

House Bill 256 (AS PASSED HOUSE AND SENATE)

By: Representatives Wiedower of the 121st, Gullett of the 19th, Efstration of the 104th, Clifton of the 131st, Hatchett of the 155th, and others

A BILL TO BE ENTITLED

AN ACT

1 To amend Article 1 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated,
2 relating to general provisions relative to the juvenile code, so as to require the recording of
3 all proceedings under the juvenile code; to establish the right of parties to obtain a full and
4 complete record of proceedings under the juvenile code; to establish the right of the
5 Department of Human Services to obtain a full and complete record of proceedings under the
6 juvenile code in which it has been permitted to participate by the juvenile court; to amend
7 Chapter 5 of Title 49 of the Official Code of Georgia Annotated, relating to programs and
8 protection for children, so as to revise provisions relating to the "Foster Placements Bill of
9 Rights"; to provide for definitions; to provide that such rights include relative caregivers and
10 fictive kin; to provide for the development of administrative procedures; to provide for
11 related matters; to provide for a short title; to provide for an effective date; to repeal
12 conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

14
15 Article 1 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to
16 general provisions relative to the juvenile code, is amended by revising Code Section
17 15-11-17, relating to conduct of hearings generally and applicability of Title 24, as follows:

18 "15-11-17.

19 (a) All hearings under this chapter shall be conducted by the court without a jury. Any
20 hearing may be adjourned from time to time within the discretion of the court.

21 (b) Except as otherwise provided, all hearings shall be conducted in accordance with
22 Title 24.

23 (c) ~~All proceedings under this chapter~~ Proceedings shall be recorded by stenographic notes
24 or by electronic, mechanical, or other appropriate means capable of accurately capturing
25 a full and complete record of all words spoken during the proceedings.

26 (d) A juvenile court judge, an associate juvenile court judge, a judge pro tempore of the
27 juvenile court, or any person sitting as a juvenile court judge may conduct hearings in
28 connection with any proceeding under this chapter in any county within the judicial circuit.
29 When a superior court judge sits as a juvenile court judge, hearings in connection with any
30 proceeding under this chapter may be heard before such judge in any county within the
31 judicial circuit over which the judge presides."

SECTION 2.

32
33 Said article is further amended by revising Code Section 15-11-19, relating to rights of
34 parties to proceedings, as follows:

35 "15-11-19.

36 (a) A party has the right to be present, to be heard, to present evidence material to the
37 proceedings, to cross-examine witnesses, to examine pertinent court files and records, and
38 to appeal the orders of the court; provided, however, that the court shall retain the
39 discretion to exclude a child from any part or parts of any proceeding under Article 3 of

40 this chapter if the court determines that it is not in such child's best interests to be present.
41 An attorney for an excluded child shall not be excluded from the proceedings.
42 (b) A person afforded rights under this chapter shall be advised of such rights at that
43 person's first appearance before the court.
44 (c) A party shall have the right to the full and complete record of any proceeding under
45 this chapter and shall not be required to obtain or produce a court order to receive any such
46 full and complete record.
47 (d) The department shall have the right to the full and complete record of any proceeding
48 under this chapter in which the court has allowed its participation and such department
49 shall not be required to obtain or produce a court order to receive any such full and
50 complete record."

51 **SECTION 3.**

52 Chapter 5 of Title 49 of the Official Code of Georgia Annotated, relating to programs and
53 protection for children, is amended by revising Code Section 49-5-280, relating to short title,
54 as follows:

55 "49-5-280.

56 This article shall be known and may be cited as the 'Foster Parents Placements Bill of
57 Rights."

58 **SECTION 4.**

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

61 "(h) As used in this subsection, the terms 'certified volunteer advocate' and 'foster
62 placement' shall have the same meanings as set forth in Code Section 49-5-281.
63 Notwithstanding any other provision of law, any foster placement shall have reasonable
64 access to nonidentifying information from the placement or child protective services record

65 compiled by any state department or agency having custody of a child with respect to any
66 child who has been placed in the care or custody of such agency, excluding all documents
67 obtained from outside sources which cannot be redisclosed under state or federal law. A
68 department or agency shall respond to a request for access to a child's record within 14
69 days of receipt of such written request. A foster placement may share such information
70 with a certified volunteer advocate he or she has enlisted to participate in investigations and
71 meetings with the department pursuant to Code Section 49-5-281. Any foster placement
72 or certified volunteer advocate who has access to a child's records shall be subject to the
73 penalties imposed by Code Section 49-5-44 for unauthorized access to or use of such
74 records. Such record shall include reports of abuse of such child and the social history of
75 the child and the child's family, the medical history of such child, including psychological
76 or psychiatric evaluations, educational records as allowed by state or federal law, and any
77 plan of care or placement plan developed by the department."

78 **SECTION 5.**

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

81 "49-5-281.

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

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

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

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

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

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

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

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

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

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

114 (3.1) The right to use a reasonable and prudent parent standard when determining the
115 ability of a child in foster care to engage in extracurricular, enrichment, cultural, social,
116 or skill-building activities;

- 117 (4) The right to receive both standardized pre-service training, including training in
118 Division of Family and Children Services policies and procedures and appropriate
119 ongoing training, by the Division of Family and Children Services or the placing
120 child-placing agency at appropriate intervals to meet mutually assessed needs of the child
121 and to improve the skills of foster parents' placements skills and to apprise foster parents
122 placements of any changes in applicable policies and procedures of the Division of
123 Family and Children Services and any changes in applicable law;
- 124 (5) The right to be apprised of, and to seek out from independent sources, information,
125 laws, and guidelines on the obligations, responsibilities, and opportunities of foster
126 parenting fostering and to be kept informed of any changes in applicable laws, policies,
127 and procedures regarding foster parenting by the Division of Family and Children
128 Services in a timely manner and at least annually;
- 129 (6) The right to receive timely financial reimbursement according to ~~the~~ any agreement
130 between the foster parents placement and the Department of Human Services from funds
131 appropriated by the General Assembly and to be notified of any costs or expenses for
132 which the foster parent placement may be eligible for reimbursement;
- 133 (7) The right to receive information from the Division of Family and Children Services
134 on how to receive services and reach personnel 24 hours per day, seven days per week;
- 135 (8) The right prior to the placement of a child to be notified of any issues relative to the
136 child that may jeopardize the health and safety of the foster family placements or the
137 child or alter the manner in which foster care should be administered;
- 138 (9) The right to discuss information regarding the child prior to placement. The Division
139 of Family and Children Services will provide such information as it becomes available
140 as allowable under state and federal laws;
- 141 (10) The right to refuse placement of a child in the foster home placement or to request,
142 upon reasonable notice, the removal of a child from the foster home without fear of
143 reprisal or any adverse effect on being assigned any future foster or adoptive placements;

- 144 (11) The right to receive any information through the Division of Family and Children
145 Services regarding the number of times a foster child in foster care has been moved and
146 the reasons therefor; and to receive the names and phone numbers of the previous foster
147 ~~parents if the previous foster parents placement if the previous foster placements~~ placements have
148 authorized such release and as allowable under state and federal law;
- 149 (12) The right, at any time during which a child is placed with the foster parent
150 placement, to receive from the Division of Family and Children Services any and all
151 additional pertinent information relevant to the care of the child;
- 152 (13) The right to be provided with a written copy of the individual treatment and service
153 plan or case plan created pursuant to Code Section 15-11-201 concerning the child in the
154 foster parent's placement's home and to discuss such plan with the case manager, as well
155 as reasonable notification of any changes to that plan;
- 156 (14) The right to participate in the planning of visitation with the child and the child's
157 biological family with the foster parents recognizing that visitation with his or her
158 biological family is important to the child;
- 159 (15) The right to participate in the case planning and decision-making process with the
160 Division of Family and Children Services regarding the child as provided in Code
161 Section 15-11-201;
- 162 (16) The right to provide input concerning the plan of services for the child and to have
163 that input considered by the department;
- 164 (17) The right to communicate for the purpose of participating in the case of the foster
165 child with other professionals who work with such child within the context of the
166 professional team, including, but not limited to, therapists, physicians, and teachers, as
167 allowable under state and federal law;
- 168 (18) The right to be notified in advance, in writing, by the Division of Family and
169 Children Services or the court of any hearing or review where the case plan or
170 permanency of the child is an issue, including initial and periodic reviews held by the

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

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

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

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

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

186 ~~(23) The right, to the extent allowed under state and federal law, to have an advocate~~
187 ~~present at all portions of investigations of abuse and neglect at which an accused foster~~
188 ~~parent is present. Child abuse and neglect investigations shall be investigated pursuant~~
189 ~~to Division of Family and Children Services policies and procedures, and any removal~~
190 ~~of a foster child shall be conducted pursuant to those policies and procedures. The~~
191 ~~Division of Family and Children Services will permit volunteers with the Adoptive and~~
192 ~~Foster Parent Association of Georgia to be educated concerning the procedures relevant~~
193 ~~to investigations of alleged abuse and neglect and the rights of accused foster parents.~~
194 ~~After such training, a volunteer will be permitted to serve as an advocate for an accused~~
195 ~~foster parent. The right to be provided a fair, timely, and impartial investigation of~~
196 ~~complaints concerning the foster placement's home, to be provided the opportunity to~~
197 ~~have a certified volunteer advocate of the foster placement's choosing present during the~~

198 investigation, and to be provided due process during the investigation. All
 199 communication received by the certified volunteer advocate in this capacity shall be
 200 strictly confidential;

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

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

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

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

213 ~~(c)~~(d) Foster ~~parents~~ placements who care for children in the custody of the Department
 214 of Human Services through direct approval and placement by the department shall have the
 215 right to file a grievance in response to any violation of this article; ~~which shall be such~~
 216 ~~foster parents' exclusive administrative remedy for any violation of this article.~~ The
 217 Division of Family and Children Services and the Office of the Child Advocate for the
 218 Protection of Children, along with an advisory committee ~~comprised~~ composed in part of
 219 representatives from the ~~Adoptive and Foster Parent Association of Georgia, who provide~~
 220 ~~private placements~~ foster placement advocacy organizations, will develop a grievance
 221 procedure, including a mediation procedure and an administrative procedure, to be
 222 published in departmental policy manuals and the Foster Parent Handbook no later than
 223 July 1, ~~2005~~ 2026.

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

235 ~~(e)~~(f) The Department of Human Services, in consultation with appropriate provider
236 associations and ~~the Adoptive and Foster Parent Association of Georgia~~ foster parent
237 advocacy organizations, shall develop a grievance procedure for dealing with any
238 grievances their foster parents have in response to any violation of this article, no later than
239 July 1, ~~2007~~ 2026. The department shall enforce this provision through policies and
240 procedures and through its contracts with providers."

241 **SECTION 6.**

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

244 **SECTION 7.**

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