Senate Bill 133

By: Senators Strickland of the 17th, Kirkpatrick of the 32nd, Burns of the 23rd, Dugan of the 30th, Gooch of the 51st and others

A BILL TO BE ENTITLED

AN ACT

To amend Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to the juvenile code, so as to create a uniform process to assume custody of children as a result of disposition orders; to provide for reporting requirements; to provide for a hearing; to provide for related matters; 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 the juvenile code, is amended by adding a new subsection to Code Section 15-11-442, relating to disposition hearing, time limitations, and disposition of a child in need of services, to read as follows:

"(a.1)(1) As used in this subsection, the term 'CHINS' means a child in need of services.

(2) Prior to placing a child in the custody of DFCS as provided by this Code section, the court shall:

(A) Inquire of all the parties to the CHINS case as to what services have been provided to the child or his or her parent or guardian;

(B) Inquire of all the parties to the CHINS case as to what services are available to the child or his or her parent or guardian which could allow the child to remain in his or her home;

(C) Confirm that all parties to the CHINS case have exhausted efforts to secure placement of the child other than in the custody of DFCS;

(D) Make a child protective services report to the Statewide Child Protective Services Intake Communications Center (CICC);

(E) Notify DFCS through the county director, the court liaison, or the attorney representing DFCS by phone or email that the court will be considering placing the child into the custody of DFCS. DFCS shall have an opportunity to be present at the case disposition hearing of the child in need of services where the court is considering placing such child into DFCS custody;

(F) Provide DFCS sufficient time to make reasonable efforts to avoid removal of the child into DFCS custody; and

(G) Provide DFCS a meaningful opportunity to request a continuance for good cause so that reasonable efforts may be made to avoid the child entering DFCS custody. Where good cause exists, DFCS shall have a minimum of 24 hours, excluding weekends and holidays, to make reasonable efforts to avoid the child entering DFCS custody.

(3) Any order removing a child from his or her home shall be based upon a finding by the court that:

(A) DFCS has been provided a meaningful opportunity to make reasonable efforts to avoid the removal of the child from his or her home and whether such reasonable efforts have been made by DFCS;

(B) Continuation of the child in his or her home would be contrary to such child's welfare; and

(C) Removal is in such child's best interest.

(4) Once a child has been ordered into the custody of DFCS, the court shall comply with Article 3 of Chapter 11 of this title, including conducting a preliminary protective hearing not later than 72 hours after the child is placed in DFCS custody as required by Code Section 15-11-145.

(5) All parties to the CHINS case shall provide copies of all medical, psychological, and educational assessments and reports pertaining to the child and the child's parent or guardian in their possession to DFCS within 72 hours of any referral to DFCS by the court or the parties of the CHINS case.

(A) The court shall make an inquiry as to whether any parties to the CHINS case or court personnel, including the court clerk's file, have either possession of or immediate access to such records. The parties or personnel in possession of such records or with access to such records shall provide copies of all such records to DFCS and an opportunity to review such records prior to DFCS assuming physical custody of the child, notwithstanding any provisions granting DFCS immediate custody of the child;

(B) Each county DFCS office shall designate at least one county DFCS employee to receive such documents via email; and

(C) The court shall also inquire of all parties to the CHINS case as to the existence of assessments, evaluations, and reports pertaining to the child that are not in the possession of the parties. If any such records exist, the court shall have an affirmative duty to issue a subpoena for or immediately order the production of said records to be made available to DFCS."

SECTION 2.

Said chapter is further amended by adding a new subsection to Code Section 15-11-601, relating to disposition of delinquent act, to read as follows:

"(a.1)(1) Prior to placing a child in the custody of DFCS as provided by this Code section, the court shall:

(A) Inquire of all the parties to the delinquency case as to what services have been provided to the child or his or her parent or guardian;

(B) Confirm that all parties to the delinquency case have exhausted efforts to secure placement of the child other than in the custody of DFCS;

(C) Make a child protective services report to the Statewide Child Protective Services Communications Center (CICC);

(D) Notify DFCS through the county director, the court liaison, or the attorney representing DFCS by phone or email that the court will be considering placing the child into the custody of DFCS. DFCS shall have an opportunity to be present at the delinquency hearing where the court is considering placing such child into DFCS custody;

(E) Provide DFCS sufficient time to make reasonable efforts to avoid removal of the child into DFCS custody; and

(F) Provide DFCS a meaningful opportunity to request a continuance for good cause so that reasonable efforts may be made to avoid the child entering DFCS custody. Where good cause exists, DFCS shall have a minimum of 24 hours, excluding weekends and holidays, to make reasonable efforts to avoid the child entering DFCS custody.

(2) Any order removing a child from his or her home shall be based upon a finding that:

(A) DFCS has had an opportunity to make reasonable efforts to avoid the removal of the child from his or her home, and whether such reasonable efforts have been made by DFCS;

(B) Continuation of the child in his or her home would be contrary to such child's welfare; and

(C) Removal is in such child's best interest.

(3) Once a child has been ordered into the custody of DFCS, the court shall comply with Article 3 of Chapter 11 of this title ,including conducting a preliminary protective hearing

to be held not later than 72 hours after the child is placed in DFCS custody as required by Code Section 15-11-145.

(4) All parties to the delinquency case shall provide copies of all medical, psychological, and educational assessments and reports pertaining to the child and the child's parent or guardian in their possession to DFCS within 72 hours of any referral to DFCS by the court or the parties to the delinquency case.

(A) The court shall make an inquiry as to whether any parties to the delinquency case or court personnel, including the court clerk's file, have either possession of or immediate access to such records. The parties or personnel in possession of such records or with access to such records shall provide copies of all such records to the DFCS prior to DFCS assuming physical custody of the child, notwithstanding any provisions granting DFCS immediate custody of the child;

(B) Each county DFCS office shall designate at least one county DFCS employee to receive such documents via email; and

(C) The court shall also inquire of all parties to the delinquency case as to the existence of assessments, evaluations, and reports pertaining to the child that are not in the possession of the parties. If any such records exist, the court shall have an affirmative duty to issue a subpoena for or immediately order the production of said records to be made available to DFCS.″

SECTION 3.

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