

House Bill 639

By: Representatives Wiedower of the 121<sup>st</sup>, Efstration of the 104<sup>th</sup>, Cox of the 28<sup>th</sup>, Gaines of the 120<sup>th</sup>, Jasperse of the 11<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to the  
2 juvenile code, so as to expedite and prioritize processes for the termination of parental rights  
3 in certain cases involving parental incapacity and child maltreatment; to provide for  
4 definitions; to revise circumstances for when reasonable efforts by DFCS are not required;  
5 to provide for reporting; to revise requirements for nonreunification hearings; to clarify when  
6 a termination of parental rights petition should be filed and the parties entitled to file such  
7 petition; to provide for determinations to be made by the court; to require the court to  
8 consider the child's attachments when ruling on a petition to terminate parental rights; to  
9 provide for related matters; to provide for legislative findings; to provide for an effective date  
10 and applicability; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 The General Assembly finds that although the efforts of the state's child welfare  
14 professionals to engage with families and resolve issues of maltreatment through the use of  
15 appropriate services is proper and fit, there are certain situations in which the child's right to  
16 grow and thrive in a safe, loving environment and to be cared for by a responsible,

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17 trustworthy adult must take precedence. The General Assembly therefore finds it necessary,  
18 in appropriate situations, to expedite safe, stable, and permanent placement with relatives,  
19 fictive kin, or adoptive family for those children who have suffered significant and chronic  
20 abuse and neglect at the hands of the parent.

21 **SECTION 2.**

22 Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to the juvenile  
23 code, is amended in Code Section 15-11-201, relating to DFCS case plan and contents, by  
24 revising paragraph (14) of subsection (b) as follows:

25 "(14) A recommendation for a permanency plan for such child. If, after considering  
26 reunification, adoptive placement, permanent guardianship, or placement with a fit and  
27 willing relative, DFCS recommends placement in another planned permanent living  
28 arrangement for a child who has attained the age of 16, the case plan shall include:

29 (A) Documentation of a compelling reason or reasons why reunification, termination  
30 of parental rights and adoption, permanent guardianship, or placement with a fit and  
31 willing relative are not in the child's best interests;

32 (B) Documentation of the intensive, ongoing, and unsuccessful efforts made by the  
33 state agency to return the child home or secure a placement for the child with a fit and  
34 willing relative, a legal guardian, or an adoptive parent, including through efforts that  
35 utilize search technology, including social media, to find biological family members for  
36 the child; and

37 (C) Documentation of the steps the state agency is taking to ensure that the child's  
38 foster family home or child care institution is following the reasonable and prudent  
39 parent standard, as defined in Code Section 49-5-3, and documentation that the child  
40 has regular, ongoing opportunities to engage in age or developmentally appropriate  
41 activities, as defined in Code Section 49-5-3, including by consulting with the child in

42 an age-appropriate manner about the opportunities of the child to participate in the  
43 activities.

44 For purposes of this paragraph, a 'compelling reason' shall have the same meaning as in  
45 ~~paragraph (2)~~ of subsection ~~(b)~~ (c) of Code Section 15-11-233;"

46 **SECTION 3.**

47 Said chapter is further amended in Code Section 15-11-203, relating to when reasonable  
48 efforts by DFCS not required, by revising subsection (a) and by adding a new subsection to  
49 read as follows:

50 "(a) The court may direct that reasonable efforts to eliminate the need for placement of an  
51 alleged dependent child ~~shall not be~~ are not required ~~or and~~ shall cease if the court  
52 determines by clear and convincing evidence and makes written findings of fact that a  
53 parent of an alleged dependent child:

- 54 (1) Has subjected his or her child to aggravated circumstances;
- 55 (2) Has been convicted of the murder or murder in the second degree of another child of  
56 such parent;
- 57 (3) Has been convicted of the ~~voluntary manslaughter~~ murder or murder in the second  
58 degree of another child of such parent;
- 59 (4) Has been convicted of aiding or abetting, attempting, conspiring, or soliciting to  
60 commit murder or voluntary manslaughter of another child of such parent;
- 61 (5) Has been convicted of committing a felony assault that results in serious bodily  
62 injury to the child or another child of such parent;
- 63 (6) Has been convicted of rape, sodomy, aggravated sodomy, child molestation,  
64 aggravated child molestation, incest, sexual battery, or aggravated sexual battery of the  
65 alleged dependent child or another child of the parent;
- 66 (7) Is required to register as a sex offender and that preservation of a parent-child  
67 relationship is not in the alleged dependent child's best interests; or

68 (8) Has had his or her rights to a sibling of the alleged dependent child terminated  
69 involuntarily and the circumstances leading to such termination of parental rights to that  
70 sibling have not been resolved."

71 "(c) At each hearing, DFCS shall be required to report in writing to all parties and the court  
72 whether there are reasonable grounds to believe one or more of the circumstances  
73 enumerated in subsection (a) of this Code section exist. The court shall be required to  
74 make written findings at each hearing on this issue such circumstances. The court shall  
75 within 30 days hold a nonreunification hearing pursuant to Code Section 15-11-204 to  
76 determine whether reunification services should be provided."

77 **SECTION 4.**

78 Said chapter is further amended in Code Section 15-11-204, relating to nonreunification  
79 hearing, by revising subsections (a) and (b) as follows:

80 "(a) If the DFCS report does not contain a plan for reunification services, When the court  
81 finds reasonable grounds to believe that a circumstance described in subsection (a) of Code  
82 Section 15-11-203 exists or the DFCS report does not contain a plan for reunification  
83 services, the court shall hold a nonreunification hearing to review the report and the  
84 determination that a plan for reunification services is not appropriate. whether reunification  
85 is the appropriate plan.

86 (b) The nonreunification hearing shall be held no later than 30 days from the time the  
87 DFCS report is filed or the court finds that a reasonable ground for nonreunification exists.  
88 Notice of the nonreunification hearing shall be provided, by summons, to the child  
89 adjudicated as a dependent child if he or she is 14 years of age or older; his or her parent,  
90 guardian, or legal custodian, attorney, guardian ad litem, if any, and specified nonparties  
91 entitled to notice."

**SECTION 5.**

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Said chapter is further amended by revising Code Section 15-11-233, relating to termination of parental rights and exceptions, as follows:

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

(1) A child adjudicated as a dependent child has been in foster care under the responsibility of DFCS for 15 of the most recent 22 months;

(2) The court has made a determination that the parent has subjected his or her child to aggravated circumstances; or

(3) The court has made a determination that the parent of a child adjudicated as a dependent child has been convicted of:

(A) The murder of another child of such parent;

(B) Murder or murder in the second degree of another child of such parent;

(C) Voluntary manslaughter of another child of such parent;

(D) Voluntary manslaughter of the other parent of such child;

(E) Aiding or abetting, attempting, conspiring, or soliciting to commit murder or second degree murder or voluntary manslaughter of another child of such parent;

(F) Aiding or abetting, attempting, conspiring, or soliciting to commit murder or second degree murder or voluntary manslaughter of the other parent of such child; or

(G) Committing felony assault that has resulted in serious bodily injury to such child or to another child of such parent.

(b) Unless a compelling reason exists pursuant to subsection (c) of this Code section, the petition required by subsection (a) of this Code section shall be filed within 30 days of a determination by the court that:

119 (1) Any of the circumstances of described in paragraph (3) of subsection (a) of this Code  
120 section exist;

121 (2) DFCS is not required to provide reunification services pursuant to Code Section  
122 15-11-203; or

123 (3) A parent has voluntarily surrendered his or her parental rights.

124 ~~(b)~~(c) If DFCS has a compelling reason for not filing a termination of parental rights  
125 petition pursuant to subsection (a) of this Code section, it shall file with the court, within  
126 the deadline for filing such petition, a written report stating that termination Termination  
127 of parental rights may not be in the best interests of a child adjudicated as a dependent child  
128 when due to one or more of the following:

129 (1) Such child is being cared for by his or her relative that intends to be a permanent  
130 placement for such child in accordance with a permanency plan approved by the court  
131 and in a time frame that is consistent with the developmental needs of such child;

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

135 (A) A parent of such child is successfully participating in services that will make it  
136 possible for his or her child to safely return home in the reasonably foreseeable future;

137 (B) Another permanency plan is better suited to meet the health and safety needs of  
138 such child. Documentation that another permanent plan is better suited to meet the  
139 health and safety needs of such child may include documentation that:

140 (i) Such child is 14 years of age or older and objects to termination of parental rights.

141 Prior to accepting a child's objection, the court shall personally question such child  
142 in chambers to determine whether the objection is a voluntary and knowing choice;

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

145 (iii) The parent of such child and such child have a significant bond, but such parent  
146 is unable to care for such child because of an emotional or physical disability and  
147 such child's caregiver has committed to raising such child to the age of majority and  
148 facilitating visitation with such disabled parent; or

149 (iv) Such child is in a residential treatment facility that provides services specifically  
150 designed to address his or her treatment needs and the court determines that his or her  
151 needs could not be served by a less restrictive placement;

152 (C) Such child is living with his or her relative who is unable or unwilling to adopt  
153 such child, but who is willing and capable of providing such child with a stable and  
154 permanent home environment ~~and the removal of such child from the physical custody  
155 of his or her relative would be detrimental to such child's emotional well-being;~~

156 (D) The court or judicial citizen review panel, in a prior hearing or review, determined  
157 that while the case plan was to reunify the family, DFCS did not make reasonable  
158 efforts; or

159 (E) Such child is an unaccompanied refugee or there are international legal obligations  
160 or foreign policy reasons that would preclude terminating parental rights; or

161 (3) DFCS has not provided to the family of such child services deemed necessary for his  
162 or her safe return to his or her home, consistent with the specific time frames for the  
163 accomplishment of the case plan goals.

164 ~~(e)~~(d) The recommendation by DFCS that termination of parental rights is not in the best  
165 interests of a child shall be based on the present family circumstances of such child and  
166 shall not preclude a different recommendation at a later date if the family circumstances  
167 of a child adjudicated as a dependent child change.

168 ~~(d)~~(e) At least 30 days prior to the fifteenth month a child has been in foster care and when  
169 the court deems appropriate, the court shall review DFCS's determination that filing a  
170 petition to terminate parental rights would not be in the best interests of such child, as  
171 provided for in paragraph (2) of subsection ~~(b)~~ (c) of this Code section. Such hearing may

172 be in conjunction with other matters of the case. At such hearing, the court may appoint  
 173 an attorney guardian ad litem, who may, after his or her own determination, file a petition  
 174 to terminate parental rights on behalf of the child. The court in its sole discretion may  
 175 make any additional rulings."

#### 176 SECTION 6.

177 Said chapter is further amended in Code Section 15-11-310, relating to grounds for  
 178 determining termination of parental rights, by revising subsection (a) as follows:

179 "(a) In considering the termination of parental rights, the court shall first determine  
 180 whether one of the following statutory grounds for termination of parental rights has been  
 181 met:

182 (1) The parent has given written consent to termination which has been acknowledged  
 183 by the court or has voluntarily surrendered his or her child for adoption;

184 (2) The parent has subjected his or her child to aggravated circumstances;

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

188 (4) A child is abandoned, as such term is defined in Code Section 15-11-2, by his or her  
 189 parent; or

190 (5) A child is a dependent child due to lack of proper parental care or control by his or  
 191 her parent, reasonable efforts to remedy the circumstances have been unsuccessful or  
 192 were not required, such cause of dependency is likely to continue or will not likely be  
 193 remedied in the reasonably foreseeable future, and:

194 (A) ~~Returning such child to his or her parent is likely to cause serious physical, mental,~~  
 195 ~~moral, or emotional harm to such child or threaten the physical safety or well-being of~~  
 196 ~~such child; or~~ Continuation of the parent and child relationship will cause or is likely  
 197 to cause significant physical, mental, moral, or emotional harm to such child; or

198 ~~(B) Continuation of the parent and child relationship will cause or is likely to cause~~  
199 ~~serious physical, mental, moral, or emotional harm to such child.~~

200 (B) In determining harm to the child as required by this subsection, the General  
201 Assembly finds that children have a strong biological and psychological need for stable  
202 attachment to a trusted adult caregiver, and that lack of such attachment is harmful to  
203 the child. Therefore, in considering whether the child will suffer serious physical,  
204 mental, moral, or emotional harm under this Code section, the court shall consider:

205 (i) Whether the child is attached to the parent, and the quality of any such attachment;

206 (ii) Whether the child is attached to an alternative caregiver, and the quality of any  
207 such attachment;

208 (iii) The psychological needs of the child for secure attachment; and

209 (iv) The danger of further disruptions to the child's attachments."

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#### **SECTION 7.**

211 This Act shall become effective upon its approval by the Governor or upon its becoming law  
212 without such approval and shall apply to all dependency and termination of parental rights  
213 cases currently pending, and all such cases later filed, in the juvenile court.

214

#### **SECTION 8.**

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