

## 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

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

18 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

19 **SECTION 1.**

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

23 "(32.1) 'Family and permanency team' shall consist of all appropriate biological family  
24 members, relatives, and fictive kin of the child, as well as, as appropriate, professionals  
25 who are a resource to the family of the child, such as teachers, medical or mental health  
26 providers who have treated the child, or clergy, and not more than two members of the

27 case planning team or permanency planning team selected by a child who is age 14 or  
 28 older. The two members selected by the child shall not be a foster parent of, or  
 29 caseworker for, the child. DFCS may reject an individual selected by the child if DFCS  
 30 has good cause to believe that the individual would not act in the best interest of the  
 31 child."

32 "(60.1) 'Qualified individual' means a trained professional or licensed clinician who is  
 33 not an employee of the department and who is not connected to, or affiliated with, any  
 34 placement setting in which children are placed by the department.

35 (60.2) 'Qualified residential treatment program' means a program that:

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

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

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

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

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

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

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

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

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

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

55 **SECTION 2.**

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

58 "15-11-100.1.

59 A proceeding under this article shall not be subject to this article to the extent that it is  
 60 governed by the Indian Child Welfare Act, P.L. 95-608, as amended, Chapter 21 of Title  
 61 25 of the United States Code. In those circumstances, compliance with such federal law  
 62 shall be required."

**SECTION 3.**

63  
64 Said article is further amended by revising paragraph (3) of subsection (b) of Code Section  
65 15-11-201, relating to DFCS case plan and contents, as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

98

**SECTION 4.**

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

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

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

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

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

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

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

116

**SECTION 5.**

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

118 "15-11-219.

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

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

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

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

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

132 (c) If the qualified individual conducting the assessment determines the child should not  
133 be placed in a foster family home, the qualified individual shall specify in writing:

134 (1) The reasons why the needs of the child cannot be met by the family of the child or  
135 in a foster family home. A shortage or lack of foster family homes shall not be an  
136 acceptable reason for determining that the needs of the child cannot be met in a foster  
137 family home; and

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

142 15-11-220.

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

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

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

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

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

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

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

**SECTION 6.**

166  
 167 Said article is further amended in Code Section 15-11-231, relating to permanency planning  
 168 report, by deleting "and" at the end of subparagraph (9)(E), by replacing the period with ";  
 169 and" at the end of paragraph (10), and by adding a new paragraph to read as follows:

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

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

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

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

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

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

**SECTION 7.**

185  
 186 Said article is further amended in subsection (a) of Code Section 15-11-232, relating to  
 187 permanency planning hearing and findings, by deleting "and" at the end of subparagraph  
 188 (9)(C), by replacing the period with "; and" at the end of paragraph (10), and by adding a new  
 189 paragraph to read as follows:

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

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

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

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

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

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

206 **SECTION 8.**

207 Article 4 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to  
 208 termination of parental rights, is amended by adding a new Code section to read as follows:

209 "15-11-260.1.

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

214 **SECTION 9.**

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

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

231 **SECTION 10.**

232 Article 1 of Chapter 5 of Title 49 of the Official Code of Georgia Annotated, relating to  
 233 children and youth services, is amended by revising paragraph (11) of subsection (a) of Code

234 Section 49-5-8, relating to powers and duties of the Department of Human Services, as  
 235 follows:

236 "(11) Each youth who is leaving foster care by reason of having attained 18 years of age,  
 237 unless the child has been in foster care for less than six months, with, if the child is  
 238 eligible to receive such document, an official or certified copy of the United States birth  
 239 certificate of the child, a social security card issued by the Commissioner of Social  
 240 Security, health insurance information, a copy of the child's medical records, ~~and a~~  
 241 driver's license or identification card issues by a state in accordance with the requirements  
 242 of Section 202 of the REAL ID Act of 2005, and any official documentation necessary  
 243 to prove that the child was previously in foster care. Provision of records in accordance  
 244 with this paragraph shall not be considered a violation of subsection (b) of Code Section  
 245 49-5-40; and"

#### 246 SECTION 11.

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

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

#### 259 SECTION 12.

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

#### 262 SECTION 13.

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