

Senate Bill 131

By: Senators Tillery of the 19th, Stone of the 23rd, Mullis of the 53rd, Black of the 8th, Kirk of the 13th and others

**AS PASSED**

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to the  
2 Juvenile Code, so as to provide that adoption proceedings be stayed while an appeal of an  
3 order to terminate parental rights is pending; to clarify the court's duties to a case while an  
4 appeal is pending; to clarify the statutory grounds for terminating parental rights and provide  
5 other considerations when terminating such rights; to clarify provisions relating to the waiver  
6 of the right to counsel; to provide for related matters; to repeal conflicting laws; and for other  
7 purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to the Juvenile  
11 Code, is amended by revising Code Section 15-11-35, relating to appeals, as follows:

12 "15-11-35.

13 In all cases of final judgments of the juvenile court, appeals shall be taken to the Court of  
14 Appeals or the Supreme Court in the same manner as appeals from the superior court.  
15 However, no such judgment or order shall be superseded or modified except in the  
16 discretion of the trial court; rather, the judgment or order of the court shall stand until  
17 reversed or modified by the reviewing court. The appeal of an order granting a petition to  
18 terminate parental rights shall stay an adoption proceeding related to the child who is the  
19 subject of such order until such order becomes final by the conclusion of appellate  
20 proceedings or the expiration of the time for seeking such review. Except for proceedings  
21 in connection with an adoption, the court shall continue to conduct hearings and issue  
22 orders in accordance with this chapter while an appeal in a case is pending."

23 **SECTION 2.**

24 Said chapter is further amended by revising subsection (g) of Code Section 15-11-103,  
25 relating to the right to an attorney, as follows:

26 "(g) A party other than a child shall be informed of his or her right to an attorney prior to  
 27 any hearing. A party other than a child shall be given an opportunity to:  
 28 (1) Obtain and employ an attorney of such party's own choice;  
 29 (2) Obtain a court appointed attorney if the court determines that such party is an  
 30 indigent person; or  
 31 (3) Waive the right to an attorney, provided that such waiver is made knowingly,  
 32 voluntarily, and on the record."

### 33 SECTION 3.

34 Said chapter is further amended by revising paragraph (5) of subsection (a) and subsection  
 35 (b) of Code Section 15-11-310, relating to grounds for determining termination of parental  
 36 rights, as follows:

37 "(5) A child is a dependent child due to lack of proper parental care or control by his or  
 38 her parent, reasonable efforts to remedy the circumstances have been unsuccessful or  
 39 were not required, such cause of dependency is likely to continue or will not likely be  
 40 remedied, ~~and the continued dependency will cause or is likely to cause serious physical,~~  
 41 ~~mental, emotional, or moral harm to such child in the reasonably foreseeable future, and:~~

42 (A) Returning such child to his or her parent is likely to cause serious physical, mental,  
 43 moral, or emotional harm to such child or threaten the physical safety or well-being of  
 44 such child; or

45 (B) Continuation of the parent and child relationship will cause or is likely to cause  
 46 serious physical, mental, moral, or emotional harm to such child.

47 (b) If any of the statutory grounds for termination has been met, the court shall then  
 48 consider whether termination is in a child's best interests after considering the following  
 49 factors:

50 (1) Such child's sense of attachments, including his or her sense of security and  
 51 familiarity, and the continuity of affection for such child;

52 (2) Such child's wishes and long-term goals;

53 (3) Such child's need for permanence, including his or her need for stability and  
 54 continuity of relationships with a parent, siblings, and other relatives; ~~and~~

55 (4) Any benefit to such child of being integrated into a stable and permanent home and  
 56 the likely effect of delaying such integration into such stable and permanent home  
 57 environment;

58 (5) The detrimental impact of the lack of a stable and permanent home environment on  
 59 such child's safety, well-being, or physical, mental, or emotional health;

60 (6) Such child's future physical, mental, moral, or emotional well-being; and

61 ~~(4)(7)~~ Any other factors, including the factors set forth in Code Section 15-11-26,  
62 considered by the court to be relevant and proper to its determination."

63 **SECTION 4.**

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

66 "(b) The court may accept an admission at arraignment and may proceed immediately to  
67 disposition if a child is represented by counsel at arraignment. If a child's liberty is not in  
68 jeopardy, he or she may waive the right to counsel at arraignment, provided that such  
69 waiver is made knowingly, voluntarily, and on the record. A child represented by counsel  
70 or whose liberty is not in jeopardy may make a preliminary statement indicating whether  
71 he or she plans to admit or deny the allegations of the complaint at the adjudication  
72 hearing. The court shall not accept an admission from a child whose liberty is in jeopardy  
73 and who is unrepresented by counsel."

74 **SECTION 5.**

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