

Senate Bill 376

By: Senators Tillery of the 19th, Kirkpatrick of the 32nd, Burns of the 23rd, Payne of the 54th, Strickland of the 17th and others

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 clarify requirements of parents, DFCS, and court in order to improve
3 timely permanent placement of a child removed from their home; to provide for the diligent
4 search and timely evaluation of a relative with an active and present interest in providing a
5 permanent home for such child; to provide that, at a periodic review hearing, a court shall
6 determine whether the parent has made substantial progress toward completion of the case
7 plan; to provide that a court shall timely review and adopt any revised case plans; to provide
8 that a court shall include certain information in its written findings of fact after a periodic
9 review hearing; to provide that a court shall include certain information in its written findings
10 of fact at a permanency plan hearing; to provide that termination of parental rights may not
11 be in the best interests of a child when such child is being cared for by a relative that intends
12 to be a permanent placement for such child; to provide for a hearing to be held prior to a
13 dependent child's fifteenth month in foster care to review a determination of the Division of
14 Family and Children Services of the Department of Human Services not to petition to
15 terminate parental rights; to provide for related matters; to provide for an effective date and
16 applicability; to repeal conflicting laws; and for other purposes.

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

18 **SECTION 1.**

S. B. 376

- 1 -

19 Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to the Juvenile
20 Code, is amended by revising Code Section 15-11-211, relating to relative search by DFCS,
21 as follows:

22 "15-11-211.

23 (a) A diligent search shall be initiated at the outset of a case under this article and shall be
24 conducted throughout the duration of a case, when appropriate.

25 (b) A diligent search shall include at a minimum:

26 (1) Interviews with the child's parent during the course of an investigation, while child
27 protective services are provided, and while such child is in care;

28 (2) Interviews with the child;

29 (3) Interviews with identified relatives throughout the case;

30 (4) Interviews with any other person who is likely to have information about the identity
31 or location of the person being sought;

32 (5) Comprehensive searches of data bases available to DFCS including, but not limited
33 to, searches of employment, residence, utilities, vehicle registration, child support
34 enforcement, law enforcement, corrections records, and any other records likely to result
35 in identifying and locating the person being sought;

36 (6) Appropriate inquiry during the course of hearings in the case; and

37 (7) Any other reasonable means that are likely to identify relatives or other persons who
38 have demonstrated an ongoing commitment to the child.

39 (c) All adult relatives of the alleged dependent child identified in a diligent search required
40 by this Code section and all parents of a sibling of such child, when such parent has legal
41 custody of such sibling, subject to exceptions due to family or domestic violence, shall be
42 provided with notice:

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

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

48 (2.1) Stating that, if the relative demonstrates an active and present interest in and
49 willingness to provide a permanent home for a child within six months of such notice,
50 DFCS shall timely conduct an evaluation of such relative; provided that, if such relative
51 does not demonstrate such interest, the opportunity for an evaluation by DFCS and
52 permanent placement of such child shall be lost;

53 (3) Describing the process for becoming an approved foster family home and the
54 additional services and supports available for children placed in approved foster homes;
55 and

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

57 (d) The diligent search required by this Code section and the notification required by
58 subsection (c) of this Code section shall be completed, documented in writing, and filed
59 with the court within 30 days from the date on which the alleged dependent child was
60 removed from his or her home and at each periodic review hearing required by Code
61 Section 15-11-216.

62 (e) After the completion of the diligent search required by this Code section, DFCS shall
63 have a continuing duty to search for relatives or other persons who have demonstrated an
64 ongoing commitment to a child and with whom it may be appropriate to place the alleged
65 dependent child until such relatives or persons are found or until such child is placed for
66 adoption unless the court excuses DFCS from conducting a diligent search. If a relative
67 entitled to notice under subsection (c) of this Code section fails, within six months from the
68 date he or she receives the required notice, to demonstrate an active and present interest in
69 and willingness to provide a permanent home for a child, the court may excuse DFCS from
70 considering such relative as a placement; provided, however, that if such relative

71 demonstrates an active and present interest in and willingness to provide a permanent home
72 for a child, DFCS shall conduct a timely evaluation of such relative."

73 **SECTION 2.**

74 Said chapter is further amended by revising Code Section 15-11-216, relating to periodic
75 review hearing, required evidence, and consideration of hearsay evidence, as follows:

76 "15-11-216.

77 (a) All cases of children in DFCS custody shall be initially reviewed within 75 days
78 following a child adjudicated as a dependent child's removal from his or her home and shall
79 be conducted by the court. An additional periodic review shall be held within four months
80 following the initial review and shall be conducted by the court or by judicial citizen
81 review panels established by the court, as the court directs, meeting such standards and
82 using such procedures as are established by court rule by the Supreme Court, with the
83 advice and consent of the Council of Juvenile Court Judges. The court shall have the
84 discretion to schedule any subsequent review hearings as necessary.

85 (b) At any periodic review hearing, the paramount concern shall be the health and safety
86 of a child adjudicated as a dependent ~~child's health and safety~~ child.

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

90 (1) Whether a child adjudicated as a dependent child continues to be a dependent child;
91 (2) Whether the existing case plan is still the best case plan for such child and his or her
92 family and whether any changes need to be made to the case plan, including whether a
93 concurrent case plan for nonreunification is appropriate;

94 (3) The extent of compliance with the case plan by all participants;

95 (3.1) Whether the parent has made substantial progress toward completion of the case
96 plan;

- 97 (4) The appropriateness of any recommended changes to such child's placement;
- 98 (5) Whether appropriate progress is being made on the permanency plan;
- 99 (6) Whether all legally required services are being provided to a child adjudicated as a
100 dependent child, his or her foster parents if there are foster parents, and his or her parent,
101 guardian, or legal custodian;
- 102 (7) Whether visitation is appropriate and, if so, approve and establish a reasonable
103 visitation schedule consistent with the age and developmental needs of a child
104 adjudicated as a dependent child;
- 105 (8) Whether, for a child adjudicated as a dependent child who is 14 years of age or older,
106 the services needed to assist such child to make a transition from foster care to
107 independent living are being provided; and
- 108 (9) Whether reasonable efforts continue to be made to prevent or eliminate the necessity
109 of such child's removal from his or her home and to reunify the family after removal of
110 a child adjudicated as a dependent child, unless reasonable efforts were not required.
- 111 (d) If at any review subsequent to the initial 75 day review the court finds that there is a
112 lack of substantial progress ~~towards~~ toward completion of the case plan, the court shall
113 order DFCS to develop a case plan for nonreunification or a concurrent case plan
114 contemplating nonreunification within 14 days of such review. The court shall review and
115 adopt the revised case plan, as submitted or as amended, within 45 days of such review or
116 at a previously scheduled hearing.
- 117 (d.1) At each review hearing held with respect to a child who remains placed in a qualified
118 residential treatment program, the department shall submit evidence documenting that:
- 119 (1) Ongoing assessment of the strengths and needs of the child continues to support the
120 determination that the needs of the child cannot be met through placement in a foster
121 family home;
- 122 (2) Placement in a qualified residential treatment program provides the most effective
123 and appropriate level of care for the child in the least restrictive environment;

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

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

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

132 (e) At the time of each review of a child adjudicated as a dependent child in DFCS
133 custody, DFCS shall notify the court whether and when it intends to proceed with the
134 termination of parental rights.

135 (f) The court may consider any evidence, including hearsay evidence, that the court finds
136 to be relevant, reliable, and necessary to determine the needs of a child adjudicated as a
137 dependent child and the most appropriate case plan and permanency plan."

138

SECTION 3.

139 Said chapter is further amended by revising subsection (a) of Code Section 15-11-218,
140 relating to content of orders following periodic review hearings or reports by judicial citizen
141 review panels, as follows:

142 "(a) At the conclusion of a periodic review hearing, or upon review of a report by a judicial
143 citizen review panel, the court shall issue written findings of fact that include:

144 (1) Why a child adjudicated as a dependent child continues to be a dependent child;

145 (2) Whether the existing case plan is still the best case plan for a child adjudicated as a
146 dependent child and his or her family and whether any changes need to be made to the
147 case plan including whether a concurrent case plan for nonreunification is appropriate;

148 (3) The extent of compliance with the case plan by all participants;

149 (3.1) Whether the parent has made substantial progress toward completion of the case
150 plan;

151 (4) The basis for any changes to the placement of a child adjudicated as a dependent
152 child;

153 (5) Whether visitation is or continues to be appropriate;

154 (6) A description of progress being made on the permanency plan;

155 (7) Whether all legally required services are being provided to a child adjudicated as a
156 dependent child, his or her foster parents if there are foster parents, and his or her parent,
157 guardian, or legal custodian;

158 (8) Whether, for a child adjudicated as a dependent child who is 14 years of age or older,
159 the services needed to assist such child to make a transition from foster care to
160 independent living are being provided; and

161 (9) Whether reasonable efforts continue to be made to prevent or eliminate the necessity
162 of the removal of a child adjudicated as a dependent child and to reunify his or her family
163 after removal, unless reasonable efforts were not required."

164 **SECTION 4.**

165 Said chapter is further amended by revising subsection (a) of Code Section 15-11-232,
166 relating to permanency plan hearing and findings, as follows:

167 "(a) At the permanency plan hearing, the court shall make written findings of fact that
168 include the following:

169 (1) Whether DFCS has made reasonable efforts to finalize the permanency plan which
170 is in effect at the time of the hearing;

171 (2) The continuing necessity for and the safety and appropriateness of the placement;

172 (3) Compliance with the permanency plan by DFCS, parties, and any other service
173 providers;

174 (3.1) Whether the parent has made substantial progress toward completion of the case
175 plan;

176 (4) Efforts to involve appropriate service providers in addition to DFCS staff in planning
177 to meet the special needs of a child adjudicated as a dependent child and his or her parent,
178 guardian, or legal custodian;

179 (5) Efforts to eliminate the causes for the placement of a child adjudicated as a dependent
180 child outside of his or her home and toward returning such child safely to his or her home
181 or obtaining a permanent placement for such child;

182 (6) The date by which it is likely that a child adjudicated as a dependent child will be
183 returned to his or her home, placed for adoption, or placed with a permanent guardian or
184 in some other alternative permanent placement;

185 (7) Whether, in the case of a child adjudicated as a dependent child placed out of state,
186 the out-of-state placement continues to be appropriate and in the best interests of such
187 child;

188 (8) In the case of a child adjudicated as a dependent child who is 14 years of age or
189 older, the services needed to assist such child to make a transition from foster care to
190 independent living;

191 (9) In the case of a child for whom another planned permanent living arrangement is the
192 permanency plan:

193 (A) Whether DFCS has documented intensive, ongoing, and, as of the date of the
194 hearing, unsuccessful efforts to return the child to the home or to secure a placement
195 for the child with a fit and willing relative, a legal guardian, or an adoptive parent,
196 including through efforts that utilize search technology, including social media, to find
197 biological family members for the children;

198 (B) Whether DFCS has documented the steps it is taking to ensure that the child's
199 foster family home or child care institution is following the reasonable and prudent
200 parent standard and the child has regular, ongoing opportunities to engage in age or

201 developmentally appropriate activities, including by consulting with the child in an
202 age-appropriate manner about the opportunities of the child to participate in the
203 activities; and

204 (C) After asking the child, what his or her desired permanency outcome is;

205 (10) If a child has attained the age of 14 years old, whether the permanency plan
206 developed for the child, and any revision or addition to the plan, was developed in
207 consultation with the child and, at the option of the child, with not more than two
208 members of the permanency planning team who were selected by the child and who are
209 not a foster parent of or caseworker for the child in accordance with subparagraph ~~(A)~~ of
210 ~~paragraph (15)~~ (15)(B) of Code Section 15-11-201; and

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

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

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

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

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

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

227

SECTION 5.

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

230 "15-11-233.

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

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

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

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

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

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

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

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

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

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

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

252 (b) Termination of parental rights may not be in the best interests of a child adjudicated
253 as a dependent child when:

- 254 (1) Such child is being cared for by his or her relative that intends to be a permanent
255 placement for such child in accordance with a permanency plan approved by the court
256 and in a time frame that is consistent with the developmental needs of such child;
- 257 (2) The case plan documents a compelling reason for determining that filing such a
258 petition would not be in the best interests of such child. Such compelling reasons may
259 include, but not be limited to:
- 260 (A) A parent of such child is successfully participating in services that will make it
261 possible for his or her child to safely return home;
- 262 (B) Another permanency plan is better suited to meet the health and safety needs of
263 such child. Documentation that another permanent plan is better suited to meet the
264 health and safety needs of such child may include documentation that:
- 265 (i) Such child is 14 years of age or older and objects to termination of parental rights.
266 Prior to accepting a child's objection, the court shall personally question such child
267 in chambers to determine whether the objection is a voluntary and knowing choice;
- 268 (ii) Such child is 16 years of age or older and specifically requests that emancipation
269 be established as his or her permanent plan;
- 270 (iii) The parent of such child and such child have a significant bond, but such parent
271 is unable to care for such child because of an emotional or physical disability and
272 such child's caregiver has committed to raising such child to the age of majority and
273 facilitating visitation with such disabled parent; or
- 274 (iv) Such child is in a residential treatment facility that provides services specifically
275 designed to address his or her treatment needs and the court determines that his or her
276 needs could not be served by a less restrictive placement;
- 277 (C) Such child is living with his or her relative who is unable or unwilling to adopt
278 such child, but who is willing and capable of providing such child with a stable and
279 permanent home environment and the removal of such child from the physical custody
280 of his or her relative would be detrimental to such child's emotional well-being;

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

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

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

289 (c) The recommendation by DFCS that termination of parental rights is not in the best
290 interests of a child shall be based on the present family circumstances of such child and
291 shall not preclude a different recommendation at a later date if the family circumstances
292 of a child adjudicated as a dependent child change.

293 (d) At least 30 days prior to the fifteenth month a child has been in foster care and when
294 the court deems appropriate, the court shall review DFCS's determination that filing a
295 petition to terminate parental rights would not be in the best interests of such child, as
296 provided for in paragraph (2) of subsection (b) of this Code section. Such hearing may be
297 in conjunction with other matters of the case. At such hearing, the court may appoint an
298 attorney guardian ad litem to file a petition to terminate parental rights on behalf of the
299 child and may make any additional rulings."

300 **SECTION 6.**

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

304 **SECTION 7.**

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