety zone or at a school building, school function, or school property or on a bus or other transportation furnished by the school any weapon or explosive compound, other than fireworks the possession of which is regulated by Chapter 10 of Title 25. Any person who violates this subsection shall be guilty of a felony and, upon conviction thereof, be punished by a fine of not more than $10,000.00, by imprisonment for not less than two nor more than ten years, or both; provided, however, that upon conviction of a violation of this subsection involving a firearm as defined in paragraph (2) of subsection (a) of Code Section 16-11-131, or a dangerous weapon or machine gun as defined in Code Section 16-11-121, such person shall be punished by a fine of not more than $10,000.00 or by imprisonment for a period of not less than five nor more than ten years, or both. A child who violates this subsection shall be subject to the provisions of Code Section ~~15-11-63~~ 15-11-601."

SECTION 11.

Said title is further amended by revising subsection (d) of Code Section 16-11-132, relating to possession of a pistol or revolver by a person under the age of 18 years, as follows:

"(d) Subsection (c) of this Code section shall not apply to any person under the age of 18 years who has been convicted of a forcible felony or forcible misdemeanor, as defined in Code Section 16-1-3, or who has been adjudicated delinquent under the provisions of Article ~~1~~ 7 of Chapter 11 of Title 15 for an offense which would constitute a forcible felony or forcible misdemeanor, as defined in Code Section 16-1-3, if such person were an adult."

SECTION 12.

Said chapter is further amended by revising subsections (a) through (d) of Code Section 16-12-1, relating to contributing to the delinquency, unruliness, or deprivation of a minor, as follows:

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

(1) 'Delinquent act' means a delinquent act as defined in Code Section 15-11-2.

(2) 'Felony' means any act which constitutes a felony under the laws of this state, the laws of any other state of the United States, or the laws of the United States.

(3) 'Minor' means any individual who is under the age of 17 years who is alleged to have committed a delinquent act or any individual under the age of 18 years ~~who is alleged to be a deprived child as such is defined in Code Section 15-11-2, relating to juvenile proceedings~~.

(4) 'Serious injury' means an injury involving a broken bone, the loss of a member of the body, the loss of use of a member of the body, the substantial disfigurement of the body or of a member of the body, an injury which is life threatening, or any sexual abuse of a child under 16 years of age by means of an act described in subparagraph (a)(4)(A), (a)(4)(G), or (a)(4)(I) of Code Section 16-12-100.

(b) A person commits the offense of contributing to the delinquency~~, unruliness,~~ or deprivation of a minor or causing a child to be in need of services when such person:

(1) Knowingly and willfully encourages, causes, abets, connives, or aids a minor in committing a delinquent act as such is defined in Code Section 15-11-2~~, relating to juvenile proceedings~~;

(2) Knowingly and willfully encourages, causes, abets, connives, or aids a minor in committing an act which would cause such minor to be found to be ~~an unruly child~~ a child in need of services as such is defined in Code Section 15-11-2~~, relating to juvenile proceedings~~;

(3) Willfully commits an act or acts or willfully fails to act when such act or omission would cause a minor to be found to be a deprived child as such is defined in Code Section 15-11-2~~, relating to juvenile proceedings~~;

(4) Knowingly and willfully hires, solicits, engages, contracts with, conspires with, encourages, abets, or directs any minor to commit any felony which encompasses force or violence as an element of the offense or delinquent act which would constitute a felony which encompasses force or violence as an element of the offense if committed by an adult; or

(5) Knowingly and willfully provides to a minor any weapon as defined in paragraph (2) of subsection (a) of Code Section 16-11-127.1 or any weapon as defined in Code Section 16-11-121 to commit any felony which encompasses force or violence as an element of the offense or delinquent act which would constitute a felony which encompasses force or violence as an element of the offense if committed by an adult.

(c) It shall not be a defense to the offense provided for in this Code section that the minor has not been formally adjudged to have committed a delinquent act or has not been found to be ~~unruly or~~ deprived or a child in need of services.

(d) A person convicted pursuant to paragraph (1) ~~or (2)~~ of subsection (b) of this Code section shall be punished as follows:

(1) Upon conviction of the first or second offense, the defendant shall be guilty of a misdemeanor and shall be fined not more than $1,000.00 or shall be imprisoned for not more than 12 months, or both fined and imprisoned; and

(2) Upon the conviction of the third or subsequent offense, the defendant shall be guilty of a felony and shall be fined not less than $1,000.00 nor more than $5,000.00 or shall be imprisoned for not less than one year nor more than three years, or both fined and imprisoned."

SECTION 13.

Said title is further amended by revising subsections (c), (e), and (g) of Code Section 16-12-141.1, relating to disposal of aborted fetuses, as follows:

"(c) Within 90 days after May 10, 2005, the Department of Human Resources shall prepare a reporting form for physicians which shall include:

(1) The number of females whose parent or guardian was provided the notice required in paragraph (1) of subsection (a) of Code Section ~~15-11-112~~ 15-11-682 by the physician or such physician's agent; of that number, the number of notices provided personally under subparagraphs (a)(1)(A) and (a)(1)(B) of Code Section ~~15-11-112~~ 15-11-682 and the number of notices provided by mail under subparagraph (a)(1)(C) of Code Section

~~15-11-112~~ 15-11-682; and, of each of those numbers, the number of females who, to the best of the reporting physician's information and belief, went on to obtain the abortion;

(2) The number of females upon whom the physician performed an abortion without providing to the parent or guardian of a minor the notice required by subsection (a) of Code Section ~~15-11-112~~ 15-11-682 ; and of that number, the number of females for which subsection (b) of Code Section ~~15-11-112~~ 15-11-682 and Code Section ~~15-11-116~~ 15-11-686 were applicable;

(3) The number of abortions performed upon a female by the physician after receiving judicial authorization pursuant to subsection (b) of Code Section ~~15-11-112~~ 15-11-682 and Code Section ~~15-11-114~~ 15-11-684; and

(4) The same information described in paragraphs (1), (2), and (3) of this subsection with respect to females for whom a guardian or conservator has been appointed."

"(e) By February 28 of each year following a calendar year in any part of which this subsection was in effect, each physician who provided, or whose agent provided, the notice described in subsection (a) of Code Section ~~15-11-112~~ 15-11-682 and any physician who knowingly performed an abortion upon a female or upon a female for whom a guardian or conservator had been appointed because of a finding of incompetency during the previous calendar year shall submit to the Department of Human Resources a copy of the form described in subsection (c) of this Code section with the requested data entered accurately and completely."

"(g) By June 30 of each year, the Department of Human Resources shall issue a public report providing statistics for the previous calendar year compiled from all the reports covering that year submitted in accordance with this Code section for each of the items listed in subsection (c) of this Code section. The report shall also include statistics which shall be obtained by the Administrative Office of the Courts giving the total number of petitions or motions filed under subsection (b) of Code Section ~~15-11-112~~ 15-11-682 and, of that number, the number in which the court appointed a guardian ad litem, the number in which the court appointed counsel, the number in which the judge issued an order authorizing an abortion without notification, the number in which the judge denied such an order, and, of the last, the number of denials from which an appeal was filed, the number of such appeals that resulted in the denials being affirmed, and the number of such appeals that resulted in reversals of such denials. Each report shall also provide the statistics for all previous calendar years for which such a public statistical report was required to be issued, adjusted to reflect any additional information from late or corrected reports. The Department of Human Resources shall ensure that none of the information included in the public reports could reasonably lead to the identification of any individual female or of any female for whom a guardian or conservator has been appointed."

SECTION 14.

Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is amended by revising subsection (a) of Code Section 17-7-50.1, relating to time for presentment of child's case to a grand jury, as follows:

"(a) Any child who is charged with a crime that is within the jurisdiction of the superior court, as provided in Code Section ~~15-11-28~~ 15-11-560 or ~~15-11-30.2~~ 15-11-561, who is detained shall within 180 days of the date of detention be entitled to have the charge against him or her presented to the grand jury. The superior court shall, upon motion for an extension of time and after a hearing and good cause shown, grant one extension to the original 180 day period, not to exceed 90 additional days."

SECTION 15.

Said title is further amended by revising subsection (e) of Code Section 17-10-1, relating to fixing of sentence, as follows:

"(e) In any case involving a felony in which the defendant previously appeared before a juvenile court, the records of the dispositions of the defendant as well as any evidence used in any juvenile court hearing shall be available to the district attorney, the defendant, and the superior court judge in determining sentencing as provided in Code Section ~~15-11-79.1~~ 15-11-703."

SECTION 16.

Said title is further amended by revising subsections (b) and (c) of Code Section 17-10-14, relating to committal of person under 17 convicted of a felony, as follows:

"(b) If a child is transferred to superior court according to subsection (b) of Code Section ~~15-11-30.2~~ 15-11-561 and convicted of aggravated assault as defined in Chapter 5 of Title 16, the court may sentence such child to the Department of Corrections. Such child shall be housed in a designated youth confinement unit until such person is 17 years of age, at which time such person may be housed in any other unit designated by the Department of Corrections.

~~(c) In any case where a child 13 to 17 years of age is convicted of a felony provided under subparagraph (b)(2)(A) of Code Section 15-11-28, such child shall be committed to the custody of the Department of Corrections and shall be housed in a designated youth confinement unit until such person is 17 years of age, at which time such person may be housed in any other unit designated by the Department of Corrections.~~"

SECTION 17.

Said title is further amended by revising paragraph (5) of Code Section 17-14-2, relating to definitions regarding restitution, as follows:

"(5) 'Parent' means a person who is the legal mother as defined in ~~paragraph (10.2) of~~ Code Section 15-11-2, the legal father as defined in ~~paragraph (10.1) of~~ Code Section 15-11-2, or the legal guardian. Such term shall not include a foster parent."

SECTION 18.

Said title is further amended by revising subsection (d) of Code Section 17-15-13, relating to debt to state created, as follows:

"(d) When a child is adjudicated delinquent in a juvenile court proceeding involving a crime upon which a claim under this chapter can be made, the juvenile court in its discretion may order that the child pay the debt to the state as an adult would have to pay had an adult committed the crime. Any assessments so ordered may be made a condition of probation as provided in ~~paragraph (2) of subsection (a) of~~ Code Section ~~15-11-66~~ 15-11-601."

SECTION 19.

Said title is further amended by revising subsection (c) of Code Section 17-16-2, relating to applicability of rules of discovery, as follows:

"(c) This article shall be deemed to have been automatically invoked, without the written notice provided for in subsection (a) of this Code section, when a defendant has sought discovery pursuant to Chapter 11 of Title 9, the 'Georgia Civil Practice Act,' pursuant to Code Section ~~15-11-75~~ Part 8 of Article 7 of Chapter 11 of Title 15, or pursuant to the Uniform Rules for the Juvenile Courts of Georgia where such discovery material is the same as the discovery material that may be provided under this article when a written notice is filed pursuant to subsection (a) of this Code section."

SECTION 20.

Said title is further amended by revising subsection (d) of Code Section 19-7-22, relating to petition for legitimation of a child, as follows:

"(d) A legitimation petition may be filed, pursuant to ~~paragraph (2) of subsection (c) of~~ Code Section ~~15-11-28~~ 15-11-11, in the juvenile court of the county in which a deprivation proceeding regarding the child is pending."

SECTION 21.

Said title is further amended by revising paragraph (4) of subsection (a) of Code Section 19-8-10, relating to when surrender or termination of parental rights not required, as follows:

"(4) Parent has failed to exercise proper parental care or control due to misconduct or inability, as set out in paragraph ~~(2),~~ (3), ~~or~~ (4), or (5) of subsection ~~(b)~~ (a) of Code Section ~~15-11-94~~ 15-11-310,"

SECTION 22.

Said title is further amended by revising subparagraph (a)(3)(D) of Code Section 19-8-11, relating to petitioning superior court to terminate parental rights, as follows:

"(D) Parent has failed to exercise proper parental care or control due to misconduct or inability, as set out in paragraph ~~(2),~~ (3), ~~or~~ (4), or (5) of subsection ~~(b)~~ (a) of Code Section ~~15-11-94~~ 15-11-310,"

SECTION 23.

Said title is further amended by revising subsection (g) of Code Section 19-8-13, relating to petition for adoption, as follows:

"(g) Notwithstanding the provisions of Code Sections 19-8-5 and 19-8-7 and this Code section which require obtaining and attaching a written voluntary surrender and acknowledgment thereof and affidavits of the legal mother and a representative of the petitioner, where the adoption is sought under subsection (a) of Code Section 19-8-5 or 19-8-7 following the termination of parental rights and the placement of the child by the juvenile court pursuant to ~~paragraph (1) of subsection (a) of~~ Code Section ~~15-11-103~~ 15-11-321, obtaining and attaching to the petition a certified copy of the order terminating parental rights of the parent shall take the place of obtaining and attaching those otherwise required surrenders, acknowledgments, and affidavits."

SECTION 24.

Said title is further amended by revising Code Section 19-10A-4, relating to no criminal prosecution for leaving a child in the custody of a medical facility, as follows:

"19-10A-4.

A mother shall not be prosecuted for the crimes of cruelty to a child, as provided in Code Section 16-5-70; contributing to the delinquency~~, unruliness,~~ or deprivation of a child or causing a child to be in need of services, as provided in Code Section 16-12-1; or abandonment of a dependent child, as provided in Code Section 19-10-1, because of the act of leaving her newborn child in the physical custody of an employee, agent, or member of the staff of a medical facility who is on duty, whether there in a paid or volunteer

position, provided that the newborn child is no more than one week old and the mother shows proof of her identity, if available, to the person with whom the newborn is left and provides her name and address."

SECTION 25.

Said title is further amended by revising Code Section 19-10A-6, relating to reimbursement of medical costs, as follows:

"19-10A-6.

A medical facility which accepts for inpatient admission a child left pursuant to Code Section 19-10A-4 shall be reimbursed by the Department of Human Resources for all reasonable medical and other reasonable costs associated with the child prior to the child being placed in the care of the department. A medical facility shall notify the Department of Human Resources at such time as the child is left and at the time the child is medically ready for discharge. Upon notification that the child is medically ready for discharge, the Department of Human Resources shall take physical custody of the child within six hours. The Department of Human Resources upon taking physical custody shall promptly bring the child before the juvenile court as required by Code Section ~~15-11-47~~ 15-11-145."

SECTION 26.

Said title is further amended by revising Code Section 19-13-20, relating to definitions regarding family violence shelters, as follows:

"(5) 'Family violence shelter' means a facility approved by the department for the purpose of receiving, on a temporary basis, persons who are subject to family violence. Family violence shelters are distinguished from shelters operated for detention or placement of children only, as provided in subsection (a) of Code Section ~~15-11-48~~ 15-11-504 and subsection (c) of Code Section 15-11-135."

SECTION 27.

Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by revising subsection (b) of Code Section 20-2-670, relating to requirements for transferring students beyond sixth grade, as follows:

"(b) In lieu of complying with the provision of subsection (a) of this Code section, a transferring student may be admitted on a conditional basis if he or she and his or her parent or legal guardian executes a document providing the name and address of the school last attended and authorizing the release of all academic and disciplinary records to the school administration. The parent or guardian shall be notified of the transfer of such records and shall, upon written request made within ten days of such notice, be entitled to

receive a copy of such records. Within five days of the receipt of a copy of such records, the parent or guardian may make a written request for and shall be entitled to a hearing before the principal of the school or his or her designee which is the custodian of such records for the purpose of challenging the content of the records. The student or his or her parent or legal guardian shall also disclose on the same document as the release whether the child has ever been adjudicated guilty of the commission of a designated felony act as defined in Code Section ~~15-11-63~~ 15-11-2 and, if so, the date of such adjudication, the offense committed, the jurisdiction in which such adjudication was made, and the sentence imposed. Any form document to authorize the release of records which is provided by a school to a transferring student or such student's parent or legal guardian shall include a list of designated felony acts. The student or his or her parent or legal guardian shall also disclose on the document whether the student is currently serving a suspension or expulsion from another school, the reason for such discipline, and the term of such discipline. If a student so conditionally admitted is found to be ineligible for enrollment pursuant to the provisions of Code Section 20-2-751.2, or is subsequently found to be so ineligible, he or she shall be dismissed from enrollment until such time as he or she becomes so eligible."

SECTION 28.

Said title is further amended by revising Code Section 20-2-671, relating to transfer students who have committed felony acts, as follows:

"20-2-671.

If any school administrator determines from the information obtained pursuant to Code Section ~~15-11-63~~ 15-11-602 or 20-2-670 or from any other source that a student has committed a designated felony act, such administrator shall so inform all teachers to whom the student is assigned that they may review the information in the student's file provided pursuant to subsection (b) of Code Section 20-2-670 received from other schools or from the juvenile courts. Such information shall be kept confidential."

SECTION 29.

Said title is further amended by revising paragraph (14) of subsection (c) and subsection (g) of Code Section 20-2-690.2, relating to establishment of student attendance protocol committee, membership and protocol, summary of penalties for failure to comply, and reporting, as follows:

"(14) The court approved community based risk reduction program established by the juvenile court in accordance with Code Section ~~15-11-10~~ 15-11-37, if such a program has been established."

"(g) The committee shall write the summary of possible consequences and penalties for failing to comply with compulsory attendance under Code Section 20-2-690.1 for children and their parents, guardians, or other persons who have control or charge of children for distribution by schools in accordance with Code Section 20-2-690.1. The summary of possible consequences for children shall include possible dispositions for ~~unruly~~ children in need of services and possible denial or suspension of a driver's license for a child in accordance with Code Section 40-5-22."

SECTION 30.

Said title is further amended by revising subsection (d) of Code Section 20-2-751.2, relating to students subject to disciplinary orders of other school systems, as follows:

"(d) If any school administrator determines from the information obtained pursuant to this Code section or from Code Section ~~15-11-28 or 15-11-80~~ 15-11-599, 15-11-602, or 15-11-707 that a student has been convicted of or has been adjudicated to have committed an offense which is a designated felony act under Code Section ~~15-11-63~~ 15-11-2, such administrator shall so inform all teachers to whom the student is assigned and other school personnel to whom the student is assigned. Such teachers and other certificated professional personnel as the administrator deems appropriate may review the information in the student's file provided pursuant to this Code section that has been received from other schools or from the juvenile courts or superior courts. Such information shall be kept confidential."

SECTION 31.

Said title is further amended by revising Code Section 20-2-766.1, relating to proceeding against parents for failure to cooperate in educational programs, as follows:

"20-2-766.1.

The local board of education may, by petition to the juvenile court, proceed against a parent or guardian as provided in this Code section. If the court finds that the parent or guardian has willfully and unreasonably failed to attend a conference requested by a principal pursuant to Code Section 20-2-765 or 20-2-766, the court may order the parent or guardian to attend such a conference, order the parent or guardian to participate in such programs or such treatment as the court deems appropriate to improve the student's behavior, or both. After notice and opportunity for hearing, the court may impose a fine, not to exceed $500.00, on a parent or guardian who willfully disobeys an order of the court entered under this Code section. The court may use its contempt and other powers specified in Code Section ~~15-11-5~~ 15-11-30 to enforce any order entered under this Code section."

SECTION 32.

Said title is further amended by revising subsection (a) of Code Section 20-2-768, relating to expulsion or suspension of students for felonies, as follows:

"(a) Each local board of education is authorized to refuse to readmit or enroll any student who has been suspended or expelled for being convicted of, being adjudicated to have committed, being indicted for, or having information filed for the commission of any felony or any delinquent act under Code ~~Section 15-11-28~~ Sections 15-11-602 and 15-11-707 which would be a felony if committed by an adult. If refused readmission or enrollment, the student or the student's parent or legal guardian has the right to request a hearing pursuant to the procedures provided for in Code Section 20-2-754."

SECTION 33.

Said title is further amended by revising subparagraph (B) of paragraph (1) of Code Section 20-3-660, relating to program of grants for foster children created, as follows:

"(B) The student is currently committed to the Division of Family and Children Services within the Department of Human Resources under Code Section ~~15-11-55~~ 15-11-212 and placed in a family foster home or is placed in accordance with subparagraph (a)(2)(C) of Code Section ~~15-11-2~~ 15-11-212;"

SECTION 34.

Said title is further amended by revising subsection (q) of Code Section 24-9-47, relating to disclosure of AIDS confidential information, as follows:

"(q) A public safety agency or district attorney may obtain the results from an HIV test to which the person named in the request has submitted under Code Section ~~15-11-66.1~~ 15-11-603, 17-10-15, 42-5-52.1, or 42-9-42.1, notwithstanding that the results may be contained in a sealed record."

SECTION 35.

Code Section 31-22-9.2 of the Official Code of Georgia Annotated, relating to HIV tests and reports of positive results, is amended by revising subsection (c) as follows:

"(c) Unless exempted under this Code section, each health care provider who orders an HIV test for any person shall do so only after counseling the person to be tested. Unless exempted under this subsection, the person to be tested shall have the opportunity to refuse the test. The provisions of this subsection shall not be required if the person is required to submit to an HIV test pursuant to Code Section ~~15-11-66.1~~ 15-11-603, 17-10-15, 31-17-4.2, 31-17A-3, 42-5-52.1, or 42-9-42.1. The provisions of this subsection shall not be required if the person is a minor or incompetent and the parent or guardian thereof

permits the test after compliance with this subsection. The provisions of this subsection shall not be required if the person is unconscious, temporarily incompetent, or comatose and the next of kin permits the test after compliance with this subsection. The provisions of this subsection shall not apply to emergency or life-threatening situations. The provisions of this subsection shall not apply if the physician ordering the test is of the opinion that the person to be tested is in such a medical or emotional state that disclosure of the test would be injurious to the person's health. The provisions of this subsection shall only be required prior to drawing the body fluids required for the HIV test and shall not be required for each test performed upon that fluid sample."

SECTION 36.

Title 35 of the Official Code of Georgia Annotated, relating to law enforcement officers and agencies, is amended by revising subsection (c) of Code Section 35-3-33, relating to powers and duties of the Georgia Crime Information Center, as follows:

"(c) The provisions of this article notwithstanding, information and records of children shall only be inspected and disclosed as provided in Code Sections ~~15-11-82~~ 15-11-702 and ~~15-11-83~~ 15-11-708. Such records and information shall be sealed or destroyed according to the procedures outlined in Code Sections ~~15-11-79.2~~ 15-11-701 and ~~15-11-81~~ 15-11-709."

SECTION 37.

Said title is further amended by revising subparagraph (B) of paragraph (7) of Code Section 35-8-2, relating to definitions regarding peace officers, as follows:

"(B) The Office of Permits and Enforcement of the Department of Transportation, the Department of Juvenile Justice and its institutions and facilities for the purpose of personnel who are authorized to exercise the power of arrest and who are employed or appointed by said department or institutions, and the office or section in the Department of Juvenile Justice in which persons are assigned who have been designated by the commissioner to investigate and apprehend ~~unruly and~~ delinquent children and any child with a pending juvenile court case alleging the child to be in need of services; and"

SECTION 38.

Code Section 36-32-10 of the Official Code of Georgia Annotated, relating to jurisdiction in cases of furnishing alcoholic beverages, is amended by revising subsection (e) as follows:

"(e) Nothing in this Code section shall affect the original and exclusive jurisdiction of the juvenile court as set forth in Code Section ~~15-11-28~~ 15-11-10."

SECTION 39.

Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is amended by revising subsection (g) of Code Section 40-5-75, relating to suspension of licenses by operation of law, as follows:

"(g) Notwithstanding the provisions of Code Section ~~15-11-72~~ 15-11-606 and except as provided in subsection (c) of this Code section, an adjudication of a minor child as a delinquent child ~~or an unruly child~~ for any offense listed in subsection (a) of this Code section shall be deemed a conviction for purposes of this Code section."

SECTION 40.

Said title is further amended by revising subsection (l) of Code Section 40-6-391, relating to driving under the influence of alcohol, drugs, or other intoxicating substances, as follows:

"(l) A person who violates this Code section while transporting in a motor vehicle a child under the age of 14 years is guilty of the separate offense of endangering a child by driving under the influence of alcohol or drugs. The offense of endangering a child by driving under the influence of alcohol or drugs shall not be merged with the offense of driving under the influence of alcohol or drugs for the purposes of prosecution and sentencing. An offender who is convicted of a violation of this subsection shall be punished in accordance with the provisions of subsection (d) of Code Section 16-12-1~~, relating to the offense of contributing to the delinquency, unruliness, or deprivation of a child~~."

SECTION 41.

Code Section 44-5-41 of the Official Code of Georgia Annotated, relating to voidance and ratification of conveyance to or by a minor, is revised as follows:

"44-5-41.

A deed, security deed, bill of sale to secure debt, or any other conveyance of property or interest in property to or by a minor is voidable unless such minor has become emancipated by operation of law or pursuant to Article ~~6~~ 11 of Chapter 11 of Title 15. If a minor has conveyed property or an interest in property, the minor may void the conveyance upon arrival at the age of 18; and, if the minor makes another conveyance at that time, it will void the first conveyance without reentry or repossession. If property or an interest in property has been conveyed to a minor and, after arrival at the age of 18, the minor retains the possession or benefit of the property or interest in property, the minor shall have thereby ratified or affirmed the conveyance."

SECTION 42.

Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees, is amended by revising paragraph (7) of Code Section 45-9-81, relating to definitions regarding certain indemnification, as follows:

"(7) 'Law enforcement officer' means any agent or officer of this state, a political subdivision or municipality of this state, or an authority of this state or a political subdivision of this state who, as a full-time or part-time employee, is vested either expressly by law or by virtue of public employment or service with authority to enforce the criminal or traffic laws with the power of arrest and whose duties include the preservation of public order, the protection of life and property, or the prevention, detection, or investigation of crime. Such term also includes the employees designated by the commissioner of juvenile justice of the Department of Juvenile Justice pursuant to paragraph (2) of subsection (i) of Code Section 49-4A-8, which employees have the duty to investigate and apprehend delinquent ~~and unruly~~ children who have escaped from a facility under the jurisdiction of the Department of Juvenile Justice or who have broken the conditions of supervision. Such term also includes members of the Georgia National Guard, the composition of which is set forth in Code Section 38-2-3, who have been called into active state service by the Governor."

SECTION 43.

Said title is further amended by revising paragraph (7) of Code Section 45-9-101, relating to definitions regarding certain compensation, as follows:

"(7) 'Law enforcement officer' means any agent or officer of this state, or a political subdivision or municipality thereof, who, as a full-time or part-time employee, is vested either expressly by law or by virtue of public employment or service with authority to enforce the criminal or traffic laws and whose duties include the preservation of public order, the protection of life and property, or the prevention, detection, or investigation of crime. Such term also includes the employees designated by the commissioner of juvenile justice of the Department of Juvenile Justice pursuant to paragraph (2) of subsection (i) of Code Section 49-4A-8, which employees have the duty to investigate and apprehend delinquent ~~and unruly~~ children <u>and any child with a pending juvenile court case alleging the child to be in need of services</u> who have escaped from a facility under the jurisdiction of the Department of Juvenile Justice or who have broken the conditions of supervision. Such term also includes members of the Georgia National Guard, the composition of which is set forth in Code Section 38-2-3, who have been called into active state service by the Governor."

SECTION 44.

Said title is further amended by revising subsection (a) of Code Section 45-20-1, relating to purposes and principles of the merit system, as follows:

"(a) It is the purpose of this article to establish in the state a system of personnel administration which will attract, select, and retain the best employees based on merit, free from coercive political influences, with incentives in the form of equal opportunities for all; which will provide technically competent and loyal personnel to render impartial service to the public at all times and to render such service according to the dictates of ethics and morality; and which will remove unnecessary and inefficient employees. It is specifically the intent of the General Assembly to promote this purpose by allowing agencies greater flexibility in personnel management so as to promote the overall effectiveness and efficiency of state government. To this end, and in accordance with Code Sections 45-20-2 and 45-20-6, all positions filled after July 1, 1996, shall be included in the unclassified service of the state merit system, except as provided in Code Section ~~15-11-24.3~~ 15-11-68. It is also specifically the intent of the General Assembly that employees in the classified service prior to July 1, 1996, shall continue to be employees in the classified service so long as they remain in classified positions or as otherwise provided by law. It is further specifically the intent of the General Assembly that state government operate within a framework of consistent core personnel policies and practices across all state agencies and entities and that the state's most valued resource, its employees, be managed in a manner to promote work force productivity and sound business practices."

SECTION 45.

Said title is further amended by revising subsection (a) of Code Section 45-20-6, relating to composition of classified and unclassified service, as follows:

"(a) The classified service as defined by Code Section 45-20-2 shall consist of only those employees who were in the classified service on June 30, 1996, and who have remained in a classified position without a break in service since that date. Any officer or employee who occupies a classified position under the state merit system prior to July 1, 1996, or as provided in Code Section ~~15-11-24.3~~ 15-11-68 shall remain in the classified service so long as such officer or employee shall remain in a classified position or as otherwise provided by law. Employees in the classified service shall have, upon completing a working test period, appeal rights as provided in Code Sections 45-20-8 and 45-20-9."

SECTION 46.

Title 49 of the Official Code of Georgia Annotated, relating to social services, is amended by revising paragraph (3) of Code Section 49-4A-1, relating to definitions regarding the Department of Juvenile Justice, as follows:

"(3) 'Delinquent ~~or unruly~~ child or youth or a child to be in need of services' means any person so adjudged under Article ~~1~~ 7 of Chapter 11 of Title 15."

SECTION 47.

Said title is further amended by revising subsection (b) of Code Section 49-4A-2, relating to the creation of the Board of Juvenile Justice, as follows:

"(b) The board shall provide leadership in developing programs to successfully rehabilitate ~~juvenile delinquents and unruly~~ children adjudicated delinquent or in need of services committed to the state's custody and to provide technical assistance to private and public entities for prevention programs for children at risk."

SECTION 48.

Said title is further amended by revising Code Section 49-4A-4, relating to purpose of chapter, as follows:

"49-4A-4.

It is the purpose of this chapter to establish the department as the agency to administer, supervise, and manage juvenile detention facilities. Except for the purposes of administration, supervision, and management as provided in this chapter, juvenile detention facilities shall continue to be detention care facilities for delinquent ~~and unruly~~ children and youth and children in need of services who have violated a valid court order for the purposes of Article ~~1~~ 7 of Chapter 11 of Title 15~~, relating to juvenile courts and juvenile proceedings~~."

SECTION 49.

Said title is further amended by revising paragraphs (1) and (2) of subsection (a) and the introductory language of subsection (b) of Code Section 49-4A-7, relating to powers and duties of the department, as follows:

"(1) Accept for detention in a youth development center or other juvenile detention facility any child who is committed to the department under Article ~~1~~ 7 of Chapter 11 of Title 15;

(2) Provide probation and parole and other court services for children and youth pursuant to a request from a court under Article ~~1~~ 7 of Chapter 11 of Title 15;"

"(b) When given legal custody over a child or youth for detention in a youth development center or other facility under court order under Article ~~1~~ 7 of Chapter 11 of Title 15, the department shall have:"

SECTION 50.

Said title is further amended by revising Code Section 49-4A-8, relating to commitment of delinquent or unruly children, as follows:

"49-4A-8.

(a) When any child or youth is adjudged to be in a state of delinquency ~~or unruliness~~ or a child in need of services who has violated a valid court order under Article ~~1~~ 7 of Chapter 11 of Title 15 and the court does not release such child or youth unconditionally or place him or her on probation or in a suitable public or private institution or agency, the court may commit ~~him~~ such child to the department as provided in said Article ~~1~~ 7 of Chapter 11 of Title 15; provided, however, that no delinquent ~~or unruly~~ child or youth or a child in need of services who has violated a valid court order shall be committed to the department until the department certifies to the Governor that it has facilities available and personnel ready to assume responsibility for delinquent ~~or unruly~~ children and youths and children in need of services who have violated a valid court order.

(b) When the court commits a delinquent ~~or unruly~~ child or a child in need of services who has violated a valid court order to the department, it may order the child conveyed forthwith to any facility designated by the department or direct that the child be left at liberty until otherwise ordered by the department under such conditions as will ensure his or her availability and submission to any orders of the department. If such delinquent ~~or unruly~~ child or a child in need of services who has violated a valid court order is ordered conveyed to the department, the court shall assign an officer or other suitable person to convey such child to any facility designated by the department, provided that the person assigned to convey a girl must be a female. The cost of conveying such child committed to the department to the facility designated by the department shall be paid by the county from which such child is committed, provided that no compensation shall be allowed beyond the actual and necessary expenses of the party conveying and the child conveyed.

(c) When a court commits a delinquent ~~or unruly~~ child or a child in need of services who has violated a valid court order to the department, the court shall at once forward to the department a certified copy of the order of commitment and the court, the probation officer, the prosecuting and police authorities, the school authorities, and other public officials shall make available to the department all pertinent information in their possession with respect to the case. Such reports shall, if the department so requests, be made upon forms furnished by the department or according to an outline provided by the department.

(d)(1) When a delinquent ~~or unruly~~ child has been committed to the department, the department shall, under rules and regulations established by the board, forthwith examine and study the child and investigate all pertinent circumstances of his or her life and behavior. The department shall make periodic reexaminations of all ~~delinquent or unruly~~ such children within its control, except those on release under supervision of the department. Such reexaminations may be made as frequently as the department considers desirable and shall be made with respect to every child at intervals not exceeding one year. Failure of the department to examine ~~a delinquent or unruly child~~ such a child committed to it or to reexamine him or her within one year of a previous examination shall not of itself entitle the child to discharge from control of the department but shall entitle the child to petition the committing court for an order of discharge; and the court shall discharge him or her unless the department, upon due notice, satisfies the court of the necessity of further control.

(2) The department shall keep written records of all examinations and reexaminations, of conclusions based thereon, and of all orders concerning the disposition or treatment of every delinquent ~~or unruly~~ child and every child in need of services who has violated a valid court order subject to its control. Records as may be maintained by the department with respect to a delinquent ~~or unruly~~ child or a child in need of services who has violated a valid court order committed to the department shall not be public records but shall be privileged records and may be disclosed by direction of the commissioner pursuant to federal law in regard to disseminating juvenile criminal history records only to those persons having a legitimate interest therein; provided, however, that the commissioner shall permit the Council of Juvenile Court Judges to inspect and copy such records for the purposes of obtaining statistics on juveniles.

(e) Except as provided by subsection (e.1) of this Code section and subsection ~~(b)~~ (c) of Code Section ~~15-11-70~~ 15-11-602, when a delinquent ~~or unruly~~ child or a child in need of services who has violated a valid court order has been committed to the department for detention and a diagnostic study for the purpose of determining the most satisfactory plan for the child's care and treatment has been completed, the department may:

(1) Permit the child liberty under supervision and upon such conditions as the department may believe conducive to acceptable behavior;

(2) Order the child's confinement under such conditions as the department may believe best designed to serve the child's welfare and as may be in the best interest of the public;

(3) Order reconfinement or renewed release as often as conditions indicate to be desirable;

(4) Revoke or modify any order of the department affecting the child, except an order of final discharge, as often as conditions indicate to be desirable; or

(5) Discharge the child from control of the department pursuant to Code Section 15-11-31 and subsection ~~(a)~~ (c) of Code Section ~~15-11-70~~ 15-11-607 when it is satisfied that such discharge will best serve the child's welfare and the protection of the public.

(e.1)(1) When a child who has been adjudicated delinquent for the commission of a designated felony act as defined in Code Section ~~15-11-63~~ 15-11-2 is released from confinement or custody of the department, it shall be the responsibility of the department to provide notice to any person who was the victim of the child's delinquent acts that the child is being released from confinement or custody.

(2) As long as a good faith attempt to comply with paragraph (1) of this subsection has been made, the department and employees of the department shall not be liable for damages incurred by reason of the department's failure to provide the notice required by paragraph (1) of this subsection.

(3) When a child convicted of a felony offense in a superior court is released from confinement or custody of the department, the department shall provide written notice, including the delinquent or designated felony act committed, to the superintendent of the school system in which such child was enrolled or, if the information is known, the school in which such child was enrolled or plans to be enrolled.

(4) As long as a good faith attempt to comply with paragraph (3) of this subsection has been made, the department and employees of the department shall not be liable for damages incurred by reason of the department's failure to provide notice required by paragraph (3) of this subsection.

(f) As a means of correcting the socially harmful tendencies of a delinquent ~~or unruly~~ child committed to it, the department may:

(1) Require participation by youth in moral, academic, vocational, physical, and correctional training and activities, and provide youth the opportunity for religious activities where practicable in the institutions under the control and supervision of the department;

(2) Require such modes of life and conduct as may seem best adapted to fit and equip him or her for return to full liberty without danger to the public;

(3) Provide such medical, psychiatric, or casework treatment as is necessary; or

(4) Place him or her, if physically fit, in a park, maintenance camp, or forestry camp or on a ranch owned by the state or by the United States and require any child so housed to perform suitable conservation and maintenance work, provided that the children shall not be exploited and that the dominant purpose of such activities shall be to benefit and rehabilitate the children rather than to make the camps self-sustaining.

(g) When funds are available, the department may:

(1) Establish and operate places for detention and diagnosis of all delinquent ~~or unruly~~ children or children in need of services who have violated a valid court order committed to it;

(2) Establish and operate additional treatment and training facilities, including parks, forestry camps, maintenance camps, ranches, and group residences necessary to classify and handle juvenile delinquents of different ages and habits and different mental and physical conditions, according to their needs; and

(3) Establish parole or aftercare supervision to aid children given conditional release to find homes and employment and otherwise to assist them to become reestablished in the community and to lead socially acceptable lives.

(h) Whenever the department finds that any ~~delinquent or unruly~~ child committed to the department is mentally ill or mentally retarded, the department shall have the power to return such ~~delinquent or unruly~~ child to the court of original jurisdiction for appropriate disposition by that court or may, if it so desires, request the court having jurisdiction in the county in which the youth development center or other facility is located to take such action as the condition of the child may require.

(i)(1) A child who has been committed to the department ~~as a delinquent or unruly child~~ for detention in a youth development center or who has been otherwise taken into custody and who has escaped therefrom or who has been placed under supervision and broken the conditions thereof may be taken into custody without a warrant by a sheriff, deputy sheriff, constable, police officer, probation officer, parole officer, or any other officer of this state authorized to serve criminal process, upon a written request made by an employee of the department having knowledge of the escape or of the violation of conditions of supervision. Before a child may be taken into custody for violation of the conditions of supervision, the written request mentioned above must be reviewed by the commissioner or his or her designee. If the commissioner or his or her designee finds that probable cause exists to believe that the child has violated his or her conditions of supervision, he or she may issue an order directing that the child be picked up and returned to custody.

(2) The commissioner may designate as a peace officer who is authorized to exercise the power of arrest any employee of the department whose full-time duties include the preservation of public order, the protection of life and property, the detection of crime, or the supervision of delinquent ~~and unruly~~ children or children in need of services who have violated a valid court order in its institutions, facilities, or programs, or any employee who is a line supervisor of any such employee. The commissioner also may designate as a peace officer who is authorized to exercise the power of arrest any employee of a person or organization which contracts with the department pertaining to

the management, custody, care, and control of delinquent children or children in need of services who have violated a valid court order retained by the person or organization, if that employee's full-time duties include the preservation of public order, the protection of life and property, the detection of crime, or the supervision of delinquent ~~and unruly~~ children or children in need of services who have violated a valid court order in the department's institutions, facilities, or programs, or any employee who is a line supervisor of such employee. The commissioner may designate one or more employees of the department to investigate and apprehend delinquent ~~and unruly~~ children or children in need of services who have violated a valid court order who have escaped from an institution or facility or who have broken the conditions of supervision; provided, however, that the employees so designated shall only be those with primary responsibility for the security functions of youth development centers or whose primary duty consists of the apprehension of youths who have escaped from such institutions or facilities or who have broken the conditions of supervision. An employee of the department so designated shall have the police power to investigate, to apprehend such children, and to arrest any person physically interfering with the proper apprehension of such children. An employee of the department so designated in the investigative section of the department shall have the power to obtain a search warrant for the purpose of locating and apprehending such children. Additionally, such employee, while on the grounds or in the buildings of the department's institutions or facilities, shall have the same law enforcement powers, including the power of arrest, as a law enforcement officer of the local government with police jurisdiction over such institutions or facilities. Such employee shall be authorized to carry weapons, upon written approval of the commissioner, notwithstanding Code Sections 16-11-126, 16-11-128, and 16-11-129. The commissioner shall also be authorized to designate any person or organization with whom the department contracts for services pertaining to the management, custody, care, and control of delinquent ~~and unruly~~ children or children in need of services who have violated a valid court order detained by the person or organization as a law enforcement unit under paragraph (7) of Code Section 35-8-2. Any employee or person designated under this subsection shall be considered to be a peace officer within the meaning of Chapter 8 of Title 35 and must be certified under that chapter.

(3) For the purposes of investigation of delinquent ~~or unruly~~ children or children in need of services who have violated a valid court order who have escaped from institutions or facilities of the department or of delinquent ~~or unruly~~ children or children in need of services who have violated a valid court order who are alleged to have broken the conditions of supervision, the department is empowered and authorized to request and receive from the Georgia Crime Information Center, established by Chapter 3 of Title 35,

any information in the files of the Georgia Crime Information Center which will aid in the apprehension of such children.

(4) An employee designated pursuant to paragraph (2) of this subsection may take a child into custody without a warrant upon personal knowledge or written request of a person having knowledge of the escape or violation of conditions of supervision, or a child may be taken into custody pursuant to Code Section ~~15-11-45~~ 15-11-501. When taking a child into custody pursuant to this paragraph, a designated employee of the department shall have the power to use all force reasonably necessary to take the child into custody.

(5) The child shall be kept in custody in a suitable place designated by the department and there detained until such child may be returned to the custody of the department.

(6) Such taking into custody shall not be termed an arrest; provided, however, that any person taking a child into custody pursuant to this subsection shall have the same immunity from civil and criminal liability as a peace officer making an arrest pursuant to a valid warrant.

(j) The department shall ensure that each delinquent ~~or unruly~~ child or child in need of services who has violated a valid court order it releases under supervision or otherwise has suitable clothing, transportation to his or her home or to the county in which a suitable home or employment has been found for him or her, and such an amount of money as the rules and regulations of the board may authorize. The expenditure for clothing and for transportation and the payment of money to a delinquent ~~or unruly~~ child or a child in need of services who has violated a valid court order released may be made from funds for support and maintenance appropriated by the General Assembly to the department or to the institution from which such child is released or from local funds.

(k) Every child committed to the department as delinquent ~~or unruly~~, if not already discharged, shall be discharged from custody of the department when he reaches his or her twenty-first birthday.

(l) Commitment of a ~~delinquent or unruly~~ child to the custody of the department shall not operate to disqualify such child in any future examination, appointment, or application for public service under the government either of the state or of any political subdivision thereof.

(m) A commitment to the department shall not be received in evidence or used in any way in any proceedings in any court, except in subsequent proceedings for delinquency or ~~unruliness~~ being in need of services involving the same child and except in imposing sentence in any criminal proceeding against the same person.

(n) The department shall conduct a continuing inquiry into the effectiveness of treatment methods it employs in seeking the rehabilitation of maladjusted children. To this end, the department shall maintain a statistical record of arrests and commitments of its wards

subsequent to their discharge from the jurisdiction and control of the department and shall tabulate, analyze, and publish annually these data so that they may be used to evaluate the relative merits of methods of treatment. The department shall cooperate with courts and public and private agencies in the collection of statistics and information regarding juvenile delinquency; arrests made; complaints, informations, and petitions filed; the disposition made thereof; and other information useful in determining the amount and causes of juvenile delinquency in this state. In order to facilitate the collection of such information, the department shall be authorized to inspect and copy all records of the court and law enforcement agencies pertaining to juveniles.

(o) When a child who is committed to the department is under court order to make certain restitution as a part of his or her treatment by the court, the requirement that the restitution be paid in full shall not cease with the order of commitment. The provision of the order requiring restitution shall remain in force and effect during the period of commitment and the department is empowered to enforce said restitution requirement and to direct that payment of funds or notification of service completed be made to the clerk of the juvenile court or another employee of that court designated by the judge."

SECTION 51.

Said title is further amended by revising subsection (b) of Code Section 45-4A-9, relating to sentence of youthful offenders, as follows:

"(b) Any final order of judgment by the court in the case of any such child shall be subject to such modification from time to time as the court may consider to be for the welfare of such child. No commitment of any child to any institution or other custodial agency shall deprive the court of jurisdiction to change the form of the commitment or transfer the custody of the child to some other institution or agency on such conditions as the court may see fit to impose, the duty being constant upon the court to give to all children subject to its jurisdiction such oversight and control in the premises as will be conducive to the welfare of the child and the best interests of the state; provided, however, that the release or parole of any child committed to the department for detention in any of its institutions under the terms of this chapter during the period of one year from the date of commitment shall be had only with the concurrence and recommendation of the commissioner or the commissioner's designated representative; provided, further, that upon releasing or paroling any child adjudicated delinquent for the commission of a designated felony act as defined in Code Section ~~15-11-63~~ 15-11-2 and committed to the department for detention in any of its institutions under the terms of this chapter, the department shall provide notice to any person who was the victim of the child's delinquent acts that the child is being released or paroled. As long as a good faith attempt to comply with the notice requirement of this

subsection has been made, the department and employees of the department shall not be liable for damages incurred by reason of the department's failure to provide the notice required by this subsection."

SECTION 52.

Said title is further amended by revising paragraph (12) of Code Section 49-5-3, relating to definitions regarding services for children and youth, as follows:

"(12) 'Legal custody' means a legal status created by court order embodying the following rights and responsibilities:

(A) The right to have the physical possession of the child;

(B) The right and the duty to protect, train, and discipline the child;

(C) The responsibility to provide the child with food, clothing, shelter, education, and ordinary medical care; and

(D) The right to determine where and with whom the child shall live,

provided that these rights and responsibilities shall be exercised subject to the powers, rights, duties, and responsibilities of the guardian of the person of the child and subject to any residual parental rights and responsibilities. These rights shall be subject to judicial oversight and review pursuant to Code Section ~~15-11-55~~ 15-11-212."

SECTION 53.

Said title is further amended by revising paragraphs (2) and (3) of subsection (e) of Code Section 49-5-41, relating to persons and agencies permitted access to records, as follows:

"(2) A child as defined in paragraph (3) of Code Section ~~15-11-171~~ 15-11-741; or

(3) The subject of an investigation, report, referral, or complaint under Code Section ~~15-11-173~~ 15-11-743"

SECTION 54.

Said title is further amended by revising paragraph (2) of Code Section 49-5-131, relating to definitions, as follows:

"(2) 'Child' means a person under the age of 17 years who is alleged to have committed a delinquent act or a person under the age of 18 years who is alleged to be deprived or is alleged to be ~~a status offender~~ in need of services as those terms are defined by Code Section 15-11-2."

SECTION 55.

Said title is further amended by revising paragraphs (15) and (18) of subsection (a) of Code Section 49-5-281, relating to bill of rights for foster parents, as follows:

"(15) The right to participate in the case planning and decision-making process with the Division of Family and Children Services regarding the child as provided in Code Section ~~15-11-58~~ 15-11-201;"

"(18) The right to be notified in advance, in writing, by the Division of Family and Children Services or the court of any hearing or review where the case plan or permanency of the child is an issue, including initial and periodic reviews held by the court in accordance with Code Section 15-11-217 or by the Judicial Citizen Review Panel in accordance with Code Section 15-11-218, hearings following revocation of the license of an agency which has permanent custody of a child in accordance with Code Section 31-2-6, permanency plan hearings in accordance with Code Section 15-11-230, and motions to extend custody~~,~~ in accordance with Code Section ~~15-11-58~~ 15-11-215;"

SECTION 56.

Code Section 52-7-12 of the Official Code of Georgia Annotated, relating to operation of watercraft while under the influence of alcohol or drugs, is amended by revising subsection (l) as follows:

"(l) A person who violates this Code section while transporting in a moving vessel or personal watercraft or towing on water skis, an aquaplane, a surfboard or similar device a child under the age of 14 years is guilty of the separate offense of endangering a child by operating a moving vessel or personal watercraft under the influence of alcohol or drugs. The offense of endangering a child by operating a moving vessel or personal watercraft under the influence of alcohol or drugs shall not be merged with the offense of operating a vessel under the influence of alcohol or drugs for the purposes of prosecution and sentencing. An offender who is convicted of a violation of this subsection shall be punished in accordance with the provisions of subsection (d) of Code Section 16-12-1~~, relating to the offense of contributing to the delinquency, unruliness, or deprivation of a child~~."

SECTION 57.

This Act shall become effective on January 1, 2011, and this Act shall apply to all juvenile proceedings commenced on and after such date.

SECTION 58.

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