

House Bill 603

By: Representatives Wiedower of the 121st and Gaines of the 120th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to the
2 Juvenile Code, so as to expedite and prioritize processes for the termination of parental rights
3 in certain cases involving parental incapacity and child maltreatment; to revise and to provide
4 for definitions; to revise circumstances for when reasonable efforts by DFCS are not
5 required; to revise requirements for nonreunification hearings; to update a cross-reference;
6 to provide for legislative findings; to provide for related matters; to provide for an effective
7 date; to provide for applicability; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 The General Assembly finds that although the efforts of this state's child welfare
11 professionals to engage with families and resolve issues of maltreatment through the use of
12 appropriate services are proper and fit, there are certain situations in which the child's right
13 to grow and thrive in a safe, loving environment and to be cared for by a responsible,
14 trustworthy adult must take precedence. The General Assembly therefore finds it necessary,
15 in appropriate situations, to expedite safe, stable, and permanent placement with relatives or

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16 adoptive families for those children who have suffered significant and chronic abuse at the
17 hands of a parent.

18 **SECTION 2.**

19 Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to the Juvenile
20 Code, is amended by revising paragraphs (1) and (5) of Code Section 15-11-2, relating to
21 definitions, as follows:

22 "(1) 'Abandonment' or 'abandoned' means any conduct on the part of a parent, guardian,
23 or legal custodian showing an intent to forgo parental duties or relinquish parental claims.

24 Intent to forgo parental duties or relinquish parental claims may be evidenced by:

25 (A) Failure, for a period of at least six months, to communicate meaningfully with a
26 child;

27 (B) Failure, for a period of at least six months, to maintain regular visitation with a
28 child;

29 (C) Leaving a child with another person without provision for his or her support for a
30 period of at least six months;

31 (D) Failure, for a period of at least six months, to ~~participate in~~ fully comply with any
32 court ordered plan or program designed to reunite a child's parent, guardian, or legal
33 custodian with his or her child;

34 (E) Leaving a child without affording means of identifying such child or his or her
35 parent, guardian, or legal custodian and:

36 (i) The identity of such child's parent, guardian, or legal custodian cannot be
37 ascertained despite diligent searching; and

38 (ii) A parent, guardian, or legal custodian has not come forward to claim such child
39 within three months following the finding of such child;

40 (F) Being absent from the home of his or her child for a period of time that creates a
41 substantial risk of serious harm to a child left in the home;

42 (G) Failure to respond, for a period of at least six months, to notice of child protective
43 proceedings; or

44 (H) Any other conduct indicating an intent to forgo parental duties or relinquish
45 parental claims."

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

47 (A) Abandoned a child;

48 (B) Aided or abetted, attempted, conspired, or solicited to commit murder or voluntary
49 manslaughter of another child of such parent;

50 (C) Subjected a child or his or her sibling to torture, chronic abuse or neglect, sexual
51 abuse, or sexual exploitation;

52 (D) Committed the murder or voluntary manslaughter of his or her child's other parent
53 or has been convicted of aiding or abetting, attempting, conspiring, or soliciting the
54 murder or voluntary manslaughter of his or her child's other parent;

55 (E) Committed the murder or voluntary manslaughter of another child of such parent;

56 (F) Committed an assault that resulted in serious bodily injury to his or her child or
57 another child of such parent; ~~or~~

58 (G) Caused his child to be conceived as a result of having nonconsensual sexual
59 intercourse with the mother of his child or when the mother is less than ten years of age;

60 or

61 (H) Subjected a child to prenatal abuse involving alcohol or illegal drugs, where the
62 parent has a history of chronic unrehabilitated substance abuse and the court finds such
63 substance abuse is likely to continue and will not likely be remedied in the reasonably
64 foreseeable future."

65

SECTION 3.

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

68 "(14) A recommendation for a permanency plan for such child. If, after considering
69 reunification, adoptive placement, permanent guardianship, or placement with a fit and
70 willing relative, DFCS recommends placement in another planned permanent living
71 arrangement for a child who has attained the age of 16, the case plan shall include:

72 (A) Documentation of a compelling reason or reasons why reunification, termination
73 of parental rights and adoption, permanent guardianship, or placement with a fit and
74 willing relative are not in the child's best interests;

75 (B) Documentation of the intensive, ongoing, and unsuccessful efforts made by the
76 state agency to return the child home or secure a placement for the child with a fit and
77 willing relative, a legal guardian, or an adoptive parent, including through efforts that
78 utilize search technology, including social media, to find biological family members for
79 the child; and

80 (C) Documentation of the steps the state agency is taking to ensure that the child's
81 foster family home or child care institution is following the reasonable and prudent
82 parent standard, as defined in Code Section 49-5-3, and documentation that the child
83 has regular, ongoing opportunities to engage in age or developmentally appropriate
84 activities, as defined in Code Section 49-5-3, including by consulting with the child in
85 an age-appropriate manner about the opportunities of the child to participate in the
86 activities.

87 For purposes of this paragraph, a 'compelling reason' shall have the same meaning as in
88 paragraph (2) of subsection ~~(b)~~ (c) of Code Section 15-11-233."

89 **SECTION 4.**

90 Said chapter is further amended by revising Code Section 15-11-203, relating to when
91 reasonable efforts by DFCS not required, as follows:

92 "15-11-203.

93 (a) The court may direct that reasonable efforts to eliminate the need for placement of an
94 alleged dependent child ~~shall not be~~ are not required or and shall cease if the court
95 determines and makes written findings of fact that a parent of an alleged dependent child:

96 (1) Has subjected his or her child to aggravated circumstances;

97 (2) Has been convicted of the murder or murder in the second degree of another child of
98 such parent;

99 (3) Has been convicted of the voluntary manslaughter of another child of such parent;

100 (4) Has been convicted of aiding or abetting, attempting, conspiring, or soliciting to
101 commit murder or voluntary manslaughter of another child of such parent;

102 (5) Has been convicted of committing a felony assault that results in serious bodily
103 injury to the child or another child of such parent;

104 (6) Has been convicted of rape, sodomy, aggravated sodomy, child molestation,
105 aggravated child molestation, incest, sexual battery, or aggravated sexual battery of the
106 alleged dependent child or another child of the parent;

107 (7) Is required to register as a sex offender and that preservation of a parent-child
108 relationship is not in the alleged dependent child's best interests; or

109 (8) Has had his or her rights to a sibling of the alleged dependent child terminated
110 involuntarily and the circumstances leading to such termination of parental rights to that
111 sibling have not been resolved.

112 (b) In any case in which the court finds by clear and convincing evidence that any of the
113 circumstances enumerated in subsection (a) of this Code section exist, the court shall
114 presume that reunification efforts should not be made by DFCS and that the case should
115 proceed immediately to termination of parental rights, guardianship, or other permanency
116 plan not involving reunification. To overcome such presumption, a parent may present
117 evidence that:

118 (1) Such conduct was an aberration and not consistent with the parent's history and
 119 overall capacity to care for the child in an appropriate manner; and

120 (2) The parent has fully addressed any issues that caused his or her conduct to the extent
 121 that the court finds the parent to be rehabilitated and unlikely to repeat any instances of
 122 maltreatment toward the child in question.

123 ~~(b)~~(c) For each hearing, DFCS shall report to all parties and the court in writing whether
 124 there are reasonable grounds to believe one or more of the circumstances enumerated in
 125 subsection (a) of this Code section exist. If the court ~~determines~~ finds that one or more of
 126 the circumstances enumerated in subsection (a) of this Code section exist or if DFCS has
 127 submitted a written report to the court which does not contain a plan for reunification
 128 services, the court shall within 30 days hold a nonreunification hearing pursuant to Code
 129 Section 15-11-204 to determine whether reunification services should be provided then:

130 ~~(1) A permanency plan hearing shall be held for a child adjudicated as a dependent child~~
 131 ~~within 30 days; and~~

132 ~~(2) Reasonable efforts shall be made to place a child adjudicated as a dependent child in~~
 133 ~~a timely manner in accordance with the permanency plan and to complete whatever steps~~
 134 ~~are necessary to finalize the permanent placement of such child."~~

135 **SECTION 5.**

136 Said chapter is further amended by revising Code Section 15-11-204, relating to
 137 nonreunification hearing, as follows:

138 "15-11-204.

139 ~~(a) If the DFCS report does not contain a plan for reunification services;~~ Whenever the
 140 court finds reasonable grounds to believe one or more of the circumstances enumerated in
 141 subsection (a) of Code Section 15-11-203 exist or whenever the DFCS report does not
 142 contain a plan for reunification services, the court shall hold a nonreunification hearing to

143 review the report and the determination that a plan for reunification services is not
144 appropriate.

145 (b) The nonreunification hearing shall be held no later than 30 days from the time the
146 DFCS report is filed or the court finds that a reasonable ground for nonreunification exists.
147 Notice of the nonreunification hearing shall be provided, by summons, to the child
148 adjudicated as a dependent child if he or she is 14 years of age or older; his or her parent,
149 guardian, ~~or~~ legal custodian, attorney, or guardian ad litem, if any; and specified
150 nonparties entitled to notice.

151 (c) At the nonreunification hearing:

152 (1) DFCS shall notify the court whether and when it intends to proceed with termination
153 of parental rights; and

154 (2) The court shall also hold a permanency plan hearing, at which the court shall
155 consider in-state and out-of-state permanent placement options for the child adjudicated
156 as a dependent child and shall incorporate a permanency plan for such child in its order.

157 (d) DFCS shall have the burden of demonstrating by clear and convincing evidence that
158 a reunification plan is not appropriate considering the health and safety of the child
159 adjudicated as a dependent child and such child's need for permanence. There shall be a
160 presumption that reunification is detrimental to a child adjudicated as a dependent child and
161 reunification services should not be provided if the court finds by clear and convincing
162 evidence that:

163 (1) Such child's parent has unjustifiably failed to comply with a previously ordered plan
164 designed to reunite the family;

165 (2) An alleged dependent child has been removed from his or her home on at least two
166 previous occasions and reunification services were made available on those occasions;

167 (3) A ground for terminating parental rights exists; or

168 (4) Any of the circumstances set out in subsection (a) of Code Section 15-11-203 exist,
169 making it unnecessary to provide reasonable efforts to reunify.

170 (e) If the court has entered an order finding that reasonable efforts to reunify a child
171 adjudicated as a dependent child with his or her family are not required but the court finds
172 further that referral for termination of parental rights and adoption is not in the best
173 interests of such child, the court may, upon proper petition, place such child in the custody
174 of a permanent guardian pursuant to the provisions of this article."

175 **SECTION 6.**

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

178 "15-11-233.

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

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

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

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

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

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

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

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

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

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

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

200 (b) The petition required by subsection (a) of this Code section shall be filed within 30
201 days of a determination by the court that:

202 (1) Any of the circumstances enumerated in paragraphs (1) through (3) of subsection (a)
203 of this Code section exist;

204 (2) DFCS is not required to provide reunification services pursuant to Code
205 Section 15-11-203; or

206 (3) A parent has voluntarily surrendered his or her parental rights.

207 ~~(b)~~(c) Termination of parental rights may not be in the best interests of a child adjudicated
208 as a dependent child when:

209 (1) Such child is being cared for by his or her relative;

210 (2) The case plan documents a compelling reason for determining that filing such a
211 petition would not be in the best interests of such child. Such compelling reasons may
212 include, but shall not be limited to:

213 (A) A parent of such child is successfully participating in services that will make it
214 possible for his or her child to safely return home;

215 (B) Another permanency plan is better suited to meet the health and safety needs of
216 such child. Documentation that another permanent plan is better suited to meet the
217 health and safety needs of such child may include documentation that:

218 (i) Such child is 14 years of age or older and objects to termination of parental rights.

219 Prior to accepting a child's objection, the court shall personally question such child
220 in chambers to determine whether the objection is a voluntary and knowing choice;

221 (ii) Such child is 16 years of age or older and specifically requests that emancipation
222 be established as his or her permanent plan;

223 (iii) The parent of such child and such child have a significant bond, but such parent
224 is unable to care for such child because of an emotional or physical disability and
225 such child's caregiver has committed to raising such child to the age of majority and
226 facilitating visitation with such disabled parent; or

227 (iv) Such child is in a residential treatment facility that provides services specifically
228 designed to address his or her treatment needs and the court determines that his or her
229 needs could not be served by a less restrictive placement;

230 (C) Such child is living with his or her relative who is unable or unwilling to adopt
231 such child, but who is willing and capable of providing such child with a stable and
232 permanent home environment and the removal of such child from the physical custody
233 of his or her relative would be detrimental to such child's emotional well-being;

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

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

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

242 ~~(e)~~(d) The recommendation by DFCS that termination of parental rights is not in the best
243 interests of a child shall be based on the present family circumstances of such child and
244 shall not preclude a different recommendation at a later date if the family circumstances
245 of a child adjudicated as a dependent child change."

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SECTION 7.

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

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SECTION 8.

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