

Senate Bill 230

By: Senators Brass of the 28th, Echols of the 49th, Gooch of the 51st, Summers of the 13th and Robertson of the 29th

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 5 of Title 49 of the Official Code of Georgia Annotated, relating to
2 programs and protection for children, so as to revise provisions relating to the foster parents
3 bill of rights; to provide for definitions; to provide that such rights include relative caregivers
4 and fictive kin; to provide for the development of administrative procedures; to provide for
5 related matters; to provide for an effective date; to repeal conflicting laws; and for other
6 purposes.

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

8 **SECTION 1.**

9 Chapter 5 of Title 49 of the Official Code of Georgia Annotated, relating to programs and
10 protection for children, is amended in Code Section 49-5-41, relating to persons and agencies
11 permitted access to records, by adding a new subsection to read as follows:

12 "(h) As used in this Code section, the term 'foster parent' shall have the same meaning as
13 in Code Section 49-5-281."

SECTION 2.

Said chapter is further amended by revising Code Section 49-5-281, relating to bill of rights for foster parents and filing of grievance in event of violation, as follows:

"49-5-281.

(a) As used in this Code section, the term:

(1) 'Certified volunteer advocate' means an individual approved as a volunteer advocate by the Office of the Child Advocate for the Protection of Children.

(2) 'Fictive kin' shall have the same meaning as in Code Section 15-11-2.

(3) 'Foster parent' means foster parents, relative caregivers, and fictive kin who provide care for children in the custody of the Division of Family and Children Services of the Department of Human Services.

(4) 'Reasonable and prudent parent standard' shall have the same meaning as in Code Section 49-5-3.

(5) 'Relative caregiver' means a grandparent, great-grandparent, aunt, uncle, great aunt, great uncle, cousin, sibling, stepparent, or step-sibling who has assumed responsibility for raising a child in an informal, noncustodial, or guardianship capacity.

(b) The General Assembly finds that foster parents providing care for children who are in the custody of the Department of Human Services play an integral, indispensable, and vital role in the state's effort to care for dependent children displaced from their homes. The General Assembly further finds that it is in the best interest of Georgia's child welfare system to acknowledge ~~foster parents~~ these caregivers as active and participating members of this system and to support them through the following bill of rights for foster parents who care for children in the custody of the Department of Human Services ~~through direct approval and placement by the department:~~

(1) The right to be treated by the Division of Family and Children Services of the Department of Human Services and other partners in the care of abused children with

dignity, respect, and trust as a primary provider of foster care and a member of the professional team caring for ~~foster children~~ children in foster care;

(2) The right not to be discriminated against on the basis of religion, race, color, creed, gender, marital status, national origin, age, or physical handicap;

(3) The right to continue with his or her own family values and beliefs, so long as the values and beliefs of the foster child and the birth family are not infringed upon and consideration is given to the special needs of children who have experienced trauma and separation from their families. This shall include the right to exercise parental authority within the limits of policies, procedures, and other directions of the Division of Family and Children Services and within the limits of the laws of the State of Georgia;

(3.1) The right to use a reasonable and prudent parent standard when determining the ability of a child in foster care to engage in extracurricular, enrichment, cultural, social, or skill-building activities.

(4) The right to receive both standardized pre-service training, including training in Division of Family and Children Services policies and procedures and appropriate ongoing training, by the Division of Family and Children Services or the ~~placing~~ child-placing agency at appropriate intervals to meet mutually assessed needs of the child and to improve foster parents' skills and to apprise foster parents of any changes in policies and procedures of the Division of Family and Children Services and any changes in applicable law;

(5) The right to be apprised of, and to seek out from independent sources, information, laws, and guidelines on the obligations, responsibilities, and opportunities of foster parenting and to be kept informed of any changes in laws, policies, and procedures regarding foster parenting by the Division of Family and Children Services in a timely manner and at least annually;

(6) The right to receive timely financial reimbursement according to the agreement between the foster parents and the Department of Human Services from funds

appropriated by the General Assembly and to be notified of any costs or expenses for which the foster parent may be eligible for reimbursement;

(7) The right to receive information from the Division of Family and Children Services on how to receive services and reach personnel 24 hours per day, seven days per week;

(8) The right prior to the placement of a child to be notified of any issues relative to the child that may jeopardize the health and safety of the foster family or the child or alter the manner in which foster care should be administered;

(9) The right to discuss information regarding the child prior to placement. The Division of Family and Children Services will provide such information as it becomes available as allowable under state and federal laws;

(10) The right to refuse placement of a child in the foster home or to request, upon reasonable notice, the removal of a child from the foster home without fear of reprisal or any adverse effect on being assigned any future foster or adoptive placements;

(11) The right to receive any information through the Division of Family and Children Services regarding the number of times a foster child has been moved and the reasons therefor; and to receive the names and phone numbers of the previous foster parents if the previous foster parents have authorized such release and as allowable under state and federal law;

(12) The right, at any time during which a child is placed with the foster parent, to receive from the Division of Family and Children Services any and all additional pertinent information relevant to the care of the child;

(13) The right to be provided with a written copy of the individual treatment and service plan or case plan created pursuant to Code Section 15-11-201 concerning the child in the foster parent's home and to discuss such plan with the case manager, as well as reasonable notification of any changes to that plan;

(14) The right to participate in the planning of visitation with the child and the child's biological family with the foster parents recognizing that visitation with his or her biological family is important to the child;

(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 15-11-201;

(16) The right to provide input concerning the plan of services for the child and to have that input considered by the department;

(17) The right to communicate for the purpose of participating in the case of the foster child with other professionals who work with such child within the context of the professional team, including, but not limited to, therapists, physicians, and teachers, as allowable under state and federal law;

(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 15-11-216 or by the Judicial Citizen Review Panel in accordance with Code Section 15-11-217, hearings following revocation of the license of an agency which has permanent custody of a child in accordance with Code Section 31-2-6, and permanency plan hearings in accordance with Code Section 15-11-230;

(19) The right to be considered, where appropriate, as a preferential placement option when a child who was formerly placed with the foster parents has reentered the foster care system;

(20) The right to be considered, where appropriate, as the first choice as a permanent parent or parents for a child who, after 12 months of placement in the foster home, is released for adoption or permanent foster care;

(21) The right to be provided a fair and timely investigation of complaints concerning the operation of a foster home;

(22) The right to an explanation of a corrective action plan or policy violation relating to foster parents; and

~~(23) The right, to the extent allowed under state and federal law, to have an advocate present at all portions of investigations of abuse and neglect at which an accused foster parent is present. Child abuse and neglect investigations shall be investigated pursuant to Division of Family and Children Services policies and procedures, and any removal of a foster child shall be conducted pursuant to those policies and procedures. The Division of Family and Children Services will permit volunteers with the Adoptive and Foster Parent Association of Georgia to be educated concerning the procedures relevant to investigations of alleged abuse and neglect and the rights of accused foster parents. After such training, a volunteer will be permitted to serve as an advocate for an accused foster parent. The right to be provided a fair, timely, and impartial investigation of complaints concerning the foster parent's licensure, to be provided the opportunity to have a certified volunteer advocate of the foster parent's choosing present during the investigation, and to be provided due process during the investigation; the right to be provided the opportunity to request and receive mediation or an administrative review of decisions that affect licensing parameters, or both mediation and an administrative review; and the right to have decisions concerning a licensing corrective action plan specifically explained and cited to the licensing standards violated. All communication received by the certified volunteer advocate in this capacity shall be strictly confidential;~~

(24) The right to request that a certified volunteer advocate be present at all meetings with the department where the foster parent is present, including, but not limited to, individual treatment and service planning, administrative hearings, the grievance and mediation process, the adoption process, and any meetings relating to an allegation process. All communication received by the certified volunteer advocate in this capacity shall be strictly confidential;

(25) The right to be free from retaliation or discrimination based upon the filing of any complaint or grievance with the Division of Family and Children Services; and

(26) The right to seek and obtain independent legal advice and counsel regarding the foster parent's status.

~~(b)~~(c) This bill of rights shall be given full consideration when Division of Family and Children Services policies regarding foster care and adoptive placement are developed.

~~(c)~~(d) Foster parents who care for children in the custody of the Department of Human Services through direct approval and placement by the department shall have the right to file a grievance in response to any violation of this article, ~~which shall be such foster parents' exclusive administrative remedy for any violation of this article.~~ The Division of Family and Children Services and the Office of the Child Advocate for the Protection of Children, along with an advisory committee comprised in part of representatives from ~~the Adoptive and Foster Parent Association of Georgia, who provide private placements~~ foster parent advocacy organizations will develop a grievance procedure, including a mediation procedure and an administrative procedure, to be published in departmental policy manuals and the Foster Parent Handbook no later than July 1, ~~2005~~ 2023.

~~(d)~~(e) The General Assembly further finds that it is also in the best interest of Georgia's child welfare system for the Division of Family and Children Services of the Department of Human Services to recognize the bill of rights, with reasonable modifications made to adapt the provisions as required to make them applicable to private agencies, by incorporating them into contracts with private agencies serving children in the custody of the Department of Human Services. The Department of Human Services shall, by contract, require that providers, with whom it contracts for the placement of children in its custody, give full consideration to the rights in subsection ~~(a)~~ (b) of this Code section in developing their policies, practices, and procedures regarding foster care and adoptive placement. The department shall provide information needed by the contractors to meet the requirements of this subsection in a timely manner.

172 ~~(e)(f)~~ The Department of Human Services, in consultation with appropriate provider
173 associations and ~~the Adoptive and Foster Parent Association of Georgia~~ foster parent
174 advocacy organizations, shall develop a grievance procedure for dealing with any
175 grievances their foster parents have in response to any violation of this article, no later than
176 July 1, ~~2007~~ 2023. The department shall enforce this provision through policies and
177 procedures and through its contracts with providers."

178 **SECTION 3.**

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

181 **SECTION 4.**

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