

Senate Bill 376

By: Senators Tillery of the 19th, Kirkpatrick of the 32nd, Burns of the 23rd, Payne of the 54th, Strickland of the 17th and others

AS PASSED

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 clarify requirements of parents, DFCS, and court in order to improve
3 timely permanent placement of a child removed from their home; to provide that, at a
4 periodic review hearing, a court shall determine whether the parent has made substantial
5 progress toward completion of the case plan; to provide that a court shall timely review and
6 adopt any revised case plans; to provide that a court shall include certain information in its
7 written findings of fact after a periodic review hearing; to provide that a court shall include
8 certain information in its written findings of fact at a permanency plan hearing; to provide
9 that termination of parental rights may not be in the best interests of a child when such child
10 is being cared for by a relative that intends to be a permanent placement for such child; to
11 provide for a hearing to be held prior to a dependent child's fifteenth month in foster care to
12 review a determination of the Division of Family and Children Services of the Department
13 of Human Services not to petition to terminate parental rights; to provide for related matters;
14 to provide for an effective date and applicability; to repeal conflicting laws; and for other
15 purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

S. B. 376

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SECTION 1.

18 Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to the Juvenile
 19 Code, is amended by revising Code Section 15-11-216, relating to periodic review hearing,
 20 required evidence, and consideration of hearsay evidence, as follows:

21 "15-11-216.

22 (a) All cases of children in DFCS custody shall be initially reviewed within 75 days
 23 following a child adjudicated as a dependent child's removal from his or her home and shall
 24 be conducted by the court. An additional periodic review shall be held within four months
 25 following the initial review and shall be conducted by the court or by judicial citizen
 26 review panels established by the court, as the court directs, meeting such standards and
 27 using such procedures as are established by court rule by the Supreme Court, with the
 28 advice and consent of the Council of Juvenile Court Judges. The court shall have the
 29 discretion to schedule any subsequent review hearings as necessary.

30 (b) At any periodic review hearing, the paramount concern shall be the health and safety
 31 of a child adjudicated as a dependent child's health and safety child.

32 (c) At the initial 75 day periodic review, the court shall approve the completion of the
 33 relative search, schedule the subsequent four-month review to be conducted by the court
 34 or a judicial citizen review panel, and shall determine:

35 (1) Whether a child adjudicated as a dependent child continues to be a dependent child;

36 (2) Whether the existing case plan is still the best case plan for such child and his or her
 37 family and whether any changes need to be made to the case plan, including whether a
 38 concurrent case plan for nonreunification is appropriate;

39 (3) The extent of compliance with the case plan by all participants;

40 (3.1) Whether the parent has made substantial progress toward completion of the case
 41 plan;

42 (4) The appropriateness of any recommended changes to such child's placement;

43 (5) Whether appropriate progress is being made on the permanency plan;

- 44 (6) Whether all legally required services are being provided to a child adjudicated as a
45 dependent child, his or her foster parents if there are foster parents, and his or her parent,
46 guardian, or legal custodian;
- 47 (7) Whether visitation is appropriate and, if so, approve and establish a reasonable
48 visitation schedule consistent with the age and developmental needs of a child
49 adjudicated as a dependent child;
- 50 (8) Whether, for a child adjudicated as a dependent child who is 14 years of age or older,
51 the services needed to assist such child to make a transition from foster care to
52 independent living are being provided; and
- 53 (9) Whether reasonable efforts continue to be made to prevent or eliminate the necessity
54 of such child's removal from his or her home and to reunify the family after removal of
55 a child adjudicated as a dependent child, unless reasonable efforts were not required.
- 56 (d) If at any review subsequent to the initial 75 day review the court finds that there is a
57 lack of substantial progress ~~towards~~ toward completion of the case plan, the court shall
58 order DFCS to develop a case plan for nonreunification or a concurrent case plan
59 contemplating nonreunification within 14 days of such review. The court shall review and
60 adopt the revised case plan, as submitted or as amended, within 45 days of such review or
61 at a previously scheduled hearing.
- 62 (d.1) At each review hearing held with respect to a child who remains placed in a qualified
63 residential treatment program, the department shall submit evidence documenting that:
- 64 (1) Ongoing assessment of the strengths and needs of the child continues to support the
65 determination that the needs of the child cannot be met through placement in a foster
66 family home;
- 67 (2) Placement in a qualified residential treatment program provides the most effective
68 and appropriate level of care for the child in the least restrictive environment;

69 (3) Placement in a qualified residential treatment program is consistent with the
70 short-term and long-term goals for the child, as specified in the permanency plan for the
71 child;

72 (4) The specific treatment or service needs that will be met for the child in the placement
73 and the length of time the child is expected to need the treatment or services; and

74 (5) The efforts made by the department to prepare the child to return home or to be
75 placed with a fit and willing relative, a legal guardian, or an adoptive parent, or in a foster
76 family home.

77 (e) At the time of each review of a child adjudicated as a dependent child in DFCS
78 custody, DFCS shall notify the court whether and when it intends to proceed with the
79 termination of parental rights.

80 (f) The court may consider any evidence, including hearsay evidence, that the court finds
81 to be relevant, reliable, and necessary to determine the needs of a child adjudicated as a
82 dependent child and the most appropriate case plan and permanency plan."

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SECTION 2.

84 Said chapter is further amended by revising subsection (a) of Code Section 15-11-218,
85 relating to content of orders following periodic review hearings or reports by judicial citizen
86 review panels, as follows:

87 "(a) At the conclusion of a periodic review hearing, or upon review of a report by a judicial
88 citizen review panel, the court shall issue written findings of fact that include:

89 (1) Why a child adjudicated as a dependent child continues to be a dependent child;

90 (2) Whether the existing case plan is still the best case plan for a child adjudicated as a
91 dependent child and his or her family and whether any changes need to be made to the
92 case plan including whether a concurrent case plan for nonreunification is appropriate;

93 (3) The extent of compliance with the case plan by all participants;

- 94 (3.1) Whether the parent has made substantial progress toward completion of the case
95 plan;
96 (4) The basis for any changes to the placement of a child adjudicated as a dependent
97 child;
98 (5) Whether visitation is or continues to be appropriate;
99 (6) A description of progress being made on the permanency plan;
100 (7) Whether all legally required services are being provided to a child adjudicated as a
101 dependent child, his or her foster parents if there are foster parents, and his or her parent,
102 guardian, or legal custodian;
103 (8) Whether, for a child adjudicated as a dependent child who is 14 years of age or older,
104 the services needed to assist such child to make a transition from foster care to
105 independent living are being provided; and
106 (9) Whether reasonable efforts continue to be made to prevent or eliminate the necessity
107 of the removal of a child adjudicated as a dependent child and to reunify his or her family
108 after removal, unless reasonable efforts were not required."

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SECTION 3.

110 Said chapter is further amended by revising subsection (a) of Code Section 15-11-232,
111 relating to permanency plan hearing and findings, as follows:

112 "(a) At the permanency plan hearing, the court shall make written findings of fact that
113 include the following:

- 114 (1) Whether DFCS has made reasonable efforts to finalize the permanency plan which
115 is in effect at the time of the hearing;
116 (2) The continuing necessity for and the safety and appropriateness of the placement;
117 (3) Compliance with the permanency plan by DFCS, parties, and any other service
118 providers;

119 (3.1) Whether the parent has made substantial progress toward completion of the case
120 plan;

121 (4) Efforts to involve appropriate service providers in addition to DFCS staff in planning
122 to meet the special needs of a child adjudicated as a dependent child and his or her parent,
123 guardian, or legal custodian;

124 (5) Efforts to eliminate the causes for the placement of a child adjudicated as a dependent
125 child outside of his or her home and toward returning such child safely to his or her home
126 or obtaining a permanent placement for such child;

127 (6) The date by which it is likely that a child adjudicated as a dependent child will be
128 returned to his or her home, placed for adoption, or placed with a permanent guardian or
129 in some other alternative permanent placement;

130 (7) Whether, in the case of a child adjudicated as a dependent child placed out of state,
131 the out-of-state placement continues to be appropriate and in the best interests of such
132 child;

133 (8) In the case of a child adjudicated as a dependent child who is 14 years of age or
134 older, the services needed to assist such child to make a transition from foster care to
135 independent living;

136 (9) In the case of a child for whom another planned permanent living arrangement is the
137 permanency plan:

138 (A) Whether DFCS has documented intensive, ongoing, and, as of the date of the
139 hearing, unsuccessful efforts to return the child to the home or to secure a placement
140 for the child with a fit and willing relative, a legal guardian, or an adoptive parent,
141 including through efforts that utilize search technology, including social media, to find
142 biological family members for the children;

143 (B) Whether DFCS has documented the steps it is taking to ensure that the child's
144 foster family home or child care institution is following the reasonable and prudent
145 parent standard and the child has regular, ongoing opportunities to engage in age or

146 developmentally appropriate activities, including by consulting with the child in an
147 age-appropriate manner about the opportunities of the child to participate in the
148 activities; and

149 (C) After asking the child, what his or her desired permanency outcome is;

150 (10) If a child has attained the age of 14 years old, whether the permanency plan
151 developed for the child, and any revision or addition to the plan, was developed in
152 consultation with the child and, at the option of the child, with not more than two
153 members of the permanency planning team who were selected by the child and who are
154 not a foster parent of or caseworker for the child in accordance with subparagraph ~~(A)~~ of
155 paragraph ~~(15)~~ (15)(B) of Code Section 15-11-201; and

156 (11) In the case of a child placed in a qualified residential treatment program:

157 (A) Whether DFCS has documented ongoing assessments of the strengths and needs
158 of the child that continues to support the determination that the needs of the child
159 cannot be met through placement in a foster family home;

160 (B) Whether DFCS has documented that placement in a qualified residential treatment
161 program provides the most effective and appropriate level of care for the child in the
162 least restrictive environment;

163 (C) Whether DFCS has documented that the child's placement in a qualified residential
164 treatment program is consistent with the short-term and long-term goals for the child,
165 as specified in the permanency plan for the child;

166 (D) Whether DFCS has documented the specific treatment or service needs that will
167 be met for the child in the placement and the length of time the child is expected to
168 need the treatment or services; and

169 (E) Whether DFCS has documented their efforts to prepare the child to return home
170 or to be placed with a fit and willing relative, a legal guardian, or an adoptive parent,
171 or in a foster family home."

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SECTION 4.

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

175 "15-11-233.

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

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

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

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

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

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

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

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

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

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

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

197 (b) Termination of parental rights may not be in the best interests of a child adjudicated
198 as a dependent child when:

- 199 (1) Such child is being cared for by his or her relative that intends to be a permanent
200 placement for such child in accordance with a permanency plan approved by the court
201 and in a time frame that is consistent with the developmental needs of such child;
- 202 (2) The case plan documents a compelling reason for determining that filing such a
203 petition would not be in the best interests of such child. Such compelling reasons may
204 include, but not be limited to:
- 205 (A) A parent of such child is successfully participating in services that will make it
206 possible for his or her child to safely return home;
- 207 (B) Another permanency plan is better suited to meet the health and safety needs of
208 such child. Documentation that another permanent plan is better suited to meet the
209 health and safety needs of such child may include documentation that:
- 210 (i) Such child is 14 years of age or older and objects to termination of parental rights.
211 Prior to accepting a child's objection, the court shall personally question such child
212 in chambers to determine whether the objection is a voluntary and knowing choice;
- 213 (ii) Such child is 16 years of age or older and specifically requests that emancipation
214 be established as his or her permanent plan;
- 215 (iii) The parent of such child and such child have a significant bond, but such parent
216 is unable to care for such child because of an emotional or physical disability and
217 such child's caregiver has committed to raising such child to the age of majority and
218 facilitating visitation with such disabled parent; or
- 219 (iv) Such child is in a residential treatment facility that provides services specifically
220 designed to address his or her treatment needs and the court determines that his or her
221 needs could not be served by a less restrictive placement;
- 222 (C) Such child is living with his or her relative who is unable or unwilling to adopt
223 such child, but who is willing and capable of providing such child with a stable and
224 permanent home environment and the removal of such child from the physical custody
225 of his or her relative would be detrimental to such child's emotional well-being;

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

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

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

234 (c) The recommendation by DFCS that termination of parental rights is not in the best
235 interests of a child shall be based on the present family circumstances of such child and
236 shall not preclude a different recommendation at a later date if the family circumstances
237 of a child adjudicated as a dependent child change.

238 (d) At least 30 days prior to the fifteenth month a child has been in foster care and when
239 the court deems appropriate, the court shall review DFCS's determination that filing a
240 petition to terminate parental rights would not be in the best interests of such child, as
241 provided for in paragraph (2) of subsection (b) of this Code section. Such hearing may be
242 in conjunction with other matters of the case. At such hearing, the court may appoint an
243 attorney guardian ad litem, who may, after his or her own determination, file a petition to
244 terminate parental rights on behalf of the child. The court in its sole discretion may make
245 any additional rulings."

246 **SECTION 5.**

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

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SECTION 6.

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