

Senate Bill 364

By: Senators Stone of the 23rd, Bethel of the 54th, Jackson of the 24th, Miller of the 49th, Crosby of the 13th and others

AS PASSED

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Chapter 11 of Title 15 and Part 1 of Article 2 of Chapter 13 of Title 16 of the
2 Official Code of Georgia Annotated, relating to the Juvenile Code and schedules, offenses,
3 and penalties, respectively, so as to revise and correct errors or omissions in furtherance of
4 the work of the Georgia Council on Criminal Justice Reform to recommend legislation; to
5 repeal portions of the Juvenile Code which conflict with other provisions of the Code; to
6 revise definitions; to provide conformity within the Juvenile Code and with federal law; to
7 correct cross-references; to change time frames for certain proceedings; to change provisions
8 relating to the duties and responsibilities of a CASA; to amend Code Section 19-7-1 of the
9 Official Code of Georgia Annotated, relating to in whom parental power lies and how such
10 power may be lost, so as to correct a cross-reference; to revise a definition relating to
11 purchase, possession, or having control of controlled substances or marijuana; to clarify
12 provisions relating to earned time and parole for persons convicted of trafficking in certain
13 drugs; to amend Code Section 29-2-4 of the Official Code of Georgia Annotated, relating to
14 nomination of testamentary guardian, so as to change provisions relating to the appointment
15 of a testamentary guardian; to provide for objections to the nomination of a testamentary
16 guardian and procedure; to amend Code Section 53-5-21 of the Official Code of Georgia
17 Annotated, relating to the procedure for probating a will in solemn form, so as to provide for
18 conforming a cross-reference; to provide for related matters; to provide for effective dates;
19 to provide for applicability; to repeal conflicting laws; and for other purposes.

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

21 **PART I**
22 **SECTION 1-1.**

23 Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to the Juvenile
24 Code, is amended by revising paragraphs (5), (10), (39), subparagraph (F) of paragraph (43),
25 (52), and (71) of Code Section 15-11-2, relating to definitions, as follows:

26 "(5) 'Aggravated circumstances' means the parent has:

- 27 (A) Abandoned ~~an infant~~ a child;
- 28 (B) Aided or abetted, attempted, conspired, or solicited to commit murder or voluntary
 29 manslaughter of another child of such parent ~~Attempted, conspired to attempt, or has~~
 30 ~~subjected a child or his or her sibling to death or great bodily harm~~;
- 31 (C) Subjected ~~Attempted, conspired to attempt, or has subjected~~ a child or his or her
 32 sibling to torture, chronic abuse, sexual abuse, or sexual exploitation; ~~or~~
- 33 (D) Committed the murder or voluntary manslaughter of his or her child's other parent
 34 or has been convicted of aiding or abetting, attempting, conspiring, or soliciting the
 35 murder or voluntary manslaughter of his or her child's other parent;
- 36 (E) Committed the murder or voluntary manslaughter of another child of such parent;
 37 or
- 38 (F) Committed an assault that resulted in serious bodily injury to his or her child or
 39 another child of such parent."

40 "(10) 'Child' means any individual who is:

- 41 (A) Under the age of 18 years;
- 42 (B) Under the age of 17 years when alleged to have committed a delinquent act;
- 43 (C) Under the age of 22 years and in the care of DFCS as a result of being adjudicated
 44 dependent before reaching 18 years of age;
- 45 (D) Under the age of 23 years and eligible for and receiving independent living
 46 services through DFCS as a result of being adjudicated dependent before reaching 18
 47 years of age; or
- 48 (E) Under the age of 21 years who committed an act of delinquency before reaching
 49 the age of 17 years and who has been placed under the supervision of the court or on
 50 probation to the court for the purpose of enforcing orders of the court."

51 "(39) 'Informal adjustment' means the disposition of a case other than by formal
 52 adjudication and disposition."

53 "(F) Has legitimated a child pursuant to Code Section ~~19-7-22.1~~ 19-7-21.1."

54 "(52) 'Party' means the state, a child, parent, guardian, legal custodian, or other person
 55 subject to any judicial proceeding under this chapter; provided, however, that for
 56 purposes of ~~Article~~ Articles 5 and 6 of this chapter, only a child and the state shall be a
 57 party."

58 "(71) 'Sibling' means a person with whom a child shares a biological father or one or both
 59 parents in common by blood, adoption, or marriage, even if the marriage was terminated
 60 by death or dissolution."

61 **SECTION 1-2.**

62 Said chapter is further amended by revising subsection (a) of Code Section 15-11-5, relating
63 to computation of time, as follows:

64 "(a) When a period of time measured in days, weeks, months, years, or other
65 measurements of time ~~except hours~~ is prescribed for the exercise of any privilege or the
66 discharge of any duty, the first day shall not be counted but the last day shall be counted;
67 and, if the last day falls on a weekend, the party having such privilege or duty shall have
68 through the following business day to exercise such privilege or discharge such duty."

69 **SECTION 1-3.**

70 Said chapter is further amended by revising subparagraph (F) of paragraph (1) and
71 subparagraph (D) of paragraph (2) of Code Section 15-11-10, relating to exclusive original
72 jurisdiction, as follows:

73 "(F) Has been placed under the supervision of the court or on probation to the court;
74 provided, however, that such jurisdiction shall be for the purpose of completing,
75 effectuating, and enforcing such supervision or a probation begun either prior to such
76 child's seventeenth birthday if the order is entered as a disposition for an adjudication
77 for delinquency or prior to such child's eighteenth birthday if the order is entered for an
78 adjudication for a child in need of services;"

79 "(D) For the termination of the legal parent-child relationship and the rights of the
80 biological father who is not the legal father of the child in accordance with Article ~~2~~ 4
81 of this chapter; provided, however, that such jurisdiction shall not affect the superior
82 court's exclusive jurisdiction to terminate the legal parent-child relationship and the
83 rights of a biological father who is not the legal father of the child as set forth in
84 Chapters 6 through 9 of Title 19;"

85 **SECTION 1-4.**

86 Said chapter is further amended by revising paragraph (3) of subsection (a) of Code Section
87 15-11-16, relating to commencement of proceedings, as follows:

88 "(3) By the filing of a petition for legitimation under Code Section 15-11-11, or in other
89 cases by the filing of a complaint or a petition as provided in Articles 3, 4, 6, 7, ~~9~~ 8, and
90 ~~10~~ 10 of this chapter."

91 **SECTION 1-5.**

92 Said chapter is further amended by adding a new subsection to Code Section 15-11-32,
93 relating to modification or vacation of orders, as follows:

94 "(g) This Code section is intended to be retroactive and shall apply to any child who is
 95 under the jurisdiction of the court at the time of a hearing, regardless of the date of the
 96 original delinquency order."

97 **SECTION 1-6.**

98 Said chapter is further amended by revising subsection (c) of Code Section 15-11-38, relating
 99 to community based risk reduction programs, as follows:

100 "(c) As part of an early intervention program, the court may enter into protocol agreements
 101 with school systems within the court's jurisdiction, the county ~~department~~ division of
 102 family and children services, the county department of health, DJJ, any state or local
 103 department or agency, any mental health agency or institution, local physicians or health
 104 care providers, licensed counselors and social workers, and any other social service,
 105 charitable, or other entity or any other agency or individual providing educational or
 106 treatment services to families and children within the jurisdiction of the court. Such
 107 protocol agreements shall authorize the exchange of confidential information in the same
 108 manner and subject to the same restrictions, conditions, and penalties as provided in Code
 109 Section 15-11-40."

110 **SECTION 1-7.**

111 Said chapter is further amended by revising paragraph (14) of subsection (c) of Code Section
 112 15-11-105, relating to powers and duties of guardian ad litem, as follows:

113 "(14) Attend judicial citizen panel review hearings concerning such child and if unable
 114 to attend the hearings, forward to the panel a letter setting forth such child's status during
 115 the period since the last judicial citizen panel review and include an assessment of the
 116 DFCS permanency and treatment plans;"

117 **SECTION 1-8.**

118 Said chapter is further amended by revising subsection (c) of Code Section 15-11-110,
 119 relating to continuance of hearing in dependency proceedings, as follows:

120 "(c) A stipulation between attorneys or the convenience of the parties shall not constitute
 121 good cause. Except as otherwise provided by judicial rules governing attorney conflict
 122 resolution, a pending criminal prosecution or family law matter shall not constitute good
 123 cause. The need for discovery shall not constitute good cause unless the court finds that
 124 a person or entity has failed to comply with an order for discovery."

125 **SECTION 1-9.**

126 Said chapter is further amended by revising subsections (c) and (e) of Code Section
127 15-11-135, relating to placement in eligible foster care, as follows:

128 "(c) An alleged dependent child may be placed in foster care only in:

129 (1) A licensed or approved foster home or a home approved by the court which may be
130 a public or private home ~~or the;~~

131 (2) The home of the child's noncustodial parent or;

132 (3) The home of a relative;

133 (4) The home of fictive kin;

134 ~~(2)~~(5) A facility operated by a licensed child welfare agency; or

135 ~~(3)~~(6) A licensed shelter care facility approved by the court."

136 "(e) In any case in which a child is taken into protective custody of DFCS, such child shall
137 be placed together with his or her siblings who are also in protective custody or DFCS shall
138 include a statement in its report and case plan of continuing efforts to place the siblings
139 together or ~~why such efforts are not appropriate~~ document why such joint placement would
140 be contrary to the safety or well-being of any of the siblings. If siblings are not placed
141 together, DFCS shall provide for frequent visitation or other ongoing interaction between
142 siblings, unless DFCS documents that such frequent visitation or other ongoing interaction
143 would be contrary to the safety or well-being of any of the siblings."

144 **SECTION 1-10.**

145 Said chapter is further amended by revising Code Section 15-11-150, relating to the authority
146 to file a petition for dependency, as follows:

147 "15-11-150.

148 A DFCS employee, a law enforcement officer, or any person who has actual knowledge
149 of the abuse, neglect, or abandonment of a child or is informed of the abuse, neglect, or
150 abandonment of a child that he or she believes to be truthful may make a petition alleging
151 dependency. Such petition shall not be accepted for filing unless the court or a person
152 authorized by the court has determined and endorsed on the petition that the filing of the
153 petition is in the best interests of the public and such child."

154 **SECTION 1-11.**

155 Said chapter is further amended by revising paragraph (14) of subsection (b) of Code Section
156 15-11-201, relating to DFCS case plan, as follows:

157 "(14) A recommendation for a permanency plan for such child. If, after considering
158 reunification, adoptive placement, or permanent guardianship, DFCS recommends
159 placement in another planned permanent living arrangement, the case plan shall include

160 documentation of a compelling reason or reasons why reunification, termination of
 161 parental rights, adoptive placement, or permanent guardianship are is not in the child's
 162 best interests. For purposes of this paragraph, a 'compelling reason' shall have the same
 163 meaning as in paragraph (2) of subsection (b) of Code Section 15-11-233;"

164 **SECTION 1-12.**

165 Said chapter is further amended by revising paragraph (1) of subsection (c) of Code Section
 166 15-11-210, relating to disposition hearings, as follows:

167 "(1) The social study report as provided for in Code Section 15-11-191, if applicable,
 168 ~~made by DFCS~~ and the child adjudicated as a dependent child's proposed written case
 169 plan. The social study report and case plan shall be filed with the court not less than 48
 170 hours before the disposition hearing;"

171 **SECTION 1-13.**

172 Said chapter is further amended by revising subsections (c) through (e) of Code Section
 173 15-11-211, relating to relative search by DFCS, as follows:

174 "~~(c) A diligent search shall be completed by DFCS before final disposition.~~

175 ~~(d)~~(c) All adult relatives of the alleged dependent child identified in a diligent search
 176 required by this Code section, subject to exceptions due to family or domestic violence,
 177 shall be provided with notice:

178 (1) Specifying that an alleged dependent child has been or is being removed from his or
 179 her parental custody;

180 (2) Explaining the options a relative has to participate in the care and placement of the
 181 alleged dependent child and any options that may be lost by failing to respond to the
 182 notice;

183 (3) Describing the process for becoming an approved foster family home and the
 184 additional services and supports available for children placed in approved foster homes;
 185 and

186 (4) Describing any financial assistance for which a relative may be eligible.

187 ~~(e)~~(d) The diligent search required by this Code section and the notification required by
 188 subsection ~~(d)~~(c) of this Code section shall be completed, documented in writing, and filed
 189 with the court within 30 days from the date on which the alleged dependent child was
 190 removed from his or her home.

191 ~~(f)~~(e) After the completion of the diligent search required by this Code section, DFCS shall
 192 have a continuing duty to search for relatives or other persons who have demonstrated an
 193 ongoing commitment to a child and with whom it may be appropriate to place the alleged

194 dependent child until such relatives or persons are found or until such child is placed for
195 adoption unless the court excuses DFCS from conducting a diligent search."

196 **SECTION 1-14.**

197 Said chapter is further amended by revising subparagraph (a)(2)(C) of Code Section
198 15-11-212, relating to disposition of dependent children, as follows:

199 "(C) Any public agency authorized by law to receive and provide care for such child;
200 provided, however, that for the purpose of this Code section, the term 'public agency'
201 shall not include DJJ or DBHDD; or"

202 **SECTION 1-15.**

203 Said chapter is further amended by revising the introductory language of subsection (c) of
204 Code Section 15-11-216, relating to periodic review hearings, as follows:

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

208 **SECTION 1-16.**

209 Said chapter is further amended in Code Section 15-11-262, relating to right to attorney and
210 appointment of guardian ad litem in termination of parental rights proceedings, by revising
211 subsections (d) through (f) and by redesignating subsections (g) through (i) as subsections
212 (h) through (j), respectively, as follows:

213 "(d) The court ~~may~~ shall appoint a guardian ad litem for a child in a termination
214 proceeding ~~at the request of such child's attorney or upon the court's own motion if it~~
215 ~~determines that a guardian ad litem is necessary to assist the court in determining the best~~
216 ~~interests of such child~~; provided, however, that such guardian ad litem may be the same
217 person as the child's attorney unless or until there is a conflict of interest between the
218 attorney's duty to such child as such child's attorney and the attorney's considered opinion
219 of such child's best interests as guardian ad litem.

220 (e) The court shall appoint a CASA to serve as guardian ad litem whenever possible, and
221 a CASA may be appointed in addition to an attorney who is serving as a guardian ad litem.

222 ~~(e)(f)~~ (f) The role of a guardian ad litem in a termination of parental rights proceeding shall
223 be the same role as provided for in all dependency proceedings under Article 3 of this
224 chapter.

225 ~~(f)(g)~~ (g) If an attorney or guardian ad litem has been appointed to represent a child in a prior
226 proceeding under this chapter, the court, when possible, shall appoint the same attorney to
227 represent such child in any subsequent proceeding."

228 **SECTION 1-17.**

229 Said chapter is further amended by revising Code Section 15-11-265, relating to suspension
 230 of right of voluntary surrender of parental rights, as follows:

231 "15-11-265.

232 Once a petition to terminate parental rights has been filed, the parent of a child adjudicated
 233 as a dependent child shall thereafter be without authority to ~~execute an act of surrender or~~
 234 ~~otherwise to~~ affect the custody of his or her child except such parent may:

235 ~~(1) Execute an act of surrender in favor of the department; and~~

236 ~~(2)~~(1) Consent to a judgment terminating his or her parental rights; and

237 (2) Execute an act of surrender in favor of:

238 (A) A third party if all of the parties to the petition to terminate parental rights agree;

239 or

240 (B) The department."

241 **SECTION 1-18.**

242 Said chapter is further amended by revising subsection (a) of Code Section 15-11-270,
 243 relating to venue for petition to terminate parental rights, as follows:

244 "(a) A proceeding under this article shall be commenced ~~in~~:

245 (1) In the county that has jurisdiction over the related dependency proceedings;

246 (2) In the county in which a child legally resides;

247 (3) In the county in which a child is present when the termination proceeding is
 248 commenced if such child is present without his or her parent, guardian, or legal custodian;

249 or

250 (4) In the county where the acts underlying the petition to terminate parental rights are
 251 alleged to have occurred."

252 **SECTION 1-19.**

253 Said chapter is further amended by revising subsection (d) of Code Section 15-11-280,
 254 relating to the petition for termination of parental rights and putative fathers, as follows:

255 "(d) When a petition to terminate parental rights seeks termination of the rights of a
 256 biological father who is not the legal father and who has not surrendered his rights to his
 257 child, the petition shall include a certificate from the putative father registry disclosing the
 258 name, address, and social security number of any registrant acknowledging paternity of the
 259 child named in the petition or indicating the possibility of paternity of a child of the child's
 260 mother for a period beginning no more than two years immediately preceding such child's
 261 date of birth. The certificate shall document a search of the registry on or ~~after~~ before the
 262 date of the filing of the petition and shall include a statement that the registry is current as

263 to filings of registrants as of the date of the petition ~~or as of a date later than the date of the~~
 264 ~~petition.~~"

265 **SECTION 1-20.**

266 Said chapter is further amended by revising subsection (e) of Code Section 15-11-282,
 267 relating to service of summons, as follows:

268 "(e)(1) Service by publication shall be made once a week for four consecutive weeks in
 269 the legal organ of the county where the petition to terminate parental rights has been filed
 270 and of the county of the biological father's last known address. Service shall be deemed
 271 complete upon the date of the last publication.

272 (2) When served by publication, the notice shall contain the names of the parties, except
 273 that the anonymity of a child shall be preserved by the use of appropriate initials, and the
 274 date the petition to terminate parental rights was filed. The notice shall indicate the
 275 general nature of the allegations and where a copy of the petition to terminate parental
 276 rights can be obtained and require the party to be served by publication to appear before
 277 the court at the time fixed to answer the allegations of the petition to terminate parental
 278 rights.

279 (3) The petition to terminate parental rights shall be available to the parent party whose
 280 rights are sought to be terminated free of charge from the court during business hours or,
 281 upon request, shall be mailed to such parent party.

282 (4) Within 15 days after the filing of the order of service by publication, the clerk of
 283 court shall mail a copy of the notice, a copy of the order of service by publication, and
 284 a copy of the petition to terminate parental rights to the absent parent's party's last known
 285 address."

286 **SECTION 1-21.**

287 Said chapter is further amended by revising Code Section 15-11-283, relating to notice to
 288 fathers, as follows:

289 "15-11-283.

290 (a) Unless he has surrendered all parental rights to his child, a summons shall be served
 291 ~~on the legal father of a child named in the petition brought pursuant to this article or in the~~
 292 same manner as set forth in Code Section 15-11-282 on the biological father:

293 (1) Whose paternity has been previously established in a judicial proceeding to which
 294 the father was a party;

295 (2) Whose identity is known to the petitioner or the petitioner's attorney;

296 (3) Who is a registrant on the putative father registry and has acknowledged paternity of
 297 the child named in the petition brought pursuant to this article;

298 (4) Who is a registrant on the putative father registry who has indicated possible
 299 paternity of the child named in the petition brought pursuant to this article that was born
 300 to such child's mother during a period beginning no more than two years immediately
 301 preceding such child's date of birth; or

302 (5) Who, if the court finds from the evidence including but not limited to the affidavit
 303 of the mother of a child named in the petition brought pursuant to this article, has
 304 performed any of the following acts:

305 (A) Lived with such child;

306 (B) Contributed to such child's support;

307 (C) Made any attempt to legitimate such child; or

308 (D) Provided support or medical care for such mother either during her pregnancy or
 309 during her hospitalization for the birth of such child.

310 ~~(b) Notice shall be given to the biological father or legal father by the following methods:~~

311 ~~(1) If the biological father or legal father is within this state and can be found, the~~
 312 ~~summons shall be served upon him personally as soon as possible and least 30 days~~
 313 ~~before the termination of parental rights hearing;~~

314 ~~(2) If the biological father or legal father is outside this state but his address is known or~~
 315 ~~can be ascertained with due diligence, service of summons shall be made at least 30 days~~
 316 ~~before the termination of parental rights hearing either by delivering a copy to him~~
 317 ~~personally or by mailing a copy to him by registered or certified mail or statutory~~
 318 ~~overnight delivery, return receipt requested; or~~

319 ~~(3) If, after due diligence, the biological father or legal father to be served with summons~~
 320 ~~cannot be found and his address cannot be ascertained, whether he is within or outside~~
 321 ~~this state, the court may order service of summons upon him by publication. The~~
 322 ~~termination of parental rights hearing shall not be earlier than 31 days after the date of the~~
 323 ~~last publication. Service by publication shall be as follows:~~

324 ~~(A) Service by publication shall be made once a week for four consecutive weeks in~~
 325 ~~the legal organ of the county where the petition to terminate parental rights has been~~
 326 ~~filed and of the county of the biological father's last known address. Service shall be~~
 327 ~~deemed complete upon the date of the last publication;~~

328 ~~(B) When served by publication, the notice shall contain the names of the parties,~~
 329 ~~except that the anonymity of a child shall be preserved by the use of appropriate initials,~~
 330 ~~and the date the petition to terminate parental rights was filed. The notice shall indicate~~
 331 ~~the general nature of the allegations and where a copy of the petition to terminate~~
 332 ~~parental rights can be obtained and require the biological father or legal father to appear~~
 333 ~~before the court at the time fixed to answer the allegations of the petition to terminate~~
 334 ~~parental rights;~~

335 ~~(C) The petition to terminate parental rights shall be available to the biological father~~
 336 ~~or legal father whose rights are sought to be terminated free of charge from the court~~
 337 ~~during business hours or, upon request, shall be mailed to the biological father or legal~~
 338 ~~father; and~~

339 ~~(D) Within 15 days after the filing of the order of service by publication, the clerk of~~
 340 ~~court shall mail a copy of the notice, a copy of the order of service by publication, and~~
 341 ~~a copy of the petition to terminate parental rights to the biological father's or legal~~
 342 ~~father's last known address.~~

343 ~~(c)~~(b) The notice shall advise the biological father who is not the legal father that he may
 344 lose all rights to the child named in a petition brought pursuant to this article and will not
 345 be entitled to object to the termination of his rights to such child unless, within 30 days of
 346 receipt of notice, he files:

- 347 (1) A petition to legitimate such child; and
- 348 (2) Notice of the filing of the petition to legitimate with the court in which the
 349 termination of parental rights proceeding is pending.

350 ~~(d)~~(c) If the identity of the biological father whose rights are sought to be terminated is not
 351 known to the petitioner or the petitioner's attorney and the biological father would not be
 352 entitled to notice in accordance with subsection (a) of this Code section, then it shall be
 353 rebuttably presumed that he is not entitled to notice of the proceedings. The court shall be
 354 authorized to require the mother to execute an affidavit supporting the presumption or show
 355 cause before the court if she refuses. Absent evidence rebutting the presumption, no
 356 further inquiry or notice shall be required by the court, and the court may enter an order
 357 terminating the rights of the biological father.

358 ~~(e)~~(d) The court may enter an order terminating all the parental rights of a biological
 359 father, including any right to object thereafter to such proceedings:

- 360 (1) Who fails to file a timely petition to legitimate the child named in a petition brought
 361 pursuant to this article and notice in accordance with subsection ~~(e)~~ (b) of this Code
 362 section;
- 363 (2) Whose petition to legitimate is subsequently dismissed for failure to prosecute; or
- 364 (3) Whose petition to legitimate does not result in a court order finding that he is the
 365 legal father of the child named in a petition brought pursuant to this article."

366 **SECTION 1-22.**

367 Said chapter is further amended by revising Part 4 of Article 4, relating to hearings in
 368 termination of parental rights cases, by adding a new Code section to read as follows:

369 "15-11-304.
 370 Except as provided in this Code section, hearings to terminate parental rights shall be
 371 conducted in accordance with Title 24. Testimony or other evidence relevant to
 372 determining whether a statutory ground for termination of parental rights exists may not
 373 be excluded on any ground of privilege, except in the case of:
 374 (1) Communications between a party and his or her attorney; and
 375 (2) Confessions or communications between a priest, rabbi, or duly ordained minister or
 376 similar functionary and his or her confidential communicant."

377 **SECTION 1-23.**

378 Said chapter is further amended by revising Code Section 15-11-322, relating to continuing
 379 court review when a child is not adopted, as follows:

380 "15-11-322.

381 (a) If a petition seeking the adoption of a child whose parents have had their parental rights
 382 terminated or surrendered is not filed within six months after the date of the disposition
 383 order, the court shall then, and at least every six months thereafter so long as such child
 384 remains unadopted, review the circumstances of such child to determine what efforts have
 385 been made to assure that such child will be adopted. The court shall:

- 386 (1) Make written findings regarding whether reasonable efforts have been made to move
 387 such child to permanency;
 388 (2) Evaluate whether, in light of any change in circumstances, the permanency plan for
 389 such child remains appropriate; and
 390 (3) Enter such orders as it deems necessary to further adoption or if appropriate, other
 391 permanency options, including, but not limited to, another placement.

392 ~~(b) In those cases in which a child whose parents have had their parental rights terminated~~
 393 ~~or surrendered was placed with a guardian, within 60 days after such appointment and~~
 394 ~~within 60 days after each anniversary date of such appointment, the guardian shall file with~~
 395 ~~the court a personal status report of such child which shall include:~~

- 396 ~~(1) A description of such child's general condition, changes since the last report, and~~
 397 ~~such child's needs;~~
 398 ~~(2) All addresses of such child during the reporting period and the living arrangements~~
 399 ~~of such child for all addresses; and~~
 400 ~~(3) Recommendations for any modification of the guardianship order."~~

401 **SECTION 1-24.**

402 Said chapter is further amended by revising subsections (a) and (b) of Code Section
 403 15-11-390, relating to filing of a complaint for a child in need of services, as follows:

404 "(a) A complaint alleging a child is a child in need of services may be ~~filed by a parent,~~
 405 ~~guardian, or legal custodian, DFCS, a school official, made by any person, including a law~~
 406 ~~enforcement officer, a guardian ad litem, or an attorney~~ who has knowledge of the facts
 407 alleged or is informed and believes that such facts are true.

408 (b) The complaint shall set forth plainly and with particularity:

409 (1) The name, date of birth, and residence address of the child alleged to be a child in
 410 need of services;

411 (2) The facts alleging why the court has jurisdiction of the complaint;

412 (3) The reasons why the complaint is in the best interests of the child and the public;

413 ~~(2)~~(4) The names and residence addresses of the parent, guardian, or legal custodian, any
 414 other family members, or any other individuals living within such child's home;

415 ~~(3)~~(5) The name of any public institution or agency having the responsibility or ability
 416 to supply services alleged to be needed by such child; and

417 ~~(4)~~(6) Whether any of the matters required by this subsection are unknown."

418 **SECTION 1-25.**

419 Said chapter is further amended by revising subsection (a) of Code Section 15-11-400,
 420 relating to child in need of services and time limitations for continued custody, as follows:

421 "(a) The continued custody hearing for a child alleged to be a child in need of services
 422 shall be held promptly and no later than:

423 (1) Twenty-four hours, excluding weekends and holidays, ~~Seventy-two hours~~ after such
 424 child is taken into temporary custody if he or she is being held in a secure residential
 425 facility or nonsecure residential facility; or

426 (2) Seventy-two hours, excluding weekends and holidays, ~~Five days~~ after such child is
 427 placed in foster care, ~~provided that, if the five-day time frame expires on a weekend or~~
 428 ~~legal holiday, the hearing shall be held on the next day which is not a weekend or legal~~
 429 ~~holiday."~~

430 **SECTION 1-26.**

431 Said chapter is further amended by revising subsections (b) through (g) of Code Section
 432 15-11-402, relating to the right to an attorney and appointment of a guardian ad litem, as
 433 follows:

434 ~~"(b) The court shall appoint a CASA to act as a guardian ad litem whenever possible, and~~
 435 ~~a CASA may be appointed in addition to an attorney who is serving as a guardian ad litem.~~

436 ~~(c)~~(b) The court may appoint a guardian ad litem for a child alleged to be a child in need
 437 of services at the request of such child's attorney or upon the court's own motion if it
 438 determines that a guardian ad litem is necessary to assist the court in determining the best

439 interests of such child; provided, however, that such guardian ad litem may be the same
 440 person as the child's attorney unless or until there is a conflict of interest between the
 441 attorney's duty to such child as such child's attorney and the attorney's considered opinion
 442 of such child's best interests as guardian ad litem.

443 ~~(d)~~(c) The role of a guardian ad litem in a proceeding for a child in need of services shall
 444 be the same role as provided for in all dependency proceedings under Article 3 of this
 445 chapter.

446 ~~(e)~~(d) If an attorney or a guardian ad litem has previously been appointed for a child in a
 447 dependency or delinquency proceeding, the court, when possible, shall appoint the same
 448 attorney or guardian ad litem for a child alleged to be a child in need of services.

449 ~~(f)~~(e) An attorney appointed to represent a child in a proceeding for a child in need of
 450 services shall continue representation in any subsequent appeals unless excused by the
 451 court.

452 ~~(g)~~(f) A child alleged to be a child in need of services shall be informed of his or her right
 453 to an attorney at or prior to the first court proceeding for a child in need of services. A
 454 child alleged to be a child in need of services shall be given an opportunity to:

- 455 (1) Obtain and employ an attorney of his or her own choice; or
 456 (2) To obtain a court appointed attorney if the court determines that such child is an
 457 indigent person."

458 **SECTION 1-27.**

459 Said chapter is further amended by revising subsection (c) of Code Section 15-11-410,
 460 relating to taking a child into temporary custody, and adding a new subsection to read as
 461 follows:

462 "(c) A person taking a child into temporary custody shall deliver such child, with all
 463 reasonable speed and without first taking such child elsewhere, to a medical facility if he
 464 or she is believed to suffer from a serious physical condition or illness which requires
 465 prompt treatment and, upon delivery, shall promptly contact a juvenile court intake officer.

466 ~~Immediately upon being notified by the person taking such child into custody, the~~
 467 (d) As soon as a juvenile court intake officer is notified that a child has been taken into
 468 temporary custody, such juvenile court intake officer shall administer a detention
 469 assessment and determine if such child should be released, remain in temporary custody,
 470 or be brought before the court."

471 **SECTION 1-28.**

472 Said chapter is further amended by revising subsection (c) of Code Section 15-11-411,
 473 relating to taking a child into temporary custody, as follows:

474 "(c) If a parent, guardian, or legal custodian has not assumed custody of his or her child
 475 at the end of the 12 hour period described in subsection (a) of this Code section, the court
 476 shall be notified and shall place such child in the least restrictive placement consistent with
 477 such child's needs for protection or control ~~in~~. In making its determination of placement,
 478 the court should consider the following placement options:

479 (1) In the custody of such child's parents, guardian, or legal custodian upon such person's
 480 promise to bring such child before the court when requested by the court; ~~provided,~~
 481 ~~however, that if such placement is not available, such child shall be placed in~~

482 (2) In the custody of DFCS which shall promptly arrange for foster care of such child;

483 (3) In a secure residential facility or nonsecure residential facility in accordance with
 484 Code Section 15-11-412; or

485 (4) In any other court-approved placement that is not a secure residential facility or
 486 nonsecure residential facility."

487 **SECTION 1-29.**

488 Said chapter is further amended by revising Code Section 15-11-413, relating to continued
 489 custody hearings, as follows:

490 "15-11-413.

491 (a) If a child alleged to be a child in need of services is being held in a secure residential
 492 facility or nonsecure residential facility, a continued custody hearing shall be held within
 493 ~~72~~ 24 hours, ~~excluding weekends and holidays~~. If such hearing is not held within the time
 494 specified, such child shall be released from temporary detention in accordance with
 495 subsection (c) of Code Section 15-11-411 and with authorization of the detaining authority.

496 (b) If a child alleged to be a child in need of services is not being held in a secure
 497 residential facility or nonsecure residential facility and has not been released to the custody
 498 of such child's parent, guardian, or legal custodian, a hearing shall be held ~~promptly and~~
 499 ~~not later than five days~~ within 72 hours, excluding weekends and holidays, after such child
 500 is placed in foster care, ~~provided that, if the five-day time frame expires on a weekend or~~
 501 ~~legal holiday, the hearing shall be held on the next day which is not a weekend or legal~~
 502 ~~holiday.~~

503 ~~(c) At the commencement of a continued custody hearing, the court shall inform the~~
 504 ~~parties of:~~

505 ~~(1) The nature of the allegations;~~

506 ~~(2) The nature of the proceedings;~~

507 ~~(3) The possible consequences or dispositions that may apply to such child's case~~
 508 ~~following adjudication; and~~

509 ~~(4) Their due process rights, including the right to an attorney and to an appointed~~
 510 ~~attorney; the privilege against self-incrimination; that he or she may remain silent and~~
 511 ~~that anything said may be used against him or her; the right to confront anyone who~~
 512 ~~testifies against him or her and to cross-examine any persons who appear to testify~~
 513 ~~against him or her; the right to testify and to compel other witnesses to attend and testify~~
 514 ~~in his or her own behalf; the right to a speedy adjudication hearing; and the right to~~
 515 ~~appeal and be provided with a transcript for such purpose."~~

516 **SECTION 1-30.**

517 Said chapter is further amended by revising Code Section 15-11-414, relating to continued
 518 custody hearing and findings, as follows:

519 "15-11-414.

520 (a) At the commencement of a continued custody hearing, the court shall inform the
 521 parties of:

522 (1) The nature of the allegations;

523 (2) The nature of the proceedings;

524 (3) The possible consequences or dispositions that may apply to such child's case
 525 following adjudication; and

526 (4) Their due process rights, including the right to an attorney and to an appointed
 527 attorney; the privilege against self-incrimination; that he or she may remain silent and
 528 that anything said may be used against him or her; the right to confront anyone who
 529 testifies against him or her and to cross-examine any persons who appear to testify
 530 against him or her; the right to testify and to compel other witnesses to attend and testify
 531 in his or her own behalf; the right to a speedy adjudication hearing; and the right to
 532 appeal and be provided with a transcript for such purpose.

533 ~~(a)~~(b) At a continued custody hearing, the court shall determine whether there is probable
 534 cause to believe that a child has committed a status offense or is otherwise a child in need
 535 of services and that continued custody is necessary.

536 ~~(b)~~(c) If the court determines there is probable cause to believe that a child has committed
 537 a status offense or is otherwise in need of services, the court may order that such child:

538 (1) Be released to the custody of his or her parent, guardian, or legal custodian; or

539 (2) Be placed in the least restrictive placement consistent with such child's need for
 540 protection and control as authorized by Code Section 15-11-411 and in accordance with
 541 Code Section 15-11-415.

542 ~~(c)~~(d) If the court determines there is probable cause to believe that such child has
 543 committed a status offense or is otherwise in need of services, the court shall:

544 (1) Refer such child and his or her family for a community based risk reduction program;
 545 or

546 (2) Order that a petition for a child in need of services be filed and set a date for an
 547 adjudication hearing.

548 ~~(d)~~(e) Following a continued custody hearing, the court may detain a child alleged to be
 549 a child in need of services in a secure residential facility or nonsecure residential facility
 550 for up to ~~72~~ 24 hours, excluding weekends and legal holidays, only for the purpose of
 551 providing adequate time to arrange for an appropriate alternative placement pending the
 552 adjudication hearing.

553 ~~(e)~~(f) All orders shall contain written findings as to the form or conditions of a child's
 554 release. If a child alleged to be a child in need of services cannot be returned to the custody
 555 of his or her parent, guardian, or legal custodian at the continued custody hearing, the court
 556 shall state the facts upon which the continued custody is based. The court shall make the
 557 following findings of fact referencing any and all evidence relied upon to make its
 558 determinations:

559 (1) Whether continuation in the home of such child's parent, guardian, or legal custodian
 560 is contrary to such child's welfare; and

561 (2) Whether reasonable efforts have been made to safely maintain such child in the home
 562 of his or her parent, guardian, or legal custodian and to prevent or eliminate the need for
 563 removal from such home. Such finding shall be made at the continued custody hearing
 564 if possible but in no case later than 60 days following such child's removal from his or
 565 her home."

566 **SECTION 1-31.**

567 Said chapter is further amended by revising subsections (a), (e), and (f) of Code Section
 568 15-11-415, relating to detention decisions and findings, as follows:

569 "(a) Restraints on the freedom of a child prior to adjudication shall be imposed only when
 570 there is probable cause to believe that a child committed the act of which he or she is
 571 accused, there is clear and convincing evidence that such child's freedom should be
 572 restrained, that no less restrictive alternatives will suffice, and:

573 (1) Such child's detention or care is required to reduce the likelihood that he or she may
 574 inflict serious bodily harm on others during the interim period; or

575 (2) Such child's detention is necessary to secure his or her presence in court to protect
 576 the jurisdiction and processes of the court; ~~or~~

577 ~~(3) An order for such child's detention has been made by the court."~~

578 ~~"(e) Before entering an order authorizing detention, the court shall determine whether a
 579 child's continuation in his or her home is contrary to his or her welfare and whether there~~

580 ~~are available services that would prevent or eliminate the need for detention. The court~~
 581 ~~shall make such determination on a case-by-case basis and shall make written findings of~~
 582 ~~fact referencing any and all evidence relied upon in reaching its decision.~~

583 (f) If a child alleged to be a child in need of services can remain in the custody of his or
 584 her parent, guardian, or legal custodian through the provision of services to prevent the
 585 need for removal, the court shall order that such services shall be provided."

586 **SECTION 1-32.**

587 Said chapter is further amended by revising Code Section 15-11-420, relating to the authority
 588 to file a petition for a child in need of services, as follows:

589 "15-11-420.

590 A petition alleging that a child is a child in need of services may be ~~made by any person,~~
 591 including filed by a parent, a guardian, a legal custodian, a law enforcement officer, a
 592 guardian ad litem, or an attorney who has knowledge of the facts alleged or is informed and
 593 believes that such facts are true. Such petition shall not be ~~filed~~ accepted for filing unless
 594 the court or a person authorized by the court has determined and endorsed on the petition
 595 that the filing of the petition is in the best interests of the public and such child."

596 **SECTION 1-33.**

597 Said chapter is further amended by revising subsection (a) of Code Section 15-11-441,
 598 relating to an adjudication hearing for a child in need of services, as follows:

599 "(a) If a child alleged to be a child in need of services is in continued custody ~~but not in~~
 600 ~~a secure residential facility or nonsecure residential facility,~~ the adjudication hearing shall
 601 be scheduled to be held no later than ten days after the filing of the petition seeking an
 602 adjudication that such child is a child in need of services. If such child is not in continued
 603 custody, the adjudication hearing shall be scheduled to be held no later than 60 days after
 604 the filing of such petition."

605 **SECTION 1-34.**

606 Said chapter is further amended by revising subsection (a) of Code Section 15-11-442,
 607 relating to disposition hearings for a child in need of services, as follows:

608 "(a) If the court finds that a child is a child in need of services, a final disposition hearing
 609 shall be held and completed within ~~60~~ 30 days of the conclusion of the adjudication hearing
 610 if the final disposition hearing is not held in conjunction with such adjudication hearing."

611 **SECTION 1-35.**

612 Said chapter is further amended by revising paragraph (1) of subsection (a) of Code Section
613 15-11-443, relating to the duration of disposition orders, as follows:

614 "(1) A hearing is held prior to the expiration of the order upon motion of DFCS, DJJ, the
615 ~~prosecuting attorney~~ petitioner, or on the court's own motion;"

616 **SECTION 1-36.**

617 Said chapter is further amended by revising Code Section 15-11-476, relating to appointment
618 of a guardian ad litem in delinquency cases, as follows:

619 "15-11-476.

620 (a) ~~The court shall appoint a CASA to act as a guardian ad litem whenever possible, and~~
621 ~~a CASA may be appointed in addition to an attorney who is serving as a guardian ad litem.~~

622 (b) The court shall appoint a ~~separate~~ guardian ad litem whenever:

623 (1) An alleged delinquent child appears before the court without his or her parent,
624 guardian, or legal custodian;

625 (2) It appears to the court that a parent, guardian, or legal custodian of an alleged
626 delinquent child is incapable or unwilling to make decisions in the best interests of such
627 child with respect to proceedings under this article such that there may be a conflict of
628 interest between such child and his or her parent, guardian, or legal custodian; or

629 (3) The court finds that it is otherwise in a child's best interests to do so.

630 (c)(b) The role of a guardian ad litem in a delinquency proceeding shall be the same role
631 as provided for in all dependency proceedings under Article 3 of this chapter.

632 (d)(c) ~~In Neither a child's attorney in a delinquency proceeding, nor his or her a child's~~
633 ~~parent, guardian, or legal custodian, or attorney shall not prohibit or impede the child's~~
634 ~~guardian ad litem's access to such child by the guardian ad litem."~~

635 **SECTION 1-37.**

636 Said chapter is further amended by revising paragraph (3) of subsection (e) of Code Section
637 15-11-450, relating to comprehensive services plan for child found unrestorably incompetent
638 to proceed, as follows:

639 "(3) If such child's evaluation recommends inpatient treatment, certification by such plan
640 manager that such child is mentally ill or developmentally disabled and meets the
641 requirements for civil commitment pursuant to Chapters 3 and 4 of Title 37 and that all
642 other appropriate community based treatment options have been exhausted; and"

643 **SECTION 1-38.**

644 Said chapter is further amended by revising subsection (d) of Code Section 15-11-451,
 645 relating to hearing on a mental health plan, as follows:

646 "(d) If, during the comprehensive services plan hearing or any subsequent review hearing,
 647 the court determines that a child ~~meets criteria~~ is mentally ill or developmentally disabled
 648 and meets the requirements for civil commitment pursuant to Chapters 3 and 4 of Title 37,
 649 such child may be committed to an appropriate treatment setting."

650 **SECTION 1-39.**

651 Said chapter is further amended by revising subsection (b) of Code Section 15-11-511,
 652 relating to arraignment and admissions at arraignment, as follows:

653 "(b) The court may accept an admission at arraignment and may proceed immediately to
 654 disposition if a child is represented by counsel at arraignment ~~or if~~. If a child's liberty is
 655 not in jeopardy, he or she may waive the right to counsel at arraignment. A child
 656 represented by counsel or whose liberty is not in jeopardy may make a preliminary
 657 statement indicating whether he or she plans to admit or deny the allegations of the
 658 complaint at the adjudication hearing, ~~but the~~. The court shall not accept an admission
 659 from a child whose liberty is in jeopardy and who is unrepresented by counsel."

660 **SECTION 1-40.**

661 Said chapter is further amended by revising subsection (a) of Code Section 15-11-531,
 662 relating to service of summons for adjudication hearings, as follows:

663 "(a) If a party to be served with a summons is within this state and can be found, the
 664 summons shall be served upon him or her personally as soon as possible and at least ~~24~~ 72
 665 hours before the adjudication hearing."

666 **SECTION 1-41.**

667 Said chapter is further amended by revising subsection (d) of Code Section 15-11-532,
 668 relating to sanctions for failure to obey a summons, as follows:

669 "(d) If there is sworn testimony that a child ~~14 years of age but not yet~~ less than 16 years
 670 of age willfully refuses to appear at a hearing on a petition alleging delinquency after being
 671 ordered to so appear, the court may issue a bench warrant requiring that such child be
 672 brought before the court and the court may enter any order authorized by the provisions of
 673 Code Section 15-11-31."

674 **SECTION 1-42.**

675 Said chapter is further amended by revising subsection (a) of Code Section 15-11-566,
676 relating to dismissal order upon transfer to superior court, as follows:

677 "(a) If the court decides to transfer a child for trial in superior court, it shall dismiss the
678 juvenile court petition alleging delinquency for the offense or offenses being transferred,
679 set forth the offense or offenses which are being transferred, and make the following
680 findings of fact in its dismissal order:

- 681 (1) That the court had jurisdiction of the cause and the parties;
682 (2) That the child subject to transfer was represented by an attorney; and
683 (3) That the hearing was held in the presence of the child subject to transfer and his or
684 her attorney."

685 **SECTION 1-43.**

686 Said chapter is further amended by revising subsection (a) of Code Section 15-11-582,
687 relating to adjudication hearings in delinquency cases and time limitations, as follows:

688 "(a) The court shall fix a time for the adjudication hearing. If an alleged delinquent child
689 is in detention, the hearing shall be ~~scheduled to be~~ held no later than ten days after the
690 filing of the delinquency petition. If a child is not in detention, the hearing shall be
691 ~~scheduled to be~~ held no later than 60 days after the filing of such petition."

692 **SECTION 1-44.**

693 Said chapter is further amended by revising subsections (c), (d), and (h) of Code Section
694 15-11-602, relating to the disposition of persons adjudicated for class A or class B designated
695 felony acts, as follows:

696 "(c) An order for a child adjudicated for a class A designated felony act placing such child
697 in restrictive custody shall provide that:

- 698 (1) Such child shall be placed in DJJ custody for an initial period of up to 60 months;
699 (2) Such child shall be confined for a period set by the order in a secure residential
700 facility, except as provided in subsection (e) of this Code section. All time spent in a
701 secure residential facility or nonsecure residential facility shall be counted toward the
702 confinement period set by the order;
703 (3) After a period of confinement set by the court, such child shall be placed under
704 intensive supervision not to exceed 12 months;
705 (4) Such child shall not be released from intensive supervision unless by court order; and
706 (5) All home visits shall be carefully arranged and monitored by DJJ personnel while
707 such child is placed in a secure residential facility or nonsecure residential facility.

708 (d) An order for a child adjudicated for a class B designated felony act placing such child
709 in restrictive custody shall provide that:

710 (1) Such child shall be placed in DJJ custody for an initial period of up to 36 months;
711 provided, however, that not more than 18 months of such custodial period shall be spent
712 in restrictive custody;

713 (2) Except as provided in subsection (e) of this Code section, if such child is classified
714 as moderate risk or high risk, he or she shall be confined for a period set by the order in
715 a secure residential facility for half of the period of restrictive custody and the other half
716 of the period of restrictive custody may, at the discretion of DJJ, be spent in a nonsecure
717 residential facility. All time spent in a secure residential facility or nonsecure residential
718 facility shall be counted toward the confinement period set by the order;

719 (3) Except as provided in subsection (e) of this Code section, if such child is classified
720 as low risk, he or she shall be confined for a period set by the order in a nonsecure
721 residential facility. All time spent in a secure residential facility or nonsecure residential
722 facility ~~subsequent to the date of the disposition hearing and prior to placement in a~~
723 ~~nonsecure residential facility~~ shall be counted toward the confinement period set by the
724 order;

725 (4) Such child shall be placed under intensive supervision not to exceed six months
726 either after a period of confinement set by the court or as an initial period of supervision;

727 (5) Such child shall not be released from intensive supervision unless by court order; and

728 (6) All home visits shall be carefully arranged and monitored by DJJ personnel while a
729 child is placed in a secure residential facility or nonsecure residential facility."

730 "(h) The court shall identify the school last attended by a child adjudicated for a class A
731 designated felony act or class B designated felony act and the school which such child
732 intends to attend and shall transmit a copy of the adjudication to the principals of both
733 schools within ~~15~~ 30 days of the adjudication. Such information shall be subject to
734 notification, distribution, and other requirements as provided in Code Section 20-2-671."

735 **SECTION 1-45.**

736 Said chapter is further amended by revising subsection (a) of Code Section 15-11-604,
737 relating to credit for time served, as follows:

738 "(a) A child adjudicated to have committed a delinquent act shall be given credit for each
739 day spent in a secure residential facility, ~~or~~ a nonsecure residential facility, or any
740 institution or facility for the treatment or examination of a physical or mental disability
741 awaiting adjudication, pending disposition and ~~for each day spent in a secure residential~~
742 ~~facility or nonsecure residential facility~~ in connection with and resulting from a court order
743 entered in the proceedings for which the disposition was imposed and in any institution or

744 facility for treatment or examination of a physical or mental disability. Such credit shall
745 be applied toward the child's disposition."

746 **SECTION 1-46.**

747 Said chapter is further amended by revising subsection (d) of Code Section 15-11-656,
748 relating to disposition of incompetent child, as follows:

749 "(d) All court orders determining incompetency shall include specific written findings by
750 the court as to the nature of the incompetency and the mandated outpatient competency
751 remediation services. If such child is in an out-of-home placement, the court shall specify
752 the type of competency remediation services to be performed at such child's location. A
753 child may be placed in a ~~secure treatment facility~~ or crisis stabilization unit, as such term
754 is defined in Code Section 37-1-29, or a psychiatric residential treatment facility operated
755 by DBHDD or other program, not to include DJJ facilities, if the court makes a finding by
756 clear and convincing evidence that:

- 757 (1) A child is mentally ill or developmentally disabled and meets the requirements for
758 civil commitment pursuant to Chapters 3 and 4 of Title 37; and
759 (2) All available less restrictive alternatives, including treatment in community
760 residential facilities or community settings which would offer an opportunity for
761 improvement of a child's condition, are inappropriate."

762 **SECTION 1-47.**

763 Code Section 19-7-1 of the Official Code of Georgia Annotated, relating to in whom parental
764 power lies and how such power may be lost, is amended by revising paragraph (8) of
765 subsection (b) as follows:

766 "(8) A superior court order terminating parental rights of the legal father or the biological
767 father who is not the legal father of the child in a petition for legitimation, a petition to
768 establish paternity, a divorce proceeding, or a custody proceeding pursuant to this chapter
769 or Chapter ~~6~~ 5, 8, or 9 of this title, provided that such termination is in the best interest
770 of such child; and provided, further, that this paragraph shall not apply to such
771 termination when a child has been adopted or is conceived by artificial insemination as
772 set forth in Code Section 19-7-21 or when an embryo is adopted as set forth in Article 2
773 of Chapter 8 of this title."

774

PART II

775

SECTION 2-1.

776 Part 1 of Article 2 of Chapter 13 of Title 16 of the Official Code of Georgia Annotated,
 777 relating to schedules, offenses, and penalties, is amended by revising subsection (m) of Code
 778 Section 16-13-30, relating to purchase, possession, manufacture, distribution, or sale of
 779 controlled substances or marijuana and penalties, as follows:

780 "(m) As used in this Code section, the term 'solid substance' means a substance that is not
 781 in a liquid or gas form. Such term shall include tablets, pills, capsules, caplets, powder,
 782 crystal, or any variant of such items."

783

SECTION 2-2.

784 Said part is further amended by revising subsection (i) of Code Section 16-13-31, relating
 785 to trafficking in cocaine, illegal drugs, marijuana, or methamphetamine and penalties, as
 786 follows:

787 "(i) Notwithstanding Code Section 16-13-2, any sentence imposed pursuant to
 788 subsection (g) of this Code section shall not be reduced by any earned time, early release,
 789 work release, leave, or other sentence-reducing measures under programs administered by
 790 the Department of Corrections, the effect of which would be to reduce the period of
 791 incarceration ordered by the sentencing court or any form of pardon, parole, or
 792 commutation of sentence by the State Board of Pardons and Paroles; provided, however,
 793 that during the final year of incarceration, a defendant so sentenced shall be eligible to be
 794 considered for participation in a Department of Corrections administered transitional center
 795 or work release program."

796

SECTION 2-3.

797 Said part is further amended by revising subsection (e) of Code Section 16-13-31.1, relating
 798 to trafficking in ecstasy, sentencing, and variation, as follows:

799 "(e) Notwithstanding Code Section 16-13-2, any sentence imposed pursuant to
 800 subsection (b) of this Code section shall not be reduced by any earned time, early release,
 801 work release, leave, or other sentence-reducing measures under programs administered by
 802 the Department of Corrections, the effect of which would be to reduce the period of
 803 incarceration ordered by the sentencing court or any form of pardon, parole, or
 804 commutation of sentence by the State Board of Pardons and Paroles; provided, however,
 805 that during the final year of incarceration, a defendant so sentenced shall be eligible to be
 806 considered for participation in a Department of Corrections administered transitional center
 807 or work release program."

808

PART III

809

SECTION 3-1.

810 Part 1 of Article 2 of Chapter 13 of Title 16 of the Official Code of Georgia Annotated,
 811 relating to schedules, offenses, and penalties, is amended by revising subsection (m) of Code
 812 Section 16-13-30, relating to purchase, possession, manufacture, distribution, or sale of
 813 controlled substances or marijuana and penalties, as follows:

814 "(m) As used in this Code section, the term 'solid substance' means a substance that is not
 815 in a liquid or gas form. Such term shall include tablets, pills, capsules, caplets, powder,
 816 crystal, or any variant of such items."

817

PART IV

818

SECTION 4-1.

819 Code Section 29-2-4 of the Official Code of Georgia Annotated, relating to nomination of
 820 testamentary guardian, is amended by revising subsection (b) as follows:

821 "(b)(1) Unless the minor has another living parent, upon probate of the minor's parent's
 822 will, letters of guardianship shall be issued to the individual nominated in the will who
 823 shall serve as testamentary guardian without notice or a hearing provided that the
 824 individual is willing to serve and no objection is filed. If a timely objection is filed,
 825 letters of guardianship shall only be issued after a hearing held pursuant to paragraph (4)
 826 of this subsection.

827 (2) At the time such will is offered for probate, notice of the testamentary guardianship
 828 shall be served by certified mail or statutory overnight delivery, return receipt requested,
 829 to the minor child's adult siblings and grandparents. If such child does not have adult
 830 siblings or grandparents, such notice shall be served on such child's great-grandparents,
 831 aunts, uncles, great aunts, or great uncles, insofar as any such relative exists.

832 (3) Any person who receives a notice pursuant to this subsection and objects to the
 833 appointment of the nominated testamentary guardian shall file an objection with the court
 834 within ten days of being served with notice. Such objection shall include allegations and
 835 facts with reasonable specificity stating why the nominated testamentary guardian is unfit
 836 to serve.

837 (4) If a timely objection is filed, the court shall conduct an expedited hearing within 30
 838 days of the date of the filing of the last objection. The hearing shall be conducted in
 839 accordance with Code Section 29-2-14. The court shall award the letters of guardianship
 840 to the nominated testamentary guardian unless the objecting party establishes by clear and

841 convincing evidence that the nominated testamentary guardian is unfit to serve as
 842 testamentary guardian.
 843 (5) Any proceeding relating to the appointment of a testamentary guardian shall not
 844 affect or delay the probating of a will."

845 **SECTION 4-2.**

846 Code Section 53-5-21 of the Official Code of Georgia Annotated, relating to the procedure
 847 for probating a will in solemn form, is amended by revising subsection (b) as follows:

848 "(b) The petition to probate a will in solemn form shall set forth the full name, the place
 849 of domicile, and the date of death of the testator; the mailing address of the petitioner; the
 850 names, ages or majority status, and addresses of the surviving spouse and of all the other
 851 heirs, stating their relationship to the testator; and whether, to the knowledge of the
 852 petitioner, any other proceedings with respect to the probate of another purported will of
 853 the testator are pending in this state and, if so, the names and addresses of the propounders
 854 and the names, addresses, and ages or majority status of the beneficiaries under the other
 855 purported will. If a testamentary guardian is being appointed in accordance with
 856 subsection (b) of Code Section 29-2-4, the names and mailing addresses of any persons
 857 required to be served with notice pursuant to such Code section shall be provided by the
 858 petitioner. In the event full particulars are lacking, the petition shall state the reasons for
 859 any omission. The petition shall conclude with a prayer for issuance of letters
 860 testamentary. If all of the heirs acknowledge service of the petition and notice and shall
 861 in their acknowledgment assent thereto, and if there are no other proceedings pending in
 862 this state with respect to the probate of another purported will of the decedent, the will may
 863 be probated and letters testamentary thereupon may issue without further delay; provided,
 864 however, that letters of guardianship shall only be issued in accordance with Code Section
 865 29-2-4."

866 **PART V**

867 **SECTION 5-1.**

868 Parts I and II and this part of this Act shall become effective upon its approval by the
 869 Governor or upon its becoming law without such approval, Part III of this Act shall become
 870 effective on July 1, 2014, and Part IV of this Act shall become effective on January 1, 2015.
 871 Sections 2-2 and 2-3 of Part II of this Act shall apply to any sentence imposed on or after
 872 July 1, 2013.

873

SECTION 5-2.

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