Senate Bill 225
By: Senators Walker III of the 20th, Kirk of the 13th, Miller of the 49th, Strickland of the 17th, Tillery of the 19th and others

AS PASSED

A BILL TO BE ENTITLED
AN ACT

To amend Article 1 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to general provisions regarding the Juvenile Code, so as to bring such provisions in conformity with the federal Social Security Act and the Family First Prevention Services Act; to amend Articles 3 and 4 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to dependency proceedings and termination of parental rights, respectively, so as to provide for the special treatment of Native American children involved in dependency or termination of parental rights proceedings as required by federal law; to amend Article 1 of Chapter 7 of Title 19 of the Official Code of Georgia Annotated, relating to general provisions regarding parent and child relationship generally, so as to bring such provisions in conformity with the federal Child Abuse Prevention and Treatment Act; to amend Article 1 of Chapter 5 of Title 49 of the Official Code of Georgia Annotated, relating to children and youth services, so as to comply with the John H. Chafee Foster Care Program for Successful Transition to Adulthood; to amend Article 2 of Chapter 13 of Title 50 of the Official Code of Georgia Annotated, relating to the Office of State Administrative Hearings, so as to provide for compliance with Titles IV-B and IV-E of the federal Social Security Act regarding final decision-making authority in contested cases; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.
Article 1 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to general provisions regarding the Juvenile Code, is amended by adding new paragraphs to Code Section 15-11-2, relating to definitions, as follows:

"(32.1) 'Family and permanency team' shall consist of all appropriate biological family members, relatives, and fictive kin of the child, as well as, as appropriate, professionals who are a resource to the family of the child, such as teachers, medical or mental health providers who have treated the child, or clergy, and not more than two members of the
case planning team or permanency planning team selected by a child who is age 14 or older. The two members selected by the child shall not be a foster parent of, or caseworker for, the child. DFCS may reject an individual selected by the child if DFCS has good cause to believe that the individual would not act in the best interest of the child."

(60.1) 'Qualified individual' means a trained professional or licensed clinician who is not an employee of the department and who is not connected to, or affiliated with, any placement setting in which children are placed by the department.

(60.2) 'Qualified residential treatment program' means a program that:

(A) Has a trauma-informed treatment model that is designed to address the needs, including clinical needs as appropriate, of children with serious emotional or behavioral disorders or disturbances and, with respect to a child, is able to implement the treatment identified for the child by the assessment to determine appropriateness of placement as provided for in Code Section 15-11-219;

(B) Has registered or licensed nursing staff and other licensed clinical staff who:

(i) Provide care within the scope of their practice; and

(ii) Are available 24 hours a day and seven days a week;

(C) To the extent appropriate, and in accordance with the child's best interests, facilitates participation of family members in the child's treatment program;

(D) Facilitates outreach to the family members of the child, including siblings;

(E) Documents how the outreach is made, including contact information, and maintains contact information for any known biological family and fictive kin of the child;

(F) Documents how family members are integrated into the treatment process for the child, including post-discharge, and how sibling connections are maintained;

(G) Provides discharge planning and family-based aftercare support for at least six months post-discharge; and

(H) Is licensed in accordance with 42 U.S.C. Section 471(a)(10) and accredited in accordance with 42 U.S.C. Section 672(k)(4)."

SECTION 2.

Article 3 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to dependency proceedings, is amended by adding a new Code section to read as follows:

"15-11-100.1. A proceeding under this article shall not be subject to this article to the extent that it is governed by the Indian Child Welfare Act, P.L. 95-608, as amended, Chapter 21 of Title 25 of the United States Code. In those circumstances, compliance with such federal law shall be required."

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SECTION 3.

Said article is further amended by revising paragraph (3) of subsection (b) of Code Section 15-11-201, relating to DFCS case plan and contents, as follows:

"(3)(A) A description of the type of home or institution in which such child is to be placed, including a discussion of the safety and appropriateness of the placement;

(B) If a child is placed in a qualified residential treatment program, DFCS must document:

(i) Reasonable and good faith efforts to identify and include all the individuals of the child's family and permanency team;

(ii) All contact information for members of the family and permanency team;

(iii) All contact information for other family members and fictive kin who are not part of the family and permanency team;

(iv) Evidence that meetings of the family and permanency team, including meetings relating to the assessment required by Code Section 15-11-219, are held at a time and place convenient for family;

(v) If reunification is the goal, evidence demonstrating that the parent from whom the child was removed provided input on the members of the family and permanency team;

(vi) Evidence that the assessment required by Code Section 15-11-219 is determined in conjunction with the family and permanency team;

(vii) The placement preferences of the family and permanency team relative to the assessment that recognizes children should be placed with their siblings unless there is a finding by the court that such placement is contrary to their best interest; and

(viii) If the placement preferences of the family and permanency team and child are not the placement setting recommended by the qualified individual conducting the assessment under Code Section 15-11-219, the reasons why the preferences of the team and of the child were not recommended.

(C) If a child is placed in a qualified residential treatment program for more than six consecutive or nonconsecutive months, DFCS must maintain:

(i) Documentation of the assessment completed by a qualified individual, including written recommendations regarding the placement that will provide the child with the most effective level of care in the least restrictive environment and how that placement is consistent with the permanency goals established for the child; and

(ii) Documentation of the determination and approval or disapproval of the placement in a qualified residential treatment program by the court;"
SECTION 4.

Said article is further amended by adding a new subsection to Code Section 15-11-216, relating to periodic review hearings, to read as follows:

“(d.1) At each review hearing held with respect to a child who remains placed in a qualified residential treatment program, the department shall submit evidence documenting that:

(1) Ongoing assessment of the strengths and needs of the child continues to support the determination that the needs of the child cannot be met through placement in a foster family home;

(2) Placement in a qualified residential treatment program provides the most effective and appropriate level of care for the child in the least restrictive environment;

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

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

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

SECTION 5.

Said article is further amended by adding new Code sections to read as follows:


(a) Before a child’s placement in a qualified residential treatment program, but no later than 30 days following the start of such placement, a qualified individual shall:

(1) Assess the strengths and needs of the child using an age-appropriate, evidence-based, validated, functional assessment tool;

(2) Determine whether the needs of the child can be met with family members or through placement in a foster family home or, if not, which DFCS approved authorized setting would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child; and

(3) Develop a list of child-specific short- and long-term mental and behavioral health goals.

(b) The qualified individual conducting the assessment shall work in conjunction with the family and permanency team for the child while conducting and making the assessment.

(c) If the qualified individual conducting the assessment determines the child should not be placed in a foster family home, the qualified individual shall specify in writing:
(1) The reasons why the needs of the child cannot be met by the family of the child or in a foster family home. A shortage or lack of foster family homes shall not be an acceptable reason for determining that the needs of the child cannot be met in a foster family home; and

(2) Why the recommended placement in a qualified residential treatment program is the setting that will provide the child with the most effective and appropriate level of care in the least restrictive environment and how that placement is consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child.

15-11-220.

(a) Within 60 days of the start of a child's placement in a qualified residential treatment program, the court must:

(1) Consider the assessment required by Code Section 15-11-219 determination, and documentation made by the qualified individual in approving the placement;

(2) Determine whether the needs of the child can be met through placement in a foster family home or, if not, whether placement of the child in a qualified residential treatment program provides the most effective and appropriate level of care for the child in the least restrictive environment;

(3) Determine whether placement in a qualified residential treatment program is consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child;

(4) Determine whether it is in the best interest of the child to be placed in a qualified residential treatment program and whether, for that reason, it is not in the best interest of the child or the child's siblings to be placed together; and

(5) Approve or disapprove the qualified residential treatment program placement by entering written findings of fact on the record. Placement or a change of legal custody by the court outside DFCS shall relieve DFCS of further responsibility for a child adjudicated as a dependent child except for any provision of services ordered by the court to ensure the continuation of reunification services to such child's family when appropriate.

(b) Documentation of the determination and approval or disapproval of the placement in a qualified residential treatment program by the court shall be included in and made part of the case plan for the child.
SECTION 6.

Said article is further amended in Code Section 15-11-231, relating to permanency planning requirement, by deleting "and" at the end of subparagraph (9)(E), by replacing the period with "; and" at the end of paragraph (10), and by adding a new paragraph to read as follows:

"(11) For a child who remains placed in a qualified residential treatment program, documentation that:

(A) Ongoing assessment of the strengths and needs of the child continues to support the determination that the needs of the child cannot be met through placement in a foster family home;

(B) Placement in a qualified residential treatment program provides the most effective and appropriate level of care for the child in the least restrictive environment;

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

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

and

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

SECTION 7.

Said article is further amended in subsection (a) of Code Section 15-11-232, relating to permanency planning hearing and findings, by deleting "and" at the end of subparagraph (9)(C), by replacing the period with "; and" at the end of paragraph (10), and by adding a new paragraph to read as follows:

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

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

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

(C) Whether DFCS has documented that the child's placement in a qualified residential treatment program is consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child;"
Whether DFCS has documented the specific treatment or service needs that will be met for the child in the placement and the length of time the child is expected to need the treatment or services; and

Whether DFCS has documented their efforts to prepare the child to return home or to be placed with a fit and willing relative, a legal guardian, or an adoptive parent, or in a foster family home.”

SECTION 8.
Article 4 of Chapter 11 of the Official Code of Georgia Annotated, relating to termination of parental rights, is amended by adding a new Code section to read as follows:

“A proceeding under this article shall not be subject to this article to the extent that it is governed by the Indian Child Welfare Act, P.L. 95-608, as amended, Chapter 21 of Title 25 of the United States Code. In those circumstances, compliance with such federal law shall be required.”

SECTION 9.
Article 1 of Chapter 7 of the Official Code of Georgia Annotated, relating to general provisions regarding parent and child relationship generally, is amended by revising subsection (f) of Code Section 19-7-5, relating to reporting of child abuse, when mandated or authorized, content of report, to whom made, immunity from liability, report based upon privileged communication, and penalty for failure to report, as follows:

“Any person or persons, partnership, firm, corporation, association, hospital, or other entity participating in the making of a report or causing a report to be made, and individuals who otherwise provide information or assistance, including, but not limited to, medical evaluations or consultations, in connection with a report made to a child welfare agency providing protective services or to an appropriate police authority pursuant to this Code section or any other law or participating in any judicial proceeding or any other proceeding resulting therefrom shall in so doing be immune from any civil or criminal liability that might otherwise be incurred or imposed, provided that such participation pursuant to this Code section or any other law is made in good faith. Any person making a report, whether required by this Code section or not, shall be immune from liability as provided in this subsection.”

SECTION 10.
Article 1 of Chapter 5 of the Official Code of Georgia Annotated, relating to children and youth services, is amended by revising paragraph (11) of subsection (a) of Code
Section 49-5-8, relating to powers and duties of the Department of Human Services, as follows:

"(11) Each youth who is leaving foster care by reason of having attained 18 years of age, unless the child has been in foster care for less than six months, with, if the child is eligible to receive such document, an official or certified copy of the United States birth certificate of the child, a social security card issued by the Commissioner of Social Security, health insurance information, a copy of the child's medical records, and a driver's license or identification card issued by a state in accordance with the requirements of Section 202 of the REAL ID Act of 2005, and any official documentation necessary to prove that the child was previously in foster care. Provision of records in accordance with this paragraph shall not be considered a violation of subsection (b) of Code Section 49-5-40; and"

SECTION 11.

Article 2 of Chapter 13 of Title 50 of the Official Code of Georgia Annotated, relating to the Office of State Administrative Hearings, is amended by revising paragraph (1) of subsection (d) of Code Section 50-13-41, relating to hearing procedures, by revising as follows:

"(d)(1) As used in this subsection, the term "reviewing agency" shall mean the ultimate decision maker in a contested case that is a constitutional board or commission; an elected constitutional officer in the executive branch of this state; or a board, bureau, commission, or other agency of the executive branch of this state created for the purpose of licensing or otherwise regulating or controlling any profession, business or trade if members thereof are appointed by the Governor; or the Department of Human Services in a contested case where the such department is required to be the ultimate decision maker by federal law or regulations governing titles IV-B and IV-E of the federal Social Security Act."

SECTION 12.

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

SECTION 13.

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