

The Senate Committee on Children and Families offered the following substitute to SB 376:

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

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

17

**SECTION 1.**

18 Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to the Juvenile  
19 Code, is amended by revising Code Section 15-11-216, relating to periodic review hearing,  
20 required evidence, and consideration of hearsay evidence, as follows:

21 "15-11-216.

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

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

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

35 (1) Whether a child adjudicated as a dependent child continues to be a dependent child;

36 (2) Whether the existing case plan is still the best case plan for such child and his or her  
37 family and whether any changes need to be made to the case plan, including whether a  
38 concurrent case plan for nonreunification is appropriate;

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

40 (3.1) Whether the parent has made substantial progress toward completion of the case  
41 plan;

42 (4) The appropriateness of any recommended changes to such child's placement;

43 (5) Whether appropriate progress is being made on the permanency plan;

44 (6) Whether all legally required services are being provided to a child adjudicated as a  
45 dependent child, his or her foster parents if there are foster parents, and his or her parent,  
46 guardian, or legal custodian;

47 (7) Whether visitation is appropriate and, if so, approve and establish a reasonable  
48 visitation schedule consistent with the age and developmental needs of a child  
49 adjudicated as a dependent child;

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

53 (9) Whether reasonable efforts continue to be made to prevent or eliminate the necessity  
54 of such child's removal from his or her home and to reunify the family after removal of  
55 a child adjudicated as a dependent child, unless reasonable efforts were not required.

56 (d) If at any review subsequent to the initial 75 day review the court finds that there is a  
57 lack of substantial progress ~~towards~~ toward completion of the case plan, the court shall  
58 order DFCS to develop a case plan for nonreunification or a concurrent case plan  
59 contemplating nonreunification within 14 days of such review. The court shall review and  
60 adopt the revised case plan, as submitted or as amended, within 45 days of such review or  
61 at a previously scheduled hearing.

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

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

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

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

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

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

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

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

83

## SECTION 2.

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

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

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

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

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

94 (3.1) Whether the parent has made substantial progress toward completion of the case  
95 plan;

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

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

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

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

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

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

109 **SECTION 3.**

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

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

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

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

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

119 (3.1) Whether the parent has made substantial progress toward completion of the case  
120 plan;

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

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

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

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

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

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

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

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

146 developmentally appropriate activities, including by consulting with the child in an  
147 age-appropriate manner about the opportunities of the child to participate in the  
148 activities; and

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

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

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

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

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

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

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

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

172

**SECTION 4.**

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

175 "15-11-233.

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

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

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

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

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

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

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

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

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

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

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

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



199 (1) Such child is being cared for by his or her relative that intends to be a permanent  
200 placement for such child in accordance with a permanency plan approved by the court  
201 and in a time frame that is consistent with the developmental needs of such child;

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

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

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

210 (i) Such child is 14 years of age or older and objects to termination of parental rights.  
211 Prior to accepting a child's objection, the court shall personally question such child  
212 in chambers to determine whether the objection is a voluntary and knowing choice;

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

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

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

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

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

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

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

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

238 (d) At least 30 days prior to the fifteenth month a child has been in foster care and when  
239 the court deems appropriate, the court shall review DFCS's determination that filing a  
240 petition to terminate parental rights would not be in the best interests of such child, as  
241 provided for in paragraph (2) of subsection (b) of this Code section. Such hearing may be  
242 in conjunction with other matters of the case. At such hearing, the court may appoint an  
243 attorney guardian ad litem, who may, after his or her own determination, file a petition to  
244 terminate parental rights on behalf of the child. The court in its sole discretion may make  
245 any additional rulings."

246 **SECTION 5.**

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 6.**

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