

The House Committee on Judiciary, Juvenile offers the following substitute to HB 256:

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
3 Placements Bill of Rights"; to provide for definitions; to provide that such rights include
4 relative caregivers and fictive kin; to provide for the development of administrative
5 procedures; to provide for related matters; to provide for a short title; to provide for an
6 effective date; to repeal conflicting laws; and for other 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 by revising Code Section 49-5-280, relating to short title,
11 as follows:

12 "49-5-280.

13 This article shall be known and may be cited as the 'Foster ~~Parents~~ Placements Bill of
14 Rights."

SECTION 2.

Said chapter is further amended in Code Section 49-5-41, relating to persons and agencies permitted access to records, by adding a new subsection to read as follows:

"(h) As used in this subsection, the terms 'certified volunteer advocate' and 'foster placement' shall have the same meanings as set forth in Code Section 49-5-281. Notwithstanding any other provision of law, any foster placement shall have reasonable access to nonidentifying information from the placement or child protective services record compiled by any state department or agency having custody of a child with respect to any child who has been placed in the care or custody of such agency, excluding all documents obtained from outside sources which cannot be redisclosed under state or federal law. A department or agency shall respond to a request for access to a child's record within 14 days of receipt of such written request. A foster placement may share such information with a certified volunteer advocate he or she has enlisted to participate in investigations and meetings with the department pursuant to Code Section 49-5-281. Any foster placement or certified volunteer advocate who has access to a child's records shall be subject to the penalties imposed by Code Section 49-5-44 for unauthorized access to or use of such records. Such record shall include reports of abuse of such child and the social history of the child and the child's family, the medical history of such child, including psychological or psychiatric evaluations, educational records as allowed by state or federal law, and any plan of care or placement plan developed by the department."

SECTION 3.

Said chapter is further amended by revising Code Section 49-5-281, relating to bill of rights for foster parents and grievances for violations, as follows:

"49-5-281.

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

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

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

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

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

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

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

59 (1) The right to be treated by the Division of Family and Children Services of the
 60 Department of Human Services and other partners in the care of abused children with
 61 dignity, respect, and trust as a primary provider of foster care and a member of the
 62 professional team caring for ~~foster children~~ children in foster care;

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

65 (3) The right to continue with his or her own family values and beliefs, so long as the
 66 values and beliefs of the foster child and the birth family are not infringed upon and

67 consideration is given to the special needs of children who have experienced trauma and
68 separation from their families. This shall include the right to exercise parental authority
69 within the limits of policies, procedures, and other directions of the Division of Family
70 and Children Services and within the limits of the laws of the State of Georgia;

71 (3.1) The right to use a reasonable and prudent parent standard when determining the
72 ability of a child in foster care to engage in extracurricular, enrichment, cultural, social,
73 or skill-building activities;

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

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

86 (6) The right to receive timely financial reimbursement according to ~~the~~ any agreement
87 between the foster ~~parents~~ placement and the Department of Human Services from funds
88 appropriated by the General Assembly and to be notified of any costs or expenses for
89 which the foster ~~parent~~ placement may be eligible for reimbursement;

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

- 92 (8) The right prior to the placement of a child to be notified of any issues relative to the
93 child that may jeopardize the health and safety of the foster ~~family~~ placements or the
94 child or alter the manner in which foster care should be administered;
- 95 (9) The right to discuss information regarding the child prior to placement. The Division
96 of Family and Children Services will provide such information as it becomes available
97 as allowable under state and federal laws;
- 98 (10) The right to refuse placement of a child in the foster ~~home~~ placement or to request,
99 upon reasonable notice, the removal of a child from the foster home without fear of
100 reprisal or any adverse effect on being assigned any future foster or adoptive placements;
- 101 (11) The right to receive any information through the Division of Family and Children
102 Services regarding the number of times a foster child in foster care has been moved and
103 the reasons therefor; and to receive the names and phone numbers of the previous foster
104 ~~parents if the previous foster parents placement if the previous foster placements~~ placements have
105 authorized such release and as allowable under state and federal law;
- 106 (12) The right, at any time during which a child is placed with the foster ~~parent~~
107 placement, to receive from the Division of Family and Children Services any and all
108 additional pertinent information relevant to the care of the child;
- 109 (13) The right to be provided with a written copy of the individual treatment and service
110 plan or case plan created pursuant to Code Section 15-11-201 concerning the child in the
111 foster ~~parent's placement's~~ placement's home and to discuss such plan with the case manager, as well
112 as reasonable notification of any changes to that plan;
- 113 (14) The right to participate in the planning of visitation with the child and the child's
114 biological family with the foster parents recognizing that visitation with his or her
115 biological family is important to the child;
- 116 (15) The right to participate in the case planning and decision-making process with the
117 Division of Family and Children Services regarding the child as provided in Code
118 Section 15-11-201;

- 119 (16) The right to provide input concerning the plan of services for the child and to have
120 that input considered by the department;
- 121 (17) The right to communicate for the purpose of participating in the case of the foster
122 child with other professionals who work with such child within the context of the
123 professional team, including, but not limited to, therapists, physicians, and teachers, as
124 allowable under state and federal law;
- 125 (18) The right to be notified in advance, in writing, by the Division of Family and
126 Children Services or the court of any hearing or review where the case plan or
127 permanency of the child is an issue, including initial and periodic reviews held by the
128 court in accordance with Code Section 15-11-216 or by the Judicial Citizen Review Panel
129 in accordance with Code Section 15-11-217, hearings following revocation of the license
130 of an agency which has permanent custody of a child in accordance with Code
131 Section 31-2-6, and permanency plan hearings in accordance with Code
132 Section 15-11-230;
- 133 (19) The right to be considered, where appropriate, as a preferential placement option
134 when a child who was formerly placed with the foster ~~parents~~ placement has reentered
135 the foster care system;
- 136 (20) The right to be considered, where appropriate, as the first choice as a permanent
137 parent or parents for a child who, after 12 months of ~~placement in the foster home~~ foster
138 placement, is released for adoption or permanent foster care;
- 139 (21) The right to be provided a fair and timely investigation of complaints concerning
140 the operation of a foster placement home;
- 141 (22) The right to an explanation of a corrective action plan or policy violation relating
142 to foster ~~parents~~, and placements;
- 143 ~~(23) The right, to the extent allowed under state and federal law, to have an advocate~~
144 ~~present at all portions of investigations of abuse and neglect at which an accused foster~~
145 ~~parent is present. Child abuse and neglect investigations shall be investigated pursuant~~

146 ~~to Division of Family and Children Services policies and procedures, and any removal~~
147 ~~of a foster child shall be conducted pursuant to those policies and procedures. The~~
148 ~~Division of Family and Children Services will permit volunteers with the Adoptive and~~
149 ~~Foster Parent Association of Georgia to be educated concerning the procedures relevant~~
150 ~~to investigations of alleged abuse and neglect and the rights of accused foster parents.~~
151 ~~After such training, a volunteer will be permitted to serve as an advocate for an accused~~
152 ~~foster parent. The right to be provided a fair, timely, and impartial investigation of~~
153 ~~complaints concerning the foster placement's home, to be provided the opportunity to~~
154 ~~have a certified volunteer advocate of the foster placement's choosing present during the~~
155 ~~investigation, and to be provided due process during the investigation; the right to be~~
156 ~~provided the opportunity to request and receive mediation or an administrative review of~~
157 ~~decisions that affect licensing parameters, or both mediation and an administrative~~
158 ~~review.~~ All communication received by the certified volunteer advocate in this capacity
159 shall be strictly confidential;

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

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

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

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

172 ~~(c)~~(d) Foster ~~parents~~ placements who care for children in the custody of the Department
173 of Human Services through direct approval and placement by the department shall have the
174 right to file a grievance in response to any violation of this article, ~~which shall be such~~
175 ~~foster parents' exclusive administrative remedy for any violation of this article.~~ The
176 Division of Family and Children Services and the Office of the Child Advocate for the
177 Protection of Children, along with an advisory committee ~~comprised~~ composed in part of
178 representatives from ~~the Adoptive and Foster Parent Association of Georgia, who provide~~
179 ~~private placements~~ foster placement advocacy organizations, will develop a grievance
180 procedure, including a mediation procedure and an administrative procedure, to be
181 published in departmental policy manuals and the Foster Parent Handbook no later than
182 July 1, ~~2005~~ 2026.

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

194 ~~(e)~~(f) The Department of Human Services, in consultation with appropriate provider
195 associations and ~~the Adoptive and Foster Parent Association of Georgia~~ foster parent
196 advocacy organizations, shall develop a grievance procedure for dealing with any
197 grievances their foster parents have in response to any violation of this article, no later than

198 July 1, ~~2007~~ 2026. The department shall enforce this provision through policies and
199 procedures and through its contracts with providers."

200 **SECTION 4.**

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

203 **SECTION 5.**

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