

House Bill 460 (AS PASSED HOUSE AND SENATE)

By: Representatives Ballinger of the 23rd, Camp of the 135th, Reeves of the 99th, and Silcox of the 53rd

A BILL TO BE ENTITLED
AN ACT

1 To Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to the juvenile
2 code, so as to provide for a child's right to legal representation in legitimation cases; to
3 provide for a child's right to legal representation in permanent guardianship cases; to provide
4 for a right to legal representation for guardians and respondents in dependency proceedings;
5 to provide for the filing of a complaint in exceptional circumstances during removal
6 proceedings; to provide for a right to legal representation for children in foster care; to
7 provide for related matters; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to the juvenile
11 code, is amended by adding a new Code section to read as follows:

12 "15-11-11.1.

13 A dependent child who is represented by court appointed counsel and who is the subject
14 of a legitimation petition pursuant to Code Section 15-11-11 may be represented by the
15 same appointed counsel in the legitimation matter."

16 **SECTION 2.**

17 Said chapter is further amended by revising subsection (a) of Code Section 15-11-14, relating
18 to transfers from probate court, as follows:

19 "(a) The court shall hold a hearing within 30 days of receipt of a case transferred from the
20 probate court pursuant to subsection (f) of Code Section 29-2-6 or subsection (b) of Code
21 Section 29-2-8. A child may obtain a court appointed attorney for the hearing to determine
22 whether continuation or termination of the temporary guardianship is in the best interests
23 of the child."

24 **SECTION 3.**

25 Said chapter is further amended by revising subsections (a) and (b) of Code Section
26 15-11-103, relating to right to attorney, as follows:

27 "(a) A child and any custodian or guardian subject to a sworn complaint or affidavit and
28 any other party respondent to a proceeding under this article shall have the right to an
29 attorney at all stages of the proceedings under this article.

30 (b) The court shall appoint an attorney for an alleged dependent child and any child
31 receiving extended care youth services from DFCS at all stages of the proceedings under
32 this article. The appointment shall be made as soon as practicable to ensure adequate
33 representation of such child and, in any event, before the first court hearing that may
34 substantially affect the interests of such child."

35 **SECTION 4.**

36 Said chapter is further amended by revising subsection (b) of Code Section 15-11-132,
37 relating to verbal custody order, as follows:

38 "(b) When a child is taken into custody under exceptional circumstances, an affidavit or
39 sworn complaint containing the information previously relayed orally, including
40 telephonically, shall be filed with the clerk of the court the next business day, and a written

41 order shall be issued if not previously issued. Only when a child is taken into custody
42 under exceptional circumstances can an affidavit or sworn complaint be filed. The written
43 order shall include the court's findings of fact supporting the necessity for such child's
44 removal from the custody of his or her parent, guardian, or legal custodian in order to
45 safeguard such child's welfare and shall designate a child's legal custodian."

46 **SECTION 5.**

47 Said chapter is further amended by adding a new subsection to Code Section 15-11-340,
48 relating to criteria for receiving services, development of transition plan, and termination, to
49 read as follows:

50 "(f) The trial court may appoint an attorney for a child at all stages of the proceedings
51 under this article with the child's consent. If a child does not have an attorney, a child shall
52 be informed prior to any hearing of their right to have legal representation and shall be
53 given an opportunity to:

54 (1) Obtain an attorney of his or her own choice;

55 (2) Obtain a court appointed attorney in the court's discretion; or

56 (3) Waive the right to an attorney."

57 **SECTION 6.**

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