Representative Hall, Atlanta, Georgia

Wednesday, February 29, 2012

Twenty-Eighth Legislative Day

The House met pursuant to adjournment at 10:00 o'clock, A.M., this day and was called to order by the Speaker.

The roll was called and the following Representatives answered to their names:

Abrams
Allison
Amerson
Anderson
Ashe
Atwood
Baker
Battles
E Beasley-Teague
Bell
Benton
Beverly
Black
Braddock
Brockway
Brooks
Bryant
Buckner
Burns
Byrd
Carson
Carter
Channell
Cheokas
Clark, V
Coleman
Collins
Cooke
Coomer
Davis
E Dawkins-Haigler
Dempsey
Dickerson
Dickey
Dickson
E Drenner
Dukes
Dunahoo
Dutton
Ehrhart
Epps, C
Epps, J
E Evans
Fludd
Frazier
E Fullerton
Gardner
Geisinger
Golick
Gordon
Greene
Hamilton
Hanner
Harbin
Harden, B
Harden, M
Harrell
Hatchett
Heard
E Henson
Hightower
Hill
Holcomb
Holmes
Holt
Horne
Houston
Howard
Hudson
Hugley
Jackson
Jacobs
James
Jasperse
Jerguson
Johnson
Jones, J
Jones, S
Kaiser
E Kidd
Knight
Lane
Lindsey
Long
Maddox, B
Maddox, G
Marin
Martin
Maxwell
Mayo
McBrayer
McCall
McKillip
Meadows
Mitchell
Morris
Murphy
Neal, J
Nix
Oliver
O'Neal
Pak
Parent
Parrish
Parsons
Peake
Powell, A
Powell, J
Purcell
Ramsey
Randall
Reece
Rice
Riley
Roberts
Rogers, C
Rogers, T
Rynders
E Scott, M
Scott, S
Shaw
Sheldon
Sims, B
Smith, E
Smith, K
Smith, L
E Smith, T
Spencer
Stephens, M
Stephens, R
Talton
Tankersley
Taylor, D
Teasley
Thomas
Waites
Watson
Welch
Wilkerson
Wilkinson
Willard
E Williams, A
Williams, C
Williams, E
Williams, R
Williamson
Yates
Ralston, Speaker

The following members were off the floor of the House when the roll was called:

Representatives Benfield of the 85th, Bruce of the 64th, Casas of the 103rd, Crawford of the 16th, Dobbs of the 53rd, Dollar of the 45th, Dudgeon of the 24th, England of the 108th, Hatfield of the 177th, Hembree of the 67th, Jordan of the 77th, Kendrick of the 94th, Manning of the 32nd, Mosby of the 90th, Neal of the 75th, Pruett of the 144th, Sims of the 169th, Smith of the 131st, Taylor of the 79th, Taylor of the 55th, and Weldon of the 3rd.

They wished to be recorded as present.

Prayer was offered by Reverend Christopher E. Cabiness, Pastor, New Hope Missionary Baptist Church, Macon, Georgia.

The members pledged allegiance to the flag.

Representative Davis of the 109th, Chairman of the Committee on Information and Audits, reported that the Journal of the previous legislative day had been read and found to be correct.

By unanimous consent, the reading of the Journal was dispensed with.

The Journal was confirmed.

By unanimous consent, the following was established as the order of business during the first part of the period of unanimous consents:

1. Introduction of Bills and Resolutions.

2. First reading and reference of House Bills and Resolutions.

3. Second reading of Bills and Resolutions.

4. Reports of Standing Committees.

5. Third reading and passage of Local uncontested Bills.

6. First reading and reference of Senate Bills and Resolutions.

By unanimous consent, the following Bills and Resolution of the House were introduced, read the first time and referred to the Committees:

HB 1188. By Representative Spencer of the 180th:

A BILL to be entitled an Act to create the Oak Grove Cemetery Authority; to provide for its purposes, funding, responsibilities, jurisdiction, membership, meetings, records, filling of vacancies, powers and duties, and application of conflicts of interest and ethics provisions; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Intragovernmental Coordination - Local.

HB 1189. By Representatives Powell of the 29th, Purcell of the 159th and Benton of the 31st:

A BILL to be entitled an Act to amend Part 1 of Article 2 of Chapter 13 of Title 16 of the O.C.G.A., relating to schedules, offenses, and penalties applicable to the regulation of controlled substances, so as to establish drug-free church zones, to prohibit the manufacture, distribution, or possession with intent to distribute of a controlled substance or marijuana at or near any real property which has been established as a church or public place of worship; to provide for related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Judiciary Non-Civil.

HB 1190. By Representatives Powell of the 29th, Rice of the 51st and Benton of the 31st:

A BILL to be entitled an Act to amend Part 4 of Article 1 of Chapter 8 of Title 40 of the Official Code of Georgia Annotated, relating to horns, exhaust systems, mirrors, windshields, tires, safety belts, and energy absorption systems, so as to provide a state law violation for drivers of commercial motor vehicles who fail to be restrained by a seat safety belt while operating a commercial motor vehicle on the roads and highways of this state; to provide for a penalty consistent with other seat safety belt violations; to provide for related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Judiciary Non-Civil.

HB 1191. By Representatives Powell of the 29th and Harden of the 28th:

A BILL to be entitled an Act to authorize the governing authority of the City of Lavonia to levy an excise tax pursuant to subsection (b) of Code Section 48-13-51 of the O.C.G.A.; to provide procedures, conditions, and limitations; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Intragovernmental Coordination - Local.

HB 1192. By Representatives Jasperse of the 12th, Hamilton of the 23rd, Dudgeon of the 24th, Harden of the 28th, Teasley of the 38th and others:

A BILL to be entitled an Act to amend Part 3 of Article 16 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to the health of students in elementary and secondary education, so as to repeal requirements relating to an annual fitness assessment program; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Education.

HB 1193. By Representatives Dickey of the 136th and Holmes of the 125th:

A BILL to be entitled an Act to amend an Act entitled "Monroe County Public Facilities Authority Act," approved May 14, 2008 (Ga. L. 2008, p. 4432), so as to repeal certain provisions limiting such authority's authority to issue revenue bonds to four years; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Intragovernmental Coordination - Local.

HB 1194. By Representatives Smith of the 131st, Smith of the 129th, Buckner of the 130th, Hugley of the 133rd and Smyre of the 132nd:

A BILL to be entitled an Act to amend Code Section 48-7-27 of the Official Code of Georgia Annotated, relating to computation of taxable net income, so as to provide that retirement income received as retirement benefits from military service shall not be subject to state income tax; to provide for conditions and limitations; to provide an effective date; to provide for applicability; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Ways & Means.

HB 1195. By Representative Reece of the 11th:

A BILL to be entitled an Act to amend an Act creating the office of commissioner of Chattooga County, approved March 6, 1956 (Ga. L. 1956, p. 2899), as amended, particularly by an Act approved March 20, 1990 (Ga. L. 1990, p. 4002), so as to revise the compensation of the commissioner of Chattooga County; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Intragovernmental Coordination - Local.

HB 1196. By Representatives Randall of the 138th, Peake of the 137th, Holmes of the 125th, Beverly of the 139th, Dickey of the 136th and others:

A BILL to be entitled an Act to amend an Act known as the "Macon Water Authority Act," approved March 23, 1992 (Ga. L. 1992, p. 4991), as amended, particularly by an Act approved May 1, 2002 (Ga. L. 2002, p. 5363), so as to change the description of the electoral districts; to provide for definitions and inclusions; to provide for the continuation in office of current members; to provide for the submission of this Act for preclearance pursuant to Section 5 of the federal Voting Rights Act of 1965, as amended; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Intragovernmental Coordination - Local.

HB 1197. By Representatives Drenner of the 86th, Jacobs of the 80th, Henson of the 87th, Williams of the 89th, Gardner of the 57th and others:

A BILL to be entitled an Act to prohibit the operation of telecommunications towers on certain public school property within DeKalb County; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Intragovernmental Coordination - Local.

HB 1199. By Representatives Sheldon of the 105th, Carter of the 175th, Lindsey of the 54th, Jacobs of the 80th, Mitchell of the 88th and others:

A BILL to be entitled an Act to amend Title 50 of the Official Code of Georgia Annotated, relating to state government, so as to amend provisions relating to the Georgia Regional Transportation Authority; to reconstitute the board of directors; to provide for the governance of transit; to establish a Transit Governance Council and provide for membership; to provide for required terms of any contractual agreement between the authority and the Metropolitan Atlanta Rapid Transit Authority; to provide for the transfer of public transit services operations through contractual agreement by December 31, 2014; to provide for related matters; to provide effective dates; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Transportation.

HB 1200. By Representatives Gardner of the 57th, Ashe of the 56th, Taylor of the 55th, Mosby of the 90th, Oliver of the 83rd and others:

A BILL to be entitled an Act to amend Title 50 of the Official Code of Georgia annotated, relating to state government, so as to enact a new chapter relating to transit authorities; to provide for a short title; to provide for the

responsibilities of such authorities with respect to certain new transportation projects; to provide for transit system plans; to provide for annual budgets and capital system plans of such authorities; to provide for consolidation and coordination of functions of certain transit agencies; to provide for studies of transit innovation; to provide for Citizens Transit Advisory Committees; to provide for the issuance of bonds and other evidences of indebtedness by such authorities; to provide for related matters; to provide for severability; to provide for an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Transportation.

HB 1201. By Representatives McCall of the 30th, England of the 108th, Nimmer of the 178th and Burns of the 157th:

A BILL to be entitled an Act to amend Article 5 of Chapter 14 of Title 2 of the Official Code of Georgia Annotated, relating to timber products generally, so as to repeal the "Georgia Treated Timber Products Act of 1973"; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Agriculture & Consumer Affairs.

HB 1202. By Representatives Abdul-Salaam of the 74th, Jordan of the 77th, Scott of the 76th, Heckstall of the 62nd, Waites of the 60th, and others:

A BILL to be entitled an Act to amend an Act creating the Clayton County board of commissioners, approved February 8, 1955 (Ga. L. 1955, p. 2064), as amended, particularly by an Act approved April 18, 2002 (Ga. L. 2002, p. 4018), so as to revise the districts for the election of members of the board of commissioners; to provide for definitions and inclusions; to provide for submission of this Act for preclearance pursuant to Section 5 of the federal Voting Rights Act of 1965, as amended; to provide for related matters; to provide effective dates; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Intragovernmental Coordination - Local.

HR 1640. By Representatives Stephens of the 164th, Williams of the 4th, Abrams of the 84th, Hugley of the 133rd, Murphy of the 120th and others:

A RESOLUTION urging the Board of Directors of the Georgia Lottery Corporation to approve the use of video lottery terminals; and for other purposes.

Referred to the Committee on Appropriations.

By unanimous consent, the rules were suspended in order that the following Bills and Resolution of the House could be introduced, read the first time and referred to the Committees:

HB 1207. By Representatives Clark of the 104th, Coleman of the 97th, Riley of the 50th, Jacobs of the 80th, Williamson of the 111th and others:

A BILL to be entitled an Act to amend Part 3 of Article 6 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to educational programs, so as to define a certain term; to provide that dual credit enrollment courses shall be treated with dignity equal to advancement placement courses for purposes of determining eligibility for the HOPE scholarship; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Higher Education.

HB 1208. By Representatives Ehrhart of the 36th, Dollar of the 45th, Carson of the 43rd, Parsons of the 42nd, Golick of the 34th and others:

A BILL to be entitled an Act to amend an Act providing for the election of members of the Board of Education of Cobb County, approved March 28, 1974 (Ga. L. 1974, p. 3516), as amended, particularly by an Act approved May 30, 2003 (Ga. L. 2003, p. 3728), so as to change the description of the education districts of such board; to provide for definitions and inclusions; to provide for qualifications, compensation, and chairpersons and vice chairpersons; to provide for elections; to provide for terms; to provide for submissions; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Intragovernmental Coordination - Local.

HB 1209. By Representatives Williamson of the 111th, Stephenson of the 92nd, Dawkins-Haigler of the 93rd, Kendrick of the 94th, Dickerson of the 95th and others:

A BILL to be entitled an Act to amend Code Section 48-5-301 of the Official Code of Georgia Annotated, relating to time for presentation of tax returns by tax receiver or tax commissioner to board of assessors, so as to repeal a population exception; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Ways & Means.

HR 1676. By Representatives Smyre of the 132nd, Hugley of the 133rd, Smith of the 131st, Buckner of the 130th, Smith of the 129th and others:

A RESOLUTION recognizing Mr. John Flournoy and dedicating an interchange in his honor; and for other purposes.

Referred to the Committee on Transportation.

By unanimous consent, the following Bills and Resolutions of the House and Senate were read the second time:

HB 1172	HB 1173
HB 1174	HB 1177
HB 1178	HB 1179
HB 1180	HB 1181
HB 1182	HB 1183
HB 1184	HB 1185
HB 1186	HB 1187
HB 1198	HR 1610
HR 1611	HR 1612
SB 372	SB 441
SB 448	

Representative Parsons of the 42nd District, Chairman of the Committee on Energy, Utilities, and Telecommunications, submitted the following report:

Mr. Speaker:

Your Committee on Energy, Utilities, and Telecommunications has had under consideration the following Bills of the House and has instructed me to report the same back to the House with the following recommendations:

HB 1080	Do Pass
HB 1115	Do Pass
HB 1160	Do Pass, by Substitute

Respectfully submitted,
/s/ Parsons of the 42nd
Chairman

Representative Smith of the 131st District, Chairman of the Committee on Insurance, submitted the following report:

Mr. Speaker:

Your Committee on Insurance has had under consideration the following Bills of the House and has instructed me to report the same back to the House with the following recommendations:

HB 986	Do Pass, by Substitute	HB 1066	Do Pass, by Substitute
HB 1067	Do Pass, by Substitute	HB 1175	Do Pass, by Substitute

Respectfully submitted,
/s/ Smith of the 131st
Chairman

Representative Willard of the 49th District, Chairman of the Committee on Judiciary, submitted the following report:

Mr. Speaker:

Your Committee on Judiciary has had under consideration the following Bills of the House and has instructed me to report the same back to the House with the following recommendations:

HB 100	Do Pass, by Substitute	HB 397	Do Pass, by Substitute
HB 658	Do Pass, by Substitute	HB 822	Do Pass, by Substitute
HB 961	Do Pass, by Substitute	HB 1048	Do Pass, by Substitute

Respectfully submitted,
/s/ Willard of the 49th
Chairman

Representative Sims of the 169th District, Chairman of the Committee on Intragovernmental Coordination, submitted the following report:

Mr. Speaker:

Your Committee on Intragovernmental Coordination - Local Legislation has had under consideration the following Bill of the House and has instructed me to report the same back to the House with the following recommendation:

HB 1167 Do Pass

Respectfully submitted,
/s/ Sims of the 169th
Chairman

Representative Smith of the 70th District, Chairman of the Committee on Natural Resources and Environment, submitted the following report:

Mr. Speaker:

Your Committee on Natural Resources and Environment has had under consideration the following Bill of the House and has instructed me to report the same back to the House with the following recommendation:

HB 1064 Do Pass, by Substitute

Respectfully submitted,
/s/ Smith of the 70th
Chairman

Representative Purcell of the 159th District, Chairman of the Committee on Public Safety and Homeland Security, submitted the following report:

Mr. Speaker:

Your Committee on Public Safety and Homeland Security has had under consideration the following Bills of the House and has instructed me to report the same back to the House with the following recommendations:

HB 827 Do Pass
HB 1081 Do Pass
HB 1141 Do Pass, by Substitute

Respectfully submitted,
/s/ Purcell of the 159th
Chairman

The following Resolutions of the House, referred to the House Rules Subcommittee on Invites, were reported by the Committee on Rules with the following recommendations:

HR 1338	Do Pass	HR 1467	Do Pass
HR 1524	Do Pass	HR 1569	Do Pass

Representative Roberts of the 154th District, Chairman of the Committee on Transportation, submitted the following report:

Mr. Speaker:

Your Committee on Transportation has had under consideration the following Bills and Resolution of the House and has instructed me to report the same back to the House with the following recommendations:

HB 1051 Do Pass
HB 1052 Do Pass, by Substitute
HR 1177 Do Pass, by Substitute

Respectfully submitted,
/s/ Roberts of the 154th
Chairman

The following report of the Committee on Rules was read and adopted:

HOUSE RULES CALENDAR
WEDNESDAY, FEBRUARY 29, 2012

Mr. Speaker and Members of the House:

The Committee on Rules has fixed the calendar for this 28th Legislative Day as enumerated below:

DEBATE CALENDAR

Modified Open Rule

HB 208 Employees' Retirement System of Georgia; define a certain term (Substitute)(Ret-Maxwell-17th)
HB 513 Life insurance; group life insurance policy to approved groups; allow issuance (Ins-Shaw-176th)
HB 746 Commissioner of Agriculture; final decision and reconsideration; clarify timing (A&CA-Maddox-127th)

Modified Structured Rule

HB 520 Energy purchase; amount of energy provider is required to purchase from generator; change (EU&T-Parsons-42nd)
HB 751 Jasper County; Probate Court judge; provide nonpartisan elections (IGC-Holmes-125th)
HB 817 Transportation, Department of; power to contract; amend limitations (Substitute)(Trans-Nimmer-178th)
HB 863 State purchasing; purchases without competitive bidding; change certain provisions (Substitute)(SI&P-Hatchett-143rd)

HB 898 Georgia Merchant Acquirer Limited Purpose Bank Act; enact (Substitute)(B&B-Ehrhart-36th)
HB 990 Municipal corporations; control over parks and fire stations; change certain provisions (Substitute)(GAff-Jones-46th)
SB 339 Georgia Aviation Authority; provide transfer of certain personnel, aircraft to Dept. of Natural Resources and State Forestry Commission (Substitute)(Trans-Cheokas-134th) Miller-49th

Structured Rule

HB 289 Ad valorem tax exemptions; revise a definition (Substitute)(W&M-Welch-110th)
HB 641 Courts; juvenile proceedings; substantially revise provisions (Substitute)(Judy-Willard-49th)
HB 954 Abortion; criminal abortion; change certain provisions (Substitute)(JudyNC-McKillip-115th)

Pursuant to Rule 33.3, debate shall be limited to no more than 2 hours on HB 954. Time to be allocated at the discretion of the Chair.

Bills and Resolutions on this calendar may be called in any order the Speaker desires.

Respectfully submitted,
/s/ Meadows of the 5th
Chairman

By unanimous consent, the following Bill of the House was taken up for consideration and read the third time:

HB 1167. By Representatives Harbin of the 118th, Anderson of the 117th and Sims of the 119th:

A BILL to be entitled an Act to amend an Act creating a new Board of Commissioners of Columbia County, approved March 21, 1980 (Ga. L. 1980, p. 3707), as amended, so to provide for term limits for the chairperson and commission members; to provide for related matters; to provide for a referendum; to provide for contingent effective dates; to repeal conflicting laws; and for other purposes.

The report of the Committee, which was favorable to the passage of the Bill, was agreed to.

On the passage of the Bill, the roll call was ordered and the vote was as follows:

Y Abdul-Salaam
Y Abrams
Y Allison
Y Amerson
Y Anderson
Y Ashe
Y Atwood
Y Baker
Y Battles
E Beasley-Teague
Y Bell
Benfield
Y Benton
Y Beverly
Y Black
Y Braddock
Brockway
Y Brooks
Y Bruce
Y Bryant
Y Buckner
Y Burns
Y Byrd
Y Carson
Y Carter
Casas
Y Channell
Y Cheokas
Y Clark, J
Y Clark, V
Y Coleman
Y Collins
Y Cooke
Y Coomer
Y Cooper
Crawford
Y Davis
Y Dawkins-Haigler
Y Dempsey
Y Dickerson
Y Dickey
Y Dickson
Y Dobbs
Y Dollar
E Drenner
Y Dudgeon
Y Dukes
Y Dunahoo
Y Dutton
Ehrhart
Y England
Y Epps, C
Y Epps, J
E Evans
Y Floyd
Y Fludd
Y Frazier
E Fullerton
Y Gardner
Y Geisinger
Y Golick
Y Gordon
Y Greene
Y Hamilton
Y Hanner
Y Harbin
Y Harden, B
Y Harden, M
Y Harrell
Y Hatchett
Y Hatfield
Y Heard
Heckstall
Y Hembree
E Henson
Y Hightower
Y Hill
Y Holcomb
Y Holmes
Y Holt
Y Horne
Y Houston
Y Howard
Y Hudson
Y Hugley
Y Jackson
Y Jacobs
Y James
Y Jasperse
Y Jerguson
Johnson
Y Jones, J
Y Jones, S
Jordan
Kaiser
Y Kendrick
E Kidd
Y Knight
Y Lane
Y Lindsey
Y Long
Y Maddox, B
Y Maddox, G
Y Manning
Y Marin
Y Martin
Y Maxwell
Y Mayo
Y McBrayer
Y McCall
Y McKillip
Y Meadows
Y Mitchell
Y Morgan
Morris
Y Mosby
Y Murphy
Y Neal, J
Neal, Y
Y Nimmer
Y Nix
Y Oliver
Y O'Neal
Y Pak
Y Parent
Y Parrish
Y Parsons
Y Peake
Y Powell, A
Y Powell, J
Y Pruett
Y Purcell
Y Ramsey
Y Randall
Y Reece
Y Rice
Y Riley
Y Roberts
Y Rogers, C
Y Rogers, T
Y Rynders
E Scott, M
Y Scott, S
Y Setzler
Y Shaw
Y Sheldon
Y Sims, B
Sims, C
Y Smith, E
Y Smith, K
Y Smith, L
Y Smith, R
E Smith, T
Y Smyre
Y Spencer
Y Stephens, M
Y Stephens, R
Stephenson
Y Talton
Y Tankersley
Y Taylor, D
Y Taylor, R
Y Taylor, T
Teasley
Y Thomas
VACANT
Y Waites
Y Watson
Y Welch
Weldon
Y Wilkerson
Y Wilkinson
Y Willard
E Williams, A
Y Williams, C
Y Williams, E
Y Williams, R
Y Williamson
Yates
Ralston, Speaker

On the passage of the Bill, the ayes were 153, nays 0.

The Bill, having received the requisite constitutional majority, was passed.

The following message was received from the Senate through Mr. Ewing, the Secretary thereof:

Mr. Speaker:

The Senate has passed by the requisite constitutional majority the following bills of the Senate and House:

SB 176. By Senators Chance of the 16th, Mullis of the 53rd, Gooch of the 51st, Stoner of the 6th, Davis of the 22nd and others:

A BILL to be entitled an Act to amend Code Section 50-14-1 of the Official Code of Georgia Annotated, relating to meetings to be open to the public, limitation on action to contest agency action, recording, notice of time and place, access to minutes, and telecommunications conferences, so as to authorize all agencies to conduct meetings by teleconference under certain circumstances; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

SB 293. By Senators Heath of the 31st, Rogers of the 21st, Tippins of the 37th, Hill of the 4th and Hill of the 32nd:

A BILL to be entitled an Act to amend Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to registration and licensing of motor vehicles, so as to require the nation's motto, "In God We Trust," to be printed on license plates; to provide that purchasers of license plates may cover the motto with a county name decal; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

SB 365. By Senator Hamrick of the 30th:

A BILL to be entitled an Act to amend Article 3 of Chapter 19 of Title 15 of the Official Code of Georgia Annotated, relating to the regulation of the practice of law, so as to define a term; to provide for a private cause of action; to amend Chapter 14 of Title 44 of the Official Code of Georgia Annotated, relating to mortgages, conveyances to secure debt, and liens, so as to change provisions relating to collected funds; to provide for penalties; to require an attorney to attest that a borrower knowingly, intentionally, and willingly executed such form; to provide that mortgages shall be voidable if a waiver of borrower's rights and attorney attestation is not completed for a residential real property mortgage; to provide for related matters; to repeal conflicting laws; and for other purposes.

SB 371. By Senators Tippins of the 37th, Rogers of the 21st, Mullis of the 53rd, Hill of the 32nd, Williams of the 19th and others:

A BILL to be entitled an Act to amend Code Section 6-3-20, relating to the power of local governments to acquire, construct, maintain, and control airports and landing fields, so as to provide for local governments' ability to accept community improvement district funds to use for improvements to

airports and landing fields within the district; to provide for related matters; to repeal conflicting laws; and for other purposes.

SB 430. By Senator Bethel of the 54th:

A BILL to be entitled an Act to amend an Act to provide for the composition and number of state senatorial districts, approved August 24, 2011 (Ga. L. 2011, Ex. Sess., p. 139), so as to revise the boundaries of certain state senate districts; to provide for related matters; to provide an effective date; to provide for delayed applicability under certain circumstances; to repeal conflicting laws; and for other purposes.

SB 446. By Senators Mullis of the 53rd, Chance of the 16th, Gooch of the 51st, Miller of the 49th, Murphy of the 27th and others:

A BILL to be entitled an Act to amend Article 1 of Chapter 2 of Title 8, Title 25, and Title 34 of the Official Code of Georgia Annotated, relating to buildings generally, fire protection and safety, and labor and industrial relations, respectively, so as to transfer certain functions relating to elevators, dumbwaiters, escalators, manlifts, and moving walks, boilers and pressure vessels, amusement rides, carnival rides, and scaffolding and staging from the Department of Labor and Commissioner of Labor to the office of Safety Fire Commissioner and Safety Fire Commissioner; to make conforming amendments and correct cross-references relative to the foregoing; to provide for transfers of personnel, facilities, equipment, and appropriations; to provide for other related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

HB 959. By Representative Dickey of the 136th:

A BILL to be entitled an Act to amend an Act creating the Board of Commissioners of Crawford County, approved March 2, 1874 (Ga. L. 1874, p. 339), as amended, so as to revise districts for the election of members of the board of commissioners; to provide for definitions and inclusions; to provide for continuation in office of current members; to provide for election and terms of office of subsequent members; to provide for submission of this Act for approval under the federal Voting Rights Act of 1965, as amended; to provide for related matters; to provide for effective dates; to repeal conflicting laws; and for other purposes.

HB 969. By Representatives Rogers of the 10th, Allison of the 8th and Collins of the 27th:

A BILL to be entitled an Act to amend an Act entitled "An Act to provide for the method of election of the members of the Board of Education of White County," approved May 13, 2008 (Ga. L. 2008, p. 4291), so as to provide for new education districts; to provide for definitions and inclusions; to provide for continuation in office of current members; to provide for submission of this Act for approval under the federal Voting Rights Act of 1965, as amended; to provide for effective dates; to repeal conflicting laws; and for other purposes.

HB 970. By Representatives Rogers of the 10th, Allison of the 8th and Collins of the 27th:

A BILL to be entitled an Act to amend an Act entitled "An Act to reconstitute the Board of Commissioners of White County," approved May 13, 2008 (Ga. L. 2008, p. 4205), so as to provide new commissioner districts; to provide for definitions and inclusions; to provide for continuation in office of current members; to provide for submission of this Act for approval under the federal Voting Rights Act of 1965, as amended; to provide for effective dates; to repeal conflicting laws; and for other purposes.

HB 978. By Representatives Hamilton of the 23rd, Byrd of the 20th, Jerguson of the 22nd and Hill of the 21st:

A BILL to be entitled an Act to amend an Act providing for the numbering of positions of membership on the Cherokee County Board of Education, approved April 17, 1973 (Ga. L. 1973, p. 3207), as amended, particularly by an Act approved March 18, 1980 (Ga. L. 1980, p. 3275), and by an Act approved April 25, 2002 (Ga. L. 2002, p. 4869), so as to revise the districts for the election of members of the board of education; to provide for definitions and inclusions; to provide for manner of election; to provide for submission of this Act for preclearance pursuant to Section 5 of the federal Voting Rights Act of 1965, as amended; to provide for related matters; to provide for effective dates; to repeal conflicting laws; and for other purposes.

HB 979. By Representatives Hamilton of the 23rd, Hill of the 21st, Jerguson of the 22nd and Byrd of the 20th:

A BILL to be entitled an Act to amend an Act creating a board of commissioners for Cherokee County, approved March 30, 1989 (Ga. L. 1989, p. 4295), as amended, particularly by an Act approved April 25, 2002 (Ga. L. 2002, p. 4876), so as to revise the districts for the election of members of the board of commissioners; to provide for definitions and inclusions; to provide for manner of election; to provide for submission of this Act for preclearance

pursuant to Section 5 of the federal Voting Rights Act of 1965, as amended; to provide for related matters; to provide effective dates; to repeal conflicting laws; and for other purposes.

HB 980. By Representatives Rogers of the 26th, Collins of the 27th, Dunahoo of the 25th and Benton of the 31st:

A BILL to be entitled an Act to amend an Act creating a new charter for the City of Gainesville, approved April 11, 1979 (Ga. L. 1979, p. 3302), as amended, particularly by an Act approved June 3, 2003, (Ga. L. 2003, p. 4670), so as to revise the districts for the election of members of the board of education; to provide for definitions and inclusions; to provide for submission of this Act for preclearance pursuant to Section 5 of the federal Voting Rights Act of 1965, as amended; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

HB 1016. By Representatives Powell of the 29th and Harden of the 28th:

A BILL to be entitled an Act to amend an Act creating a new board of commissioners of Franklin County, approved April 4, 1991 (Ga. L. 1991, p. 4681), as amended, particularly by an Act approved April 15, 1996 (Ga. L. 1996, p. 4466), so as to change the description of the commissioner districts; to provide for definitions and inclusions; to provide for continuation in office of current members; to provide for submission of this Act for preclearance pursuant to Section 5 of the federal Voting Rights Act of 1965, as amended; to provide for related matters; to repeal conflicting laws; and for other purposes.

HB 1017. By Representatives Powell of the 29th and Harden of the 28th:

A BILL to be entitled an Act to amend an Act relative to the Board of Education of Franklin County, approved April 12, 1982 (Ga. L. 1982, p. 3753), so as to change the description of the education districts; to provide for definitions and inclusions; to provide for the continuation in office of current members; to provide for the submission of this Act for preclearance pursuant to Section 5 of the federal Voting Rights Act of 1965, as amended; to provide for related matters; to repeal conflicting laws; and for other purposes.

HB 1020. By Representative Dutton of the 166th:

A BILL to be entitled an Act to amend an Act creating a board of commissioners for Evans County, approved August 15, 1915 (Ga. L. 1915, p. 220), as amended, particularly by an Act approved June 3, 2003 (Ga. L. 2003, p. 4266), so as to change the description of the commissioner districts; to

provide for definitions and inclusions; to provide for continuation in office of current members; to provide for submission of this Act for preclearance under the federal Voting Rights Act of 1965, as amended; to repeal conflicting laws; and for other purposes.

HB 1021. By Representative Dutton of the 166th:

A BILL to be entitled an Act to amend an Act providing for the composition of the Board of Education for Evans County, approved March 26, 1987 (Ga. L. 1987, p. 4782), as amended, particularly by an Act approved June 3, 2003 (Ga. L. 2003, p. 4281), so as to change the description of the education districts; to provide for definitions and inclusions; to provide for continuation in office of current members; to provide for submission of this Act for preclearance under the federal Voting Rights Act of 1965, as amended; to repeal conflicting laws; and for other purposes.

HB 1029. By Representative Burns of the 157th:

A BILL to be entitled an Act to amend an Act for the election of members of the Board of Education of Screven County, approved April 1, 2002 (Ga. L. 2002, p. 3659), as amended, so as to provide for the election of members of the Board of Education of Screven County; to revise the districts for the election of members of the board of education; to provide for definitions and inclusions; to provide for the filling of vacancies; to provide for qualifications; to provide for the election of a chairperson; to provide for related matters; to provide for submission of this Act for preclearance pursuant to Section 5 of the federal Voting Rights Act of 1965, as amended; to provide for related matters; to provide effective dates; to repeal conflicting laws; and for other purposes.

HB 1037. By Representatives McCall of the 30th and Powell of the 29th:

A BILL to be entitled an Act to amend an Act providing for the Board of Education of Madison County, approved March 24, 1988 (Ga. L. 1988, p. 4698), as amended, so as to revise the districts for the election of members of the board of education; to provide for definitions and inclusions; to provide for method of election; to provide for submission of this Act for preclearance pursuant to Section 5 of the federal Voting Rights Act of 1965, as amended; to provide for related matters; to provide effective dates; to repeal conflicting laws; and for other purposes.

HB 1038. By Representatives McCall of the 30th and Powell of the 29th:

A BILL to be entitled an Act to amend an Act creating the Board of Commissioners of Madison County, approved March 27, 1965 (Ga. L. 1965, p. 2667), as amended, so as to revise the districts for the election of members of the board of commissioners; to provide for definitions and inclusions; to provide for method of election; to provide for renumbering of certain districts; to provide for submission of this Act for preclearance pursuant to Section 5 of the federal Voting Rights Act of 1965, as amended; to provide for related matters; to provide for a contingent automatic repeal; to repeal conflicting laws; and for other purposes.

HB 1039. By Representative Morris of the 155th:

A BILL to be entitled an Act to amend an Act creating the Board of Commissioners of Montgomery County, approved February 27, 1953 (Ga. L. 1953, Jan.-Feb. Sess., p. 2729), as amended, so as to change the description of the commissioner districts; to provide for definitions and inclusions; to provide for continuation in office of current members; to provide for manner of election and terms of office; to provide for submission of this Act pursuant to Section 5 of the federal Voting Rights Act of 1965, as amended; to provide for related matters; to repeal conflicting laws; and for other purposes.

HB 1040. By Representative Hudson of the 124th:

A BILL to be entitled an Act to amend an Act reconstituting the Board of Education of Glascock County, approved April 1, 1996 (Ga. L. 1996, p. 3725), as amended, so as to revise the districts for the election of members of the board of education; to provide for definitions and inclusions; to provide for method of election; to provide for submission of this Act for preclearance pursuant to Section 5 of the federal Voting Rights Act of 1965, as amended; to provide for related matters; to repeal conflicting laws; and for other purposes.

HB 1070. By Representative Nimmer of the 178th:

A BILL to be entitled an Act to provide a homestead exemption from Brantley County school district ad valorem taxes for educational purposes in the amount of $15,000.00 of the assessed value of the homestead for residents of that school district who are 65 years of age or older and whose income does not exceed $30,000.00; to provide for definitions; to specify the terms and conditions of the exemption and the procedures relating thereto; to provide for applicability; to provide for a referendum, effective dates, and automatic repeal; to repeal conflicting laws; and for other purposes.

By unanimous consent, the following Bills of the Senate were read the first time and referred to the Committees:

SB 176. By Senators Chance of the 16th, Mullis of the 53rd, Gooch of the 51st, Stoner of the 6th, Davis of the 22nd and others:

A BILL to be entitled an Act to amend Code Section 50-14-1 of the Official Code of Georgia Annotated, relating to meetings to be open to the public, limitation on action to contest agency action, recording, notice of time and place, access to minutes, and telecommunications conferences, so as to authorize all agencies to conduct meetings by teleconference under certain circumstances; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Judiciary.

SB 293. By Senators Heath of the 31st, Rogers of the 21st, Tippins of the 37th, Hill of the 4th and Hill of the 32nd:

A BILL to be entitled an Act to amend Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to registration and licensing of motor vehicles, so as to require the nation's motto, "In God We Trust," to be printed on license plates; to provide that purchasers of license plates may cover the motto with a county name decal; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Motor Vehicles.

SB 365. By Senator Hamrick of the 30th:

A BILL to be entitled an Act to amend Article 3 of Chapter 19 of Title 15 of the Official Code of Georgia Annotated, relating to the regulation of the practice of law, so as to define a term; to provide for a private cause of action; to amend Chapter 14 of Title 44 of the Official Code of Georgia Annotated, relating to mortgages, conveyances to secure debt, and liens, so as to change provisions relating to collected funds; to provide for penalties; to require an attorney to attest that a borrower knowingly, intentionally, and willingly executed such form; to provide that mortgages shall be voidable if a waiver of borrower's rights and attorney attestation is not completed for a residential real property mortgage; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Judiciary.

SB 371. By Senators Tippins of the 37th, Rogers of the 21st, Mullis of the 53rd, Hill of the 32nd, Williams of the 19th and others:

A BILL to be entitled an Act to amend Code Section 6-3-20, relating to the power of local governments to acquire, construct, maintain, and control airports and landing fields, so as to provide for local governments' ability to accept community improvement district funds to use for improvements to airports and landing fields within the district; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Governmental Affairs.

SB 430. By Senator Bethel of the 54th:

A BILL to be entitled an Act to amend an Act to provide for the composition and number of state senatorial districts, approved August 24, 2011 (Ga. L. 2011, Ex. Sess., p. 139), so as to revise the boundaries of certain state senate districts; to provide for related matters; to provide an effective date; to provide for delayed applicability under certain circumstances; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Legislative & Congressional Reapportionment.

SB 446. By Senators Mullis of the 53rd, Chance of the 16th, Gooch of the 51st, Miller of the 49th, Murphy of the 27th and others:

A BILL to be entitled an Act to amend Article 1 of Chapter 2 of Title 8, Title 25, and Title 34 of the Official Code of Georgia Annotated, relating to buildings generally, fire protection and safety, and labor and industrial relations, respectively, so as to transfer certain functions relating to elevators, dumbwaiters, escalators, manlifts, and moving walks, boilers and pressure vessels, amusement rides, carnival rides, and scaffolding and staging from the Department of Labor and Commissioner of Labor to the office of Safety Fire Commissioner and Safety Fire Commissioner; to make conforming amendments and correct cross-references relative to the foregoing; to provide for transfers of personnel, facilities, equipment, and appropriations; to provide for other related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Governmental Affairs.

Pursuant to HR 1338, the House commended South Korean Consulate General He-beom Kim and invited him to be recognized by the House of Representatives.

Pursuant to HR 1467, the House recognized February 29, 2012, as Macon Day at the state capitol and invited citizens and public officials from Macon and Bibb County to be recognized by the House of Representatives.

Pursuant to HR 1524, the House commended Wesleyan College and invited President Ruth Knox to be recognized by the House of Representatives.

Pursuant to HR 1641, the House commended Sweet Shoppe owners Nikki Gribble and Susan Catron and invited them to be recognized by the House of Representatives.

Pursuant to HR 1569, the House commended Kate's Club for its outstanding service to youth, recognized March 1, 2012, as Kate's Club Grief Awareness Day at the capitol, and invited Founder Kate Atwood and the Kate's Club board of directors to be recognized by the House of Representatives.

The following members were recognized during the period of Morning Orders and addressed the House:

Representatives Gardner of the 57th, Reece of the 11th, Purcell of the 159th, Mosby of the 90th, Amerson of the 9th, Holt of the 112th, Epps of the 140th, and Geisinger of the 48th.

The following Resolutions of the House, favorably reported by the Committee on Rules, were read and adopted:

HR 1338. By Representatives Pak of the 102nd, Nix of the 69th, Harrell of the 106th, Casas of the 103rd, Lindsey of the 54th and others:

A RESOLUTION commending South Korean Consulate General He-beom Kim and inviting him to be recognized by the House of Representatives; and for other purposes.

HR 1467. By Representatives Randall of the 138th, Peake of the 137th, Dickey of the 136th, Beverly of the 139th, Epps of the 140th and others:

A RESOLUTION recognizing February 29, 2012, as Macon Day at the state capitol and inviting citizens and public officials from Macon and Bibb County to be recognized by the House of Representatives; and for other purposes.

HR 1524. By Representatives Peake of the 137th, Dickey of the 136th, Randall of the 138th, Beverly of the 139th, Epps of the 140th and others:

A RESOLUTION commending Wesleyan College and inviting President Ruth Knox to be recognized by the House of Representatives; and for other purposes.

HR 1569. By Representatives Parent of the 81st, Benfield of the 85th, Kendrick of the 94th, Bell of the 58th, Evans of the 40th and others:

A RESOLUTION commending Kate's Club for its outstanding service to youth, recognizing March 1, 2012, as Kate's Club Grief Awareness Day at the capitol, and inviting Founder Kate Atwood and the Kate's Club board of directors to be recognized by the House of Representatives; and for other purposes.

Under the general order of business, established by the Committee on Rules, the following Bills of the House and Senate were taken up for consideration and read the third time:

SB 339. By Senators Miller of the 49th, Williams of the 19th, Mullis of the 53rd, Hill of the 32nd, Millar of the 40th and others:

A BILL to be entitled an Act to amend Chapter 5 of Title 6 of the O.C.G.A., relating to the Georgia Aviation Authority, so as to provide for the transfer of certain personnel, aircraft, and other assets from the Georgia Aviation Authority to the Department of Natural Resources and the State Forestry Commission; to provide for related matters; to amend Title 12 of the O.C.G.A., relating to conservation and natural resources, so as to transfer certain personnel, assets, and liabilities of the Georgia Aviation Authority to the Department of Natural Resources and the State Forestry Commission; to provide the Department of Natural Resources and the State Forestry Commission with certain authority and duties with regard to aviation; to provide for related matters; to repeal conflicting laws; and for other purposes.

The following Committee substitute was read and adopted:

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 5 of Title 6 of the Official Code of Georgia Annotated, relating to the Georgia Aviation Authority, so as to provide for the transfer of certain personnel, aircraft, and other assets from the Georgia Aviation Authority to the Department of Natural Resources, the State Forestry Commission, and the Department of Transportation; to provide for related matters; to amend Title 12 of the Official Code of Georgia Annotated, relating to conservation and natural resources, so as to transfer certain personnel, assets,

and liabilities of the Georgia Aviation Authority to the Department of Natural Resources and the State Forestry Commission; to provide the Department of Natural Resources and the State Forestry Commission with certain authority and duties with regard to aviation; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 5 of Title 6 of the Official Code of Georgia Annotated, relating to the Georgia Aviation Authority, is amended by revising Code Section 6-5-4, relating to the purpose of the authority, powers, support, and annual audits, as follows:

"6-5-4.

(a)(1)(A) The general purpose of the authority shall be to acquire, operate, maintain, house, and dispose of all state aviation assets, ~~except those aviation assets of the Department of Public Safety,~~ to provide aviation services and oversight of state aircraft and aviation operations to ensure the safety of state air travelers and aviation property, to achieve policy objectives through aviation missions, and to provide for the efficient operation of state aircraft.

(B) This Code section shall not diminish those powers and duties of the Department of Natural Resources under Code Section 12-2-11, the State Forestry Commission under Code Section 12-6-25, or the Department of Public Safety under Code Section 35-2-140.

(2)(A) All aircraft previously transferred to the authority by the Department of Public Safety and associated parts and equipment and a percentage of the budgeted operating funds associated with such aircraft shall be transferred on September 1, 2011, back to the custody and control of the Department of Public Safety; provided, however, that this chapter shall have no application to aircraft owned or operated by the Department of Defense.

(B) All aircraft under the custody and control of the authority as of June 30, 2012, which were previously transferred to the authority by the Department of Natural Resources and associated parts and equipment and any budgeted operating funds associated with such aircraft shall be transferred on July 1, 2012, back to the custody and control of the Department of Natural Resources.

(C) All aircraft under the custody and control of the authority as of June 30, 2012, which were previously transferred to the authority by the State Forestry Commission and associated parts and equipment and any budgeted operating funds associated with such aircraft shall be transferred on July 1, 2012, back to the custody and control of the State Forestry Commission.

(D) For purposes of aerial aviation photography, the King Air 90 aircraft that was specially equipped and adapted to perform essential aerial photography under the custody and control of the authority as of June 30, 2012, which was previously transferred to the authority by the Department of Transportation, and associated parts and equipment specific to that aircraft shall be transferred on July 1, 2012,

back to the custody and control of the Department of Transportation. The Department of Transportation shall have the authority to own, operate, maintain, and dispose of aircraft to support the aerial photography mission needs of the department.

(3) On and after July 1, 2009, or a later date determined by the Governor, no ~~other~~ entity of state government~~, other than the Department of Public Safety,~~ shall acquire, lease, or charter any aircraft other than through the authority.

(4)(A) Any person who is employed by an entity of state government as a pilot and who is required by the terms of his or her employment to comply with the requirements of Chapter 8 of Title 35, the 'Georgia Peace Officer Standards and Training Act,' may remain in the employment of the employing agency but shall be transferred for administrative purposes only to the authority on July 1, 2009, in compliance with subsection (c) of Code Section 6-5-3~~; provided, however, that those~~

(B) The provisions of subparagraph (A) of this paragraph notwithstanding:

(i) Those persons who are employed by the Department of Public Safety who are assigned for administrative purposes only to the authority shall be transferred back to the Department of Public Safety on September 1, 2011, and shall no longer be under the administration or direction of the authority.

(ii) Any persons who as of June 30, 2012, were employed by the authority pursuant to previous transfer from the Department of Natural Resources to the authority shall be transferred back to the Department of Natural Resources on July 1, 2012, and shall no longer be under the administration or direction of the authority.

(iii) Any persons who as of June 30, 2012, were employed by the authority pursuant to previous transfer from the State Forestry Commission to the authority shall be transferred back to the State Forestry Commission on July 1, 2012, and shall no longer be under the administration or direction of the authority.

(5)(A)(i) All state aircraft required for the proper conduct of the business of the several administrative departments, boards, bureaus, commissions, authorities, offices, or other agencies of Georgia and authorized agents of the General Assembly, or either branch thereof, and department owned airfields and their appurtenances shall be managed and maintained by the authority~~; provided, however, that all~~.

(ii) The provisions of division (i) of this subparagraph notwithstanding:

(I) All airfields and appurtenances, including hangars, previously transferred by the Department of Public Safety to the authority shall be transferred back to the Department of Public Safety on September 1, 2011.

(II) All airfields and appurtenances, including hangars, previously transferred by the Department of Natural Resources to the authority shall be transferred back to the Department of Natural Resources on July 1, 2012.

(III) All airfields and appurtenances, including hangars, previously transferred by the State Forestry Commission to the authority shall be transferred back to the State Forestry Commission on July 1, 2012.

(B) The cost for the use of such state aircraft shall be charged by the authority to the using state entity. The amount of such charge shall be determined by the authority.

(6)(A) The authority shall be authorized to dispose of any state aircraft and apply the proceeds derived therefrom to the purchase of replacement aviation assets.

(B) This paragraph shall not apply to state aircraft assigned to the Department of Public Safety, the Department of Natural Resources, or the State Forestry Commission.

(b) In the furtherance of its purpose, the authority shall have the power to:

(1) ~~Organize, staff,~~ Hire, organize, and train personnel to operate, maintain, house, purchase, and dispose of aviation assets;

(2) Purchase, maintain, develop, and modify facilities to support aviation assets and operations;

(3) Develop operating, maintenance, safety, security, training, education, and scheduling standards for state aviation operations and conduct inspections, audits, and other similar oversight to determine practices and compliance with such standards;

(4) Develop an accountability system for state aviation operations and activities;

(5) Identify the costs associated with the training, education, and purchase, operation, maintenance, and administration of state aircraft and aviation operations and related facilities~~,~~; ~~training, and education,~~ develop an appropriate billing structure~~,~~; and charge agencies and other state entities for the costs of state aircraft and aviation operations; provided, however, that any billing to an agency by the authority shall be suspended whenever the Governor declares a state of emergency on any cost associated with aircraft used during and in response to the state of emergency;

(6) Retain appropriate external consulting and auditing expertise;

(7) Engage aviation industry representatives to ensure best practices for state aviation assets;

(8) Delegate certain powers pursuant to this chapter to other state entities; and

(9) Otherwise implement appropriate and efficient management practices for state aviation operations.

(c)(1) The authority shall provide priority support for those state agencies and departments, including local and state public safety and law enforcement entities, whose operations require aviation operations when requested.

(2)(A) No state entity other than the authority ~~and the Department of Public Safety~~ shall be authorized without the approval of the authority to expend state funds to purchase, lease, rent, charter, maintain, or repair state aircraft to be used in connection with state business or to employ a person whose official duties consist of piloting state aircraft ~~without the approval of the authority~~.

(B) This paragraph shall not apply to the Department of Public Safety, the Department of Natural Resources, or the State Forestry Commission.

(d) The funds and assets of the authority, as well as the performance of the authority, its services, and equipment, shall be audited annually by the state auditor. ~~The initial audit shall be concluded no later than December 30, 2010.~~ The results of such audit shall be open to inspection at reasonable times by any person. A copy of the audit report shall be sent to the state accounting officer. The authority shall also provide the Governor, the Speaker of the House, the President of the Senate, the chairperson of the House Committee on Public Safety and Homeland Security, the chairperson of the Senate Public Safety Committee, the chairperson of the Senate Veterans, Military and Homeland Security Committee, the chairperson of the House Committee on Transportation, and the chairperson of the Senate Transportation Committee with a copy of the state audit report which shall include a full report of the activities and services of the authority. The performance audit report shall be provided no later than December 31, 2013.

(e) On September 1, 2011, the six aviation mechanic positions that were previously transferred by the Department of Public Safety to the authority shall be returned to the Department of Public Safety along with the funds budgeted for such positions."

SECTION 2.

Title 12 of the Official Code of Georgia Annotated, relating to conservation and natural resources, is amended in Article 1 of Chapter 2, relating to general provisions relative to the Department of Natural Resources, by adding a new Code section to read as follows:

"12-2-11.

(a)(1) The department shall be authorized to acquire, operate, maintain, house, and dispose of all state aviation assets assigned to the department, to provide aviation services and oversight of such state aircraft and aviation operations for the mission of the department and legitimate state business purposes, to achieve policy objectives through aviation missions, and to provide for the efficient operation of such state aircraft.

(2) All aircraft under the custody and control of the Georgia Aviation Authority as of June 30, 2012, which were previously transferred to the authority by the department and associated parts and equipment and any budgeted operating funds associated with such aircraft shall be transferred on July 1, 2012, back to the custody and control of the department.

(3) Any persons who as of June 30, 2012, were employed by the Georgia Aviation Authority pursuant to previous transfer from the department to the authority shall be transferred back to the department on July 1, 2012, and shall no longer be under the administration or direction of the authority.

(4) All airfields and appurtenances, including hangars, previously transferred to the Georgia Aviation Authority by the department and all accounts receivable, budgeted operating funds, other funds, contracts, liabilities, and obligations associated with the aircraft being transferred back to the department as of July 1, 2012, shall become the property, accounts receivable, budgeted operating funds, other funds, contracts, liabilities, and obligations of the department on such date.

(5) The department shall be responsible for providing aviation services in support of the mission of the department. The department shall be authorized to dispose of any state aircraft assigned to the department and apply the proceeds derived therefrom to the purchase of replacement aviation assets.

(b) The department shall have the power to:

(1) Hire, organize, and train personnel to operate, maintain, house, purchase, and dispose of aviation assets;

(2) Purchase, lease, maintain, develop, and modify facilities to support aviation assets and operations;

(3) Develop operating, maintenance, safety, security, training, education, and scheduling standards for department aviation operations and conduct inspections, audits, and other similar oversight to determine practices and compliance with such standards;

(4) Develop an accountability system for department aviation operations and activities;

(5) Identify the costs associated with training, education, and the purchase, operation, maintenance, and administration of state aircraft assigned to the department and aviation operations and related facilities;

(6) In conjunction with the Georgia Aviation Authority, develop an appropriate joint billing structure for passenger transportation where the aircraft is designated and operated as a 'civil aircraft' under Part 91 of the Federal Aviation Regulations and charge agencies and other state entities for the full variable hourly costs for the operation of each type of aircraft, evaluated annually and adjusted as necessary based upon the price of fuel, maintenance, and other fees that are a direct result of flying the aircraft on that specific trip; provided, however, that any billing to an agency by the department shall be suspended whenever the Governor declares a state of emergency on any cost associated with aircraft used during and in response to such state of emergency;

(7) Retain appropriate external consulting and auditing expertise;

(8) Engage aviation industry representatives to ensure best practices for department aviation assets;

(9) Delegate certain powers pursuant to this article to other state entities;

(10) Otherwise implement appropriate and efficient management practices for department aviation operations; and

(11) Enter into agreements with the Georgia Aviation Authority for mutual use of state airfields and appurtenances, including aircraft hangars."

SECTION 3.

Said title is further amended in Part 1 of Article 1 of Chapter 6, relating to the State Forestry Commission, by adding a new Code section to read as follows:

"12-6-25.

(a)(1) The commission shall be authorized to acquire, operate, maintain, house, and dispose of all state aviation assets assigned to the commission, to provide aviation

services and oversight of such state aircraft and aviation operations for the mission of the commission and legitimate state business purposes, to achieve policy objectives through aviation missions, and to provide for the efficient operation of such state aircraft.

(2) All aircraft under the custody and control of the Georgia Aviation Authority as of June 30, 2012, which were previously transferred to the authority by the commission and associated parts and equipment and any budgeted operating funds associated with such aircraft shall be transferred on July 1, 2012, back to the custody and control of the commission.

(3) Any persons who as of June 30, 2012, were employed by the Georgia Aviation Authority pursuant to previous transfer from the commission to the authority shall be transferred back to the commission on July 1, 2012, and shall no longer be under the administration or direction of the authority.

(4) All airfields and appurtenances, including hangars, previously transferred to the Georgia Aviation Authority by the commission and all accounts receivable, budgeted operating funds, other funds, contracts, liabilities, and obligations associated with the aircraft being transferred back to the commission as of July 1, 2012, shall become the property, accounts receivable, budgeted operating funds, other funds, contracts, liabilities, and obligations of the commission on such date.

(5) The commission shall be responsible for providing aviation services in support of the mission of the commission. The commission shall be authorized to dispose of any state aircraft assigned to the commission and apply the proceeds derived therefrom to the purchase of replacement aviation assets.

(b) The commission shall have the power to:

(1) Hire, organize, and train personnel to operate, maintain, house, purchase, and dispose of aviation assets;

(2) Purchase, lease, maintain, develop, and modify facilities to support aviation assets and operations;

(3) Develop operating, maintenance, safety, security, training, education, and scheduling standards for commission aviation operations and conduct inspections, audits, and other similar oversight to determine practices and compliance with such standards;

(4) Develop an accountability system for commission aviation operations and activities;

(5) Identify the costs associated with training, education, and the purchase, operation, maintenance, and administration of state aircraft assigned to the commission and aviation operations and related facilities;

(6) In conjunction with the Georgia Aviation Authority, develop an appropriate joint billing structure for passenger transportation where the aircraft is designated and operated as a 'civil aircraft' under Part 91 of the Federal Aviation Regulations and charge agencies and other state entities for the full variable hourly costs for the operation of each type of aircraft, evaluated annually and adjusted as necessary based upon the price of fuel, maintenance, and other fees that are a direct result of flying the

aircraft on that specific trip; provided, however, that any billing to an agency by the commission shall be suspended whenever the Governor declares a state of emergency on any cost associated with aircraft used during and in response to such state of emergency;

(7) Retain appropriate external consulting and auditing expertise;

(8) Engage aviation industry representatives to ensure best practices for commission aviation assets;

(9) Delegate certain powers pursuant to this article to other state entities;

(10) Otherwise implement appropriate and efficient management practices for commission aviation operations; and

(11) Enter into agreements with the Georgia Aviation Authority for mutual use of state airfields and appurtenances, including aircraft hangars."

SECTION 4.

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

The report of the Committee, which was favorable to the passage of the Bill, by substitute, was agreed to.

On the passage of the Bill, by substitute, the roll call was ordered and the vote was as follows:

N Abdul-Salaam	Davis	N Heckstall	Y McBrayer	Y Shaw
N Abrams	N Dawkins-Haigler	Y Hembree	Y McCall	Y Sheldon
Y Allison	Y Dempsey	E Henson	Y McKillip	Y Sims, B
Y Amerson	N Dickerson	Y Hightower	Y Meadows	Y Sims, C
Y Anderson	Y Dickey	Y Hill	N Mitchell	N Smith, E
N Ashe	Y Dickson	N Holcomb	Y Morgan	Y Smith, K
Y Atwood	Y Dobbs	Y Holmes	Morris	Y Smith, L
Y Baker	Y Dollar	Y Holt	N Mosby	Y Smith, R
Y Battles	N Drenner	Y Horne	N Murphy	Y Smith, T
N Beasley-Teague	Y Dudgeon	Y Houston	Y Neal, J	Y Smyre
Bell	Y Dukes	Y Howard	N Neal, Y	Y Spencer
N Benfield	Y Dunahoo	Y Hudson	Y Nimmer	Y Stephens, M
Y Benton	Y Dutton	Y Hugley	Y Nix	Y Stephens, R
Y Beverly	Y Ehrhart	Jackson	N Oliver	N Stephenson
Y Black	Y England	Y Jacobs	Y O'Neal	Y Talton
Y Braddock	Y Epps, C	Y James	Y Pak	Y Tankersley
Y Brockway	Y Epps, J	Y Jasperse	N Parent	Y Taylor, D
N Brooks	E Evans	Y Jerguson	Y Parrish	N Taylor, R
Y Bruce	N Floyd	Y Johnson	Y Parsons	Y Taylor, T
Y Bryant	N Fludd	Y Jones, J	Y Peake	Y Teasley
N Buckner	Y Frazier	N Jones, S	Y Powell, A	N Thomas
Y Burns	Y Fullerton	Y Jordan	Y Powell, J	VACANT
Y Byrd	Y Gardner	Y Kaiser	Y Pruett	N Waites
Y Carson	Y Geisinger	N Kendrick	Y Purcell	Y Watson
Y Carter	Y Golick	E Kidd	Ramsey	Y Welch
Y Casas	Y Gordon	Y Knight	Y Randall	Weldon
Y Channell	Y Greene	Y Lane	Y Reece	Y Wilkerson

Y Cheokas	Y Hamilton	Y Lindsey	Y Rice	Wilkinson
Y Clark, J	Y Hanner	Y Long	Y Riley	Y Willard
Y Clark, V	Y Harbin	Y Maddox, B	Y Roberts	E Williams, A
Y Coleman	Y Harden, B	Y Maddox, G	Y Rogers, C	Y Williams, C
Y Collins	Y Harden, M	Y Manning	Y Rogers, T	N Williams, E
Y Cooke	Y Harrell	Y Marin	Y Rynders	Y Williams, R
Y Coomer	Y Hatchett	Y Martin	N Scott, M	Y Williamson
Y Cooper	Y Hatfield	Y Maxwell	N Scott, S	Y Yates
Crawford	Y Heard	N Mayo	Y Setzler	Ralston, Speaker

On the passage of the Bill, by substitute, the ayes were 135, nays 31.

The Bill, having received the requisite constitutional majority, was passed, by substitute.

HB 746. By Representatives Maddox of the 127th, Willard of the 49th, McCall of the 30th, Roberts of the 154th and Burns of the 157th:

A BILL to be entitled an Act to amend Code Section 2-2-9.1 of the Official Code of Georgia Annotated, relating to the administrative authority of the Commissioner of Agriculture on hearings for individuals adversely affected, so as to clarify the timing of the Commissioner's final decision and decision for reconsideration of the final decision; to provide for related matters; to repeal conflicting laws; and for other purposes.

The report of the Committee, which was favorable to the passage of the Bill, was agreed to.

On the passage of the Bill, the roll call was ordered and the vote was as follows:

Y Abdul-Salaam	Y Davis	Y Heckstall	Y McBrayer	Y Shaw
Y Abrams	Y Dawkins-Haigler	Y Hembree	Y McCall	Y Sheldon
Y Allison	Y Dempsey	E Henson	Y McKillip	Y Sims, B
Y Amerson	Y Dickerson	Y Hightower	Y Meadows	Sims, C
Y Anderson	Y Dickey	Y Hill	Y Mitchell	Y Smith, E
Y Ashe	Y Dickson	Y Holcomb	Y Morgan	Y Smith, K
Y Atwood	Y Dobbs	Y Holmes	Y Morris	Y Smith, L
Baker	Y Dollar	Y Holt	Y Mosby	Y Smith, R
Y Battles	Y Drenner	Y Horne	Y Murphy	Y Smith, T
Y Beasley-Teague	Y Dudgeon	Y Houston	Y Neal, J	Y Smyre
Y Bell	Y Dukes	Y Howard	Y Neal, Y	Y Spencer
Y Benfield	Y Dunahoo	Hudson	Y Nimmer	Stephens, M
Y Benton	Y Dutton	Y Hugley	Y Nix	Y Stephens, R
Y Beverly	Ehrhart	Y Jackson	Y Oliver	Y Stephenson
Y Black	Y England	Y Jacobs	Y O'Neal	Y Talton
Y Braddock	Y Epps, C	Y James	Y Pak	Y Tankersley
Y Brockway	Y Epps, J	Y Jasperse	Y Parent	Y Taylor, D
Y Brooks	E Evans	Y Jerguson	Y Parrish	Y Taylor, R
Y Bruce	Floyd	Y Johnson	Y Parsons	Y Taylor, T
Y Bryant	Y Fludd	Y Jones, J	Y Peake	Y Teasley

Y Buckner	Y Frazier	Y Jones, S	Y Powell, A	Y Thomas
Y Burns	Y Fullerton	Y Jordan	Y Powell, J	VACANT
Y Byrd	Y Gardner	Y Kaiser	Y Pruett	Y Waites
Y Carson	Y Geisinger	Y Kendrick	Y Purcell	Y Watson
Y Carter	Y Golick	E Kidd	Y Ramsey	Y Welch
Y Casas	Y Gordon	Y Knight	Y Randall	Weldon
Y Channell	Y Greene	Y Lane	Y Reece	Y Wilkerson
Y Cheokas	Y Hamilton	Y Lindsey	Y Rice	Wilkinson
Y Clark, J	Y Hanner	Y Long	Y Riley	Y Willard
Y Clark, V	Y Harbin	Y Maddox, B	Y Roberts	E Williams, A
Y Coleman	Y Harden, B	Y Maddox, G	Y Rogers, C	Y Williams, C
Y Collins	Y Harden, M	Y Manning	Y Rogers, T	Y Williams, E
Y Cooke	Y Harrell	Y Marin	Y Rynders	Y Williams, R
Y Coomer	Y Hatchett	Y Martin	Y Scott, M	Y Williamson
Y Cooper	Y Hatfield	Y Maxwell	Y Scott, S	Y Yates
Crawford	Y Heard	Y Mayo	Y Setzler	Ralston, Speaker

On the passage of the Bill, the ayes were 165, nays 0.

The Bill, having received the requisite constitutional majority, was passed.

Representative Hudson of the 124th stated that she had been called from the floor of the House during the preceding roll call. She wished to be recorded as voting "aye" thereon.

HB 990. By Representatives Jones of the 46th, Riley of the 50th, Martin of the 47th, Willard of the 49th, Dudgeon of the 24th and others:

A BILL to be entitled an Act to amend Chapter 31 of Title 36 of the Official Code of Georgia Annotated, relating to incorporation of municipal corporations, so as to change certain provisions relating to municipal control over parks and fire stations; to change certain provisions relating to special districts divided into noncontiguous areas, information required in audits, informational summary, and effect of creation of municipal corporation and distribution of excess proceeds from special district taxes, fees, and assessments; to provide for applicability; to provide an effective date; to repeal conflicting laws; and for other purposes.

The following Committee substitute was read and adopted:

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 31 of Title 36 of the Official Code of Georgia Annotated, relating to incorporation of municipal corporations, so as to change certain provisions relating to municipal control over parks and fire stations; to change certain provisions relating to special districts divided into noncontiguous areas, information required in audits,

informational summary, and effect of creation of municipal corporation and distribution of excess proceeds from special district taxes, fees, and assessments; to provide for applicability; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 31 of Title 36 of the Official Code of Georgia Annotated, relating to incorporation of municipal corporations, is amended by revising Code Section 36-31-11.1, relating to municipal control over parks and fire stations, as follows:

"36-31-11.1.

(a) As used in this Code section, the term:

(1) 'County' means a county in which a tax is being levied and collected for purposes of a metropolitan area system of public transportation ~~and in which a public safety and judicial facilities authority has been activated by the county pursuant to Chapter 75 of this title~~.

(2) 'Fire station' means any property or facility that is located wholly within the territory of a qualified municipality, ~~including buildings and fixtures located on such property~~ owned by the county or subject to a lease-purchase or installment sale arrangement by the county, and used by the county as of the date immediately prior to the date the local Act incorporating a qualified municipality became law to provide fire protection services authorized by Article IX, Section II, Paragraph III(a)(1) of the Constitution. Such term shall include any buildings, fixtures, or other improvements on such property or in such facilities.

(3) 'Park' means any property or facility that is located wholly within the territory of a municipality, including but not limited to athletic fields, athletic courts, recreation centers, playgrounds, swimming pools, arts centers, historical properties, and adjacent greenspace, ~~and the fixtures located on such property or in such facility~~ owned by the county, or subject to a lease-purchase or installment sale arrangement by the county and used by the county as of the date immediately prior to the date the local Act incorporating a qualified municipality became law to provide any services authorized by Article IX, Section II, Paragraph III(a)(5) of the Constitution or to provide any services authorized by Article IX, Section II, Paragraph III(a)(10) of the Constitution. Such term shall include any buildings, fixtures, or other improvements on such property or in such facilities.

(4) 'Qualified municipality' means any new municipality located in a county and created by local Act which becomes law on or after January 1, 2008.

(b) A qualified municipality that succeeds to the control of local government services pursuant to Article IX, Section II, Paragraph III(a) of the Constitution may take control of and hold title to parks and fire stations as a trustee or agent for the public.

(c)(1) A qualified municipality located within a county which has a special district for the provision of fire services shall continue to be part of such special fire district

where the local Act creating such qualified municipality so provides or where the governing authority of the qualified municipality elects by formal resolution to continue to be part of the special fire district and delivers a copy of such resolution to the governing authority of the county within 30 days after the date the resolution is adopted.

(2) If a qualified municipality initially elected to remain in a fire services special district, such municipality shall be removed from such fire services special district by adopting a resolution stating its intent to be removed from the district and the date of removal, provided the governing authority of the qualified municipality delivers a copy of such resolution to the governing authority of the county. The fire services shall be discontinued by the county on the first day of the next fiscal year of the county that begins at least 180 days after the specified notice is received by the county.

(d) A qualified municipality located within a county that charges fees on a periodic basis for the provision of water or sewer services, or both, may elect to continue receiving such services for the same fees charged residents in the unincorporated area of the county. Such election may be set forth in the local Act creating such qualified municipality or be made by resolution of the governing authority of the qualified municipality provided the governing authority of the qualified municipality delivers a copy of such resolution to the governing authority of the county within 30 days after the date the resolution is adopted.

(e) The county shall not convey, otherwise encumber, move any fixtures or buildings, or enter into <u>or renew</u> any contractual obligations with respect to any park or fire station located in the qualified municipality. The governing authority of the county shall assign to the governing authority of the qualified municipality all of its right, title, and interest in any executory contract in effect on any park or fire station that the qualified municipality elects to purchase as provided in this Code section. Such assignment shall be effective on the date the municipality assumes ownership of any such park or fire station or as otherwise may be agreed between the governing authority of the municipality and the governing authority of the county.

(f) A municipality may elect to purchase parks within the territory of the municipality from the county in which the municipality is located. Notwithstanding any other law to the contrary, whenever a municipality elects to purchase any such parks, the governing authority of the municipality shall provide written notice to the governing authority of the county specifying the parks to be purchased and the date or dates the municipality will assume ownership of such parks; the purchase price for such parks shall be $100.00 per acre. Such notice shall be provided for each such park no less than 30 days prior to the date the municipality intends to assume ownership.

(g) Upon the payment of the purchase price, all of the county's right, title, and interest in the parks that the municipality elects to purchase shall be transferred to the governing authority of the municipality. Such transfer shall be effective on the date the municipality intends to assume ownership of such parks and as stated in the notice given pursuant to subsection (f) of this Code section. The governing authority of the

county shall transfer, execute, and deliver to the governing authority of the municipality such instruments as may be necessary to record the transfer of such right, title, and interest. Notwithstanding any provision in any property deed or law to the contrary, a municipality may purchase a park from the county without permission of the state and may use such park for all purposes for which the county was authorized under such deed or law.

(h) In the event a park is transferred by a county to a municipality under this Code section, the municipality shall be prohibited from imposing or collecting user fees from residents of the county in excess of the amount of such fees imposed or collected from residents of the municipality.

(i) Where residents of a municipality are required pursuant to Code Section 36-31-11 to continue to pay taxes for the purpose of retiring any special district debt created by the issuance of bonds by the county on behalf of the special district for the purpose of improving parks and the municipality elects to purchase any such park pursuant to this Code section, the county shall transfer to the municipality as an agent of the special district the portion of the bond proceeds that the county planned to spend on such park at the time of the referendum on the bonds, based upon any statements of intention or representations concerning use of the bond proceeds by the governing authority of the county. Such amount shall be determined based on county resolutions and any attachments thereto, staff recommendations, or similar documents presented at the time of passage of a resolution, county records, and any public statements or representations made by county managers, representatives, officials, or their agents as to the amount that would be spent on such park in order to solicit voter support for the referendum; provided, however, that the amount to be transferred by the county to the municipality shall be reduced by any amount spent by the county to improve such park prior to the date of the municipality's notice of its election to purchase the park as provided in subsection (f) of this Code section. The transfer shall be due within 30 days after the municipality assumes ownership of any such park. The municipality shall be required to expend any such funds for and on behalf of the special district in a manner consistent with the purpose and intent of the issuance of the bonds.

(j) A qualified municipality may elect to purchase one or more fire stations from the county in which it is located. Notwithstanding any other law to the contrary, whenever a qualified municipality elects to purchase a fire station from the county, the governing authority of the qualified municipality shall provide written notice to the governing authority of the county specifying the fire station to be purchased and the date or dates the qualified municipality will assume ownership of such fire station. Such notice shall be provided with respect to each such property no less than 30 days prior to the date the qualified municipality intends to assume ownership of the fire station.

(k)(1) Except as otherwise provided in paragraph (2) of this subsection, if a qualified municipality elects to purchase a fire station that serves only territory wholly within the qualified municipality, the purchase price shall be $5,000.00 for each such fire station.

(2) If the county uses a fire station to serve an area located outside the qualified municipality, the purchase price for each such fire station shall be $5,000.00 plus an additional amount determined as provided in this paragraph. Such additional amount shall be the product of the fair market value of such fire station multiplied by the percentage of the total service area of such fire station which is located outside of the corporate limits of the qualified municipality. If the portion served outside the qualified municipality exceeds 20 percent of the total service area, then from the date the qualified municipality assumes ownership of such fire station, the qualified municipality shall be obligated to offer to lease the fire station back to the county for a period not to exceed two years for an amount of $10.00 for the lease period.

(l) If a county and municipality fail to reach an agreement on the amount to be paid or any related matter under this Code section, either the county or the municipality may petition the superior court to seek resolution of the items in dispute. Such petition shall be assigned to a judge, pursuant to Code Section 15-1-9.1 or 15-6-13, who is not a judge in the circuit in which the county is located. The judge selected may also be a senior judge pursuant to Code Section 15-1-9.2 who resides in another circuit. The visiting or senior judge shall conduct an evidentiary hearing or hearings as such judge deems necessary and render a decision with regard to the disputed items."

SECTION 2.

Said chapter is further amended by revising subsection (b) of Code Section 36-31-12, relating to special districts divided into noncontiguous areas, information required in audits, informational summary, and effect of creation of municipal corporation and distribution of excess proceeds from special district taxes, fees, and assessments, as follows:

"(b)(1) When a municipal corporation is created by local Act within a county which has a special district for the provision of local government services consisting of the unincorporated area of the county and following the creation of said municipal corporation the special district is divided into two or more noncontiguous areas, any special district taxes, fees, and assessments collected in such a noncontiguous area shall be spent to provide services in that noncontiguous area. Effective January 1, 2006, for the purposes of this Code section, a noncontiguous area located within ten miles of another noncontiguous area may be treated as the same noncontiguous area.

(2) If, on <u>or after</u> May 14, 2008:

(A) Excess proceeds <u>derived from the collection of any special district taxes, fees, and assessments or from any earnings thereon</u> remain following the expenditure required under paragraph (1) of this subsection; and

(B) All of the area within the special district shall have become incorporated within one or more municipalities,

then the excess proceeds shall be disbursed within 60 days to the governing authority of each municipality which has incorporated any portion of the area of the special district<u>; and the county shall continue to make such disbursements for so long as such</u>

excess proceeds continue to be received. The amount of proceeds to be disbursed to each municipality shall be determined on a pro rata basis using as a denominator the total value of all tax parcels within the special district and as a numerator the total value of all tax parcels which were incorporated within each municipality.

(3) If, on or after May 14, 2008:

(A) Excess proceeds remain from the collection of any special district taxes, fees, and assessments or from any earnings thereon; and

(B) A new municipality shall have been created from within such special district such that the special district shall have been diminished in size but not all of the special district shall have been incorporated within one or more municipalities,

then the excess proceeds shall be disbursed within 60 days to the governing authority of each municipality which has incorporated any portion of the area of the special district; and the county shall continue to make such disbursements for so long as such excess proceeds continue to be received. The amount of proceeds to be disbursed to each municipality shall be determined on a pro rata basis using as a denominator the total value of all tax parcels within the special district and as a numerator the total value of all tax parcels which were incorporated within each municipality."

SECTION 3.

This Act shall not be applied to impair any obligation of contract entered into prior to the date this Act becomes effective.

SECTION 4.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 5.

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

The report of the Committee, which was favorable to the passage of the Bill, by substitute, was agreed to.

On the passage of the Bill, by substitute, the roll call was ordered and the vote was as follows:

Y Abdul-Salaam	Y Davis	Heckstall	Y McBrayer	Y Shaw
Y Abrams	Y Dawkins-Haigler	Y Hembree	Y McCall	Y Sheldon
Y Allison	Y Dempsey	E Henson	McKillip	E Sims, B
Y Amerson	Y Dickerson	Y Hightower	Y Meadows	Sims, C
Y Anderson	Y Dickey	Y Hill	Y Mitchell	Y Smith, E
Y Ashe	Y Dickson	Y Holcomb	Y Morgan	Y Smith, K
Y Atwood	Y Dobbs	Y Holmes	Y Morris	Y Smith, L
E Baker	Y Dollar	Y Holt	Y Mosby	Y Smith, R
Y Battles	Y Drenner	Y Horne	Y Murphy	Y Smith, T
Y Beasley-Teague	Y Dudgeon	Y Houston	Y Neal, J	Y Smyre

Y Bell	Y Dukes	Y Howard	Y Neal, Y	Y Spencer
Y Benfield	Y Dunahoo	Y Hudson	Y Nimmer	Y Stephens, M
Y Benton	Y Dutton	Y Hugley	Y Nix	Y Stephens, R
Y Beverly	Y Ehrhart	Y Jackson	Y Oliver	Y Stephenson
Y Black	Y England	Y Jacobs	Y O'Neal	Y Talton
Y Braddock	Y Epps, C	Y James	Y Pak	Y Tankersley
Y Brockway	Y Epps, J	Y Jasperse	Y Parent	Y Taylor, D
Y Brooks	E Evans	Y Jerguson	Y Parrish	Y Taylor, R
Y Bruce	Y Floyd	Y Johnson	Y Parsons	Y Taylor, T
Y Bryant	Y Fludd	Y Jones, J	Y Peake	Y Teasley
Y Buckner	Y Frazier	Y Jones, S	Y Powell, A	Y Thomas
Y Burns	Y Fullerton	Jordan	Y Powell, J	VACANT
Y Byrd	Y Gardner	Y Kaiser	Y Pruett	Y Waites
Y Carson	Y Geisinger	Y Kendrick	Y Purcell	Y Watson
Y Carter	Y Golick	E Kidd	Y Ramsey	Y Welch
Y Casas	Y Gordon	Y Knight	Y Randall	Y Weldon
Y Channell	Y Greene	Y Lane	Y Reece	Y Wilkerson
Y Cheokas	Y Hamilton	Y Lindsey	Y Rice	Y Wilkinson
Y Clark, J	Y Hanner	Y Long	Y Riley	Y Willard
Y Clark, V	Y Harbin	Y Maddox, B	Y Roberts	E Williams, A
Y Coleman	Y Harden, B	Y Maddox, G	Y Rogers, C	Y Williams, C
Y Collins	Y Harden, M	Y Manning	Y Rogers, T	Y Williams, E
Y Cooke	Y Harrell	Y Marin	Y Rynders	Y Williams, R
Y Coomer	Y Hatchett	Martin	Y Scott, M	Y Williamson
Y Cooper	Y Hatfield	Y Maxwell	Y Scott, S	Y Yates
Crawford	Y Heard	Y Mayo	Y Setzler	Ralston, Speaker

On the passage of the Bill, by substitute, the ayes were 166, nays 0.

The Bill, having received the requisite constitutional majority, was passed, by substitute.

Representatives Jordan of the 77th and Martin of the 47th stated that they had been called from the floor of the House during the preceding roll call. They wished to be recorded as voting "aye" thereon.

HB 208. By Representative Maxwell of the 17th:

A BILL to be entitled an Act to amend Code Section 47-2-1 of the Official Code of Georgia Annotated, relating to definitions relative to the Employees' Retirement System of Georgia, so as to define a certain term; to repeal conflicting laws; and for other purposes.

The following Committee substitute was read and adopted:

A BILL TO BE ENTITLED
AN ACT

To amend Code Section 47-3-127.1 of the Official Code of Georgia Annotated, relating to employment of a retired teacher as a full-time teacher or in other capacities, so as to change the date of automatic repeal; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 47-3-127.1 of the Official Code of Georgia Annotated, relating to employment of a retired teacher as a full-time teacher or in other capacities, is amended by revising subsection (d) as follows:

"(d) The provisions of this Code section shall be automatically repealed on June 30, ~~2016~~ 2013."

SECTION 2.

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

The report of the Committee, which was favorable to the passage of the Bill, by substitute, was agreed to.

On the passage of the Bill, by substitute, the roll call was ordered and the vote was as follows:

Y Abdul-Salaam	Y Davis	Y Heckstall	Y McBrayer	Y Shaw
Y Abrams	Y Dawkins-Haigler	Y Hembree	Y McCall	Y Sheldon
Y Allison	Y Dempsey	E Henson	Y McKillip	E Sims, B
Y Amerson	Y Dickerson	Y Hightower	Y Meadows	Y Sims, C
Y Anderson	Y Dickey	Y Hill	Y Mitchell	Y Smith, E
Y Ashe	Y Dickson	Y Holcomb	Y Morgan	Smith, K
Y Atwood	Y Dobbs	Y Holmes	Y Morris	Y Smith, L
E Baker	Y Dollar	Y Holt	Y Mosby	Y Smith, R
Y Battles	Y Drenner	Y Horne	Y Murphy	Y Smith, T
Y Beasley-Teague	Y Dudgeon	Y Houston	Y Neal, J	Y Smyre
Y Bell	Y Dukes	Y Howard	Y Neal, Y	Y Spencer
Y Benfield	Y Dunahoo	Y Hudson	Y Nimmer	Y Stephens, M
Y Benton	Y Dutton	Y Hugley	Y Nix	Y Stephens, R
Y Beverly	Y Ehrhart	Y Jackson	Y Oliver	Y Stephenson
Y Black	Y England	Y Jacobs	Y O'Neal	Y Talton
Y Braddock	Y Epps, C	Y James	Y Pak	Y Tankersley
Y Brockway	Y Epps, J	Y Jasperse	Y Parent	Y Taylor, D
Y Brooks	E Evans	Y Jerguson	Y Parrish	Y Taylor, R
Y Bruce	Y Floyd	Y Johnson	Y Parsons	Y Taylor, T
Y Bryant	Y Fludd	Y Jones, J	Y Peake	Y Teasley
Y Buckner	Y Frazier	Y Jones, S	Y Powell, A	Y Thomas
Y Burns	Y Fullerton	Y Jordan	Y Powell, J	VACANT
Y Byrd	Gardner	Y Kaiser	Y Pruett	Waites
Y Carson	Y Geisinger	Y Kendrick	Y Purcell	Y Watson
Y Carter	Y Golick	E Kidd	Y Ramsey	Y Welch
Y Casas	Y Gordon	Y Knight	Y Randall	Y Weldon
Y Channell	Y Greene	Y Lane	Y Reece	Y Wilkerson

Y Cheokas	Y Hamilton	Y Lindsey	Y Rice	E Wilkinson
Y Clark, J	Y Hanner	Y Long	Y Riley	Y Willard
Y Clark, V	Y Harbin	Y Maddox, B	Y Roberts	E Williams, A
Y Coleman	Y Harden, B	Y Maddox, G	Y Rogers, C	Y Williams, C
Y Collins	Y Harden, M	Y Manning	Y Rogers, T	Y Williams, E
Y Cooke	Y Harrell	Y Marin	Y Rynders	Y Williams, R
Y Coomer	Y Hatchett	Martin	Y Scott, M	Y Williamson
Y Cooper	Y Hatfield	Y Maxwell	Y Scott, S	Y Yates
Crawford	Y Heard	Y Mayo	Y Setzler	Ralston, Speaker

On the passage of the Bill, by substitute, the ayes were 166, nays 0.

The Bill, having received the requisite constitutional majority, was passed, by substitute.

Representative Martin of the 47th stated that he had been called from the floor of the House during the preceding roll call. He wished to be recorded as voting "aye" thereon.

HB 513. By Representatives Shaw of the 176th, Dollar of the 45th, Smith of the 131st, Maxwell of the 17th, Cheokas of the 134th and others:

A BILL to be entitled an Act to amend Chapter 27 of Title 33 of the Official Code of Georgia Annotated, relating to group life insurance, so as to allow the issuance of a group life insurance policy to certain groups as approved by the Commissioner; to remove a participation requirement before the extension of group life policy coverage to dependents of employees or members; to provide for related matters; to repeal conflicting laws; and for other purposes.

The report of the Committee, which was favorable to the passage of the Bill, was agreed to.

On the passage of the Bill, the roll call was ordered and the vote was as follows:

Y Abdul-Salaam	Y Davis	Y Heckstall	Y McBrayer	Y Shaw
Y Abrams	Y Dawkins-Haigler	Y Hembree	Y McCall	Y Sheldon
Y Allison	Y Dempsey	E Henson	Y McKillip	E Sims, B
Y Amerson	Y Dickerson	Y Hightower	Y Meadows	Y Sims, C
Y Anderson	Y Dickey	Y Hill	Y Mitchell	Y Smith, E
Y Ashe	Y Dickson	Y Holcomb	Y Morgan	Y Smith, K
Y Atwood	Y Dobbs	Y Holmes	Y Morris	Y Smith, L
E Baker	Y Dollar	Y Holt	Y Mosby	Y Smith, R
Y Battles	Drenner	Y Horne	Y Murphy	Y Smith, T
Y Beasley-Teague	Y Dudgeon	Y Houston	Neal, J	Y Smyre
Y Bell	Y Dukes	Y Howard	Y Neal, Y	Y Spencer
Benfield	Y Dunahoo	Y Hudson	Y Nimmer	Y Stephens, M
Y Benton	Y Dutton	Y Hugley	Y Nix	Y Stephens, R
Y Beverly	Y Ehrhart	Y Jackson	Y Oliver	Y Stephenson

Y Black	Y England	Y Jacobs	Y O'Neal	Y Talton
Y Braddock	Y Epps, C	Y James	Y Pak	Y Tankersley
Y Brockway	Y Epps, J	Y Jasperse	Y Parent	Y Taylor, D
Y Brooks	E Evans	Y Jerguson	Y Parrish	Y Taylor, R
Y Bruce	Y Floyd	Y Johnson	Y Parsons	Y Taylor, T
Y Bryant	Y Fludd	Y Jones, J	Y Peake	Y Teasley
Buckner	Y Frazier	Y Jones, S	Y Powell, A	Y Thomas
Y Burns	Y Fullerton	Y Jordan	Y Powell, J	VACANT
Y Byrd	Gardner	Y Kaiser	Y Pruett	Y Waites
Y Carson	Y Geisinger	Y Kendrick	Y Purcell	Y Watson
Y Carter	Y Golick	E Kidd	Y Ramsey	Y Welch
Y Casas	Y Gordon	Y Knight	Y Randall	Y Weldon
Y Channell	Y Greene	Y Lane	Y Reece	Y Wilkerson
Y Cheokas	Y Hamilton	Y Lindsey	Y Rice	E Wilkinson
Y Clark, J	Y Hanner	Y Long	Y Riley	Y Willard
Y Clark, V	Y Harbin	Y Maddox, B	Y Roberts	E Williams, A
Coleman	Y Harden, B	Y Maddox, G	Y Rogers, C	Y Williams, C
Y Collins	Y Harden, M	Y Manning	Y Rogers, T	Y Williams, E
Y Cooke	Y Harrell	Y Marin	Y Rynders	Y Williams, R
Y Coomer	Y Hatchett	Martin	Y Scott, M	Y Williamson
Y Cooper	Y Hatfield	Y Maxwell	Y Scott, S	Y Yates
Crawford	Y Heard	Y Mayo	Y Setzler	Ralston, Speaker

On the passage of the Bill, the ayes were 163, nays 0.

The Bill, having received the requisite constitutional majority, was passed.

HB 817. By Representatives Nimmer of the 178th, Roberts of the 154th, Burns of the 157th, Sheldon of the 105th and Dollar of the 45th:

A BILL to be entitled an Act to amend provisions of the Official Code of Georgia Annotated relating to the Department of Transportation; to amend Title 32 of the Official Code of Georgia Annotated, relating to highways, bridges, and ferries, so as to amend the limitations on the department's power to contract; to clarify the procedures for the posting of a contract bid; to amend the requirements for the classification of roads of the state highway system; to allow the department to require the use of tire chains by commercial vehicles on certain roads during inclement winter weather; to remove the requirement of county commissioner approval for the designation of a local truck route; to provide for a 90 day notification requirement for county local truck routes; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

The following Committee substitute was read and adopted:

A BILL TO BE ENTITLED
AN ACT

To amend provisions of the Official Code of Georgia Annotated relating to the Department of Transportation; to amend Title 32 of the Official Code of Georgia Annotated, relating to highways, bridges, and ferries, so as to amend the limitations on the department's power to contract; to clarify the procedures for the posting of a contract bid; to amend restrictions on the department when contracting for design-build projects; to amend the requirements for the classification of roads of the state highway system; to allow the department to require the use of tire chains or certain tires by certain vehicles on limited access roads during inclement winter weather; to remove the requirement of county commissioner approval for the designation of a local truck route; to provide for a 90 day notification requirement for county local truck routes; to provide for the use of state funds for mass transportation by the department; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 32 of the Official Code of Georgia Annotated, relating to highways, bridges, and ferries, is amended in Code Section 32-2-61, relating to limitations on the Department of Transportation's power to contract, by revising subsection (d) as follows:

"(d)(1) The department is prohibited from negotiating any contract for the construction or maintenance of a public road involving the expenditure of ~~$100,000.00~~ $200,000.00 or more except any contract:

(A) With counties, municipalities, and state agencies, provided that such negotiated contract shall be made at the average bid price of the same kind of work let to contract after advertisement during a period of 60 days prior to the making of the contract;

(B) With a railroad company or utility concerning relocation of its tracks or facilities where the same are not then located on a public road and such relocation is necessary as an incident to the construction or improvement of a public road. However, nothing contained in this subsection shall be construed as requiring the department to furnish a site or right of way for railroad or railway lines or tracks or utility facilities required to be removed from a public road. Furthermore, this subsection shall not prevent the department from assisting in the removal and relocation of publicly owned utilities from locations on public roads as provided in Code Section 32-6-170;

(C) For emergency construction or maintenance involving the expenditure of ~~$100,000.00~~ $200,000.00 or more when the public interest requires that the work be done without the delay of advertising for public bids;

(D) For the procurement of business, professional, or other services from any person, firm, or corporation as an independent contractor;

(E) With the State Road and Tollway Authority; or

(F) Through the provisions of a design-build contract as provided for in Code Section 32-2-81.

(2) A department contract negotiated and made with a political subdivision, as authorized by subparagraph (A) of paragraph (1) of this subsection, may be subcontracted to any person or political subdivision. It may be performed with inmate labor, except in the case of a public work constructed with federal aid, or the forces of such political subdivision or those of a political subdivision to which such contract has been subcontracted. However, the department shall have the authority to furnish planning, contract plans, specifications, and engineering supervision over a public road being constructed by a political subdivision or by its subcontractor. Any subcontract made under authority of this subsection shall not constitute the basis of any claim against the department, nor shall such subcontract be considered an assignment of the rights of the political ~~division~~ subdivision under its contract with the department."

SECTION 2.

Said title is further amended in Code Section 32-2-64, relating to the requirement of letting contracts by public bid, as follows:

"32-2-64.

Except as authorized by subsection (d) of Code Section 32-2-61, all department construction and maintenance contracts shall be let by public bid. For purposes of this Code section, posting a bid on the department's website shall satisfy the public bid requirement."

SECTION 3.

Said title is further amended in Code Section 32-2-69, relating to the reading of contract bids by the Department of Transportation, by adding a new subsection to read as follows:

"(e) For purposes of this Code section, posting of a bid on the department's website shall be equivalent to having read the bid."

SECTION 4.

Said title is further amended by revising subsection (f) of Code Section 32-2-81, relating to design-build projects and procedure of the department, as follows:

"(f) In contracting for design-build projects, the department shall be limited to contracting for no more than ~~30~~ 50 percent of the total amount of construction projects awarded in the previous fiscal year. ~~After July 1, 2014, in contracting for design-build projects, the department shall be limited to contracting for no more than 15 percent of the total amount of construction projects awarded in the previous fiscal year.~~"

SECTION 5.

Said title is further amended by revising Code Section 32-4-20, relating to the composition of the state highway system, as follows:

"32-4-20.

The state highway system shall consist of an integrated network of arterials and of other public roads or bypasses serving as the major collectors therefor. No public road shall

be designated as a part of the state highway system unless it meets at least one of the following requirements:

(1) Serves trips of substantial length and duration indicative of regional, state-wide, or interstate importance;

(2) Connects adjoining county seats;

(3) Connects urban or regional areas with outlying areas, both intrastate and interstate; ~~or~~

(4) Serves as part of the principal collector network for the state-wide and interstate arterial public ~~roads~~ road system; or

(5) Serves as part of a programmed road improvement project plan in which the department will utilize state or federal funds for the acquisition of rights of way."

SECTION 6.

Said title is further amended by adding a new Code section to read as follows:

"32-6-5.

(a) The department may close or limit access to any portion of road on the state highway system due to inclement weather that results in dangerous driving conditions. There shall be erected or posted signage of adequate size indicating that a portion of the state highway system has been closed or access has been limited. When the department determines a road shall have limited access due to inclement winter weather conditions, notice shall be given to motorists through posted signage that motor vehicles must be equipped with tire chains, four-wheel drive with adequate tires for existing conditions, or snow tires with a manufacturer's all weather rating in order to proceed. Such signage shall inform motorists that it shall be unlawful to proceed on such road without such equipment. With the exception of buses, operators of commercial vehicles with four or more drive wheels traveling on a road declared as limited access due to inclement winter weather conditions shall affix tire chains to at least four of the drive wheel tires. Bus operators shall affix tire chains to at least two of the drive wheel tires before proceeding on a road with limited access due to inclement winter weather conditions. For purposes of this Code section, the term 'tire chains' means metal chains which consist of two circular metal loops, positioned on each side of a tire, connected by not less than nine evenly spaced chains across the tire tread or any other traction devices capable of providing traction equal to or exceeding that of such metal chains under similar conditions.

(b) This Code section shall not apply to a tow operator towing a motor vehicle or traveling to a site from which a motor vehicle shall be towed or to emergency responders traveling the roadway in order to fulfill their duties."

SECTION 7.

Said title is further amended in Code Section 32-6-26, relating to the weight and load of a vehicle, by revising subsection (f) to read as follows:

"(f) On any public road of a county road system, the maximum total gross weight of a vehicle and load shall not exceed 56,000 pounds unless the vehicle is making a pickup

or delivery on such road; except that if a county road is constructed to the same standards as those highways of this state which are interstate highways and is authorized as a designated local truck route pursuant to official resolution of the county ~~and approval of the commissioner~~, the maximum weight limits for such designated local truck route shall be the same as those for highways in this state which are not interstate highways as provided by paragraph (1) of subsection (c) of this Code section. The county shall notify the department of any roads designated by the county as a local truck route within 90 days of such designation."

SECTION 8.

Said title is further amended in Code Section 32-6-50, relating to uniform regulations governing the erection and maintenance of traffic-control devices, by revising paragraph (2) of subsection (c) to read as follows:

"(2) Counties, on their respective road systems, shall place and maintain on each county road which is authorized as a designated local truck route, pursuant to official resolution of the county ~~and approval of the commissioner~~, at each intersection of such road with a state highway signs identifying such county road as a designated local truck route and giving notice of the maximum weight limits for such designated local truck route in accordance with subsection (f) of Code Section 32-6-26."

SECTION 9.

Said title is further amended in Code Section 32-9-2, relating to the operation of mass transportation facilities or systems by the department, by revising paragraph (3) of subsection (c) as follows:

"(3) The department's participation with state funds in those programs specified in paragraphs (1) and (2) of this subsection may be in either cash, products, or in-kind services. The department's participation with state funds shall be limited to ~~a maximum of 15 percent of the cost~~ the minimum nonfederal share of the program. The remainder shall be provided from sources other than department funds or from revenues from the operation of public mass transportation systems."

SECTION 10.

This Act shall become effective on July 1, 2012.

SECTION 11.

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

The report of the Committee, which was favorable to the passage of the Bill, by substitute, was agreed to.

On the passage of the Bill, by substitute, the roll call was ordered and the vote was as follows:

Y Abdul-Salaam	Y Davis	Y Heckstall	Y McBrayer	Y Shaw
Y Abrams	Y Dawkins-Haigler	Y Hembree	Y McCall	Y Sheldon
Y Allison	Y Dempsey	E Henson	Y McKillip	E Sims, B
Y Amerson	Y Dickerson	Y Hightower	Y Meadows	Y Sims, C
Y Anderson	Y Dickey	Y Hill	Y Mitchell	Y Smith, E
Y Ashe	Y Dickson	Y Holcomb	Y Morgan	Y Smith, K
Y Atwood	Y Dobbs	Y Holmes	Y Morris	Y Smith, L
E Baker	Y Dollar	Y Holt	Y Mosby	Y Smith, R
Y Battles	Y Drenner	Y Horne	Y Murphy	Y Smith, T
Y Beasley-Teague	Y Dudgeon	Y Houston	N Neal, J	Y Smyre
Y Bell	Y Dukes	Y Howard	Y Neal, Y	Y Spencer
Y Benfield	Y Dunahoo	Y Hudson	Y Nimmer	Y Stephens, M
Y Benton	Y Dutton	Y Hugley	Y Nix	Y Stephens, R
Y Beverly	Y Ehrhart	Y Jackson	Y Oliver	Y Stephenson
Y Black	Y England	Y Jacobs	Y O'Neal	Y Talton
Y Braddock	Y Epps, C	Y James	Y Pak	Y Tankersley
Y Brockway	Y Epps, J	Y Jasperse	Y Parent	Y Taylor, D
Brooks	E Evans	Y Jerguson	Y Parrish	N Taylor, R
Y Bruce	Y Floyd	Y Johnson	Y Parsons	Y Taylor, T
Y Bryant	Y Fludd	Jones, J	Y Peake	Y Teasley
Y Buckner	Y Frazier	Jones, S	Y Powell, A	Y Thomas
Y Burns	Y Fullerton	Y Jordan	Y Powell, J	VACANT
N Byrd	Y Gardner	Y Kaiser	Y Pruett	Y Waites
Y Carson	Y Geisinger	Y Kendrick	Y Purcell	Y Watson
Y Carter	Y Golick	E Kidd	Y Ramsey	Y Welch
Y Casas	Y Gordon	Y Knight	Y Randall	Weldon
Y Channell	Y Greene	Y Lane	Y Reece	Y Wilkerson
Y Cheokas	Y Hamilton	Y Lindsey	Y Rice	E Wilkinson
Y Clark, J	Y Hanner	Y Long	Y Riley	Y Willard
Y Clark, V	Y Harbin	Y Maddox, B	Y Roberts	E Williams, A
Y Coleman	Y Harden, B	Y Maddox, G	Y Rogers, C	Y Williams, C
Y Collins	Y Harden, M	Y Manning	Y Rogers, T	Y Williams, E
Y Cooke	Y Harrell	Y Marin	Y Rynders	Y Williams, R
Y Coomer	Y Hatchett	Y Martin	Y Scott, M	Y Williamson
Y Cooper	Y Hatfield	Y Maxwell	Y Scott, S	Y Yates
Crawford	Y Heard	Y Mayo	Y Setzler	Ralston, Speaker

On the passage of the Bill, by substitute, the ayes were 163, nays 3.

The Bill, having received the requisite constitutional majority, was passed, by substitute.

Representative Taylor of the 55th stated that he inadvertently voted "nay" on the preceding roll call. He wished to be recorded as voting "aye" thereon.

Representative McCall of the 30th District, Chairman of the Committee on Agriculture and Consumer Affairs, submitted the following report:

Mr. Speaker:

Your Committee on Agriculture and Consumer Affairs has had under consideration the following Bills of the House and Senate and has instructed me to report the same back to the House with the following recommendations:

HB 678 Do Pass, by Substitute
HB 1186 Do Pass
SB 358 Do Pass

Respectfully submitted,
/s/ McCall of the 30th
Chairman

The following Resolution of the House was read and referred to the Committee on Rules:

HR 1641. By Representative Ralston of the 7th:

A RESOLUTION commending Sweet Shoppe owners Nikki Gribble and Susan Catron and inviting them to be recognized by the House of Representatives; and for other purposes.

The following Resolution of the House, referred to the House Rules Subcommittee on Invites, was reported by the Committee on Rules with the following recommendation:

HR 1641 Do Pass

The following Resolution of the House, favorably reported by the Committee on Rules, was read and adopted:

HR 1641. By Representative Ralston of the 7th:

A RESOLUTION commending Sweet Shoppe owners Nikki Gribble and Susan Catron and inviting them to be recognized by the House of Representatives; and for other purposes.

The Speaker announced the House in recess until 1:45 o'clock, this afternoon.

AFTERNOON SESSION

The Speaker called the House to order.

Representative Channell of the 116th District, Chairman of the Committee on Ways and Means, submitted the following report:

Mr. Speaker:

Your Committee on Ways and Means has had under consideration the following Bills of the House and has instructed me to report the same back to the House with the following recommendations:

HB 868 Do Pass, by Substitute
HB 1027 Do Pass, by Substitute
HB 1165 Do Pass

Respectfully submitted,
/s/ Channell of the 116th
Chairman

The following Resolutions of the House were read and adopted:

HR 1646. By Representatives Dollar of the 45th, Taylor of the 79th, Ramsey of the 72nd and Byrd of the 20th:

A RESOLUTION commending Taiwan for its relations with the United States; and for other purposes.

HR 1647. By Representative Williamson of the 111th:

A RESOLUTION recognizing and honoring the Corinth Christian Church on its 150th anniversary; and for other purposes.

HR 1648. By Representatives Ashe of the 56th, Coleman of the 97th, Talton of the 145th, Oliver of the 83rd, Stephens of the 164th and others:

A RESOLUTION recognizing Normer Adams, Executive Director of the Georgia Association of Homes and Services for Children; and for other purposes.

HR 1649. By Representative Manning of the 32nd:

A RESOLUTION recognizing September 25, 2012 as the new Georgia Day at the capitol; and for other purposes.

HR 1650. By Representative Dollar of the 45th:

A RESOLUTION recognizing and commending Tritt Elementary School for outstanding contributions to education in the State of Georgia and excellence in student academic achievement; and for other purposes.

HR 1651. By Representative Dollar of the 45th:

A RESOLUTION recognizing and commending Timber Ridge Elementary School for outstanding contributions to education in the State of Georgia and excellence in student academic achievement; and for other purposes.

HR 1652. By Representative Dollar of the 45th:

A RESOLUTION recognizing and commending Mt. Bethel Elementary School for outstanding contributions to education in the State of Georgia and excellence in student academic achievement; and for other purposes.

HR 1653. By Representative Dollar of the 45th:

A RESOLUTION recognizing and commending Walton High School for outstanding contributions to education in the State of Georgia and excellence in student academic achievement; and for other purposes.

HR 1654. By Representative Dollar of the 45th:

A RESOLUTION recognizing and commending Dickerson Middle School for outstanding contributions to education in the State of Georgia and excellence in student academic achievement; and for other purposes.

HR 1655. By Representative Dollar of the 45th:

A RESOLUTION recognizing and commending Hightower Trail Middle School for outstanding contributions to education in the State of Georgia and excellence in student academic achievement; and for other purposes.

HR 1656. By Representative Dollar of the 45th:

A RESOLUTION recognizing and commending Dodgen Middle School for outstanding contributions to education in the State of Georgia and excellence in student academic achievement; and for other purposes.

HR 1657. By Representatives Dollar of the 45th and Carson of the 43rd:

A RESOLUTION recognizing and commending Rocky Mount Elementary School for outstanding contributions to education in the State of Georgia and excellence in student academic achievement; and for other purposes.

HR 1658. By Representatives Dollar of the 45th and Carson of the 43rd:

A RESOLUTION recognizing and commending Shallowford Falls Elementary School for outstanding contributions to education in the State of Georgia and excellence in student academic achievement; and for other purposes.

HR 1659. By Representative Dollar of the 45th:

A RESOLUTION recognizing and commending Pope High School for outstanding contributions to education in the State of Georgia and excellence in student academic achievement; and for other purposes.

HR 1660. By Representative Dollar of the 45th:

A RESOLUTION recognizing and commending Murdock Elementary School for outstanding contributions to education in the State of Georgia and excellence in student academic achievement; and for other purposes.

HR 1661. By Representative Dollar of the 45th:

A RESOLUTION recognizing and commending East Side Elementary School for outstanding contributions to education in the State of Georgia and excellence in student academic achievement; and for other purposes.

HR 1662. By Representative Ralston of the 7th:

A RESOLUTION recognizing and commending Mt. Bethel Elementary School for outstanding contributions to education in the State of Georgia and excellence in student academic achievement; and for other purposes.

HR 1663. By Representative Smith of the 70th:

A RESOLUTION recognizing and commending Ms. Martha Collins Lynch Moultrie on the occasion of her 100th birthday; and for other purposes.

HR 1664. By Representative Smith of the 70th:

A RESOLUTION recognizing and commending Dr. Cindy Bennett for being named the 2011-2012 National Outstanding Middle Level Assistant Principal; and for other purposes.

HR 1665. By Representative Mosby of the 90th:

A RESOLUTION recognizing March, 2012, as Professional Social Workers Month at the capitol; and for other purposes.

HR 1666. By Representatives Mosby of the 90th and Rice of the 51st:

A RESOLUTION recognizing and commending LifeSouth Community Blood Centers and the Five Points of Life Foundation; and for other purposes.

HR 1667. By Representatives Stephens of the 164th, Watson of the 163rd, Purcell of the 159th, Stephens of the 161st, Gordon of the 162nd and others:

A RESOLUTION recognizing and honoring the members of the St. Patrick's Day Parade Committee, Chairman Michael A. Foran and the Grand Marshal of the 2012 St. Patrick's Day Parade, Timothy "Tim" Ansley on the upcoming occasion of the 2012 St. Patrick's Day Parade in Savannah, Georgia; and for other purposes.

HR 1668. By Representatives Amerson of the 9th, Ralston of the 7th, Williams of the 4th and Collins of the 27th:

A RESOLUTION honoring the life and work of Ms. Madeleine Kiker Anthony; and for other purposes.

HR 1669. By Representatives Brooks of the 63rd, Smyre of the 132nd and Hugley of the 133rd:

A RESOLUTION honoring the life and memory of Arthur Joseph McClung, Jr.; and for other purposes.

HR 1670. By Representatives Hugley of the 133rd, Abrams of the 84th, Ashe of the 56th, Talton of the 145th, Randall of the 138th and others:

A RESOLUTION commending The Links, Incorporated, and recognizing March 14, 2012, as Georgia Links Day at the capitol; and for other purposes.

HR 1671. By Representative Buckner of the 130th:

A RESOLUTION recognizing and commending Ms. Jane Starnes; and for other purposes.

Under the general order of business, established by the Committee on Rules, the following Bills of the House were taken up for consideration and read the third time:

HB 751. By Representative Holmes of the 125th:

A BILL to be entitled an Act to provide that future elections for the office of judge of the Probate Court of Jasper County shall be nonpartisan elections; to provide for submission of this Act for preclearance under the federal Voting Rights Act of 1965, as amended; to provide for related matters; to repeal conflicting laws; and for other purposes.

The report of the Committee, which was favorable to the passage of the Bill, was agreed to.

On the passage of the Bill, the roll call was ordered and the vote was as follows:

Abdul-Salaam	Y Davis	Heckstall	Y McBrayer	Shaw
Y Abrams	Y Dawkins-Haigler	Hembree	Y McCall	Y Sheldon
Y Allison	Y Dempsey	Henson	McKillip	E Sims, B
Y Amerson	Y Dickerson	Y Hightower	Y Meadows	Y Sims, C
Y Anderson	Y Dickey	E Hill	Y Mitchell	Y Smith, E
Y Ashe	Y Dickson	Holcomb	Y Morgan	Y Smith, K
Y Atwood	Y Dobbs	Y Holmes	Morris	Y Smith, L
E Baker	Y Dollar	Y Holt	N Mosby	Y Smith, R
Y Battles	Y Drenner	Y Horne	Y Murphy	Y Smith, T
Y Beasley-Teague	E Dudgeon	Y Houston	N Neal, J	Smyre
Y Bell	Y Dukes	Y Howard	Y Neal, Y	Y Spencer
Y Benfield	N Dunahoo	Hudson	Y Nimmer	Y Stephens, M
Y Benton	Y Dutton	N Hugley	N Nix	Y Stephens, R
Y Beverly	Y Ehrhart	Jackson	Y Oliver	Y Stephenson
Y Black	Y England	Y Jacobs	Y O'Neal	Y Talton
Braddock	Epps, C	Y James	N Pak	Y Tankersley
Y Brockway	Y Epps, J	N Jasperse	Y Parent	Y Taylor, D
Y Brooks	E Evans	Jerguson	Y Parrish	N Taylor, R
Y Bruce	Y Floyd	Y Johnson	Y Parsons	Y Taylor, T
Y Bryant	Fludd	Y Jones, J	Peake	Y Teasley
N Buckner	Y Frazier	Y Jones, S	Y Powell, A	Y Thomas

Y Burns	Y Fullerton	Jordan	Y Powell, J	VACANT
N Byrd	Y Gardner	Kaiser	Pruett	Y Waites
Y Carson	Y Geisinger	Y Kendrick	Y Purcell	Y Watson
Y Carter	Y Golick	E Kidd	Y Ramsey	Y Welch
Y Casas	Y Gordon	Y Knight	Randall	Weldon
Y Channell	Y Greene	Y Lane	Y Reece	Y Wilkerson
Y Cheokas	Y Hamilton	Y Lindsey	Y Rice	E Wilkinson
Y Clark, J	Y Hanner	Y Long	Y Riley	Y Willard
Y Clark, V	Y Harbin	Y Maddox, B	Y Roberts	Williams, A
Y Coleman	Y Harden, B	Y Maddox, G	N Rogers, C	Y Williams, C
N Collins	Y Harden, M	Y Manning	Y Rogers, T	Y Williams, E
Y Cooke	Y Harrell	Y Marin	Y Rynders	N Williams, R
N Coomer	Hatchett	Y Martin	Y Scott, M	Y Williamson
Cooper	N Hatfield	Maxwell	Y Scott, S	Y Yates
Y Crawford	Y Heard	Y Mayo	Setzler	Ralston, Speaker

On the passage of the Bill, the ayes were 130, nays 15.

The Bill, having received the requisite constitutional majority, was passed.

Representatives Peake of the 137th, Pruett of the 144th, and Shaw of the 176th stated that they had been called from the floor of the House during the preceding roll call. They wished to be recorded as voting "aye" thereon.

Representative Braddock of the 19th stated that she had been called from the floor of the House during the preceding roll call. She wished to be recorded as voting "nay" thereon.

Representative Teasley of the 38th stated that he inadvertently voted "aye" on the preceding roll call. He wished to be recorded as voting "nay" thereon.

HB 898. By Representatives Ehrhart of the 36th, Morris of the 155th and Harden of the 28th:

A BILL to be entitled an Act to amend Title 7 of the Official Code of Georgia Annotated, relating to banking and finance, so as to enact the "Georgia Merchant Acquirer Limited Purpose Bank Act"; to provide for definitions; to provide for organization and control of merchant acquirer limited purpose banks; to provide for the promulgation of rules and regulations; to prohibit certain fees; to provide for requirements for articles of incorporation by merchant acquirer limited purpose banks; to provide for minimum requirements to operate as a merchant acquirer limited purpose bank; to provide for permissible activities of a merchant acquirer limited purpose bank; to provide for enforcement of rules and regulations; to provide for related matters; to repeal conflicting laws; and for other purposes.

The following Committee substitute was read and adopted:

A BILL TO BE ENTITLED
AN ACT

To amend Title 7 of the Official Code of Georgia Annotated, relating to banking and finance, so as to enact the "Georgia Merchant Acquirer Limited Purpose Bank Act"; to provide for definitions; to provide for organization and control of merchant acquirer limited purpose banks; to provide for the promulgation of rules and regulations; to provide for requirements for articles of incorporation by merchant acquirer limited purpose banks; to provide for a registered agent requirement; to provide for applicable fees; to provide for a procedure for application approval and denial; to provide for the issuance and effect of certificates of incorporation; to provide for liability for conducting business as a merchant acquirer limited purpose bank without department approval; to provide for minimum requirements to operate as a merchant acquirer limited purpose bank; to provide for permissible activities of a merchant acquirer limited purpose bank; to provide for enforcement of rules and regulations; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 7 of the Official Code of Georgia Annotated, relating to banking and finance, is amended by adding a new Chapter 9 to read as follows:

"CHAPTER 9

7-9-1.

This chapter shall be known and may be cited as the 'Georgia Merchant Acquirer Limited Purpose Bank Act.'

7-9-2.

As used in this chapter, the term:

(1) 'Commissioner' means the commissioner of banking and finance.

(2) 'Corporation' means a corporation, whether profit or nonprofit, and includes a professional corporation or joint-stock association, organized under the laws of this state, the United States, or any other state, territory, or dependency of the United States or under the laws of a foreign country.

(3) 'Department' means the Department of Banking and Finance.

(4) 'Eligible organization' means a corporation, limited liability company, partnership, or other entity, including an affiliate of a merchant acquirer limited purpose bank, that at all times maintains an office in the State of Georgia at which it or its parent, affiliates, or subsidiaries employ at least 250 persons residing in this

state who are directly or indirectly engaged in merchant acquiring activities or settlement activities, including providing the following services related to merchant acquiring activities or settlement activities, either for the eligible organization or on behalf of other domestic or foreign corporations, limited liability companies, partnerships, or other entities, including, but not limited to, merchant acquirer limited purpose banks:

(A) Administrative support;

(B) Information technology support;

(C) Financial support; and

(D) Tax and finance support.

(5) 'Holding company' means any company that controls a merchant acquirer limited purpose bank. For purposes of this paragraph, the terms 'company' and 'control' shall have the meanings set forth in Code Section 7-1-605.

(6) 'Merchant acquirer limited purpose bank' means a corporation chartered under this chapter and the activities of which are limited to those permitted under Code Section 7-9-11.

(7) 'Merchant acquiring activities' means the various activities associated with effecting transactions within payment card networks, including obtaining and maintaining membership in one or more payment card networks; signing up and underwriting merchants to accept payment card network branded payment cards; providing the means to authorize valid card transactions at client merchant locations; facilitating the clearing and settlement of the transactions through a payment card network; providing access to one or more payment card networks to merchant acquirer limited purpose bank affiliates, customers, or customers of its affiliates; sponsoring the participation of merchant acquirer limited purpose bank affiliates, customers, or customers of its affiliates in one or more payment card networks; and conducting such other activities as may be necessary, convenient, or incidental to effecting transactions within payment card networks.

(8) 'Payment card network' means any organization, group, system, or other collection of individuals or entities that is organized to allow participants to accept or make payments for goods or services using a credit card, debit card, or any other payment device.

(9) 'Settlement activities' means the processing of payment card transactions to send to a payment card network for processing, to make payments to a merchant, and, ultimately, for cardholder billing.

7-9-3.

(a) Subject to the provisions of this chapter and to the approval of the commissioner, any domestic or foreign corporation or limited liability company may organize, own, and control a merchant acquirer limited purpose bank. This chapter does not create an obligation for entities performing merchant acquiring services and settlement services to be chartered by the department, and the department shall have no authority to regulate such entities not chartered as merchant acquirer limited purpose banks.

(b) In connection with the application to charter, or to own and control a merchant acquirer limited purpose bank, the applicant shall pay applicable fees established by regulation of the department to defray the costs of the investigation and review of the application.

(c) The department shall, by regulation, prescribe annual examination fees, charter fees, registration fees, and supervision fees to be paid by each merchant acquirer limited purpose bank. In addition, the department may, by regulation, prescribe reasonable application and related fees, special investigation fees, hearing fees, and fees to provide copies of any book, account, report, or other paper filed in its office or for any certification thereof or for processing any papers as required by this title. The department, in its discretion, may require the payment of such fees in any manner deemed to be efficient, including collection through automated clearing-house arrangements or other electronic means, so that the state receives funds no later than the date the payment is required to be made.

(d) The merchant acquirer limited purpose bank shall have, within one year after the date it receives its charter, no fewer than 50 employees located in this state devoted to merchant acquiring activities; provided, however, a merchant acquirer limited purpose bank may contract with an eligible organization for the performance of merchant acquiring activities, settlement activities, or any of the other services identified in paragraph (4) of Code Section 7-9-2, and when a merchant acquirer limited purpose bank enters into such contracts with an eligible organization for merchant acquiring activities, settlement activities, or any other services identified in paragraph (4) of Code Section 7-9-2, the minimum number of employees in this state shall be determined by the commissioner at a level to assure the continued and substantive presence of the merchant acquirer limited purpose bank in this state for the purpose of conducting its corporate affairs and operations. If a merchant acquirer limited purpose bank contracts with an eligible organization that is an affiliate of the merchant acquirer limited purpose bank, the commissioner shall consider the eligible organization's or its parent's, affiliates', or subsidiaries' employees engaged on behalf of the merchant acquirer limited purpose bank as employees of the merchant acquirer limited purpose bank for purposes of complying with this subsection.

7-9-4.

(a) The articles of incorporation of a merchant acquirer limited purpose bank shall be signed by the incorporator and shall set forth in the English language:

(1) The name of the merchant acquirer limited purpose bank;

(2) The street address and county where the main office will be located;

(3) The name of the initial registered agent;

(4) The street address where its initial registered office will be located;

(5) A statement that 'This corporation is subject to the "Georgia Merchant Acquirer Limited Purpose Bank Act"';

(6) The aggregate number of shares which the merchant acquirer limited purpose bank shall have authority to issue, and:

(A) If the shares are to consist of one class only, the par value of each of the shares; or

(B) If the shares are to be divided into classes, the number of shares of each class, the par value of each share of each class, a description of each class, and a statement of the preferences, redemption provisions, qualifications, limitations, restrictions, and the special or relative rights granted to or imposed upon the shares of each class;

(7) The term for which the merchant acquirer limited purpose bank is to exist, which shall be perpetual unless otherwise limited; and

(8) Any provision not inconsistent with law which the incorporators may choose to include for the regulation of the internal affairs and business of the merchant acquirer limited purpose bank.

(b) It shall not be necessary to set forth in the articles of incorporation any of the corporate or operational powers set forth in this chapter.

(c) The applicant shall file with the department, in triplicate, the articles of incorporation, together with any fee required by the department. Such filing shall constitute an application for a certificate of incorporation. Immediately upon the filing of the articles of incorporation, the department shall certify one copy thereof and return it to the applicant, who shall, in conformity with Code Section 7-1-7 and on the next business day following the filing of the articles, transmit for publication in the newspaper which is the official organ of the county where the merchant acquirer limited purpose bank will be located a copy of the articles or, in lieu thereof, a statement that reads substantially as follows:

'An application for a certificate of incorporation of a merchant acquirer limited purpose bank to be known as the _____ and to be located at _____ in _____ County, Georgia, will be made to the Secretary of State of Georgia in accordance with Chapter 9 of Title 7 of the Official Code of Georgia Annotated, known as the "Georgia Merchant Acquirer Limited Purpose Bank Act." A copy of the articles of incorporation of the proposed merchant acquirer limited purpose bank and the application have been filed with the Department of Banking and Finance.'

The articles of incorporation or the statement must be published once a week for two consecutive weeks with the first publication occurring within ten days of receipt by the newspaper of the articles of incorporation or statement.

(d) Each merchant acquirer limited purpose bank shall name a registered agent and inform the department and the Secretary of State of its current registered agent.

7-9-5.

An application to the department to charter or to own or control a merchant acquirer limited purpose bank shall include:

(1) Any information desired by the department in order to evaluate the proposed institution which shall be made available in the form specified by the department;

(2) A certificate of the Secretary of State showing that the proposed name of the merchant acquirer limited purpose bank has been reserved pursuant to Code Section 7-1-131; and

(3) Applicable fees established by regulation of the department to defray the expense of the investigation required by Code Section 7-9-6.

7-9-6.

(a)(1) Upon receipt of the articles of incorporation and the filings and fees from the applicant as required under this chapter, the department shall conduct such investigation as it may deem necessary to ascertain whether it should approve the proposed merchant acquirer limited purpose bank. The department shall approve the merchant acquirer limited purpose bank if it determines in its discretion that:

(A) The articles of incorporation and supporting items satisfy the requirements of this chapter;

(B) The character and fitness of the applicant, directors, and proposed officers are such as to warrant the belief that the business of the proposed merchant acquirer limited purpose bank will be honestly and efficiently conducted; and

(C) The capital structure of the merchant acquirer limited purpose bank is adequate in relation to the amount and character of the anticipated business of the merchant acquirer limited purpose bank.

(2) Within 90 days after receipt of the articles of incorporation and the filings and fees from the applicant as required by Code Sections 7-9-3 and 7-9-5, the department shall approve or disapprove the proposed merchant acquirer limited purpose bank. The department may impose conditions to be satisfied prior to the issuance of its approval of a merchant acquirer limited purpose bank. If the department, in its discretion, approves the proposed merchant acquirer limited purpose bank with or without conditions, it shall deliver its written approval of the articles of incorporation to the Secretary of State and notify the applicant of its action. If the department, in its discretion, disapproves the proposed merchant acquirer limited purpose bank, it shall notify the applicant of its disapproval and state generally the unfavorable factors influencing its decision. The decision of the department shall be conclusive, except that it may be subject to judicial review as provided in Code Section 7-1-90.

(b) In the event the department denies an application to charter or to own or control a merchant acquirer limited purpose bank, the applicant may submit a new application at any time following notice of final denial. The applicant shall not be prejudiced by any prior denials by the department.

7-9-7.

The Secretary of State shall immediately issue a certificate of incorporation to a proposed merchant acquirer limited purpose bank upon submission of:

(1) Written approval of the department with a copy of the articles of incorporation attached;

(2) An affidavit executed by the duly authorized agent or publisher of a newspaper swearing that the articles of incorporation or a summary statement publication as provided for in Code Section 7-9-4 have been published; and

(3) All required fees and charges required by law

so long as name of the proposed merchant acquirer limited purpose bank continues to be reserved or is available. The Secretary of State shall retain on file a copy of the certificate, the articles of incorporation, the department's approval, and the publisher's certificate.

7-9-8.

(a) The corporate existence of the merchant acquirer limited purpose bank shall begin upon the issuance of a certificate of incorporation by the Secretary of State. Those persons who subscribed for shares prior to filing of the articles, or their assignees, shall be shareholders in the merchant acquirer limited purpose bank. The department shall have full authority to regulate and supervise the activities of promoters, incorporators, subscribers for shares, and all persons soliciting offers to subscribe for shares in any merchant acquirer limited purpose bank established under this chapter. Any entity in the process of seeking approval as a merchant acquirer limited purpose bank shall be classified as a merchant acquirer limited purpose bank in formation and persons named in the articles of incorporation or approved by the department as initial directors of such entity shall not be considered 'agents' or 'broker-dealers' as defined in Code Section 10-5-2.

(b) A certificate of incorporation shall be conclusive evidence that a merchant acquirer limited purpose bank has been incorporated; however, the state may institute proceedings to dissolve, wind up, and terminate a merchant acquirer limited purpose bank in conformity with Code Section 7-1-92 and applicable provisions of this chapter.

(c) A charter to begin business shall be issued to a merchant acquirer limited purpose bank by the department when:

(1) Capital stock of the merchant acquirer limited purpose bank satisfies the requirements of Code Section 7-9-10;

(2) Bylaws of the merchant acquirer limited purpose bank have been filed with the department;

(3) A registered agent and registered office for the merchant acquirer limited purpose bank has been designated in conformity with Code Section 7-1-132;

(4) The merchant acquirer limited purpose bank has been chartered and is ready to begin the business for which it was incorporated;

(5) All conditions imposed by the department in giving its approval of the proposed merchant acquirer limited purpose bank under this chapter have been satisfied; and

(6) The department has received an affidavit attesting that the requirements of this subsection have been satisfied signed by the president or secretary and at least a majority of the directors of the merchant acquirer limited purpose bank.

7-9-9.
The applicant and other persons who charter a merchant acquirer limited purpose bank which transacts business before its capital stock have been paid in as required by Code Section 7-9-8 shall be jointly and severally liable to creditors for the amounts not paid in by subscribers or any other deficiencies. Such liability shall be deemed an asset of the merchant acquirer limited purpose bank and may be enforced by it, its successors or assignees, by a shareholder suing derivatively, or by a receiver appointed by the department.

7-9-10.
A merchant acquirer limited purpose bank shall at all times maintain capital stock and paid-in surplus as required by policies of the department but in no event less than $2 million.

7-9-11.
(a) A merchant acquirer limited purpose bank may only accept deposits from a corporation, limited liability company, partnership, or other entity that owns a majority of the shares of the merchant acquirer limited purpose bank. A merchant acquirer limited purpose bank shall not operate in a manner that attracts depositors from the general public, and no deposit may be withdrawn by the depositor by check or similar means for payment to third parties or others. A merchant acquirer limited purpose bank may not accept 'brokered deposits' as that term is defined in the Federal Deposit Insurance Act as such existed on January 1, 2012, or the regulations adopted by the Federal Deposit Insurance Corporation in force and effect on January 1, 2012.
(b) A merchant acquirer limited purpose bank shall conduct its deposit-taking activities only from a single location within this state.
(c) A merchant acquirer limited purpose bank may apply to receive deposit insurance from the Federal Deposit Insurance Corporation or its successor agency.
(d) Notwithstanding subsection (a) of this Code section, the business conducted by a merchant acquirer limited purpose bank shall be merchant acquiring activities.

7-9-12.
(a) All merchant acquirer limited purpose banks chartered by the department shall be subject to supervision, regulation, and examination by the department, including, but not limited to, the examination powers as provided in Code Sections 7-1-64 through 7-1-73, and the department shall have all enforcement powers provided in this title.
(b) In the event any chartered merchant acquirer limited purpose bank does not conduct its activities within the limitations provided in Code Section 7-9-11, the department may require such merchant acquirer limited purpose bank to cease all unauthorized activities. In the event such chartered merchant acquirer limited purpose bank fails to abide by such order, the department may:

(1) Impose upon the chartered merchant acquirer limited purpose bank or its parent holding company a penalty of up to $10,000.00 per day for each day such order is violated; and

(2) Require divestiture of such chartered merchant acquirer limited purpose bank by any holding company not qualified to acquire such chartered merchant acquirer limited purpose bank on the date it ceased to operate within the limitations imposed by Code Section 7-9-11 and became a bank for purposes of this title.

(c) The department shall have the power to promulgate rules and regulations implementing the provisions of this chapter."

SECTION 2.

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

The report of the Committee, which was favorable to the passage of the Bill, by substitute, was agreed to.

On the passage of the Bill, by substitute, the roll call was ordered and the vote was as follows:

Abdul-Salaam	Y Davis	Heckstall	Y McBrayer	Y Shaw
Y Abrams	Y Dawkins-Haigler	Y Hembree	Y McCall	Y Sheldon
N Allison	Y Dempsey	Y Henson	McKillip	E Sims, B
Y Amerson	Y Dickerson	Y Hightower	Y Meadows	Y Sims, C
Y Anderson	Y Dickey	E Hill	Y Mitchell	N Smith, E
Y Ashe	Y Dickson	Holcomb	Y Morgan	Y Smith, K
Y Atwood	Y Dobbs	Y Holmes	Y Morris	Y Smith, L
E Baker	Y Dollar	N Holt	Y Mosby	Y Smith, R
Y Battles	Drenner	N Horne	Y Murphy	Y Smith, T
Y Beasley-Teague	E Dudgeon	Y Houston	Y Neal, J	Y Smyre
Y Bell	Y Dukes	Y Howard	Y Neal, Y	Y Spencer
N Benfield	N Dunahoo	Y Hudson	Y Nimmer	Y Stephens, M
Y Benton	N Dutton	Y Hugley	Y Nix	Y Stephens, R
Y Beverly	Y Ehrhart	Y Jackson	N Oliver	Y Stephenson
Y Black	Y England	Y Jacobs	Y O'Neal	Y Talton
N Braddock	Y Epps, C	Y James	Y Pak	Y Tankersley
N Brockway	Y Epps, J	Y Jasperse	Y Parent	Y Taylor, D
Y Brooks	E Evans	Jerguson	Y Parrish	N Taylor, R
N Bruce	N Floyd	Y Johnson	Y Parsons	Y Taylor, T
Y Bryant	Fludd	Y Jones, J	Y Peake	N Teasley
Y Buckner	N Frazier	Y Jones, S	Y Powell, A	Y Thomas
Y Burns	Y Fullerton	Jordan	Y Powell, J	VACANT
N Byrd	Y Gardner	Y Kaiser	Pruett	Y Waites
Y Carson	Y Geisinger	Y Kendrick	Y Purcell	Y Watson
Y Carter	Y Golick	E Kidd	Y Ramsey	Welch
Y Casas	Y Gordon	Y Knight	Y Randall	Weldon
Y Channell	Y Greene	Y Lane	Reece	Y Wilkerson
Y Cheokas	Y Hamilton	Y Lindsey	Rice	E Wilkinson
N Clark, J	Y Hanner	Y Long	Y Riley	Y Willard
Y Clark, V	Y Harbin	Y Maddox, B	Y Roberts	Y Williams, A
Y Coleman	Y Harden, B	Y Maddox, G	Y Rogers, C	Y Williams, C

Y Collins	Y Harden, M	Y Manning	Y Rogers, T	N Williams, E
Y Cooke	Harrell	Y Marin	Y Rynders	Y Williams, R
Y Coomer	Y Hatchett	Y Martin	Y Scott, M	Y Williamson
Cooper	N Hatfield	Y Maxwell	Y Scott, S	Y Yates
N Crawford	Y Heard	Y Mayo	Setzler	Ralston, Speaker

On the passage of the Bill, by substitute, the ayes were 135, nays 20.

The Bill, having received the requisite constitutional majority, was passed, by substitute.

Representative Welch of the 110th stated that he had been called from the floor of the House during the preceding roll call. He wished to be recorded as voting "nay" thereon.

Representatives Abdul-Salaam of the 74th, Pruett of the 144th, and Rice of the 51st stated that they had been called from the floor of the House during the preceding roll call. They wished to be recorded as voting "aye" thereon.

Representative McBrayer of the 153rd stated that he inadvertently voted "aye" on the preceding roll call. He wished to be recorded as voting "nay" thereon.

HB 520. By Representative Parsons of the 42nd:

> A BILL to be entitled an Act to amend Code Section 46-3-56 of the Official Code of Georgia Annotated, relating to requirements to purchase energy from a customer generator and safety standards and regulations, so as to change the amount of energy an electric service provider is required to purchase from an eligible customer generator; to provide for related matters; to repeal conflicting laws; and for other purposes.

The report of the Committee, which was favorable to the passage of the Bill, was agreed to.

On the passage of the Bill, the roll call was ordered and the vote was as follows:

Abdul-Salaam	Y Davis	Heckstall	Y McBrayer	Y Shaw
Y Abrams	Y Dawkins-Haigler	Y Hembree	Y McCall	Y Sheldon
Allison	Y Dempsey	Y Henson	McKillip	E Sims, B
Y Amerson	Y Dickerson	Y Hightower	Y Meadows	Y Sims, C
Anderson	Y Dickey	E Hill	Y Mitchell	Y Smith, E
Y Ashe	Y Dickson	Holcomb	Y Morgan	Smith, K
Y Atwood	Y Dobbs	Y Holmes	Y Morris	Y Smith, L
E Baker	Y Dollar	Y Holt	Y Mosby	Y Smith, R
Y Battles	Y Drenner	Horne	Y Murphy	Y Smith, T
Y Beasley-Teague	Y Dudgeon	Y Houston	Y Neal, J	Y Smyre
Y Bell	Y Dukes	Y Howard	Y Neal, Y	Y Spencer
Y Benfield	Y Dunahoo	Y Hudson	Y Nimmer	Y Stephens, M

Y Benton	Y Dutton	Y Hugley	Nix	Y Stephens, R
Y Beverly	Y Ehrhart	Y Jackson	Y Oliver	Y Stephenson
Y Black	Y England	Y Jacobs	Y O'Neal	Y Talton
Y Braddock	Y Epps, C	Y James	Y Pak	Y Tankersley
Y Brockway	Epps, J	Y Jasperse	Y Parent	Y Taylor, D
Y Brooks	E Evans	Jerguson	Y Parrish	Y Taylor, R
Y Bruce	Y Floyd	Y Johnson	Y Parsons	Y Taylor, T
Bryant	Fludd	Y Jones, J	Y Peake	Y Teasley
Y Buckner	Y Frazier	Y Jones, S	Y Powell, A	Y Thomas
Y Burns	Fullerton	Y Jordan	Powell, J	VACANT
Y Byrd	Y Gardner	Y Kaiser	Pruett	Y Waites
Y Carson	Y Geisinger	Y Kendrick	Y Purcell	Y Watson
Y Carter	Y Golick	E Kidd	Y Ramsey	Y Welch
Y Casas	Y Gordon	Y Knight	Y Randall	Weldon
Y Channell	Y Greene	Y Lane	Y Reece	Y Wilkerson
Y Cheokas	Y Hamilton	Lindsey	Rice	E Wilkinson
Y Clark, J	Hanner	Y Long	Y Riley	Y Willard
Y Clark, V	Y Harbin	Y Maddox, B	Y Roberts	Y Williams, A
Y Coleman	Y Harden, B	Y Maddox, G	Y Rogers, C	Williams, C
Y Collins	E Harden, M	Y Manning	Y Rogers, T	Y Williams, E
Y Cooke	Harrell	Y Marin	Y Rynders	Y Williams, R
Y Coomer	Y Hatchett	Y Martin	Y Scott, M	Y Williamson
Y Cooper	Y Hatfield	Y Maxwell	Y Scott, S	Y Yates
Y Crawford	Y Heard	Y Mayo	Y Setzler	Ralston, Speaker

On the passage of the Bill, the ayes were 149, nays 0.

The Bill, having received the requisite constitutional majority, was passed.

Representatives Abdul-Salaam of the 74th, Pruett of the 144th, and Rice of the 51st stated that they had been called from the floor of the House during the preceding roll call. They wished to be recorded as voting "aye" thereon.

Representatives Byrd of the 20th and Hatfield of the 177th stated that they inadvertently voted "aye" on the preceding roll call. They wished to be recorded as voting "nay" thereon.

HB 863. By Representatives Hatchett of the 143rd, Hamilton of the 23rd, Stephens of the 164th, Roberts of the 154th, Carter of the 175th and others:

A BILL to be entitled an Act to amend Article 3 of Chapter 5 of Title 50 of the Official Code of Georgia Annotated, relating to state purchasing, so as to change certain provisions relating to purchases without competitive bidding, central bid registry, procurement cards, rules and regulations, applicability to emergency purchases, and the Purchasing Advisory Council; to change a short title; to change certain provisions relating to definitions relative to small business assistance; to repeal conflicting laws; and for other purposes.

The following Committee substitute was read:

A BILL TO BE ENTITLED
AN ACT

To amend Article 3 of Chapter 5 of Title 50 of the Official Code of Georgia Annotated, relating to state purchasing, so as to change certain provisions relating to purchases without competitive bidding, central bid registry, procurement cards, rules and regulations, applicability to emergency purchases, and the Purchasing Advisory Council; to change a short title; to change certain provisions relating to definitions relative to small business assistance; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 3 of Chapter 5 of Title 50 of the Official Code of Georgia Annotated, relating to state purchasing, is amended by revising subsection (a) of Code Section 50-5-69, relating to purchases without competitive bidding, central bid registry, procurement cards, rules and regulations, applicability to emergency purchases, and the Purchasing Advisory Council, as follows:

"(a) If the needed supplies, materials, equipment, or service can reasonably be expected to be acquired for less than ~~$5,000.00~~ $25,000.00 and is not available on state contracts or through statutorily required sources, the purchase may be effectuated without competitive bidding. The commissioner of administrative services may by rule and regulation authorize the various offices, agencies, departments, boards, bureaus, commissions, institutions, authorities, or other entities of the state to make purchases in their own behalf and may provide the circumstances and conditions under which such purchases may be effected. In order to assist and advise the commissioner of administrative services in making determinations to allow offices, agencies, departments, boards, bureaus, commissions, institutions, authorities, or other entities of the state to make purchases in their own behalf, there is created a Purchasing Advisory Council consisting of the executive director of the Georgia Technology Authority or his or her designee; the director of the Office of Planning and Budget or his or her designee; the chancellor of the University System of Georgia or his or her designee; the commissioner of ~~technical and adult education~~ the Technical College System of Georgia or his or her designee; the commissioner of transportation or his or her designee; the Secretary of State or his or her designee; the commissioner of human services or his or her designee; the commissioner of community health or his or her designee; the commissioner of public health or his or her designee; the commissioner of behavioral health and developmental disabilities or his or her designee; and one member to be appointed by the Governor. The commissioner of administrative services shall promulgate the necessary rules and regulations governing meetings of such

council and the method and manner in which such council will assist and advise the commissioner of administrative services."

SECTION 2.

Said article is further amended by revising Code Section 50-5-120, relating to a short title, as follows:

"50-5-120.

This part shall be known and may be cited as 'The Small Business Assistance Act of ~~1975~~ 2012.'"

SECTION 3.

Said article is further amended by revising Code Section 50-5-121, relating to definitions relative to small business assistance, as follows:

"50-5-121.

For the purposes of this part, the term:

(1) 'Department' means the Department of Administrative Services.

(2) 'Georgia resident business' means any business that regularly maintains a place from which business is physically conducted in Georgia for at least one year prior to any bid or proposal to the state or a new business that is domiciled in Georgia and which regularly maintains a place from which business is physically conducted in Georgia; provided, however, that a place from which business is conducted shall not include a post office box, a leased private mailbox, site trailer, or temporary structure.

~~(2)~~(3) 'Small business' means a Georgia resident business which is independently owned and operated. In addition, such business must have either fewer than ~~100~~ 500 employees or less than ~~$1 million~~ $50 million in gross receipts per year."

SECTION 4.

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

The following amendment was read and adopted:

Representatives Hatchett of the 143rd and Roberts of the 154th offer the following amendment:

Amend the House Committee on State Institutions and Property substitute to HB 863 (LC 36 2079-ECS) by inserting after "assistance;" *on line 6 the following:*

to provide for automatic repeal; to provide effective dates;

By inserting between lines 7 and 8 the following:

Part 1

By redesignating Sections 1, 2, and 3 as Sections 1-1, 1-2, and 1-3, respectively.

By replacing "500" *with* "300" *on line 56.*

By replacing "$50 million" *with* "$30 million" *on line 57.*

By inserting between lines 57 and 58 the following:

Part 2

SECTION 2-1.

Said article is further amended by revising subsection (a) of Code Section 50-5-69, relating to purchases without competitive bidding, central bid registry, procurement cards, rules and regulations, applicability to emergency purchases, and the Purchasing Advisory Council, as follows:

"(a) If the needed supplies, materials, equipment, or service can reasonably be expected to be acquired for less than $5,000.00 and is not available on state contracts or through statutorily required sources, the purchase may be effectuated without competitive bidding. The commissioner of administrative services may by rule and regulation authorize the various offices, agencies, departments, boards, bureaus, commissions, institutions, authorities, or other entities of the state to make purchases in their own behalf and may provide the circumstances and conditions under which such purchases may be effected. In order to assist and advise the commissioner of administrative services in making determinations to allow offices, agencies, departments, boards, bureaus, commissions, institutions, authorities, or other entities of the state to make purchases in their own behalf, there is created a Purchasing Advisory Council consisting of the executive director of the Georgia Technology Authority or his or her designee; the director of the Office of Planning and Budget or his or her designee; the chancellor of the University System of Georgia or his or her designee; the commissioner of ~~technical and adult education~~ the Technical College System of Georgia or his or her designee; the commissioner of transportation or his or her designee; the Secretary of State or his or her designee; the commissioner of human services or his or her designee; the commissioner of community health or his or her designee; the commissioner of public health or his or her designee; the commissioner of behavioral health and developmental disabilities or his or her designee; and one member to be appointed by the Governor. The commissioner of administrative services shall promulgate the necessary rules and regulations governing meetings of such council and the method and manner in which such council will assist and advise the commissioner of administrative services."

SECTION 2-2.

Said article is further amended by revising Code Section 50-5-120, relating to a short title, as follows:

"50-5-120.

This part shall be known and may be cited as 'The Small Business Assistance Act of 1975.'"

SECTION 2-3.

Said article is further amended by revising Code Section 50-5-121, relating to definitions relative to small business assistance, as follows:

"50-5-121.

For the purposes of this part, the term:

(1) 'Department' means the Department of Administrative Services.

(2) 'Small business' means a business which is independently owned and operated. In addition, such business must have either fewer than 100 employees or less than $1 million in gross receipts per year."

Part 3

SECTION 3-1.

This part and Part 1 of this Act shall become effective on July 1, 2012. The amendments made by Part 1 of this Act shall stand repealed on July 1, 2015, on which date Part 2 of this Act shall become effective.

By redesignating Section 4 as Section 3-2.

The Committee substitute, as amended, was adopted.

The report of the Committee, which was favorable to the passage of the Bill, by substitute, was agreed to, as amended.

On the passage of the Bill, by substitute, as amended, the roll call was ordered and the vote was as follows:

Abdul-Salaam	Y Davis	Heckstall	Y McBrayer	Y Shaw
N Abrams	Y Dawkins-Haigler	Y Hembree	Y McCall	Y Sheldon
Y Allison	Y Dempsey	N Henson	Y McKillip	Y Sims, B
Y Amerson	Y Dickerson	Y Hightower	Y Meadows	Y Sims, C
Y Anderson	Y Dickey	E Hill	N Mitchell	N Smith, E
N Ashe	Y Dickson	Y Holcomb	Morgan	Y Smith, K
Y Atwood	Y Dobbs	Y Holmes	Y Morris	Y Smith, L
Y Baker	Y Dollar	Y Holt	N Mosby	Y Smith, R
Y Battles	N Drenner	Y Horne	N Murphy	Y Smith, T
N Beasley-Teague	Y Dudgeon	Y Houston	Y Neal, J	Y Smyre
N Bell	N Dukes	N Howard	N Neal, Y	Y Spencer
N Benfield	Y Dunahoo	Y Hudson	Y Nimmer	Y Stephens, M
Y Benton	Y Dutton	Y Hugley	Y Nix	Y Stephens, R
Y Beverly	Ehrhart	Y Jackson	N Oliver	Stephenson
Y Black	Y England	Y Jacobs	Y O'Neal	Y Talton
Y Braddock	N Epps, C	Y James	Y Pak	Y Tankersley
Y Brockway	Y Epps, J	Y Jasperse	N Parent	Y Taylor, D
Y Brooks	E Evans	Y Jerguson	Y Parrish	N Taylor, R
N Bruce	Y Floyd	N Johnson	Y Parsons	Y Taylor, T
N Bryant	Y Fludd	Y Jones, J	Y Peake	Y Teasley
N Buckner	N Frazier	N Jones, S	Y Powell, A	N Thomas
Y Burns	N Fullerton	Y Jordan	Y Powell, J	VACANT

Y Byrd	N Gardner	N Kaiser	Pruett	N Waites
Y Carson	Y Geisinger	N Kendrick	Y Purcell	Y Watson
Y Carter	Y Golick	E Kidd	Y Ramsey	Y Welch
Y Casas	Y Gordon	Knight	Randall	Y Weldon
Y Channell	Y Greene	Y Lane	Y Reece	Y Wilkerson
Y Cheokas	Y Hamilton	Y Lindsey	Y Rice	E Wilkinson
Y Clark, J	Y Hanner	N Long	Y Riley	Y Willard
Y Clark, V	Y Harbin	Y Maddox, B	Y Roberts	Y Williams, A
Y Coleman	Y Harden, B	Y Maddox, G	Y Rogers, C	Y Williams, C
Y Collins	Y Harden, M	Y Manning	Y Rogers, T	N Williams, E
Y Cooke	Y Harrell	N Marin	Y Rynders	Y Williams, R
Y Coomer	Y Hatchett	Y Martin	Y Scott, M	Y Williamson
Y Cooper	N Hatfield	Y Maxwell	N Scott, S	Y Yates
N Crawford	N Heard	N Mayo	Y Setzler	Ralston, Speaker

On the passage of the Bill, by substitute, as amended, the ayes were 128, nays 38.

The Bill, having received the requisite constitutional majority, was passed, by substitute, as amended.

Representative Long of the 61st stated that he inadvertently voted "nay" on the preceding roll call. He wished to be recorded as voting "aye" thereon.

Representative Abdul-Salaam of the 74th stated that she had been called from the floor of the House during the preceding roll call. She wished to be recorded as voting "nay" thereon.

HB 641. By Representatives Willard of the 49th, Lindsey of the 54th, Abrams of the 84th, Collins of the 27th, Oliver of the 83rd and others:

A BILL to be entitled an Act to amend Title 15 of the Official Code of Georgia Annotated, relating to courts, so as to substantially revise, supersede, and modernize provisions relating to juvenile proceedings; to provide for the Office of the Child Advocate for the Protection of Children; to amend Article 1 of Chapter 5 of Title 49 of the Official Code of Georgia Annotated, relating to children and youth services so as to provide for an appeal procedure when the Division of Family and Children Services of the Department of Human Services fails to provide aftercare and transitional services to certain children; to provide for the Department of Human Services to provide for performance measures for an independent living skills program; to amend the Official Code of Georgia Annotated so as to conform provisions to the new Chapter 11 of Title 15 and correct cross-references; and for other purposes.

The following Committee substitute was read and adopted:

A BILL TO BE ENTITLED
AN ACT

To amend Title 15 of the Official Code of Georgia Annotated, relating to courts, so as to substantially revise, supersede, and modernize provisions relating to juvenile proceedings; to provide for purpose statements; to provide for definitions; to provide for general provisions; to provide for juvenile court administration; to provide for dependency proceedings; to provide for venue; to provide for taking children into care; to provide for preliminary protective hearings; to provide for petitions alleging dependency; to provide for summons and service; to provide for preadjudication procedures; to provide for adjudication; to provide for predisposition social study; to provide for family reunification determinations; to provide for disposition of dependent children; to provide for permanency plan hearings for dependent children; to provide for permanent guardianship; to provide for termination of parental rights; to provide for petitions to terminate parental rights and summons; to provide for hearings on such petitions; to provide for grounds for terminating parental rights; to provide for disposition of children whose parental rights have been terminated; to provide for independent living services; to provide for children in need of services; to provide for informal procedures for children in need of services; to provide for formal court proceedings for children in need of services; to provide for preadjudication custody and release of children in need of services; to provide for a petition seeking an adjudication that a child is in need of services; to provide for adjudication, disposition, and reviews; to provide for a permanency plan for children in need of services; to provide for mental health issues; to provide for delinquency; to provide for custody and release of a child; to provide for intake or arraignment; to provide for informal adjustment; to provide for a petition alleging delinquency and summons; to provide for preadjudication procedures for delinquency proceedings; to provide for transfers to superior court; to provide for adjudication of delinquency; to provide for predisposition investigation; to provide for disposition hearings for delinquent children; to provide for permanency plans for delinquent children; to provide for traffic offenses; to provide for competency in delinquency cases; to provide for parental notification of abortions; to provide for access to hearings and records; to provide for emancipation of minors; to provide for the Office of the Child Advocate for the Protection of Children; to amend Article 1 of Chapter 5 of Title 49 of the Official Code of Georgia Annotated, relating to children and youth services so as to provide for an appeal procedure when the Division of Family and Children Services of the Department of Human Services fails to provide aftercare and transitional services to certain children; to provide for the Department of Human Services to provide for performance measures for an independent living skills program; to amend the Official Code of Georgia Annotated so as to conform provisions to the new Chapter 11 of Title 15 and correct cross-references; to provide for related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART I
JUVENILE CODE
SECTION 1-1.

Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by revising Chapter 11, relating to juvenile proceedings, in its entirety as follows:

"CHAPTER 11
ARTICLE 1

15-11-1.
The purpose of this chapter is to secure for each child who comes within the jurisdiction of the juvenile court such care and guidance, preferably in his or her own home, as will secure the child's moral, emotional, mental, and physical welfare as well as the safety of both the child and community. It is the intent of the General Assembly to promote a juvenile justice system that will protect the community, impose accountability for violations of law, provide treatment and rehabilitation, and equip juvenile offenders with the ability to live responsibly and productively. It is the intent of the General Assembly to preserve and strengthen family relationships, countenancing the removal of a child from his or her home only when state intervention is essential to protect the child and enable him or her to live in security and stability. In every proceeding, this chapter seeks to guarantee due process of law, as required by the Constitutions of the United States and the State of Georgia, through which every child and parent and all other interested parties are assured fair hearings at which legal rights are recognized and enforced. Above all, this chapter shall be liberally construed to reflect that the paramount child welfare policy of this state is to determine and ensure the best interests of its children.

15-11-2.
As used in this chapter, the term:
(1) 'Abandonment' or 'abandoned' means any conduct on the part of a parent, guardian, or legal custodian showing an intent to forgo parental duties or relinquish parental claims. Intent may be evidenced by:
(A) Failure, for a period of at least six months, to communicate meaningfully with a child;
(B) Failure, for a period of at least six months, to maintain regular visitation with a child;
(C) Leaving a child with another person without provision for the child's support for a period of at least six months;

(D) Failure, for a period of at least six months, to participate in any court ordered plan or program designed to reunite the parent, guardian, or legal custodian with a child;

(E) Leaving a child without affording means of identifying the child or the parent, guardian, or legal custodian and:

(i) The identity of the parent, guardian, or legal custodian cannot be ascertained despite diligent searching; and

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

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

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

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

(2) 'Abuse' means:

(A) Any nonaccidental physical injury or physical injury which is inconsistent with the explanation given for it suffered by a child as the result of the acts or omissions of a person responsible for the care of the child;

(B) Emotional abuse;

(C) Sexual abuse or sexual exploitation;

(D) Prenatal abuse; or

(E) The commission of an act of family violence as defined in Code Section 19-13-1 in the presence of a child. An act includes a single act, multiple acts, or a continuing course of conduct. As used in this subparagraph, the term 'presence' means physically present or able to see or hear.

(3) 'Adult' means any individual who is not a child as defined in paragraph (10) of this Code section.

(4) 'Affiliate court appointed special advocate program' means a locally operated program operating with the approval of the local juvenile court which screens, trains, and supervises volunteers to advocate for the best interests of an abused and neglected child in dependency proceedings.

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

(A) Abandoned an infant;

(B) Attempted, conspired to attempt, or has subjected a child or a sibling of the child to death or great bodily harm;

(C) Attempted, conspired to attempt, or has subjected a child or a sibling of the child to torture, chronic abuse, sexual abuse, or sexual exploitation; or

(D) Committed the murder or voluntary manslaughter of the other parent of the child or has been convicted of aiding or abetting, attempting, or soliciting the murder or voluntary manslaughter of the other parent of the child.

(6) 'Biological father' means the male who impregnated the biological mother resulting in the birth of the child.

(7) 'Business day' means Mondays through Fridays and shall not include weekends or legal holidays.

(8) 'Caregiver' means any person providing a residence for a child or any person legally obligated to provide or secure adequate care for a child, including a parent, guardian, or legal custodian.

(9) 'Case plan' means a plan which is designed to ensure that a child receives protection, proper care, and case management and may include services for the child, the child's parent, guardian, or legal custodian, and other caregivers.

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

(A) Under the age of 18 years;

(B) Under the age of 17 years when alleged to have committed a delinquent act;

(C) Under the age of 22 years and in the care of DFCS;

(D) Under the age of 23 years and is eligible for and receiving independent living services through DFCS; or

(E) Under the age of 21 years who committed an act of delinquency before reaching the age of 17 years and who has been placed under the supervision of the court or on probation to the court for the purpose of enforcing orders of the court.

(11) 'Child in need of services' means:

(A) A child who is found to be in need of care, guidance, counseling, structure, supervision, treatment, or rehabilitation and who is found to be:

(i) Subject to compulsory school attendance and who is habitually and without good and sufficient cause truant, as such term is defined in Code Section 15-11-381, from school;

(ii) Habitually disobedient of the reasonable and lawful commands of his or her parent, guardian, or legal custodian and is ungovernable or places himself or herself or others in unsafe circumstances;

(iii) A runaway, as such term is defined in Code Section 15-11-381;

(iv) A child who has committed an offense applicable only to a child;

(v) A child who wanders or loiters about the streets of any city or in or about any highway or any public place between the hours of 12:00 Midnight and 5:00 A.M.;

(vi) A child who disobeys the terms of supervision contained in a court order which has been directed to such child who has been adjudicated a child in need of services; or

(vii) A child who patronizes any bar where alcoholic beverages are being sold, unaccompanied by his or her parent, guardian, or legal custodian, or who possesses alcoholic beverages;

(B) A child who has committed a delinquent act and is found to be in need of supervision but not of treatment or rehabilitation; or

(C) A child who is alleged to have committed a delinquent act and is unrestorably incompetent to proceed.

(12) 'Complaint' is the initial document setting out the circumstances that resulted in the child being brought before the court.

(13) 'Court' means the juvenile court or the court exercising jurisdiction over juvenile matters.

(14) 'Court appointed special advocate' or 'CASA' means a community volunteer who:

(A) Has been screened and trained regarding child abuse and neglect, child development, and juvenile court proceedings;

(B) Has met all the requirements of an affiliate court appointed special advocate program;

(C) Is being actively supervised by an affiliate court appointed special advocate program; and

(D) Has been sworn in by a judge of the juvenile court in the court or circuit in which he or she wishes to serve.

(15) 'Criminal justice purposes' means the performance of any activity directly involving the investigation, detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of children or adults who are accused of, convicted of, adjudicated of, or charged with crimes, delinquent acts or the collection, storage, and dissemination of criminal history record information.

(16) 'DBHDD' means the Department of Behavioral Health and Developmental Disabilities.

(17) 'Delinquent act' means:

(A) An act committed by a child designated a crime by the laws of this state, or by the laws of another state if the act occurred in that state, under federal laws, or by local ordinance, and the crime shall not be an offense applicable only to a child or a juvenile traffic offense;

(B) The act of disobeying the terms of supervision contained in a court order which has been directed to a child who has been adjudged to have committed a delinquent act; or

(C) Failing to appear as required by a citation issued for an act that would be a crime if committed by an adult.

(18) 'Delinquent child' means a child who has committed a delinquent act and is in need of treatment or rehabilitation.

(19) 'Department' means the Department of Human Services.

(20) 'Dependent child' means a child who:

(A) Has been abused or neglected and is in need of the protection of the court:

(B) Has been placed for care or adoption in violation of law; or

(C) Is without a parent, guardian, or legal custodian.

(21) 'Designated felony act' means a delinquent act committed by a child 13 years of age or older which, if committed by an adult, would be one or more of the following crimes:

(A) Aggravated assault;

(B) Aggravated battery or battery in violation of Code Section 16-5-23.1 if the victim is a teacher or other school personnel;

(C) Armed robbery not involving a firearm;
(D) Arson in the first or second degree;
(E) Attempted murder;
(F) Conspiracy in violation of Article 4 of Chapter 7 of Title 16;
(G) Escape in violation of Code Section 16-10-52 if the child has previously been adjudicated to have committed a designated felony;
(H) Hijacking a motor vehicle;
(I) Kidnapping or attempted kidnapping;
(J) Possession, manufacture, or distribution of destructive devices and any other violation of Code Section 16-7-82 or 16-7-84;
(K) Racketeering in violation of Code Section 16-14-4;
(L) Robbery;
(M) Trafficking of certain controlled substances in violation of Code Section 16-13-31;
(N) Any violation of Code Section 16-7-2;
(O) Any violation of Code Section 16-15-4;
(P) Any subsequent violation of Code Sections 16-8-2 through 16-8-9, if the property which was the subject of the theft was a motor vehicle and the child committing the violation has had one or more separate, prior adjudications of delinquency based upon a violation of Code Sections 16-8-2 through 16-8-9, provided that the prior adjudications of delinquency shall not have arisen out of the same transaction or occurrence or series of events related in time and location;
(Q) Any subsequent violation of Code Section 16-7-85 or 16-7-87, if the child committing the violation has had one or more separate, prior adjudications of delinquency based upon a violation of Code Section 16-7-85 or 16-7-87, provided that the prior adjudications of delinquency shall not have arisen out of the same transaction or occurrence or series of events related in time and location;
(R) Any subsequent violation of subsection (b) of Code Section 16-11-132, if the child committing the violation has had one or more separate, prior adjudications of delinquency based upon a violation of subsection (b) of Code Section 16-11-132, provided that the prior adjudications of delinquency shall not have arisen out of the same transaction or occurrence or series of events related in time and location; or
(S) Any other act which, if committed by an adult, would be a felony, if the child committing the act has three times previously been adjudicated delinquent for acts which, if committed by an adult, would have been felonies, provided that the prior adjudications of delinquency shall not have arisen out of the same transaction or occurrence or series of events related in time and location.

Such term shall also mean an act which constitutes a second or subsequent adjudication of delinquency based on a violation of Code Section 16-11-127.1 or which is a first violation of Code Section 16-11-127.1 involving a firearm as defined in paragraph (2) of subsection (a) of Code Section 16-11-131 or a dangerous weapon or machine gun as defined in Code Section 16-11-121 or any weapon as defined in Code Section 16-11-127.1, together with an assault.

(22) 'Developmental level' is a child's ability to understand and communicate, taking into account such factors as age, maturity, mental capacity, level of education, cultural background, and degree of language acquisition.
(23) 'DFCS' means the Division of Family and Children Services of the department.
(24) 'DJJ' means the Department of Juvenile Justice.
(25) 'Emancipation' means termination of the rights of a parent to the custody, control, services, and earnings of a child.
(26) 'Emotional abuse' means acts or omissions by a person responsible for the care of the child that cause any mental injury to a child's intellectual or psychological capacity as evidenced by an observable and significant impairment in a child's ability to function within the child's normal range of performance and behavior or create a substantial risk of impairment, if the impairment or substantial risk of impairment is diagnosed and confirmed by a licensed mental health professional or physician qualified to render such diagnosis.
(27) 'Evaluation' means a comprehensive, individualized examination of a child by an examiner that may include the administration of one or more assessment instruments. The purpose of an evaluation may include diagnosing the type and extent of a child's behavioral health disorders and needs, making specific recommendations, and assessing a child's legal competencies.
(28) 'Examiner' means a licensed psychologist, psychiatrist, or clinical social worker who has expertise in child development specific to severe or chronic disability of children attributable to intellectual impairment or mental illness and has received training in forensic evaluation procedures through formal instruction, professional supervision, or both.
(29) 'Foster care' means placement in foster family homes, child care institutions, or another substitute care setting approved by the department. Such term shall exclude secure detention facilities or other facilities operated primarily for the purpose of detention of a child adjudicated delinquent.
(30) 'Guardian ad litem' means an individual appointed to assist the court in determining the best interests of a child.
(31) 'Guardianship order' means the court judgment that establishes a permanent guardianship and enumerates a permanent guardian's rights and responsibilities concerning the care, custody, and control of a child.
(32) 'Identification data' means the fingerprints, name, race, sex, date of birth, and any other unique identifiers of a child.
(33) 'Imminent danger' means a determination that present or pending harm precludes less extreme solutions to the problem. In dependency cases, such determination shall be based on the assessment of the following nonexclusive factors:
(A) The severity, regularity, and duration of abuse or neglect to the child;
(B) The strength of the evidence supporting the allegations of abuse or neglect;
(C) The risk that the parent will flee with the child;
(D) Any harm to the child that might result in removal; or
(E) The time to obtain a court order.

(34) 'Indigent person' means a person who, at the time of requesting an attorney, is unable without undue financial hardship to provide for full payment of an attorney and all other necessary expenses for representation or a child who is a party to a dependency proceeding. To determine indigence in a delinquency proceeding, the court shall follow the standards set forth in Chapter 12 of Title 17.

(35) 'Informal adjustment' means the disposition of case other than by formal adjudication and disposition.

(36) 'Judge' means the judge of the court exercising jurisdiction over juvenile matters.

(37) 'Juvenile court intake officer' means the juvenile court judge, associate juvenile court judge, court service worker, DJJ staff member serving as an intake officer, or person employed as a juvenile probation or intake officer designated by the juvenile court judge or, where there is none, the superior court judge, which person is on duty for the purpose of determining whether any child taken into custody should be released or detained and, if detained, the appropriate place of detention.

(38) 'Legal custodian' means:

(A) A person to whom legal custody of the child has been given by order of a court; or

(B) A public or private agency or other private organization licensed or otherwise authorized by law to receive and provide care for a child to which legal custody of the child has been given by order of a court.

(39) 'Legal father' means a male who:

(A) Has legally adopted a child;

(B) Was married to the biological mother of that child at the time the child was conceived or was born, unless such paternity was disproved by a final order pursuant to Article 3 of Chapter 7 of Title 19;

(C) Married the legal mother of the child after the child was born and recognized the child as his own, unless such paternity was disproved by a final order pursuant to Article 3 of Chapter 7 of Title 19;

(D) Has been determined to be the father by a final paternity order pursuant to Article 3 of Chapter 7 of Title 19; or

(E) Has legitimated the child by a final order pursuant to Code Section 19-7-22 or by voluntary acknowledgment of paternity that has not been rescinded pursuant to Code Section 19-7-46.1

and who has not surrendered or had terminated his rights to the child.

(40) 'Legal mother' means the female who is the biological or adoptive mother of the child and who has not surrendered or had terminated her rights to the child.

(41) 'Mediation' means the procedure in which a mediator facilitates communication between the parties concerning the matters in dispute and explores possible solutions to promote reconciliation, understanding, and settlement.

(42) 'Mediator' means a neutral third party who attempts to focus the attention of the parties upon their needs and interests rather than upon their rights and positions and who lacks the authority to impose any particular agreement upon the parties or to recommend any particular disposition of the case to the court.

(43) 'Mentally ill' means having a disorder of thought or mood which significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.

(44) 'Neglect' means:

(A) The failure to provide proper parental care or control, subsistence, education as required by law, or other care or control necessary for the child's physical, mental, or emotional health or morals;

(B) The failure to provide the child with adequate supervision necessary for the child's well-being; or

(C) The abandonment of a child by his or her parent, guardian, or legal custodian.

(45) 'Other persons who have demonstrated an ongoing commitment to the child' includes:

(A) 'Fictive kin,' meaning a person who is known to a child as a relative, but is not, in fact, related by blood or marriage to the child and with whom the child has resided or had significant contact; and

(B) 'Other individuals,' including but not limited to, neighbors, teachers, scout masters, caregivers, or parents of friends of the child and with whom a child has resided or had significant contact.

(46) 'Parent' means either the legal father or the legal mother of the child.

(47) 'Party' means a child, parent, guardian, legal custodian, or other person subject to any judicial proceeding under this chapter; provided, however, that for purposes of Article 7 of this chapter, only a child and the state shall be a party.

(48) 'Permanency plan' means a specific written plan prepared by DFCS designed to ensure that a child is reunified with his or her family or ensure that the child quickly attains a substitute long-term home when return to the child's family is not possible or is not in the child's best interests.

(49) 'Permanent placement' means:

(A) Return of the legal custody of a child to the child's parent;

(B) Placement of a child with an adoptive parent pursuant to a final order of adoption; or

(C) Placement of a child with a permanent guardian.

(50) 'Person responsible for the care of the child' means:

(A) An adult member of the child's household;

(B) A person exercising supervision over a child for any part of the 24 hour day; or

(C) Any adult who, based on relationship to the parent, guardian, or legal custodian or a member of the child's household, has access to the child.

(51) 'Preliminary protective hearing' means the hearing held within 72 hours after a child who is alleged to be abused or neglected is placed in foster care.

(52) 'Prenatal abuse' means exposure to chronic or severe use of alcohol or the unlawful use of any controlled substance, as such term is defined in Code Section 16-13-21, which results in:

(A) Symptoms of withdrawal in a newborn or the presence of a controlled substance or a metabolite thereof in the newborn's body, blood, urine, or meconium that is not the result of medical treatment; or

(B) Medically diagnosed and harmful effects in the newborn's physical appearance or functioning.

(53) 'Probation and intake officer' means any probation officer and any personnel of a juvenile court to whom are delegated the duties of an intake officer under this chapter, other than a juvenile court judge, associate juvenile court judge, or court service worker.

(54) 'Probation officer' means any personnel of a juvenile court or staff of DJJ to whom are delegated the duties of a probation officer under this chapter, other than a juvenile court judge or associate juvenile court judge.

(55) 'Prosecuting attorney' means the district attorney of the judicial circuit or county in which juvenile proceedings are instituted or the solicitor of the juvenile court in which the juvenile proceedings are instituted or such individuals' designees.

(56) 'Putative father registry' means the registry established and maintained pursuant to subsections (d) and (e) of Code Section 19-11-9.

(57) 'Reasonable efforts' means due diligence and the provision of appropriate services.

(58) 'Reasonably diligent search' means the efforts of DFCS to identify and locate a parent whose identity or location is unknown or a relative or other person who has demonstrated an ongoing commitment to a child. Such search shall be initiated at the outset of a case under Article 3 of this chapter and shall be conducted throughout the duration of a case, when appropriate. A reasonably diligent search shall include at a minimum:

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

(B) Interviews with the child;

(C) Interviews with identified relatives throughout the case;

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

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

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

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

(59) 'Relative' means a person related to a child by blood, marriage, or adoption, including the spouse of any of those persons even if the marriage was terminated by death or dissolution.

(60) 'Restitution' means any property, lump sum, or periodic payment ordered to be made to any victim. Restitution may also be in the form of services ordered to be performed by a child.
(61) 'Screening' means a relatively brief process to identify a child who potentially may have mental health or substance abuse needs, through administration of a formal screening instrument, to identify a child who may warrant immediate attention or intervention or a further, more comprehensive evaluation.
(62) 'Secure detention facility' means a detention facility operated by or on behalf of DJJ and shall include a Youth Development Campus or a Regional Youth Detention Center.
(63) 'Services' means assistance including, but not limited to, care, guidance, education, counseling, supervision, treatment, and rehabilitation or any combination thereof.
(64) 'Sexual abuse' means a caregiver or other person responsible for the care of the child employing, using, persuading, inducing, enticing, or coercing any child to engage in any act which involves:
(A) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;
(B) Bestiality;
(C) Masturbation;
(D) Lewd exhibition of the genitals or pubic area of any person;
(E) Flagellation or torture by or upon a person who is nude;
(F) The condition of being fettered, bound, or otherwise physically restrained on the part of a person who is nude;
(G) Physical contact in an act of apparent sexual stimulation or gratification with any person's clothed or unclothed genitals, pubic area, or buttocks or with a female's clothed or unclothed breasts;
(H) Defecation or urination for the purpose of sexual stimulation; or
(I) Penetration of the vagina or rectum by any object except when done as part of a recognized medical procedure by a licensed health care professional.
(65) 'Sexual exploitation' means conduct by a caregiver or other person responsible for the care of the child who allows, permits, encourages, or requires a child to engage in:
(A) Prostitution, in violation of Code Section 16-6-9; or
(B) Sexually explicit conduct for the purpose of producing any visual or print medium depicting such conduct, in violation of Code Section 16-12-100.
(66) 'Sibling' means a person with whom the child shares one or both parents in common by blood, adoption, or marriage, even if the marriage was terminated by death or dissolution.
(67) 'Statutory overnight delivery' means delivery of notice as provided in Code Section 9-10-12.
(68) 'Visitation' means a period of access to a child by a parent, guardian, legal custodian, sibling, other relative, or other person who has demonstrated an ongoing

commitment to the child in order to maintain parental and familial involvement in the child's life when the child is not residing with such person.
(69) 'Weekend' means Saturday or Sunday.

15-11-3.
Through direct calendaring, whenever possible, a single judge shall hear all successive cases or proceedings involving the same child or family.

15-11-4.
Where procedures are not provided in this chapter, the court shall proceed in accordance with:
(1) Title 17 in a delinquency proceeding; and
(2) Chapter 11 of Title 9 in all other matters.

15-11-5.
(a) When a period of time measured in days, weeks, months, years, or other measurements of time except hours is prescribed for the exercise of any privilege or the discharge of any duty, the first day shall not be counted but the last day shall be counted; and, if the last day falls on a weekend, the party having such privilege or duty shall have through the following business day to exercise such privilege or discharge such duty.
(b) When the last day prescribed for the exercise of any privilege or the discharge of any duty falls on a public and legal holiday as set forth in Code Section 1-4-1, the party having such privilege or duty shall have through the next business day to exercise such privilege or discharge such duty.
(c) When the period of time prescribed is less than seven days, intermediate weekends and legal holidays shall be excluded in the computation.

15-11-6.
(a) Except as provided in subsection (b) of this Code section, a child attains a specified age the first second past midnight on the day of the anniversary of the child's birth.
(b) A child born on February 29 attains a specified age on March 1 of any year that is not a leap year.

15-11-7.
(a) The juvenile court shall have jurisdiction to act as a court of inquiry with all the powers and rights allowed courts of inquiry in this state and to examine or investigate into the circumstances or causes of any conduct or acts of any person 17 or more years of age that may be in violation of the laws of this state whenever such person is brought before the court in the course of any proceeding instituted under this chapter. The court shall cause the person to be apprehended and brought before it upon either a writ of summons, a warrant duly issued, or by arrest.

(b) When, after hearing evidence, the court has reasonably ascertained that there is probable cause to believe that the person has committed a misdemeanor or felony as prescribed under the laws of this state, the court shall commit, bind over to the court of proper jurisdiction in this state, or discharge the person. When justice shall require, the court shall cause the person to make such bail as the court shall deem proper under the circumstances and to cause the person to appear before the court of proper jurisdiction in this state to be acted upon as provided by law.

15-11-8.
The juvenile court is a court of record having a seal. The judge and the judge's duly appointed representatives shall each have power to administer oaths and affirmations.

15-11-9.
The juvenile court judge, associate juvenile court judge, and judge pro tempore shall have authority to issue a warrant for the arrest of any child for an offense committed against the laws of this state, based either on personal knowledge or the information of others given under oath.

15-11-10.
Except as provided in Code Section 15-11-560, the juvenile court shall have exclusive original jurisdiction over juvenile matters and shall be the sole court for initiating action:

(1) Concerning any child who:

(A) Is alleged to be delinquent;

(B) Is alleged to be a child in need of services;

(C) Is alleged to be dependent;

(D) Is alleged to be in need of treatment or commitment as a mentally ill or developmentally disabled child;

(E) Is alleged to have committed a juvenile traffic offense as defined in Code Section 15-11-630;

(F) Has been placed under the supervision of the court or on probation to the court; provided, however, that such jurisdiction shall be for the purpose of completing, effectuating, and enforcing such supervision or a probation begun prior to the child's seventeenth birthday;

(G) Has remained in foster care after the child's eighteenth birthday or who is receiving independent living services from DFCS after the child's eighteenth birthday; provided, however, that such jurisdiction shall be for the purpose of reviewing the status of the child and the services being provided to the child as a result of the child's independent living plan or status as a child in foster care; or

(H) Requires a comprehensive services plan in accordance with Code Section 15-11-658; or

(2) Involving any proceedings:

(A) For obtaining judicial consent to the marriage, employment, or enlistment in the armed services of any child if such consent is required by law;
(B) For permanent guardianship brought pursuant to the provisions of Article 3 of this chapter;
(C) Under Code Section 39-3-2, the Interstate Compact on Juveniles, or any comparable law, enacted or adopted in this state;
(D) For the termination of the legal parent-child relationship and the rights of the biological father who is not the legal father of the child, other than that in connection with adoption proceedings under Article 1 of Chapter 8 of Title 19, in which the superior courts shall have concurrent jurisdiction to terminate the legal parent-child relationship and the rights of the biological father who is not the legal father of the child;
(E) For emancipation brought pursuant to the provisions of Article 11 of this chapter;
(F) Under Article 9 of this chapter, relating to prior notice to a parent, guardian, or legal custodian relative to an unemancipated minor's decision to seek an abortion; or
(G) Brought by a local board of education pursuant to Code Section 20-2-766.1 relating to court orders requiring that a parent, guardian, or legal custodian attend a conference or participate in programs or treatment to improve a student's behavior.

15-11-11.
(a) The juvenile court shall have concurrent jurisdiction to hear:
(1) Any legitimation petition filed pursuant to Code Section 19-7-22 concerning a child who is alleged to be dependant;
(2) Any legitimation petition transferred to the court by proper order of the superior court;
(3) The issue of custody and support when the issue is transferred by proper order of the superior court; and
(4) Any petition for the establishment or termination of a temporary guardianship transferred to the court by proper order of the probate court.
(b) If a demand for a jury trial as to support has been properly filed by either parent, then the case shall be transferred to superior court for the jury trial.

15-11-12.
(a) Nothing in this chapter shall be construed to prevent a child from being found both dependent and delinquent or both dependent and a child in need of services if there exists a factual basis for such a finding.
(b) If a child alleged or found to be delinquent or a child in need of services is also alleged or found to be dependent, dependency proceedings may be consolidated with delinquency or child in need of services proceedings to the extent consistent with due process of law as provided in Articles 3, 6, and 7 of this chapter.

(c) The time frames and requirements of Article 3 of this chapter shall apply to cases in which a child alleged or found to be a child in need of services or delinquent is placed in foster care and has also been alleged or found to be dependent.

15-11-13.
The court shall have jurisdiction to appoint a guardian of the person or conservator of the property of any child in any proceeding authorized by this chapter. Any such appointment shall be made pursuant to the same requirements of notice and hearing as are provided for appointments of guardians of the persons and conservators of the properties of any child by the probate court.

15-11-14.
(a) The court shall hold a hearing within 30 days of receipt of a case transferred from the probate court pursuant to subsection (f) of Code Section 29-2-6 or subsection (b) of Code Section 29-2-8.
(b) After notice and hearing, the court may make one of the following orders:
(1) That the temporary guardianship be established or continued if the court determines that the temporary guardianship is in the best interests of the child. The order shall thereafter be subject to modification only as provided in Code Section 15-11-32; or
(2) That the temporary guardianship be terminated if the court determines it is in the best interests of the child. The child shall be returned to the parent unless the court determines that there is probable cause to believe the child would be abused, neglected, or abandoned in the custody of the child's parent.
(c) A case shall proceed as a dependency matter pursuant to the provisions of Article 3 of this chapter if, after notice and hearing, the court determines:
(1) That it is in the best interests of the child that the temporary guardianship not be established or that the temporary guardianship be terminated but there is probable cause to believe the child would be abused, neglected, or abandoned if returned to the parent; or
(2) That it is in the best interests of the child that the temporary guardianship be continued over the parent's objection.
(d) The court may refer a case transferred from probate court to DFCS for further investigation.

15-11-15.
(a) In handling divorce, alimony, habeas corpus, or other cases involving the custody of a child, a superior court may transfer the question of the determination of custody, support, or custody and support to the juvenile court either for investigation and a report back to the superior court or for investigation and determination.
(b) If the referral is for investigation and determination, then the juvenile court shall proceed to handle the matter in the same manner as though the action originated under

this chapter in compliance with the order of the superior court, except that the parties shall not be entitled to obtain an appointed attorney through the juvenile court.
(c) At any time prior to the determination of any such question, the juvenile court may transfer the jurisdiction of the question back to the referring superior court.

15-11-16.
(a) A proceeding under this chapter may be commenced:
(1) By an order of transfer of a case from another court as provided in Code Section 15-11-11 or 15-11-567 or subsection (f) of Code Section 29-2-6 or subsection (b) of Code Section 29-2-8;
(2) By the summons, notice to appear, or other citation in a proceeding charging a juvenile traffic offense or a violation of the laws, rules, and regulations governing the Georgia Department of Natural Resources Game and Fish Division; or
(3) By the filing of a petition for adoption or legitimation under Code Section 15-11-11, or in other cases by the filing of a complaint or a petition as provided in Articles 3, 4, 6, 7, 9, and 11 of this chapter.
(b) The petition and all other documents in the proceeding shall be entitled 'In the interest of _____, a child,' except upon appeal.
(c) On appeal, the anonymity of the child, and where appropriate, a victim or witness who is under the age of 18 years, shall be preserved by appropriate use of the child's, victim's, or witness's initials as appropriate.

15-11-17.
(a) All hearings under this chapter shall be conducted by the court without a jury. Any hearing may be adjourned from time to time within the discretion of the court.
(b) Except as otherwise provided, all hearings shall be conducted in accordance with Title 24.
(c) The proceedings shall be recorded by stenographic notes or by electronic, mechanical, or other appropriate means capable of accurately capturing a full and complete record of all words spoken during the proceedings.
(d) A juvenile court judge, an associate juvenile court judge, a judge pro tempore of the juvenile court, or any person sitting as a juvenile court judge may conduct hearings in connection with any proceeding under this chapter in any county within the judicial circuit. When a superior court judge sits as a juvenile court judge, hearings in connection with any proceeding under this chapter may be heard before such judge in any county within the judicial circuit over which the judge presides.

15-11-18.
Upon application of a party, the court, or any authorized officer of the court, the clerk of the court shall issue subpoenas in accordance with the provisions of Title 24 requiring attendance and testimony of witnesses and production of papers at any hearing under this chapter.

15-11-19.
(a) A party has the right to be present, to be heard, to present evidence material to the proceedings, to cross-examine witnesses, to examine pertinent court files and records, and to appeal the orders of the court; provided, however, that the court shall retain the discretion to exclude a child from any part or parts of any proceeding under Article 3 of this chapter if the court determines that it is not in the child's best interests to be present. The attorney for the child shall not be excluded.
(b) A person afforded rights under this chapter shall be advised of such rights at that person's first appearance before the court.

15-11-20.
(a) At any time during a proceeding under this chapter, the court may refer the case to mediation.
(b) When referring a case to mediation, the court shall take into consideration the guidelines from the Georgia Commission of Dispute Resolution for mediating cases involving domestic violence or family violence.
(c) A referral order shall recite that while the parties shall attend a scheduled mediation session and shall attempt to mediate in good faith, such parties shall not be required to reach an agreement.
(d) Victims in a delinquency case referred to mediation may attend and participate in such mediation.

15-11-21.
(a) Once an order referring a case to mediation has been signed, the court shall appoint a mediator from a list of court approved mediators who are registered with the Georgia Office of Dispute Resolution to mediate juvenile court cases.
(b) The court shall appoint a qualified mediator within five days of signing the order referring the case to mediation.

15-11-22.
(a) The parties shall sign and date a written agreement to mediate. The agreement to mediate shall identify the controversies between the parties, affirm the parties' intent to resolve such controversies through mediation, and specify the circumstances under which mediation may continue. The agreement to mediate shall specify the confidentiality requirements of mediation and the exceptions to confidentiality in mediation as such are set forth in the Supreme Court of Georgia's Uniform Rules for Alternative Dispute Resolution Programs.
(b) A mediator shall not knowingly assist the parties in reaching an agreement which would be unenforceable for reasons such as fraud, duress, the absence of bargaining ability, unconscionability, or lack of court jurisdiction.
(c) Prior to the parties signing an agreement to mediate, the mediator shall advise the parties that each of them may obtain review by an attorney of any agreement reached as a result of the mediation.
(d) The mediator shall at all times be impartial.

15-11-23.
(a) Upon issuing a referral to mediation the court may stay the proceeding.
(b) Mediation shall occur as soon as practicable and be scheduled within 30 days of the order referring the matter to mediation unless the time frame is extended by the court.
(c) The court may extend the timeline for scheduling a mediation for an additional 30 days.

15-11-24.
(a) Either party may withdraw from or terminate further participation in mediation at any time.
(b) A mediator shall terminate mediation when:
(1) The mediator concludes that the participants are unable or unwilling to participate meaningfully in the process;
(2) The mediator concludes that a party lacks the capacity to perceive and assert his or her own interests to the degree that a fair agreement cannot be reached;
(3) The mediator concludes that an agreement is unlikely; or
(4) The mediator concludes that a party is a danger to himself or herself or others.

15-11-25.
(a) All mediation agreements shall be presented to the juvenile court judge for approval.
(b) The mediation agreement shall be made an order of the court unless, after further hearing, the court determines by clear and convincing evidence that the agreement is not in the best interests of the child.

15-11-26.
Whenever a best interests determination is required, the court shall consider and evaluate all of the factors affecting the best interests of the child in the context of the child's age and developmental needs. Such factors shall include:
(1) The physical safety and welfare of the child, including food, shelter, health, and clothing;
(2) The love, affection, bonding, and emotional ties existing between the child and each parent or person available to the care for the child;
(3) The love, affection, bonding, and emotional ties existing between the child and his or her siblings, half siblings, and stepsiblings and the residence of such other children;
(4) The child's need for permanence, including the child's need for stability and continuity of relationships with a parent, siblings, other relatives, and any other person who has provided significant care of the child;
(5) The child's sense of attachments, including the child's sense of security, the child's sense of familiarity, and continuity of affection for the child;

(6) The capacity and disposition of each parent or person available to care for the child to give the child love, affection, and guidance and to continue the education and rearing of the child;
(7) The home environment of each parent or person available to care for the child considering the promotion of nurturance and safety of the child rather than superficial or material factors;
(8) The stability of the family unit and the presence or absence of support systems within the community to benefit the child;
(9) The mental and physical health of all individuals involved;
(10) The home, school, and community record and history of the child, as well as any health or educational special needs of the child;
(11) The child's community ties, including church, school, and friends;
(12) The child's background and ties, including familial, cultural, and religious;
(13) The least disruptive placement alternative for the child;
(14) The uniqueness of every family and child;
(15) The risks attendant to entering and being in substitute care;
(16) The child's wishes and long-term goals;
(17) The preferences of the persons available to care for the child;
(18) Any evidence of family violence, substance abuse, criminal history, or sexual, mental, or physical child abuse in any current, past, or considered home for the child;
(19) Any recommendation by a court appointed custody evaluator or guardian ad litem; and
(20) Any other factors considered by the court to be relevant and proper to its determination.

15-11-27.
During the pendency of any proceeding under this chapter, the court may order:
(1) The child to be examined by outside parties or private providers at a suitable place by a physician or psychologist; provided, however, that orders to perform an evaluation shall not be imposed upon DJJ; and
(2) Medical or surgical treatment of a child who is suffering from a serious physical condition or illness which, in the opinion of a licensed physician, requires prompt treatment, even if the parent, guardian, or legal custodian has not been given notice of a hearing, is not available, or without good cause informs the court of his or her refusal to consent to the treatment.

15-11-28.
(a) No admission, confession, or incriminating information obtained from a child in the course of any screening that is undertaken in conjunction with proceedings under this chapter, including but not limited to, court ordered screenings, shall be admitted into evidence in any adjudication hearing in which the child is accused under this chapter. Such admission, confession, or incriminating information may be considered by the court at disposition.

(b) No admission, confession, or incriminating information obtained from a child in the course of any assessment or evaluation, or any treatment that is undertaken in conjunction with proceedings under this chapter, including but not limited to court ordered assessments and evaluations, shall be admitted into evidence against the child, except as rebuttal or impeachment evidence, or used as a basis for such evidence, in any future adjudication hearing or criminal proceeding in which the child is accused. Such admission, confession, or incriminating information may be considered by the court at disposition.

15-11-29.

(a) In any proceeding under this chapter, either on application of a party or on the court's own motion, the court may make an order restraining or otherwise controlling the conduct of a person if due notice of the application or motion and the grounds therefor and an opportunity to be heard thereon have been given to the person against whom the order is directed. Such an order may require any such person:

(1) To stay away from the home or the child;

(2) To permit a parent to visit the child at stated periods;

(3) To abstain from offensive conduct against the child, the child's parent, or any person to whom custody of the child is awarded;

(4) To give proper attention to the care of the home;

(5) To cooperate in good faith with an agency to which custody of a child is entrusted by the court or with an agency or association to which the child is referred by the court;

(6) To refrain from acts of commission or omission that tend to make the home not a proper place for the child;

(7) To ensure that the child attends school pursuant to any valid law relating to compulsory attendance;

(8) To participate with the child in any counseling or treatment deemed necessary after consideration of employment and other family needs; and

(9) To enter into and complete successfully a substance abuse program approved by the court.

(b) After notice and opportunity for hearing afforded to a person subject to a protective order, the order may be modified or extended for a further specified period, or both, or may be terminated if the court finds that the best interests of the child and the public will be served thereby.

(c) Protective orders may be enforced by citation to show cause for contempt of court by reason of any violation thereof and, where protection of the welfare of the child so requires, by the issuance of a warrant to take the alleged violator into custody and bring him or her before the court.

15-11-30.

A legal custodian has the right to physical custody of the child, the right to determine the nature of the care and treatment of the child, including ordinary medical care, and

the right and duty to provide for the care, protection, training, and education and the physical, mental, and moral welfare of the child, subject to the conditions and limitations of the order and to the remaining rights and duties of the child's parent or guardian.

15-11-31.
(a) In addition to all other inherent powers of the court to enforce its lawful orders, the court may punish an adult for contempt of court by imprisonment for not more than 20 days or a fine not to exceed $1,000.00 for willfully disobeying an order of the court or for obstructing or interfering with the proceedings of the court or the enforcement of its orders.
(b) The court shall restrict and limit the use of contempt powers with respect to commitment of a child to a secure facility and in no event shall a child solely alleged or adjudicated to be dependent be placed in a secure facility.
(c) A child may be placed in a secure facility for not more than 72 hours if:
(1) He or she is found in contempt of court;
(2) Less restrictive alternatives have been considered and are unavailable or inappropriate or if the child has already been ordered to serve a less restrictive alternative sanction but failed to comply with the sanction; and
(3) For a child in need of services, the requirements of Code Section 15-11-416 regarding the valid court order exception have been met.
(d) In addition or as an alternative to the punishment provided in subsection (a) of this Code section, after notice and opportunity to be heard, the court may impose any or all of the following sanctions when a parent, guardian, or legal custodian other than DJJ or DFCS willfully violates any order issued by the court directed to him or her:
(1) Require the parent, guardian, or legal custodian of the child to make restitution in an amount not to exceed $2,500.00 for any damage or loss caused by the child's wrongful act;
(2) Reimburse the state for the costs of detention, treatment, or rehabilitation of the child;
(3) Require the parent, guardian, or legal custodian of the child to participate in a court approved educational or counseling program designed to contribute to the ability to provide proper parental care and supervision of the child, including, but not limited to, parenting classes; or
(4) Require the parent, guardian, or legal custodian of the child to enter into a contract or plan as a part of the disposition of any charges against the child, so as to provide for the supervision and control of the child by the parent, guardian, or legal custodian and reunification with the child.

15-11-32.
(a) An order of the court shall be set aside if:
(1) It appears that it was obtained by fraud or mistake sufficient therefor in a civil action;

(2) The court lacked jurisdiction over a necessary party or of the subject matter; or
(3) Newly discovered evidence so requires.
(b) An order of the court may also be changed, modified, or vacated on the ground that changed circumstances so require in the best interests of the child except an order of dismissal following a contested adjudicatory hearing.
(c) Except as otherwise provided in Code Section 15-11-602, an order committing a child to DJJ may only be modified after the child has been transferred to DJJ custody upon motion of DJJ.
(d) Any party to the proceeding, the probation officer, or any other person having supervision or legal custody of or an interest in the child may petition the court for the relief provided in this Code section. Such petition shall set forth in clear and concise language the grounds upon which the relief is requested.
(e) After a petition seeking relief under this Code section is filed, the court shall fix a time for hearing and shall cause notice to be served on the parties to the proceeding or those affected by the relief sought. After the hearing, the court shall deny or grant relief as the evidence warrants.

15-11-33.
(a) Whenever an order of disposition incorporates a reunification plan and the residence of the parent is not in the county of the court with jurisdiction or the residence of the parent changes to a county other than the county of the court with jurisdiction, the court may transfer jurisdiction to the juvenile court of the residence of the parent to whom the reunification plan is directed.
(b) Within 30 days of the filing of the transfer order, the transferring court shall provide the receiving court with certified copies of the adjudication order, the order of disposition, the order of transfer, the case plan, and any other court documents deemed necessary by the transferring court to enable the receiving court to assume jurisdiction over the matter.
(c) The transferring court shall retain jurisdiction until the receiving court acknowledges acceptance of the transfer.
(d) Compliance with this Code section shall terminate jurisdiction in the transferring court and confer jurisdiction in the receiving court.

15-11-34.
Except as otherwise provided by Code Section 17-10-14, a child shall not be committed to an adult correctional facility or other facility used primarily for the execution of sentences of persons convicted of a crime.

15-11-35.
In all cases of final judgments of the juvenile court, appeals shall be taken to the Court of Appeals or the Supreme Court in the same manner as appeals from the superior court. However, no such judgment or order shall be superseded except in the discretion

of the trial court; rather, the judgment or order of the court shall stand until reversed or modified by the reviewing court.

15-11-36.
(a) The following expenses shall be a charge upon the funds of the county upon certification thereof by the court:
(1) The cost of medical and other examinations and treatment of a child ordered by the court;
(2) The cost of care and support of a child committed by the court to the legal custody of an individual or a public or private agency other than DJJ, but the court may order supplemental payments, if such are necessary or desirable for services;
(3) Reasonable compensation for services and related expenses of an attorney appointed by the court, when appointed by the court to represent the child and when appointed by the court to conduct the proceedings;
(4) Reasonable compensation for a guardian ad litem;
(5) The expense of service of summons, notices, and subpoenas, travel expenses of witnesses, transportation, subsistence, and detention of the child, and other like expenses incurred in the proceedings under this chapter; and
(6) The cost of counseling and counsel and advice required or provided under the provisions of Code Section 15-11-212 or 15-11-601.
(b) For a child not committed to the legal custody of DJJ, the county, upon certification by the court, shall reimburse DJJ for reasonable and necessary expenses incurred for a child's subsistence, detention, care, and other like expenses.
(c) If, after due notice to the parent or other person legally obligated to care for and support the child and after affording such person an opportunity to be heard, the court finds that such person is financially able to pay all or part of the costs and expenses outlined in subsection (a) of this Code section, the court may order such person to pay the same and prescribe the manner of payment. In addition, the court may order payment from the parent or other legally obligated person or entity to reimburse all or part of the costs and expenses of the department or DJJ for treatment, care, and support of the child. Unless otherwise ordered, payment shall be made to the clerk of the court for remittance to the person or agency, including the department or DJJ, to whom compensation is due or, if the costs and expenses have been paid by the county, to the appropriate officer of the county.

15-11-37.
(a) The court may collect supervision fees from those who are placed under the court's formal or informal supervision in order that the court may use those fees to expand the provision of the following types of ancillary services:
(1) Housing in nonsecure facilities;
(2) Educational services, tutorial services, or both;
(3) Counseling and diagnostic testing;
(4) Mediation;

(5) Transportation to and from court ordered services;
(6) Truancy intervention services;
(7) Restitution programs;
(8) Job development or work experience programs;
(9) Community services; and
(10) Any other additional programs or services needed to meet the best interests, development, and rehabilitation of the child.

(b) The juvenile court may order each delinquent child or child in need of services who receives supervision to pay to the clerk of the court:
(1) An initial court supervision user's fee of not less than $10.00 nor more than $200.00; and
(2) A court supervision user's fee of not less than $2.00 nor more than $30.00 for each month that the child receives supervision.

The child and each parent, guardian, or legal custodian of the child may be jointly and severally liable for the payment of such fee and shall be subject to the enforcement procedure in subsection (c) of Code Section 15-11-36. The judge shall provide that any such fees shall be imposed on such terms and conditions as shall assure that the funds for the payment are from moneys earned by the child. All moneys collected by the clerk under this subsection shall be transferred to the county treasurer, or such other county official or employee who performs duties previously performed by the treasurer, who shall deposit the moneys into a county supplemental juvenile services fund. The governing authority of the county shall appropriate moneys from the county supplemental juvenile services fund to the juvenile court for the court's discretionary use in providing supplemental community based services described in subsection (a) of this Code section to child offenders. These funds shall be administered by the county and the court may draw upon them by submitting invoices to the county. The county supplemental juvenile services fund may be used only for these services. Any moneys remaining in the fund at the end of the county fiscal year shall not revert to any other fund but shall continue in the county supplemental juvenile services fund. The county supplemental juvenile services fund may not be used to replace other funding of services.

(c) The clerk of the court shall be responsible for collections of fees as ordered by the court.

(d) For the purpose of this Code section, the term 'guardian' or 'legal custodian' shall not be interpreted or construed to include the department or DJJ.

15-11-38.

(a) Any court may order the establishment of a community based risk reduction program, within the geographical jurisdiction of the court, for the purpose of utilizing available community resources in assessment and intervention in cases of delinquency, dependency, or children in need of services. Subject to the procedures, requirements, and supervision established in the order creating such program, any individual and any public or private agency or entity may participate in the program.

(b) As part of a risk reduction program, a court may implement or adopt an early intervention program designed to identify children and families who are at risk of becoming involved with the court. Such early intervention program shall be for the purpose of developing and implementing intervention actions or plans to divert the children and their families from becoming involved in future cases in the court. The court's involvement shall be for the limited purpose of facilitating the development of the program and for the purpose of protecting the confidentiality of the children and families participating in the program.

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

(d) When any agency or entity participating in a protocol agreement identifies a child who is at risk of becoming delinquent, dependent, or a child in need of services, the agency or entity shall refer the case to a multiagency staffing panel. The panel shall develop a multiagency intervention plan for the child. The child or the parent, or both, may be present during any review of the child's case by the panel. The parent, guardian, or legal custodian of the child shall be notified of the plan by the agency making the referral or by a person or entity designated by the panel to administer the program. The staff of the court, but not the judge, shall work with the other agencies involved to educate the parent and the child on the importance of following the plan and on the consequences if either the parent or the child is referred to the court. If an intervention plan is developed for a child and the parent, guardian, or legal custodian consents to the plan, the failure to comply with the plan or any portion thereof may constitute the basis for a referral to DFCS.

15-11-39.

(a) In any jurisdiction within which a risk reduction program has been established, when a child comes before the court for disposition, the court may order that an assessment be made of the child and the circumstances resulting in the child being before the court.

(b) The assessment shall be developed by assembling existing information and individualized plans of the agencies involved in providing services to the child and his or her parent, guardian, or legal custodian. If the assessment demonstrates a need for a case plan, the court may order that a case plan be developed by a panel representing community agencies as authorized by the court. The case plan shall contain the

proposed actions and alternatives for the proper and efficient use of available community resources to assist the child.

(c) The case plan shall be served on the child and the child's parent, guardian, or legal custodian. The case plan shall also include a cover letter which contains the following information:

(1) Sources to explain the process, procedures, and penalties for not responding to the court order in the prescribed time frame; and

(2) The deadline for responding to the court order and stating objections to the case plan or any portion thereof is ten days from the date of service.

(d) If no objection is made or if the child, parent, guardian, or legal custodian consents to the case plan, the case plan shall be incorporated into and made a part of the disposition order entered in the case by entry of a supplemental order. The case plan may be modified by the court at any time the child is under the jurisdiction of the court.

(e) If a child or a parent, guardian, or legal custodian objects to the case plan, the court shall conduct a hearing. The court may decline to adopt the case plan or may confirm or modify the case plan. In implementing a case plan, the court shall have available all of the protective powers set forth in Code Section 15-11-29, without the necessity of a show cause hearing, unless objection is made to the case plan.

15-11-40.

(a) Notwithstanding any provision contained in this chapter or in any rule or regulation adopted by any department, board, or agency of the state to the contrary, the court and any individual, public or private agency, or other entity participating in a community based risk reduction program may exchange, as necessary, information, medical records, school records, immigration records, records of adjudication, treatment records, and any other records or information which may aid in the assessment of and intervention with the children and families in the program if such exchange of information is ordered by the court or consented to by the parties. Such information shall be used by such individuals and agencies only for the purposes provided in this chapter and as authorized by the court for the purpose of implementing the case plan and for the purposes permitted under each agency's own rules and regulations. Such information shall not be released to any other individual or agency except as may be necessary to effect the appropriate treatment or intervention as provided in the case plan. Such information shall otherwise remain confidential as required by state and federal law and the court may punish any violations of confidentiality as contempt of court.

(b) Any person who authorizes or permits any unauthorized person or agency to have access to confidential records or reports of child abuse shall be guilty of a misdemeanor. Any person who knowingly and under false pretenses obtains or attempts to obtain confidential records or reports of child abuse or information contained therein shall be guilty of a misdemeanor.

(c) Confidential records or reports of child abuse and information obtained from such records may not be made a part of any record which is open to the public except that a

prosecuting attorney may use and make public that record or information in the course of any criminal prosecution for any offense which constitutes or results from child abuse.

(d) This Code section shall not abridge the provisions relating to confidentiality of patient or client records and shall not serve to destroy or in any way abridge the confidential or privileged character thereof.

15-11-41.

(a) Except as otherwise provided in Code Section 15-11-710, entities governed by federal or state privacy laws may require the following before sharing confidential information:

(1) For release of child abuse records by the department, a subpoena and subsequent order of the court requiring the release of such information in accordance with Code Section 49-5-41;

(2) For release of information relating to diagnosis, prognosis, or treatment of drug and alcohol abuse:

(A) If the person is 18 or has been emancipated, consent from the person to whom such information relates;

(B) If the person is under the age of 18 years and has not been emancipated, valid consent from such person's parent, guardian, or legal custodian or consent by a parent, guardian, or legal custodian to a confidentiality agreement between the health care provider and the unemancipated minor; provided, however, that consent from an unemacipated minor shall be sufficient for the release of such information if the unemancipated minor is allowed by law to consent to the health care service to which the records relate without the consent of a parent, guardian, or legal custodian and the unemancipated minor has not designated anyone as a personal representative; or

(C) A subpoena requiring the release of such information and protective order of the court regarding the release of such information; and

(3) For release of confidential health, mental health, or education records:

(A) If the person is 18 or has been emancipated, consent from the person to whom such information relates;

(B) If the person is under the age of 18 years and has not been emancipated, valid consent from such person's parent, guardian, or legal custodian or consent by a parent, guardian, or legal custodian to a confidentiality agreement between the health care provider and the unemancipated minor; provided, however, that consent from an unemacipated minor shall be sufficient for the release of such information if the unemancipated minor is allowed by law to consent to the health care service to which the records relate without the consent of a parent, guardian, or legal custodian and has not designated anyone as a personal representative;

(C) A subpoena requiring the release of such information; or

(D) An order of the court requiring the release of such information.

(b) In issuing an order for the release of information under this Code section, the court may:

(1) Include protections against further disclosure of the information;

(2) Limit the purposes for which the information may be used; and

(3) Require records to be redacted so that only relevant information is shared.

(c) Nothing in this Code section shall be deemed to replace the responsibility of entities governed by federal and state privacy laws to comply with such laws.

ARTICLE 2

15-11-50.

(a) There is created a juvenile court in every county in the state.

(b) Except where election is provided by local law, the judge or a majority of the judges of the superior court in each circuit in the state may appoint one or more qualified persons as judge of the juvenile courts of the circuit. Such superior court judge or judges shall establish the total number of circuit-wide juvenile court judges and shall establish whether the judge or judges shall be full time or part time, or a combination of full time and part time. Each circuit-wide judge appointed shall have the authority to act as judge of each juvenile court in each county of the circuit.

(c) If no person is appointed as a juvenile court judge for a circuit, then a superior court judge of the circuit shall as part of the duties of the superior court judge assume the duties of the juvenile court judge in all counties in the circuit in which a separate juvenile court judgeship has not been established.

(d) All juvenile court judgeships established on or before October 1, 2000, their methods of compensation, selection, and operation shall continue until such time as one or more circuit-wide juvenile court judges are appointed. However, in any circuit where a superior court judge assumes the duties of the juvenile court judge, such circuit shall not be entitled to the state funds provided for in Code Section 15-11-52.

(e) When one or more circuit-wide juvenile court judges are appointed or elected, any juvenile court judge in office at that time shall be authorized to fulfill his or her term of office. The jurisdiction of each judge shall be circuit wide.

(f) After the initial appointments and prior to any subsequent appointment or reappointment of any part-time or full-time juvenile court judge, the judge or judges responsible for making the appointment shall publish notice of the vacancy of the juvenile court judgeship once a month for three months prior to such appointment or reappointment. Such notice shall be published in the official legal organ of each of the counties in the circuit where the juvenile court judge has venue. The expense of such publication shall be paid by the county governing authority in the county where such notice is published.

(g) In the event that more than one juvenile court judge is appointed, one judge shall be designated presiding judge.

(h) In any case in which action under this Code section is to be taken by a superior court judge of the circuit, such action shall be taken as follows:

(1) Where there are one or two superior court judges, such action shall be taken by the chief judge of the circuit; and
(2) Where there are more than two superior court judges, such action shall be taken by a majority vote of the judges of the circuit.

15-11-51.
(a) No person shall be judge of the juvenile court unless, at the time of his or her appointment, he or she has attained the age of 30 years, has been a citizen of the state for three years, is a member of the State Bar of Georgia, and has practiced law for five years.
(b) A juvenile court judge shall be eligible for reappointment or election.

15-11-52.
(a) Each appointed juvenile court judge shall serve for a term of four years.
(b) The compensation of the full-time or part-time juvenile court judges shall be set by the superior court with the approval of the governing authority or governing authorities of the county or counties for which the juvenile court judge is appointed.
(c) Out of funds appropriated to the judicial branch of government, the state shall contribute toward the salary of the judges on a per circuit basis in the following amounts:
(1) Each circuit with one or more juvenile court judges who are not superior court judges assuming the duties of juvenile court judges shall receive a state base grant of $85,000.00;
(2) In addition to this base amount, each circuit which has more than four superior court judges is eligible for additional state grants. For each superior court judge who exceeds the base of four judges, the circuit shall be eligible for an additional grant in an amount equal to one-fourth of the base amount of the state grant;
(3) In circuits where the superior court judges elect to use the state grant for one or more part-time judges, the amount of the state grant shall be as follows:

(A) For each part-time judge who works one day weekly $17,000.00

(B) For each part-time judge who works two days weekly..... 34,000.00

(C) For each part-time judge who works three days weekly..... 51,000.00

(D) For each part-time judge who works four days weekly..... 68,000.00;

provided, however, that a grant for one or more part-time judges shall not exceed the amount the circuit is eligible for in accordance with paragraphs (1) and (2) of this subsection; and
(4) All state grants provided by this subsection shall be spent solely on salaries for juvenile court judges and shall not be used for any other purposes.

15-11-53.
(a) It shall be unlawful for any full-time juvenile court judge to engage in any practice of law outside his or her role as a juvenile court judge.
(b) It shall be unlawful for a part-time judge of any juvenile court to engage directly or indirectly in the practice of law in his or her own name or in the name of another as a partner in any manner in any case, proceeding, or matter of any kind in the court to which he or she is assigned or in any other court in any case, proceeding, or any other matters of which it has pending jurisdiction or has had jurisdiction.
(c) It shall be unlawful for any juvenile court judge, full time or part time, to give advice or counsel to any person on any matter of any kind whatsoever which has arisen directly or indirectly in court, except such advice or counsel as a judge is called upon to give while performing the duties of a juvenile court judge.

15-11-54.
(a) Each juvenile court shall be assigned and attached to the superior court of the county for administrative purposes.
(b) The governing authority of the county of residence of each juvenile court judge shall offer the juvenile court judge insurance benefits and any other benefits except retirement or pension benefits equivalent to those offered to employees of the county, with a right to contribution from other counties in the circuit for a pro rata contribution toward the costs of such benefits, based on county population. Counties shall continue to provide membership in retirement plans available to county employees for any juvenile court judge in office before July 1, 1998, who did not become a member of the Georgia Judicial Retirement System provided by Chapter 23 of Title 47.
(c) Except for state base grants provided by Code Section 15-11-52, all expenditures of the court are declared to be an expense of the court and payable out of the county treasury with the approval of the governing authority or governing authorities of the county or counties for which the juvenile court judge is appointed.

15-11-55.
(a) To the extent that the provisions of this article conflict with a local constitutional amendment authorizing the election of a juvenile court judge and with the provisions of a local Act authorized by such local constitutional amendment to provide for the term of office, vacancies in office, qualifications, compensation, and full-time or part-time status of a juvenile court judge or judges, the provisions of such local constitutional amendment and such local Act shall govern.
(b) The state grants provided by Code Section 15-11-52 shall be provided to any circuit encompassing a juvenile court governed by the provisions of a local constitutional amendment and a local Act in the same manner as other circuits, except that, in any circuit with one or more elected juvenile court judges, the elected juvenile court judge who is senior in duration of service as a juvenile court judge shall establish, subject to other applicable provisions of law, the total number of circuit-wide juvenile court judges, whether the judge or judges shall be full time or part time or a combination of

full time and part time, and the compensation of any part-time juvenile court judge or judges.

15-11-56.
(a) No person who is serving as a full-time juvenile court judge shall at the same time hold the office of judge of any other class of court of this state.
(b) No person serving as a juvenile court judge after being elected juvenile court judge pursuant to a local law authorized by a constitutional amendment shall at the same time hold the office of judge of any other class of court of this state.
(c) Nothing in this Code section shall prevent any duly appointed or elected juvenile court judge from sitting by designation as a superior court judge pursuant to Code Section 15-1-9.1.

15-11-57.
(a) Whenever a juvenile court judge is appointed it shall be the duty of the clerk of the superior court to forward to the Secretary of State and to the Council of Juvenile Court Judges a certified copy of the order of appointment. The order of appointment shall set out the name of the person appointed, the term of office, the effective date of the appointment, the name of the person being succeeded, if any, and whether the office was vacated by resignation, death, or otherwise. Upon receipt of such order, the Secretary of State shall issue a commission as for superior court judges.
(b) Whenever an associate juvenile court judge is appointed to serve in a juvenile court, the clerk of the juvenile court shall forward a certified copy of the order of appointment to the Council of Juvenile Court Judges.

15-11-58.
(a) All of the judges and associate judges of the courts exercising jurisdiction over children shall constitute a Council of Juvenile Court Judges. The council shall annually elect from among its members a judge to serve as presiding judge and chairperson of the council.
(b) The Council of Juvenile Court Judges:
(1) Shall meet at stated times to be fixed by it or on call of the chairperson;
(2) May establish general policies for the conduct of courts exercising jurisdiction over children;
(3) May promulgate uniform rules and forms governing procedures and practices of the courts;
(4) Shall publish in print or electronically an annual report of the work of the courts exercising jurisdiction over children, which shall include statistical and other data on the courts' work and services, research studies the council may make of the problems of children and families dealt with by the courts, and any recommendations for legislation; and

(5) Shall be authorized to inspect and copy records of the courts, law enforcement agencies, the department, and DJJ for the purpose of compiling statistical data on children.

(c) Subject to the approval of the Council of Juvenile Court Judges, the presiding judge of the council shall appoint a chief administrative and executive officer for the Council of Juvenile Court Judges who shall have the title of director of the Council of Juvenile Court Judges. Under the general supervision of the presiding judge of the council and within the policies established by the Council of Juvenile Court Judges, the director shall:

(1) Provide consultation to the courts regarding the administration of court services and the recruitment and training of personnel;

(2) Make recommendations to the Council of Juvenile Court Judges for improvement in court services;

(3) With the approval of the presiding judge, appoint consultants and necessary clerical personnel to perform the duties assigned to the Council of Juvenile Court Judges and the director;

(4) Collect necessary statistics and prepare an annual report of the work of the courts;

(5) Promulgate in cooperation with DJJ standard procedures for coordinating state and local probation services throughout the state; and

(6) Perform such other duties as the presiding judge of the council shall specify.

15-11-59.

(a) The Council of Juvenile Court Judges, in conjunction with the Institute of Continuing Judicial Education of Georgia, shall establish seminars for all judges and associate juvenile court judges exercising juvenile court jurisdiction and may make provisions relative to such seminars by court rules properly adopted.

(b) Seminars shall offer instruction and training in juvenile law and procedure, child development and psychology, sociological theories relative to delinquency and breakdown of the family structure, and such other training and activities as the Council of Juvenile Court Judges may determine would promote the quality of justice in the juvenile court system.

(c) Expenses of administration of seminar programs and actual expenses incurred by the judges or associate juvenile court judges in attending such seminars shall be paid from state funds appropriated for the Council of Juvenile Court Judges for such purpose, from federal funds available to the Council of Juvenile Court Judges for such purpose, or from other appropriate sources. Expenses for judges and associate juvenile court judges shall not exceed the allowances allowed members of the General Assembly.

(d) Each judge and associate juvenile court judge exercising juvenile jurisdiction shall receive training appropriate to the role and participate in at least 12 hours of continuing legal education or continuing judicial education established or approved by the Council of Juvenile Court Judges each year and meet such rules as established by the Council of Juvenile Court Judges pertaining to such training. Superior court judges may meet this

requirement by attending seminars held in conjunction with the seminars for superior court judges provided by the Institute of Continuing Judicial Education of Georgia. Judges and associate juvenile court judges shall not exercise juvenile court jurisdiction unless the Council of Juvenile Court Judges certifies that annual training has been accomplished or unless the judge is in the first year of his or her initial appointment; provided, however, that the Council of Juvenile Court Judges may in hardship cases extend deadlines for compliance with this Code section.

15-11-60.
(a) A judge may appoint one or more persons to serve as associate juvenile court judges in juvenile matters on a full-time or part-time basis. The associate juvenile court judge shall serve at the pleasure of the judge, and his or her salary shall be fixed by the judge with the approval of the governing authority or governing authorities of the county or counties for which the associate juvenile court judge is appointed. The salary of each associate juvenile court judge shall be paid from county funds.
(b) Each associate juvenile court judge shall have the same qualifications as required for a judge of the juvenile court as provided in Code Section 15-11-51; provided, however, that any person serving as an associate juvenile court judge on January 1, 2013, shall be qualified for appointment thereafter to serve as an associate juvenile court judge.

15-11-61.
(a) The judge may appoint one or more persons to serve at the pleasure of the judge as associate juvenile court traffic judges on a full-time or part-time basis.
(b) An associate juvenile court traffic judge shall be a member of the State Bar of Georgia.
(c) The compensation of associate juvenile court traffic judges shall be fixed by the judge with the approval of the governing authority of the county and shall be paid in equal monthly installments from county funds, unless otherwise provided by law.

15-11-62.
(a) In the event of the disqualification, illness, or absence of the judge of the juvenile court, the judge of the juvenile court may appoint any member of the State Bar of Georgia who is resident in the judicial circuit in which the court lies and has practiced law for five years, any judge or senior judge of the superior courts, or any duly appointed juvenile court judge to serve as judge pro tempore of the juvenile court. In the event the judge of the juvenile court is absent or unable to make such appointment, the judge of the superior court of that county may so appoint.
(b) The person appointed shall have the authority to preside in the stead of the disqualified, ill, or absent judge and shall be paid from the county treasury such emolument as the appointing judge shall prescribe; provided, however, that the emolument shall not exceed the compensation received by the regular juvenile court judge for such services.

15-11-63.
(a) The judge of the juvenile court shall have the authority to appoint clerks and any other personnel necessary for the execution of the purposes of this chapter.
(b) The salary, tenure, compensation, and all other conditions of employment of such employees shall be fixed by the judge, with the approval of the governing authority of the county. The salaries of the employees shall be paid out of county funds.
(c) Any employee of the court may be removed for cause by the judge of the court, the reasons therefor to be assigned in writing.

15-11-64.
(a) Any person who is appointed as or is performing the duties of a clerk of the juvenile court shall satisfactorily complete 20 hours of training in the performance of the duties of a clerk of the juvenile court within the first 12 months following such appointment or the first performance of such duties.
(b) In each year after the initial appointment, any person who is appointed as or is performing the duties of a clerk of the juvenile court shall satisfactorily complete in that year 12 hours of additional training in the performance of such person's duties as clerk.
(c) Training pursuant to this Code section shall be provided by the Institute of Continuing Judicial Education of Georgia. Upon satisfactory completion of such training, a certificate issued by the institute shall be placed into the minutes of the juvenile court record in the county in which such person serves as a clerk of the juvenile court. All reasonable expenses of such training including, but not limited to, any tuition fixed by such institution shall be paid from county funds by the governing authority of the county for which the person serves as a clerk of the juvenile court, unless funding is provided from other sources.
(d) A judge of the juvenile court shall appoint a clerk pro tempore for that court in order for the regular clerk to attend required training. Such clerk pro tempore shall not be required to meet the training requirements for performing the clerk's duties.
(e) The provisions of this Code section shall not apply to clerks of juvenile courts who also act as clerks of superior courts and who already have mandatory training requirements in such capacity.

15-11-65.
(a) The judge may appoint one or more probation and intake officers.
(b) The salaries of the probation and intake officers shall be fixed by the judge with the approval of the governing authority of the county or counties for which he or she is appointed and shall be payable from county funds.

15-11-66.
(a) A county juvenile probation officer or DJJ staff member serving as a juvenile probation officer:
(1) Shall make investigations, reports, and recommendations to the court as directed by this chapter;

(2) Shall supervise and assist a child placed on probation or under the protective supervision or care of such probation officer by order of the court or other authority of law;

(3) Shall make appropriate referrals to other private or public agencies of the community if such assistance appears to be needed or desirable;

(4) May take into custody and detain a child who is under the supervision or care of such probation officer if the probation officer has reasonable cause to believe that the child's health or safety or that of another is in imminent danger, or that the child may abscond or be removed from the jurisdiction of the court, or when so ordered by the court pursuant to this chapter;

(5) May not conduct accusatory proceedings against a child who is or may be under such probation officer's care or supervision;

(6) May not draft judicial orders, official charges, or any other document which is required to be drafted by an attorney;

(7) Shall perform all other functions designated by this chapter or by order of the court pursuant thereto. Any of the functions specified in this Code section may be performed in another state if authorized by the court located in this state and permitted by the laws of the other state; and

(8) Other laws to the contrary notwithstanding, no county juvenile probation officer or DJJ staff serving as a probation officer shall be liable for the acts of a child not detained or taken into custody when, in the judgment of such officer, such detention or custody is not warranted.

(b) Notwithstanding subsection (a) of this Code section, DJJ, as the employer, shall maintain sole authority over the duties and responsibilities of all DJJ staff members serving as probation officers.

15-11-67.

(a) A juvenile court intake officer:

(1) Shall receive and examine complaints and charges of delinquency, dependency, or that a child is in need of services for the purpose of considering the commencement of proceedings under this chapter;

(2) Shall make appropriate referrals to other private or public agencies of the community if such assistance appears to be needed or desirable;

(3) Shall compile on a regular basis the case files or a report on those cases that were informally adjusted for review by the judge;

(4) May not conduct accusatory proceedings against a child or draft judicial orders, official charges, or any other document which is required to be drafted by an attorney;

(5) Shall perform all other functions designated by this chapter or by order of the court pursuant thereto; and

(6) Except as provided in Article I, Section II, Paragraph IX(d) of the Constitution, no county juvenile court intake officer, or DJJ staff member serving as a juvenile court intake officer shall be liable for the acts of a child not detained or taken into

custody when, in the judgment of such officer, such detention or custody is not warranted.

(b) Notwithstanding subsection (a) of this Code section, DJJ, as the employer, shall maintain sole authority over the duties and responsibilities of all DJJ staff members serving as juvenile court intake officers.

15-11-68.

(a) The probation and intake services of the juvenile court of each county may be transferred to and become a part of the state-wide juvenile and intake services and be fully funded through DJJ. The probation and intake officers of juvenile courts of those counties whose probation and intake services are transferred pursuant to this Code section shall become DJJ employees on the date of such transfer and on and after that date such employees shall be subject to the salary schedules and other DJJ personnel policies, except that the salaries of such employees shall not be reduced as a result of becoming DJJ employees.

(b) The probation and intake services of the juvenile court of a county may be transferred to DJJ by local Act of the General Assembly which approves such transfer.

(c) Persons who were probation and intake officers of the juvenile court of a county on June 30, 1996, but who were transferred as probation and intake officers to and became a part of the state-wide juvenile and intake services system fully funded through DJJ before January 1, 1999, shall be covered employees in the classified service of the State Personnel Administration.

ARTICLE 3

Part 1

15-11-100.

The purpose of this article is:

(1) To assist and protect children whose physical or mental health and welfare is substantially at risk of harm from abuse, neglect, or exploitation and who may be further threatened by the conduct of others by providing for the resolution of dependency proceedings in juvenile court;

(2) To ensure that dependency proceedings are conducted expeditiously to avoid delays in permanency plans for children;

(3) To provide the greatest protection as promptly as possible for children; and

(4) To ensure that the health, safety, and best interests of the child be the paramount concern in all dependency proceedings.

15-11-101.

(a) If necessary, the investigator of a report of child abuse and neglect may apply to the court for certain medical examinations and evaluations of a child or other children in the household.

(b) Upon a showing of probable cause in an affidavit executed by the applicant, the court may order a physical examination and evaluation of a child or other children in the household by a physician. Such order may be granted ex parte.
(c) Upon a showing of probable cause in an affidavit executed by the applicant and after a hearing, the court may order a psychological or psychiatric examination and evaluation of a child or other children in the household by a psychologist, psychiatrist, or other licensed mental health professional.
(d) Upon a showing of probable cause in an affidavit executed by the applicant and after a hearing, the court may order a forensic examination and evaluation of a child or other children in the household by a psychologist, psychiatrist, or other licensed mental health professional.
(e) Upon a showing of probable cause in an affidavit executed by the applicant and after a hearing, the court may order a physical, psychological, or psychiatric examination of a child's parent, guardian, or legal custodian.

15-11-102.
(a) The preliminary protective hearing shall be held promptly and no later than 72 hours after a child is placed in foster care, provided that, if the 72 hour time frame expires on a weekend or legal holiday, such hearing shall be held on the next day which is not a weekend or legal holiday.
(b) If a child was not taken into protective custody or is released from foster care at the preliminary protective hearing, the following time frames apply:
(1) The petition for dependency shall be filed within 30 days of the preliminary protective hearing;
(2) Summons shall be served at least 72 hours before the adjudication hearing;
(3) The adjudication hearing shall be held no later than 60 days after the filing of the petition for dependency; and
(4) If the dispositional hearing is not held in conjunction with the adjudication hearing, it shall be held and completed within 30 days after the conclusion of the adjudication hearing.
(c) If a child is not released from foster care at the preliminary protective hearing, the following time frames apply:
(1) The petition for dependency shall be filed within five days of the preliminary protective hearing;
(2) Summons shall be served at least 72 hours before the adjudication hearing;
(3) The adjudication hearing shall be held no later than ten days after the filing of the petition;
(4) DFCS shall submit to the court its written report within 30 days of the date a child who is placed in the custody of DFCS is removed from the home and at each subsequent review of the disposition order. If the DFCS report does not contain a plan for reunification services, the nonreunification hearing shall be held no later than 30 days from the time the report is filed; and

(5) If the dispositional hearing is not held in conjunction with the adjudication hearing, it shall be held and completed within 30 days after the conclusion of the adjudication hearing.

(d) An initial periodic review hearing shall be held within 75 days following a child's removal from his or her home. An additional periodic review shall be held within four months following such initial review.

(e) Permanency plan hearings shall be held no later than 30 days after DFCS has submitted a written report to the court which does not provide a plan for reunification services or:

(1) For children under seven years of age at the time a petition for dependency is filed, no later than nine months after the child is considered to have entered foster care, whichever comes first. Thereafter a permanency plan hearing shall be held every six months while the child continues in DFCS custody or more frequently as deemed necessary by the court until the court determines that the child's permanency plan and goal have been achieved; and

(2) For children seven years of age and older at the time a petition is filed, no later than 12 months after the child is considered to have entered foster care, whichever comes first. Thereafter a permanency plan hearing shall be held every six months while the child continues in DFCS custody or more frequently as deemed necessary by the court until the court determines that the child's permanency plan and goal have been achieved.

(f) A supplemental order of the court adopting a child's permanency plan shall be entered within 30 days after the court has determined that reunification efforts need not be made by DFCS.

15-11-103.

(a) The child and any other party to a proceeding under this article shall have the right to a qualified and independent attorney at all stages of the proceedings under this article.

(b) The court shall appoint an attorney for a child alleged to be dependent. The appointment shall be made as soon as practicable to ensure adequate representation of such child and, in any event, before the first court hearing that may substantially affect the interests of such child.

(c) A child's attorney owes to the child the duties imposed by the law of this state in an attorney-client relationship.

(d) Before an attorney may be appointed to represent a child, he or she shall have received training appropriate to the role that is administered or approved by the Office of the Child Advocate for the Protection of Children; provided, however, that such office shall exempt from the training requirement any attorney who has practiced as an attorney or guardian ad litem in juvenile court dependency proceedings for three or more years and, when such determination is made by the court, has demonstrated a proficiency in child representation. Preappointment training shall be satisfied within an attorney's existing continuing legal education obligations and shall not require the

attorney to complete additional training hours in addition to the hours currently required by the State Bar of Georgia.
(e) If an attorney has been appointed to represent a child in a prior proceeding under this chapter, the court, when possible, shall appoint the same attorney to represent the child in any subsequent proceeding.
(f) An attorney appointed to represent a child in a dependency proceeding shall continue the representation in any subsequent appeals unless excused by the court.
(g) Neither a child nor a representative of a child may waive a child's right to an attorney in a dependency proceeding.
(h) A party other than a child shall be informed of his or her right to an attorney prior to any hearing. A party other than a child shall be given an opportunity to:
(1) Obtain and employ an attorney of such party's own choice;
(2) Obtain a court appointed attorney if the court determines that such party is an indigent person; or
(3) Waive the right to an attorney.

15-11-104.
(a) The court shall appoint a guardian ad litem for a child alleged to be dependent.
(b) A child's attorney may serve as the child's guardian ad litem unless or until there is conflict of interest between the attorney's duty to the child as the child's attorney and the attorney's considered opinion of the child's best interests as guardian ad litem.
(c) A party to the proceeding, the employee or representative of a party to the proceeding, or any other individual with a conflict of interest shall not be appointed as guardian ad litem.
(d) A court shall appoint a CASA to act as guardian ad litem whenever possible, and a CASA may be appointed in addition to an attorney who is serving as a guardian ad litem.
(e) A lay guardian shall not engage in activities which could reasonably be construed as the practice of law.
(f) Before the appointment as a guardian ad litem, such person shall have received training appropriate to the role as guardian ad litem which is administered or approved by the Office of the Child Advocate for the Protection of Children. For attorneys, preappointment guardian ad litem training shall be satisfied within the attorney's existing continuing legal education obligations and shall not require the attorney to complete additional training hours in addition to the hours currently required by the State Bar of Georgia.
(g) Any volunteer guardian ad litem authorized and acting in good faith, in the absence of fraud or malice and in accordance with the duties required by this Code section, shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed as a result of taking or failing to take any action pursuant to this Code section.
(h) The court may remove a guardian ad litem from a case upon finding that the guardian ad litem acted in a manner contrary to a child's best interests, has not

appropriately participated in the case, or if the court otherwise deems continued service as inappropriate or unnecessary.

(i) A guardian ad litem shall not engage in ex parte contact with the court except as otherwise provided by law.

(j) The court, the child, or any other party may compel a guardian ad litem for a child to attend a trial or hearing relating to the child and to testify, if appropriate, as to the proper disposition of a proceeding.

(k) The court shall ensure that parties have the ability to challenge recommendations made by the guardian ad litem or the factual basis for the recommendations in accordance with the rules of evidence applicable to the specific proceeding.

(l) A guardian ad litem's report shall not be admissible into evidence prior to the disposition hearing except in accordance with the rules of evidence applicable to the specific proceeding.

(m) A guardian ad litem who is not also serving as attorney for a child may be called as a witness for the purpose of cross-examination regarding the guardian ad litem's report even if the guardian ad litem is not identified as a witness by a party.

15-11-105.

(a) A guardian ad litem shall advocate for a child's best interests in the proceeding for which the guardian ad litem has been appointed.

(b) In determining the child's best interests, a guardian ad litem shall consider and evaluate all of the factors affecting the best interests of the child in the context of a child's age and developmental needs. Such factors shall include:

(1) The physical safety and welfare of the child, including food, shelter, health, and clothing;

(2) The mental and physical health of all individuals involved;

(3) Evidence of domestic violence in any current, past, or considered home for the child;

(4) A child's background and ties, including familial, cultural, and religious;

(5) A child's sense of attachments, including a child's sense of security, a child's sense of familiarity, and continuity of affection for the child;

(6) The least disruptive placement alternative for a child;

(7) A child's wishes and long-term goals;

(8) A child's community ties, including church, school, and friends;

(9) A child's need for permanence which includes the child's need for stability and continuity of relationships with a parent, siblings, and other relatives;

(10) The uniqueness of every family and child;

(11) The risks attendant to entering and being in substitute care;

(12) The preferences of the persons available to care for the child; and

(13) Any other factors considered by the guardian ad litem to be relevant and proper to his or her determination.

(c) Unless a child's circumstances render the following duties and responsibilities unreasonable, a guardian ad litem shall at a minimum:

(1) Maintain regular and sufficient in-person contact with the child and, in a manner appropriate to the child's developmental level, meet with and interview the child prior to custody hearings, adjudication hearings, disposition hearings, judicial reviews, and any other hearings scheduled in accordance with the provisions of this chapter;
(2) In a manner appropriate to the child's developmental level, ascertain the child's needs, circumstances, and views;
(3) Conduct an independent assessment to determine the facts and circumstances surrounding the case;
(4) Consult with the child's attorney, if appointed separately, regarding the issues in the proceeding;
(5) Communicate with health care, mental health care, and other professionals involved with the child's case;
(6) Review case study and educational, medical, psychological, and other relevant reports relating to the child and the respondents;
(7) Review all court related documents;
(8) Attend all court hearings and other proceedings to advocate for the child's best interests;
(9) Advocate for timely court hearings to obtain permanency for the child;
(10) Protect the cultural needs of the child;
(11) Contact the child prior to any proposed change in the child's placement;
(12) Contact the child after changes in the child's placement;
(13) Request a judicial citizen review panel or judicial review of the case;
(14) Attend citizen panel review hearings concerning the child and if unable to attend the hearings, forward to the panel a letter setting forth the child's status during the period since the last citizen panel review and include an assessment of the DFCS permanency and treatment plans;
(15) Provide written reports to the court and the parties on the child's best interests which shall include, but not be limited to, recommendations regarding placement of the child, updates on the child's adjustment to placement, DFCS's and respondent's compliance with prior court orders and treatment plans, the child's degree of participation during visitations, and any other recommendations based on the best interests of the child;
(16) When appropriate, encourage settlement and the use of any alternative forms of dispute resolution and participate in such processes to the extent permitted; and
(17) Monitor compliance with the case plan and all court orders.
(d)(1) Except as provided in Article 12 of this chapter, a guardian ad litem shall receive notices, pleadings, or other documents required to be provided to or served upon a party and shall be notified of all court hearings, judicial reviews, judicial citizen review panels, and other significant changes of circumstances of the child's case to the same extent and in the same manner as the parties to the case are notified of such matters.

(2) A guardian ad litem shall be notified of the formulation of any case plan of the child's case and may be given the opportunity to be heard by the court about such plans.

(e) Upon presentation of an order appointing a guardian ad litem, such guardian ad litem shall have access to all records and information relevant to a child's case when such records and information are not otherwise protected from disclosure pursuant to Code Section 19-7-5. Such records and information shall not include records and information provided under Article 12 of this chapter or provided under Chapter 4A of Title 49.

(f) All records and information acquired or reviewed by a guardian ad litem during the course of his or her appointment shall be deemed confidential and shall not be disclosed except as ordered by the court.

(g) Except as provided in Code Section 49-5-41, regarding access to records, any guardian ad litem who discloses confidential information obtained during the course of his or her appointment, in violation of law, shall be guilty of a misdemeanor. A guardian ad litem shall maintain all information and records regarding mental health, developmental disability as defined in Code Section 37-1-1, and substance abuse according to the confidentiality requirements contained in Code Section 37-3-166, 37-4-125, or 37-7-166, as applicable.

(h) In the event of a change of venue, the original guardian ad litem shall, as soon as possible, communicate with the appointed guardian ad litem in the new venue and shall forward all pertinent information to the new guardian ad litem.

15-11-106.

(a)(1) Before executing duties as a CASA, and upon completion of all the requirements of an affiliate court appointed special advocate program, a CASA shall be sworn in by a judge of the juvenile court in the court or circuit in which he or she wishes to serve. A CASA shall not be assigned a case prior to being sworn in by a juvenile court judge as set forth in this paragraph.

(2) If a juvenile court judge determines that a child involved in a dependency proceeding needs a CASA, the judge shall have the authority to appoint a CASA, and in such circumstance shall sign an order appointing a CASA at the earliest possible stage of the proceedings. Such order shall impose on a CASA all the duties, rights, and responsibilities set forth in this Code section and Code Sections 15-11-104 and 15-11-105.

(b) The role of a CASA in juvenile court dependency proceedings shall be to advocate for the best interests of the child.

(c) In addition to the reasons stated in subsection (h) of Code Section 15-11-104, the court may discharge a CASA upon finding that the CASA has acted in a manner contrary to the mission and purpose of the affiliate court appointed special advocate program.

15-11-107.
(a) A parent, guardian, or legal custodian's reliance on prayer or other religious nonmedical means for healing in lieu of medical care, in the exercise of religious beliefs, shall not be the sole basis for considering his or her child to be a dependent child; provided, however, that the religious rights of a parent, guardian, or legal custodian shall not limit the access of a child to medical care in a life-threatening situation or when the condition will result in serious disability.
(b) In order to make a determination as to whether a child is in a life-threatening situation or that the child's condition will result in serious disability, the court may order a medical evaluation of the child.
(c) If the court determines, on the basis of any relevant evidence before the court, including the court ordered medical evaluation and the affidavit of the attending physician, that a child is in a life-threatening situation or that a child's condition will result in serious disability, the court may order that medical treatment be provided for a child.
(d) A child whose parent, guardian, or legal custodian inhibits or interferes with the provision of medical treatment in accordance with a court order shall be considered to be dependent and the court may find the parent, guardian, or legal custodian in contempt and enter any order authorized by and in accordance with the provisions of Code Section 15-11-31.

15-11-108.
(a) The court shall give to all parties written notice of the date, time, place, and purpose of the following postadjudication hearings or reviews:
(1) Nonreunification hearings;
(2) Disposition hearings;
(3) Periodic review hearings;
(4) Periodic reviews by judicial citizen review panel;
(5) Permanency plan hearings;
(6) Termination of parental rights hearings; and
(7) Termination of parental rights review hearings.
(b) Issuance and service of summons, when appropriate, shall comply with the requirements of Code Sections 15-11-160 and 15-11-161.
(c) Unless otherwise provided in this chapter, written notice shall be delivered to the recipient at least 72 hours before the hearing or review by United States mail, e-mail, or hand delivery.

15-11-109.
(a) In advance of each hearing or review, DFCS shall give written notice of the date, time, place, and purpose of the review or hearing to the caregiver of the child, the foster parent of the child, any preadoptive parent, or any relative providing care for the child including the right to be heard. The written notice shall be delivered to the recipient at least 72 hours before the review or hearing, except in the case of preliminary protective

hearings or emergency hearings when such notice is not possible, by United States mail, e-mail, or hand delivery.
(b) Notice of a hearing or review shall not be construed to require a legal custodian, foster parent, preadoptive parent, or relative caring for the child to be made a party to the hearing or review solely on the basis of such notice and opportunity to be heard.

15-11-110.
(a) Upon request of an attorney for the parent, guardian, legal custodian, child, or petitioner, the court may continue any hearing under this article beyond the time limit within which the hearing is otherwise required to be held; provided, however, that no continuance shall be granted that is contrary to the interests of the child. In considering a child's interests, the court shall give substantial weight to a child's need for prompt resolution of his or her custody status, the need to provide a child with a stable environment, and the damage to a child of prolonged temporary placements.
(b) Continuances shall be granted only upon a showing of good cause and only for that period of time shown to be necessary by the evidence presented at the hearing on the motion. Whenever any continuance is granted, the facts proved which require the continuance shall be entered in the court record.
(c) A stipulation between attorneys or the convenience of the parties shall not constitute good cause. Except as otherwise provided by judicial rules governing attorney conflict resolution, a pending criminal prosecution or family law matter shall not constitute good cause. The need for discovery shall not constitute good cause.
(d) In any case in which a parent, guardian, legal custodian, or child is represented by an attorney and no objection is made to an order continuing any such hearing beyond the time limit, the absence of such an objection shall be deemed a consent to the continuance; provided, however, that even with consent, the court shall decide whether to grant the continuance in accordance with subsection (a) of this Code section.

15-11-111.
(a) At any hearing held with respect to a child, the court in its discretion, and based upon the evidence, may enter an order:
(1) Accepting or rejecting any DFCS report;
(2) Ordering an additional evaluation; or
(3) Undertaking such other review as it deems necessary and appropriate to determine the disposition that is in the child's best interests.
(b) The court's order:
(1) May incorporate all or part of the DFCS report; and
(2) Shall include findings of fact which reflect the court's consideration of the oral and written testimony offered by all parties, as well as nonparties, who are required to be provided with notice and a right to be heard in any hearing to be held with respect to the child, and DFCS.

15-11-112.
(a) When a child is removed from his or her home the court shall order reasonable visitation that is consistent with the age and developmental needs of the child if the court finds that it is in the child's best interests. The court's order shall specify the frequency, duration, and terms of visitation including whether or not visitation shall be supervised or unsupervised.
(b) There shall be a presumption that visitation shall be unsupervised unless the court finds that unsupervised visitation is not in the child's best interests.
(c) Within 30 days of the court finding that there is a lack of substantial progress towards completion of a case plan, the court shall review the terms of visitation and determine whether the terms continue to be appropriate for the child or whether the terms need to be modified.

15-11-113.
When a child is alleged to be dependent, the date the child is considered to have entered foster care shall be the date of the first judicial finding that a child has been subjected to child abuse or neglect or the date that is 60 days after the date on which a child is removed from his or her home, whichever is earlier.

Part 2

15-11-125.
(a) A proceeding under this article may be commenced:
(1) In the county in which a child legally resides; or
(2) In the county in which a child is present when the proceeding is commenced if the child is present without a parent, guardian, or legal custodian or the acts underlying the dependency allegation are alleged to have occurred in that county.
(b) For the convenience of the parties, the court may transfer the proceeding to the county in which a child legally resides. If the proceeding is transferred, certified copies of all legal and social documents and records pertaining to the proceeding on file with the clerk of court shall accompany the transfer.

Part 3

15-11-130.
(a) Notwithstanding Code Sections 15-11-133 and 15-11-135, DFCS shall be authorized to provide emergency care and supervision to any child without seeking a court order for a period not to exceed seven days when:
(1) As a result of an emergency or illness, the person who has physical and legal custody of a child is unable to provide for the care and supervision of the child, and such person or a law enforcement officer, emergency personnel employed by a licensed ambulance provider, fire rescue personnel, or a hospital administrator or his or her designee requests that DFCS exercise such emergency custody; and

(2) The child is not at imminent risk of abuse or neglect, other than the risks arising from being without a caretaker.

(b) During the period when a child is in the temporary care and supervision of DFCS, DFCS shall endeavor to place the child with a relative of the parent, guardian, or legal custodian, in foster care, or in emergency foster care or shall make other appropriate placement arrangements. DFCS shall have the same rights and powers with regard to the child as does the parent, guardian, or legal custodian including the right to consent to medical treatment.

(c) Immediately upon receiving custody of a child, DFCS shall begin a diligent search for a relative or other designee of the parent who can provide for the care and supervision of the child.

(d) At any time during such seven-day period, and upon notification to DFCS that the parent, guardian, or legal custodian or an expressly authorized relative, or designee thereof, is able to provide care to and exercise control over the child, DFCS shall release the child to the person having custody of the child at the time the child was taken into DFCS custody or to such person's authorized relative or designee.

(e) Upon the expiration of such seven-day period, if the child has not been released or if DFCS determines that there is an issue of neglect, abandonment, or abuse, DFCS shall promptly contact a juvenile court intake officer or bring the child before the juvenile court. If, upon making an investigation, the juvenile court intake officer finds that foster care is warranted for the child, then, for purposes of this chapter, the child shall be deemed to have been placed in foster care at the time such finding was made and DFCS may file a dependency petition.

(f) DFCS and its successors, agents, assigns, and employees shall be immune from any and all liability for providing care and supervision in accordance with this Code section, for consenting to medical treatment for the child, and for releasing the child.

15-11-131.

(a) Notwithstanding Code Section 15-11-133, a physician, licensed to practice medicine in this state who is treating a child may take or retain temporary protective custody of the child, without a court order and without the consent of a parent, guardian, or legal custodian, provided that:

(1) The physician has reasonable cause to believe that the child is in a circumstance or condition that presents an imminent danger to the child's life or health as a result of suspected abuse or neglect; or

(2) There is reasonable cause to believe that the child has been abused or neglected and there is not sufficient time for a court order to be obtained for temporary custody of the child before the child may be removed from the presence of the physician.

(b) A physician holding a child in temporary protective custody shall:

(1) Make reasonable and diligent efforts to inform the parents, guardian, or legal custodian of the child of the whereabouts of the child;

(2) As soon as possible, make a report of the suspected abuse or neglect which caused him or her to take temporary custody of the child and inform DFCS that the child has been held in temporary custody; and

(3) Not later than 24 hours after the child is held in temporary custody:

(A) Contact a juvenile court intake officer, and inform such intake officer that the child is in imminent danger to his or her life or health as a result of suspected abuse or neglect; or

(B) Contact a law enforcement officer who shall take the child and promptly bring the child before a juvenile court intake officer.

(c) A child who meets the requirements for inpatient admission shall be retained in the hospital or institution until such time as the child is medically ready for discharge. Upon notification by the hospital or institution to DFCS that a child who is not eligible for inpatient admission or who is medically ready for discharge has been taken into custody by a physician and the child has been placed in DFCS custody, DFCS shall take physical custody of the child within six hours of being notified.

(d) If the juvenile court intake officer determines that the child is to be placed in foster care and the court orders that the child be placed in DFCS custody, then:

(1) If the child remains in the physical care of the physician, DFCS shall take physical possession of the child within six hours of being notified by the physician, unless the child meets the criteria for admission to a hospital or other medical institution or facility; or

(2) If the child has been brought before the court by a law enforcement officer, DFCS shall promptly take physical possession of the child.

(e) If the juvenile court intake officer determines that the child should not be placed in foster care, the child shall be released.

(f) If the child is placed in foster care, then the court shall notify the child's parents, guardian, or legal custodian, the physician, and DFCS of the preliminary protective hearing which is to be held within 72 hours.

(g) If after the preliminary protective hearing the child is not released, DFCS shall file a petition alleging dependency in accordance with this article, provided that there is a continued belief that the child's life or health is in danger as a result of suspected abuse or neglect.

(h) Any hospital or physician authorized and acting in good faith and in accordance with acceptable medical practice in the treatment of a child under this Code section shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed as a result of taking or failing to take any action pursuant to this Code section. This Code section shall not be construed as imposing any additional duty not already otherwise imposed by law.

15-11-132.

(a) The facts supporting the issuance of an order of removal may be relayed orally, including telephonically, to the judge or a designated juvenile court intake officer, and

the order directing that a child be taken into custody may be issued orally or electronically.

(b) When a child is taken into custody under exceptional circumstances, an affidavit or sworn complaint containing the information previously relayed orally, including telephonically, shall be filed with the clerk of the court the next business day, and a written order shall be issued if not previously issued. The written order shall include the court's findings of fact supporting the necessity for the child's removal in order to safeguard the child's welfare and shall designate the child's legal custodian.

(c) The affidavit or sworn complaint filed after the child has been placed shall indicate whether the child was released to the child's parent, guardian, or legal custodian or remains removed.

(d) DFCS shall promptly notify the parent, guardian, or legal custodian of the nature of the allegations forming the basis for taking the child into custody and, if the child is not released, of the time and place of the preliminary protective hearing.

15-11-133.

(a) A child may be removed from his or her home, without the consent of the child's parents, guardian, or legal custodian:

(1) Pursuant to an order of the court under this article; or

(2) By a law enforcement officer or duly authorized officer of the court if the child is in imminent danger of abuse or neglect if he or she remains in the home.

(b) Upon removing a child from his or her home, the law enforcement officer or duly authorized officer of the court shall:

(1) Immediately deliver the child to a medical facility if the child is believed to suffer from a serious physical condition or illness which requires prompt treatment, and, upon delivery, shall promptly contact DFCS;

(2) Bring the child immediately before the juvenile court or promptly contact a juvenile court intake officer; and

(3) Promptly give notice to the court and the child's parents, guardian, or legal custodian that the child is in protective custody, together with a statement of the reasons for taking the child into protective custody.

(c) The removal of child from his or her home by a law enforcement officer shall not be deemed an arrest.

(d) A law enforcement officer removing a child from his or her home has all the privileges and immunities of a law enforcement officer making an arrest.

(e) A law enforcement officer shall promptly contact a juvenile court intake officer for issuance of a court order once such officer has taken a child into protective custody and delivered the child to a medical facility.

(f) A juvenile court intake officer shall immediately determine if the child should be released, remain in protective custody, or be brought before the court upon being contacted by a law enforcement officer, duly authorized officer of the court, or DFCS that a child has been taken into protective custody.

15-11-134.
(a) Any order authorizing the removal of a child from his or her home shall be based on a finding by the court that continuation in the home would be contrary to the child's welfare.
(b) Such findings shall be made on an individualized case-by-case basis and shall be documented in the court's written order.

15-11-135.
(a) A child taken into custody shall not be placed in foster care prior to the hearing on the petition unless:
(1) Foster care is required to protect the child;
(2) The child has no parent, guardian, or legal custodian or other person able to provide supervision and care and return him or her to the court when required; or
(3) An order for the child's foster care has been made by the court.
(b) No child alleged or adjudicated to be dependent shall be detained in any jail, adult lockup, or adult detention facility, nor shall a child be detained in a regional youth detention center or youth development center unless the child is also alleged or adjudicated to be delinquent, and the court determines that the requirements for detention under Article 7 of this chapter are met.
(c) A child alleged to be dependent may be placed in foster care only in:
(1) A licensed or approved foster home or a home approved by the court which may be a public or private home or the home of the noncustodial parent or of a relative;
(2) A facility operated by a licensed child welfare agency; or
(3) A licensed shelter care facility approved by the court.
(d) The actual physical placement of a child pursuant to this Code section shall require the approval of the judge of the juvenile court or his or her designee.
(e) In any case in which a child is taken into protective custody of DFCS, the child shall be placed together with any siblings who are also in protective custody, to the extent that it is practical and appropriate, or DFCS shall include a statement in its report and case plan of continuing efforts to place the siblings together or why such efforts are not appropriate. If siblings are not placed together, DFCS shall provide for frequent visitation or other ongoing interaction between the siblings, unless DFCS documents that such frequent visitation or other ongoing interaction would be contrary to the safety or well-being of any of the siblings.

Part 4

15-11-145.
(a) If a child alleged to be dependent is removed from his or her home and is not returned home, the preliminary protective hearing shall be held promptly and not later than 72 hours after the child is placed in foster care; provided, however, that if the 72 hour time frame expires on a weekend or legal holiday, the hearing shall be held on the next day which is not a weekend or legal holiday.

(b) Reasonable oral or written notice of the preliminary protective hearing, stating the time, place, and purpose of the hearing, shall be given to the child and, if such person can be found, to the child's parent, guardian, or legal custodian.

(c) If a parent, guardian, or legal custodian has not been notified of the preliminary protective hearing and did not appear or waive appearance at such hearing and thereafter files an affidavit showing such facts, the court shall rehear the matter without unnecessary delay and shall order the child's release unless it appears from such hearing that the child's foster care is warranted or required.

(d) The following persons shall have the right to participate in the preliminary protective hearing:

(1) The child's parent, guardian, or legal custodian, unless such person cannot be located or fails to appear in response to the notice;

(2) The child's attorney and guardian ad litem if a guardian ad litem has been appointed;

(3) The child, unless the court finds, after considering evidence of harm to the child that will result from the child's presence at the proceeding, that being present is not in the child's best interests;

(4) The parent's attorney if an attorney has been retained or appointed;

(5) The assigned DFCS caseworker; and

(6) The attorney for DFCS.

(e) The court may allow the following parties to be present at the preliminary protective hearing, if the court finds it is in the best interests of the child:

(1) Any relative or other person who has demonstrated an ongoing commitment to the child with whom the child might be placed;

(2) DFCS employees involved in the case;

(3) An advocate as requested by the parent, guardian, or legal custodian; and

(4) Other persons who have knowledge of or an interest in the welfare of the child.

(f) At the commencement of the preliminary protective hearing, the court shall inform the parties of:

(1) The contents of the complaint in terms understandable to the child and parent, guardian, or legal custodian;

(2) The nature of the proceedings in terms understandable to the child and parent, guardian, or legal custodian;

(3) Their due process rights including their right to an attorney and to an appointed attorney if they are indigent persons, the right to call witnesses and to cross-examine all witnesses, the right to present evidence, and the right to a trial by the court on the allegations in the complaint or petition.

(g) If the child is not released at the preliminary protective hearing, a petition for dependency shall be made and presented to the court within five days of such hearing.

15-11-146.

(a) At the preliminary protective hearing, the court shall determine:

(1) Whether there is probable cause to believe the child is dependent; and

(2) Whether protective custody of the child is necessary to prevent abuse or neglect pending the hearing on the dependency petition.

(b) The court:

(1) On finding that the complainant has not proved either of the required elements prescribed in subsection (a) of this Code section, shall dismiss the case and shall return the child to the child's parent, guardian, or legal custodian;

(2) On finding that the complainant has not met the burden of proving that protective custody is necessary, shall return the child to the child's parent, guardian, or legal custodian pending the hearing on the dependency petition; or

(3) On finding that the complainant has met the burden prescribed in subsection (a) of this Code section, may place the child in the temporary custody of DFCS pending the hearing on the dependency petition.

(c) A court's order removing a child from the child's home shall be based upon a finding that:

(1) Continuation in the home would be contrary to the child's welfare; and

(2) Removal is in the child's best interests.

(d) The court shall make written findings as to whether DFCS has made reasonable efforts to prevent or eliminate the need for removal of the child from the home and to make it possible for the child to safely return home. When the court finds that no services were provided but that reasonable services would not have eliminated the need for protective custody, the court shall consider DFCS to have made reasonable efforts to prevent or eliminate the need for protective custody. The court shall include in the written findings a brief description of what preventive and reunification efforts were made by DFCS.

(e) In determining whether a child shall be removed or continued out of the home, the court shall consider whether the provision of reasonable services can prevent or eliminate the need to separate the family. The court shall make a written finding in every order of removal that describes why it is in the best interests of the child that the child be removed from the home or continued in foster care.

(f) To aid the court in making the required written findings, DFCS shall present evidence to the court outlining the reasonable efforts made to prevent taking the child into protective custody and to provide services to make it possible for the child to safely return home and why protective custody is in the best interests of the child.

Part 5

15-11-150.

A DFCS employee, a law enforcement officer, or any person who has actual knowledge of the abuse, neglect, or abandonment of a child or is informed of the abuse, neglect, or abandonment of a child that he or she believes to be truthful may make a petition alleging dependency.

15-11-151.
(a) If a child was removed from his or her home, the petition alleging dependency shall be filed within five days of the preliminary protective hearing.
(b) If the child was not removed from his or her home or if the child was removed from his or her home but was released from protective custody at the preliminary protective hearing, the petition alleging dependency shall be filed within 30 days of the preliminary protective hearing.
(c) Upon a showing of good cause and notice to all parties, the court may grant a requested extension of time for filing a petition alleging dependency in accordance with the best interests of the child. The court shall issue a written order reciting the facts justifying the extension.
(d) If a petition alleging dependency is not filed within the required time frame, the complaint shall be dismissed without prejudice.

15-11-152.
A petition alleging dependency shall be verified and may be on information and belief and shall set forth plainly and with particularity:
(1) The facts which bring the child within the jurisdiction of the court, with a statement that it is in the best interests of the child and the public that the proceeding be brought;
(2) The name, date of birth, and residence address of the child on whose behalf the petition is brought;
(3) The name and residence address of the parent, guardian, or legal custodian of the child; or, if neither the child's parent nor the child's guardian nor the child's legal custodian resides or can be found within the state or if such place of residence address is unknown, the name of any known adult relative residing within the county or, if there is none, the known adult relative residing nearest to the location of the court;
(4) Whether the child is in protective custody and, if so, the place of his or her foster care and the time the child was taken into protective custody; and
(5) Whether any of the matters required by this Code section are unknown.

15-11-153.
(a) The petitioner may amend the petition alleging dependency at any time:
(1) To cure defects of form; and
(2) Prior to the adjudication hearing, to include new allegations of fact or requests for adjudication.
(b) When the petition is amended after the initial service to include new allegations of fact or requests for adjudication, the amended petition shall be served on the parties and provided to the attorneys of record.
(c) The court shall grant the parties such additional time to prepare as may be required to ensure a full and fair hearing; provided, however, that when a child is in protective custody or in detention, the adjudication hearing shall not be delayed more than ten days beyond the time originally fixed for the hearing.

Part 6

15-11-160.
(a) The court shall direct the issuance of a summons to the child if the child is 14 years of age or older, the child's parent, guardian, or legal custodian, the child's attorney, the child's guardian ad litem, if any, and any other persons who appear to the court to be proper or necessary parties to the proceeding, requiring them to appear before the court at the time fixed to answer the allegations of the petition alleging dependency. A copy of the petition alleging dependency shall accompany the summons unless the summons is served by publication, in which case the published summons shall indicate the general nature of the allegations and where a copy of the petition alleging dependency can be obtained.
(b) The summons shall state that a party is entitled to an attorney in the proceedings and that the court will appoint an attorney if the party is an indigent person.
(c) The court may endorse upon the summons an order directing the parent, guardian, or legal custodian of the child to appear personally at the hearing and directing the person having the physical custody or control of the child to bring the child to the hearing.
(d) A party other than the child may waive service of summons by written stipulation or by voluntary appearance at the hearing.

15-11-161.
(a) If a party to be served with a summons is within this state and can be found, the summons shall be served upon him or her personally as soon as possible and at least 72 hours before the adjudication hearing.
(b) If a party to be served is within this state and cannot be found but his or her address is known or can be ascertained with reasonable diligence, the summons shall be served upon such party at least five days before the adjudication hearing by mailing him or her a copy by registered or certified mail or statutory overnight delivery, return receipt requested.
(c) If a party to be served is outside this state but his or her address is known or can be ascertained with reasonable diligence, service of the summons shall be made at least five days before the adjudication hearing either by delivering a copy to such party personally or by mailing a copy to him or her by registered or certified mail or statutory overnight delivery, return receipt requested.
(d) If, after justifiable effort, a party to be served with a summons cannot be found and such party's address cannot be ascertained, whether he or she is within or outside this state, the court may order service of the summons upon him or her by publication. The adjudication hearing shall not be earlier than five days after the date of the last publication.
(e)(1) Service by publication shall be made once a week for four consecutive weeks in the official organ of the county where the petition alleging dependency has been filed. Service shall be deemed complete upon the date of the last publication.

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

(3) Within 15 days after the filing of the order of service by publication, the clerk of court shall mail a copy of the notice, a copy of the order of service by publication, and a copy of the petition alleging dependency to the last known address of the party being served by publication.

(f) Service of the summons may be made by any suitable person under the direction of the court.

(g) The court may authorize the payment from county funds of the costs of service and of necessary travel expenses incurred by persons summoned or otherwise required to appear at the hearing.

15-11-162.

(a) In the event a parent, guardian, or legal custodian of the child willfully fails to appear personally at a hearing after being ordered to so appear or the parent, guardian, or legal custodian of the child willfully fails to bring the child to a hearing after being so directed, the court may issue an order against the person, directing the person to appear before the court to show cause why he or she should not be held in contempt of court.

(b) If the parent, guardian, or legal custodian fails to appear in response to an order to show cause, the court may issue a bench warrant directing that the parent, guardian, or legal custodian be brought before the court without delay to show cause why he or she should not be held in contempt and the court may enter any order authorized by and in accordance with the provisions of Code Section 15-11-31.

15-11-163.

(a) If service of summons upon a party is made by publication, the court may conduct a provisional hearing upon the allegations of the petition alleging dependency and enter an interlocutory order of disposition if:

(1) The petition alleges dependency of the child;

(2) The summons served upon any party:

(A) States that prior to the final hearing on such petition a provisional hearing will be held at a specified time and place;

(B) Requires the party who is served other than by publication to appear and answer the allegations of the petition alleging dependency at the provisional hearing;

(C) States further that findings of fact and orders of disposition made pursuant to the provisional hearing will become final at the final hearing unless the party served by publication appears at the final hearing; and

(D) Otherwise conforms to the requirements of Code Section 15-11-160; and

(3) The child is personally before the court at the provisional hearing.

(b) Findings of fact and orders of disposition shall have only interlocutory effect pending final hearing on the petition alleging dependency.

(c) If the party served by publication fails to appear at the final hearing on the petition alleging dependency, the findings of fact and interlocutory orders made shall become final without further evidence. If the party appears at the final hearing, the findings and orders shall be vacated and disregarded and the hearing shall proceed upon the allegations of such petition without regard to this Code section.

Part 7

15-11-170.

(a) In all cases under this article, any party shall, upon written request to the party having actual custody, control, or possession of the material to be produced, have full access to the following for inspection, copying, or photographing:

(1) The names and telephone numbers of each witness likely to be called to testify at the hearing by another party;

(2) A copy of any formal written statement made by the child who is alleged to be dependent or any witness that relates to the subject matter concerning the testimony of the witness that a party intends to call as a witness at the hearing;

(3) Except as otherwise provided in subsection (b) of this Code section, any scientific or other report which is intended to be introduced at any hearing or that pertains to physical evidence which is intended to be introduced;

(4) Any drug screen concerning the child who is alleged to be dependent or his or her parent, guardian, or legal custodian;

(5) Any case plan concerning the child who is alleged to be dependent or his or her parent, guardian, or legal custodian;

(6) Any visitation schedule related to the child who is alleged to be dependent;

(7) Photographs and any physical evidence which are intended to be introduced at any hearing;

(8) Copies of the police incident report regarding an occurrence which forms part or all of the basis of the petition; and

(9) Any other relevant evidence not requiring consent or a court order under subsection (b) of this Code section.

(b) Upon presentation of a court order or written consent from the appropriate person or persons permitting access to the party having actual custody, control, or possession of the material to be produced, any party shall have access to the following for inspection, copying, or photographing:

(1) Any psychological, developmental, physical, mental or emotional health, or other assessments of the child who is alleged to be dependent or the family, parent, guardian, or legal custodian of such child;

(2) Any school record concerning the child who is alleged to be dependent;

(3) Any medical record concerning the child who is alleged to be dependent;

(4) Transcriptions, recordings, and summaries of any oral statement of the child who is alleged to be dependent or of any witness, except child abuse reports that are confidential pursuant to Code Section 19-7-5 and work product of counsel;

(5) Any family team meeting report or multidisciplinary team meeting report concerning the child who is alleged to be dependent or his or her parent, guardian, or legal custodian;

(6) Supplemental police reports, if any, regarding an occurrence which forms part of all of the basis of the petition; and

(7) Immigration records concerning the child who is alleged to be dependent.

(c) If a party requests disclosure of information pursuant to subsection (a) or (b) of this Code section, it shall be the duty of such party to promptly make the following available for inspection, copying, or photographing to every other party:

(1) The names and last known addresses and telephone numbers of each witness to the occurrence which forms the basis of the party's defense or claim;

(2) Any scientific or other report which is intended to be introduced at the hearing or that pertains to physical evidence which is intended to be introduced;

(3) Photographs and any physical evidence which are intended to be introduced at the hearing; and

(4) A copy of any written statement made by any witness that relates to the subject matter concerning the testimony of the witness that the party intends to call as a witness.

(d) A request for discovery or reciprocal discovery shall be complied with promptly and not later than five days after the request is received or 72 hours prior to any hearing except when later compliance is made necessary by the timing of the request. If the request for discovery is made fewer than 48 hours prior to an adjudicatory hearing, the discovery response shall be produced in a timely manner. If, subsequent to providing a discovery response in compliance with this Code section, the existence of additional evidence is found, it shall be promptly provided to the party making the discovery request.

(e) If a request for discovery or consent for release is refused, application may be made to the court for a written order granting discovery. Motions for discovery shall certify that a request for discovery or consent was made and was unsuccessful despite good faith efforts made by the requesting party. An order granting discovery shall require reciprocal discovery. Notwithstanding the provisions of subsection (a) or (b) of this Code section, the court may deny, in whole or in part, or otherwise limit or set conditions concerning the discovery response upon a sufficient showing by a person or entity to whom a request for discovery is made that disclosure of the information would:

(1) Jeopardize the safety of a party, witness, or confidential informant;
(2) Create a substantial threat of physical or economic harm to a witness or other person;
(3) Endanger the existence of physical evidence;
(4) Disclose privileged information; or
(5) Impede the criminal prosecution of a minor who is being prosecuted as an adult or the prosecution of an adult charged with an offense arising from the same transaction or occurrence.

(f) No deposition shall be taken of a child unless the court orders the deposition, under such conditions as the court may order, on the ground that the deposition would further the purposes of this part.

(g) If at any time during the course of the proceedings it is brought to the attention of the court that a person or entity has failed to comply with an order issued pursuant to this Code section, the court may grant a continuance, prohibit the party from introducing in evidence the information not disclosed, or enter such other order as the court deems just under the circumstances.

(h) Nothing contained in this Code section shall prohibit the court from ordering the disclosure of any information that the court deems necessary for proper adjudication.

(i) Any material or information furnished to a party pursuant to this part shall remain in the exclusive custody of the party and shall only be used during the pendency of the case and shall be subject to such other terms and conditions as the court may provide.

Part 8

15-11-180.

The petitioner shall have the burden of proving the allegations of a dependency petition by clear and convincing evidence.

15-11-181.

(a) The court shall fix a time for the adjudication hearing. If the child is in foster care, the hearing shall be scheduled for no later than ten days after the filing of the petition alleging dependency. If the child is not in foster care, the adjudication hearing shall be held no later than 60 days after the filing of the petition alleging dependency. If adjudication is not completed within 60 days from the date the child was taken into protective custody, the petition alleging dependency may be dismissed without prejudice.

(b) The following persons shall have the right to participate in the adjudication hearing:
(1) The child's parent, guardian, or legal custodian, unless such person cannot be located or fails to appear in response to the notice;
(2) The child's attorney and guardian ad litem, if a guardian ad litem has been appointed;

(3) The child, unless the court finds, after considering evidence of harm to the child that will result from the child's presence at the proceeding, that being present is not in the child's best interests;

(4) The attorneys for the parent, guardian, or legal custodian if attorneys have been retained or appointed;

(5) The assigned DFCS caseworker; and

(6) The attorney for DFCS.

(c) If the court finds it is in the best interests of the child, the court may allow the following to be present at the adjudication hearing:

(1) Any relative or other person who has demonstrated an ongoing commitment to the child with whom the child might be placed;

(2) DFCS employees involved with the case;

(3) An advocate as requested by the parent, guardian, or legal custodian; and

(4) Other persons who have knowledge of or an interest in the welfare of the child.

(d) Except as provided in this subsection, the adjudication hearing shall be conducted in accordance with Title 24. Testimony or other evidence relevant to the dependency of a child or the cause of such condition may not be excluded on any ground of privilege, except in the case of:

(1) Communications between a party and his or her attorney; and

(2) Confessions or communications between a priest, rabbi, or duly ordained minister or similar functionary and his or her confidential communicant.

(e) After hearing the evidence, the court shall make and file specific written findings as to whether the child is a dependent child.

(f) If the court finds that the child is not a dependent child, it shall dismiss the petition alleging dependency and order the child discharged from foster care or other restriction previously ordered.

(g) If the court finds that the child is dependent, the court shall proceed immediately or at a postponed hearing to make a proper disposition of the case.

(h) If the court finds that a child is dependent, the court shall also make and file a finding whether such dependency is the result of substance abuse by a parent, guardian, or legal custodian.

(i) If the disposition hearing is held on the same day as the adjudication hearing, the court shall schedule the dates and times for the first periodic review hearing and for the permanency plan hearing.

Part 9

15-11-190.

If the allegations of the petition alleging dependency are admitted or after an adjudication hearing the court has found the child to be dependent, the court may direct that a written social study and report be made by DFCS.

15-11-191.

Each social study shall include, but shall not be limited to, a factual discussion of each of the following subjects:

(1) What plan, if any, for the return of the child to his or her parent and for achieving legal permanency for the child if efforts to reunify fail, is recommended to the court;

(2) Whether the best interests of the child will be served by granting reasonable visitation rights to his or her other relatives, in order to maintain and strengthen the child's family relationships;

(3) Whether the child has siblings under the court's jurisdiction, and, if so:

(A) The nature of the relationship between the child and his or her sibling;

(B) Whether the siblings were raised together in the same home and whether the siblings have shared significant common experiences or have existing close and strong bonds;

(C) Whether the child expresses a desire to visit or live with his or her sibling and whether ongoing contact is in the child's best interests;

(D) The appropriateness of developing or maintaining the sibling relationships;

(E) If the siblings are not placed together in the same home, why the siblings are not placed together and what efforts are being made to place the siblings together or why those efforts are not appropriate;

(F) If the siblings are not placed together, the frequency and nature of the visits between siblings; and

(G) The impact of the sibling relationship on the child's placement and planning for legal permanence;

(4) The appropriateness of any relative placement; and

(5) Whether the caregiver desires and is willing to provide legal permanency for the child if reunification is unsuccessful.

Part 10

15-11-200.

(a) Within 30 days of the date a child who is placed in DFCS custody is removed from the home and at each subsequent review of the disposition order, DFCS shall submit a written report to the court which shall either:

(1) Include a case plan for a reunification of the family; or

(2) Include a statement of the factual basis for determining that a plan for reunification is not appropriate.

(b) The report submitted by DFCS shall become a discrete part of the case record in a format determined by DFCS and shall be made available to the child if the child is 14 years of age or older, the child's attorney, the child's guardian ad litem, if any, and the parent, guardian, or legal custodian of the child. The contents of the report shall be determined at a meeting to be held by DFCS in consultation with the parent, guardian, or legal custodian and child, when appropriate. The parent, guardian, or legal custodian, the child if the child is 14 years of age or older, the child's attorney, and the

child's guardian ad litem, if any, shall be given written notice of the meeting at least five days in advance of such meeting and shall be advised that the report will be submitted to the court for consideration as an order of the court. The report submitted to the court shall also contain any dissenting recommendations of the judicial citizen review panel, if applicable, and any recommendations of the parent, guardian, or legal custodian, if such are available.

(c) If the court adopts a report that contains a case plan for reunification services, it shall be in effect until modification by the court. The case plan shall address each reason requiring removal and shall, at a minimum, comply with the requirements of Code Section 15-11-201.

(d) If the submitted report contains a proposed case plan for reunification services:

(1) DFCS shall provide the caregiver, the foster parent, and any preadoptive parent or relative providing care for the child with a copy of those portions of the court approved case plan that involve the permanency goal and the services to be provided to the child;

(2) A copy of the report and case plan shall be delivered to the parent, guardian, or legal custodian by United States mail, e-mail, or hand delivery at the same time the report and case plan are transmitted to the court, along with written notice that the report will be considered by the court without a hearing unless, within five days from the date the copy of the report and case plan were delivered, the parent, guardian, or legal custodian requests a hearing before the court to review the report and case plan; and

(3) If no hearing is requested, the court shall enter a disposition order or supplemental order incorporating all elements of the case plan for reunification services which the court finds essential to reunification, specifying what shall be accomplished by all parties before reunification of the family can be achieved.

(e) When a recommendation is made that reunification services are not appropriate and should not be allowed, the report submitted by DFCS shall address each reason requiring removal and shall contain at least the following:

(1) The purpose for which the child was placed in foster care, including a statement of the reasons why the child cannot be adequately and safely protected at home and the harm which may occur if the child remains in the home and a description of the services offered and the services provided to prevent removal of the child from the home;

(2) A clear statement describing all of the reasons supporting a finding that reunification of a child with the child's parent will be detrimental to the child and that reunification services therefore need not be provided, including specific findings as to whether any of the grounds for terminating parental rights exist; and

(3) The statements, provisions, and requirements found in paragraphs (11) and (12) of subsection (b) of Code Section 15-11-201.

15-11-201.

(a) The case plan shall be designed to achieve placement in the most appropriate, least restrictive, and most family-like setting available and in close proximity to the parent's home, consistent with the best interests and special needs of the child, and which considers the placement's proximity to the school in which the child is enrolled at the time of placement.

(b) The case plan shall be developed by DFCS and the child's parent, guardian, or legal custodian and, when appropriate, the child. The case plan shall include, but shall not be limited to, all of the following:

(1) A description of the circumstances that resulted in the child being placed under the jurisdiction of the court and in foster care;

(2) An assessment of the child's and family's strengths and needs and the type of placement best equipped to meet those needs;

(3) A description of the type of home or institution in which the child is to be placed, including a discussion of the safety and appropriateness of the placement;

(4) Specific time-limited goals and related activities designed to enable the safe return of the child to his or her home, or, in the event that return to his or her home is not possible, activities designed to result in permanent placement or emancipation;

(5) Assignment of specific responsibility for accomplishing the planned activities;

(6) The projected date of completion of the case plan objectives;

(7) The date time-limited services will be terminated;

(8) A schedule of visits between the child and his or her siblings and other appropriate family members and an explanation if no visits are scheduled;

(9) When placement is made in a foster family home, group home, or other child care institution that is either a substantial distance from the home of the child's parent, guardian, or legal custodian or out-of-state, the case plan shall specify the reasons why the placement is the most appropriate and is in the best interests of the child;

(10) When an out-of-state group home placement is recommended or made, the case plan shall comply with Code Section 39-4-4, the Interstate Compact on the Placement of Children. In addition, documentation of the recommendation of the multidisciplinary team and the rationale for such particular placement shall be included. The case plan shall also address what in-state services or facilities were used or considered and why they were not recommended;

(11) If applicable, a statement that reasonable efforts have been made and a requirement that reasonable efforts shall be made for so long as the child remains in the custody of the department:

(A) To place siblings removed from their home in the same foster care, kinship care, guardianship, or adoptive placement, unless DFCS documents that such a joint placement would be contrary to the safety or well-being of any of the siblings; and

(B) In the case of siblings removed from their home who are not so jointly placed, for frequent visitation or other ongoing interaction between the siblings, unless DFCS documents that such frequent visitation or other ongoing interaction would be contrary to the safety or well-being of any of the siblings;

(12) Provisions ensuring the educational stability of the child while in foster care, including:

(A) An assurance that the placement of the child in foster care takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement;

(B) An assurance that the state agency has coordinated with appropriate local educational agencies to ensure that the child remains in the school in which the child is enrolled at the time of placement; or

(C) If remaining in such school is not in the best interests of the child, an assurance by DFCS that DFCS and the local educational agencies have cooperated to assure the immediate and appropriate enrollment in a new school, with all of the educational records of the child provided to such new school;

(13) An account of health and education information about the child including school records, immunizations, known medical problems, any known medications the child may be taking, names and addresses of the child's health and educational providers; the child's grade level performance; assurances that the child's placement in foster care takes into account proximity to the school in which the child was enrolled at the time of placement; and other relevant health and educational information;

(14) A recommendation for a permanency plan for the child. If, after considering reunification, adoptive placement, or permanent guardianship, DFCS recommends placement in another planned permanent living arrangement, the case plan shall include documentation of a compelling reason or reasons why termination of parental rights is not in the child's best interests. For purposes of this paragraph, a 'compelling reason' shall have the same meaning as in paragraph (2) of subsection (b) of Code Section 15-11-233;

(15) A statement that the parent, guardian, or legal custodian and the child have had an opportunity to participate in the development of the case plan, to review the case plan, to sign the case plan, and to receive a copy of the plan, or an explanation about why he or she was not able to participate or sign the case plan;

(16) A requirement that the DFCS case manager and staff and, as appropriate, other representatives of the child provide the child with assistance and support in developing a transition plan that is personalized at the direction of the child; includes specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, and work force supports and employment services; and is as detailed as the child may elect in the 90 day period immediately prior to the date on which the child will attain 18 years of age;

(17) For a child in out-of-home care who is 14 years of age or older, a written description of the programs and services which will help the child prepare for the transition from foster care to independent living; and

(18) The identity of the person within DFCS or other agency who is directly responsible for ensuring that the case plan is implemented.

15-11-202.

(a) Except as provided in subsection (a) of Code Section 15-11-203, reasonable efforts shall be made to preserve or reunify families:

(1) Prior to the placement of a child in DFCS custody to prevent the need for removing the child from the child's home; or

(2) To eliminate the need for removal and make it possible for a child to return safely to the child's home at the earliest possible time.

(b) In determining the type of reasonable efforts to be made with respect to a child and in making such reasonable efforts, the child's health and safety shall be the paramount concern.

(c) Reasonable efforts are made upon the exercise of due diligence by DFCS to use appropriate services to meet the needs of the child and the child's family. Services may include those provided by DFCS and other services available in the community.

(d) The court shall be required to review the appropriateness of DFCS's reasonable efforts at each stage of the proceedings.

(e)(1) At the preliminary protective hearing, DFCS has the burden of demonstrating that:

(A) It has made reasonable efforts to prevent placement of a child in foster care;

(B) There are no appropriate services or efforts which could allow the child to safely remain in the home given the particular circumstances of the child and family at the time of the child's removal and so the absence of such efforts was justifiable; or

(C) Reasonable efforts to prevent placement and to reunify the child with the child's family are not required because of the existence of one or more of the circumstances enumerated in subsection (a) of Code Section 15-11-203.

(2) At the adjudication hearing, DFCS has the burden of demonstrating that:

(A) It has made reasonable efforts to eliminate the need for removal of the child from the child's home and to reunify the child with the child's family at the earliest possible time; or

(B) Reasonable efforts to prevent placement and to reunify the child with the child's family are not required because of the existence of one or more of the circumstances enumerated in subsection (a) of Code Section 15-11-203.

(3) At each other hearing, DFCS has the burden of demonstrating that:

(A) It has made reasonable efforts to eliminate the need for removal of the child from the child's home and to reunify the child with the child's family at the earliest possible time; or

(B) It has made reasonable efforts to finalize an alternative permanent home for the child.

(f) When determining whether reasonable efforts have been made, the court shall consider whether services to the child and family were:

(1) Relevant to the safety and protection of the child;

(2) Adequate to meet the needs of the child and family;

(3) Culturally and linguistically appropriate;

(4) Available and accessible;
(5) Consistent and timely; and
(6) Realistic under the circumstances.
(g) A finding that reasonable efforts have not been made shall not preclude the entry of an order authorizing the child's placement when the court finds that placement is necessary for the protection of the child.
(h) When efforts to prevent the need for the child's placement were precluded by an immediate threat of harm to the child, the court may make a finding that reasonable efforts were made if it finds that the placement of the child in the absence of such efforts was justifiable.
(i) Reasonable efforts to place a child for adoption or with a guardian or legal custodian may be made concurrently with reasonable efforts to reunify. When DFCS decides to concurrently make reasonable efforts for both reunification and permanent placement away from the parent, guardian, or legal custodian, DFCS shall disclose its decision and both plans to all parties and obtain approval from the court. When DFCS proceeds on both plans, the court's review of reasonable efforts shall include efforts under both plans.
(j) An order placing or continuing the placement of a child in DFCS custody shall contain, but shall not be limited to, written findings of facts stating:
(1) That the child's continuation in or return to the child's own home would be contrary to the child's welfare;
(2) Whether reasonable efforts have been made to prevent or eliminate the need for placement of the child, unless the court has determined that such efforts are not required or shall cease; and
(3) Whether reasonable efforts should continue to be made to prevent or eliminate the need for placement, unless the court has previously determined that such efforts are not required or shall cease.

15-11-203.
(a) The court may direct that reasonable efforts to eliminate the need for placement of the child shall not be required or shall cease if the court determines and makes written findings of fact that:
(1) The parent has subjected the child to aggravated circumstances;
(2) The parent has been convicted of the murder of another child of the parent;
(3) The parent has been convicted of the voluntary manslaughter of another child of the parent;
(4) The parent has been convicted of aiding or abetting, attempting, conspiring, or soliciting to commit murder or voluntary manslaughter of another child of the parent;
(5) The parent has been convicted of committing a felony assault that results in serious bodily injury to the child or another child of the parent;
(6) The parent has been convicted of rape, sodomy, aggravated sodomy, child molestation, aggravated child molestation, incest, sexual battery, or aggravated sexual battery of the child or another child of the parent;

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

(8) The parental rights of the parent to a sibling have been terminated involuntarily and the circumstances leading to the termination of parental rights to that sibling have not been resolved.

(b) If the court determines that one or more of the circumstances enumerated in subsection (a) of this Code section exist or DFCS has submitted a written report to the court which does not contain a plan for reunification services then:

(1) A permanency plan hearing shall be held for the child within 30 days; and

(2) Reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan and to complete whatever steps are necessary to finalize the permanent placement of the child.

15-11-204.

(a) If the DFCS report does not contain a plan for reunification services, the court shall hold a nonreunification hearing to review the report and the determination that a plan for reunification services is not appropriate.

(b) The nonreunification hearing shall be held no later than 30 days from the time the DFCS report is filed. Notice of the nonreunification hearing shall be provided, by summons, to the child if the child is 14 years of age or older, the child's parent, guardian, or legal custodian, the child's attorney, the child's guardian ad litem, if any, and specified nonparties entitled to notice.

(c) At the nonreunification hearing:

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

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

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

(1) The parent has unjustifiably failed to comply with a previously ordered plan designed to reunite the family;

(2) A child has been removed from the home on at least two previous occasions and reunification services were made available on those occasions;

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

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

(e) If the court has entered an order finding that reasonable efforts to reunify a child with his or her family are not required but the court finds further that referral for termination of parental rights and adoption is not in the best interests of the child, the

court may, upon proper petition, place the child in the custody of a permanent guardian pursuant to the provisions of this article.

Part 11

15-11-210.
(a) If not held in conjunction with the adjudication hearing, the disposition hearing shall be held and completed within 30 days after the conclusion of the adjudication hearing.
(b) The court may consider any evidence, including hearsay evidence, that the court finds to be relevant, reliable, and necessary to determine the needs of the child and the most appropriate disposition.
(c) Before determining the appropriate disposition, the court shall receive in evidence:
(1) The social study report, if applicable, made by DFCS and the child's proposed written case plan. The social study report and case plan shall be filed with the court not less than 48 hours before the disposition hearing;
(2) Any study or evaluation made by a guardian ad litem appointed by the court;
(3) Any psychological, medical, developmental, or educational study or evaluation of the child; and
(4) Other relevant and material evidence as may be offered, including, but not limited to, the willingness of the caregiver to provide legal permanency for the child if reunification is unsuccessful.
(d) Prior to the disposition hearing, and upon request, the parties and their attorneys shall be afforded an opportunity to examine any written reports received by the court.
(e)(1) Portions of written reports received by the court which are not relied on by the court in reaching its decision, which if revealed would be prejudicial to the interests of the child or any party to the proceeding, may be withheld in the court's discretion. Confidential sources of information need not be disclosed.
(2) Parties and their attorneys shall be given the opportunity to controvert written reports received by the court and to cross-examine individuals making such reports.
(f) At the conclusion of the disposition hearing, the court shall set the time and date for the first periodic review hearing and the permanency plan hearing.

15-11-211.
(a) Before final disposition, a reasonably diligent search for a parent or relative of the child or other persons who have demonstrated an ongoing commitment to the child shall be conducted by DFCS.
(b) All adult relatives of the child identified in the search required by subsection (a) of this Code section, subject to exceptions due to family or domestic violence, shall be provided with notice:
(1) Specifying that the child has been or is being removed from parental custody;
(2) Explaining the options the relative has to participate in the care and placement of the child and any options that may be lost by failing to respond to the notice;

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

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

(c) The search required by subsection (a) of this Code section and the notification required by subsection (b) of this Code section shall be completed, documented in writing, and filed with the court within 30 days from the date on which the child was removed from the home.

(d) After the completion of the search required by subsection (a) of this Code section, DFCS shall have a continuing duty to search for relatives or other persons who have demonstrated an ongoing commitment to the child and with whom it may be appropriate to place the child until such relatives or persons are found or until the child is placed for adoption unless DFCS is excused from such search by the court.

15-11-212.

(a) The court may make any of the following orders of disposition or a combination of those best suited to the protection and physical, emotional, mental, and moral welfare of the child:

(1) Permit the child to remain with his or her parent, guardian, or legal custodian subject to conditions and limitations as the court prescribes, including supervision as directed by the court for the protection of the child;

(2) Grant or transfer temporary legal custody to any of these persons or entities:

(A) Any individual, including a biological parent, who, after study by the probation officer or other person or agency designated by the court, is found by the court to be qualified to receive and care for the child;

(B) An agency or other private organization licensed or otherwise authorized by law to receive and provide care for the child;

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

(D) An individual in another state with or without supervision by an appropriate officer pursuant to the requirements of the Code Section 39-4-4, the Interstate Compact on the Placement of Children;

(3) Transfer jurisdiction over the child in accordance with the requirements of Code Section 39-4-4, the Interstate Compact on the Placement of Children;

(4) Order the child and such child's parent, guardian, or legal custodian to participate in counseling or in counsel and advice as determined by the court. Such counseling and counsel and advice may be provided by the court, court personnel, probation officers, professional counselors or social workers, psychologists, physicians, qualified volunteers, or appropriate public, private, or volunteer agencies as directed by the court and shall be designed to assist in deterring future conditions of dependency or other conduct or conditions which would be harmful to the child or society;

(5) Order the parent, guardian, or legal custodian of the child to participate in a court approved educational or counseling program designed to contribute to the ability of the parent, guardian, or legal custodian to provide proper parental care and supervision of the child, including, but not limited to, parenting classes;

(6) Order DFCS to implement and the child's parent, guardian, or legal custodian to cooperate with any plan approved by the court; or

(7) Order temporary child support for a child to be paid by that person or those persons determined to be legally obligated to support the child. In determining such temporary child support, the court shall apply the child support guidelines provided in Code Section 19-6-15 and the implementation and any review of the order shall be held as provided in Code Section 19-6-15. Where there is an existing order of a superior court or other court of competent jurisdiction, the court may order the child support obligor in the existing order to make payments to the child's caretaker on a temporary basis but shall not otherwise modify the terms of the existing order. A copy of the juvenile court's order shall be filed in the clerk's office of the court that entered the existing order. Temporary child support orders entered pursuant to this paragraph shall be enforceable by the court's contempt powers so long as the court is entitled to exercise jurisdiction over the dependency case.

(b) The transfer of temporary legal custody may be subject to conditions and limitations the court may prescribe. Such conditions and limitations shall include a provision that the court shall approve or direct the return of the physical custody of the child to the child's parent, guardian, or legal custodian either upon the occurrence of specified circumstances or at the direction of the court. The return of physical custody of the child to the child's parent, guardian, or legal custodian may be made subject to conditions and limitations the court may prescribe including, but not limited to, supervision for the protection of the child.

(c) A child found to be dependent shall not be committed to or confined in an institution or other facility designed or operated for the benefit of delinquent children unless the child is also found to be delinquent and the child's detention is warranted under the requirements of Article 7 of this chapter.

(d) After transferring temporary legal custody of a child to DFCS, the court may at any time conduct sua sponte a judicial review of the current placement plan being provided to the child. After its review, the court may order DFCS to comply with the current placement plan, order DFCS to devise a new placement plan, or make any other order relative to placement or custody outside DFCS as the court finds to be in the best interests of the child. Placement or a change of custody by the court outside DFCS shall relieve DFCS of further responsibility for the child except for any provision of services ordered by the court to ensure the continuation of reunification services to the family when appropriate.

(e) A court shall not be required to make an order of disposition regarding a child who is discharged from a facility in which the child was hospitalized or habilitated pursuant to Chapter 3, 4, or 7 of Title 37 unless the child is to be discharged into the physical

custody of any person who had such custody when the court made its most recent finding that the child was dependent.

(f) If a child is found to be a dependent child and the dependency is found to have been the result of substance abuse by a parent, guardian, or legal custodian and the court orders transfer of temporary legal custody of the child, the court shall be authorized to further order that legal custody of the child may not be transferred back to the child's parent, guardian, or legal custodian unless the parent, guardian, or legal custodian undergoes substance abuse treatment and random substance abuse screenings and those screenings remain negative for a period of no less than six consecutive months.

(g) If the court finds that DFCS preventive or reunification efforts have not been reasonable but that further efforts could not permit the child to safely remain at home, the court may nevertheless authorize or continue the removal of the child.

(h) When the case plan requires a concurrent permanency plan, the court shall review the reasonable efforts of DFCS to recruit, identify, and make a placement in a home in which a relative, foster parent, or other person who has demonstrated an ongoing commitment to the child has agreed to provide a legally permanent home for the child in the event reunification efforts are not successful.

15-11-213.

Any order of disposition shall contain written findings of fact to support the disposition and case plan ordered. Before making an order of disposition, the court shall consider the following:

(1) Why the best interests and safety of the child are served by the disposition and case plan ordered including but not limited to:

(A) The interaction and interrelationship of the child with his or her parent, siblings, and any other person who may significantly affect the child's best interests;

(B) The child's adjustment to his or her home, school, and community;

(C) The mental and physical health of all individuals involved;

(D) The wishes of the child as to the child's placement;

(E) The wishes of the child's parent, guardian, or legal custodian as to the child's custody;

(F) Whether there exists a relative of the child or other individual who, after study by DFCS, is found to be qualified to receive and care for the child; and

(G) The ability of the parent, guardian, or legal custodian to care for the child in the home so that no harm will result to the child;

(2) The availability of services recommended in the case plan;

(3) What alternative dispositions or services under the case plan were considered by the court and why such dispositions or services were not appropriate in the instant case;

(4) The appropriateness of the particular placement made or to be made by the placing agency; and

(5) Whether reasonable efforts were made to prevent or eliminate the necessity of the child's removal and to reunify the family after removal unless reasonable efforts were

not required. The court's findings should include a brief description of what preventive and reunification efforts were made and why further efforts could not have prevented or eliminated the necessity of removal.

15-11-214.
(a) An order of disposition in a dependency proceeding shall continue in force until the purposes of the order have been accomplished.
(b) The court may terminate an order of disposition of a child adjudicated as dependent on or without an application of a party, if it appears to the court that the purposes of the order have been accomplished.
(c) Unless a child remains in DFCS care or continues to receive services from DFCS, as allowed by Article 5 of this chapter, when a child adjudicated as dependent reaches 18 years of age, all orders affecting him or her then in force terminate and he or she shall be discharged from further obligation or control.

15-11-215.
(a) Not less than five days in advance of any placement change, DFCS shall notify the court, a child who is 14 years of age or older, the child's parent, guardian, or legal custodian, the person or agency with physical custody of the child, the child's attorney, the child's guardian ad litem, if any, and any other attorney of record of such change in the location of the child's placement while the child is in DFCS custody.
(b) If the child's health or welfare may be endangered by any delay in changing the child's placement, the court and all attorneys of record shall be notified of such placement change within 24 hours of such change.
(c) A child who is 14 years of age or older, the child's parent, guardian, or legal custodian, the person or agency with physical custody of the child, the child's attorney or guardian ad litem, if any, and any attorney of record may request a hearing with regard to the child's case plan or the permanency plan in order for the court to consider the change in the location of the child's placement and any changes to the case plan or permanency plan resulting from the child's change in placement location. The hearing shall be held within five days of receiving notice of a change in the location of the child's placement and prior to any such placement change, unless the child's health or welfare may be endangered by any delay in changing the child's placement.
(d) At the hearing to consider the child's case plan and permanency plan, the court shall consider the case plan and permanency plan recommendations made by DFCS, including a recommendation as to the location of the placement of the child, and shall make findings of fact upon which the court relied in determining to reject or accept the case plan or permanency plan and the recommendations made by DFCS, including the location of the child's placement.
(e) If the court rejects DFCS recommendations, the court shall demonstrate that DFCS recommendations were considered and explain why it did not follow such recommendations. If the court rejects the DFCS case plan and permanency plan recommendations, including the change in the location of the placement of the child,

the court may order DFCS to devise a new case plan and permanency plan recommendation, including a new recommendation as to the location of the child within the resources of the department, or make any other order relative to placement or custody outside the department as the court finds to be in the best interests of the child and consistent with the policy that children in DFCS custody should have stable placements.

(f) Placement or a change of legal custody by the court outside DFCS shall relieve DFCS of further responsibility for the child except for any provision of services ordered by the court to ensure the continuation of reunification services to the family when appropriate.

15-11-216.

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

(b) At any periodic review hearing, the paramount concern shall be the health and safety of the child.

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

(1) Whether the child continues to be a dependent child;

(2) Whether the existing case plan is still the best case plan for the child and the child's family and whether any changes need to be made to the case plan including whether a concurrent case plan for nonreunification is appropriate;

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

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

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

(6) Whether all legally required services are being provided to the child, the foster parents if there are foster parents, and the child's parent, guardian, or legal custodian;

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

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

(9) Whether reasonable efforts continue to be made to prevent or eliminate the necessity of the child's removal and to reunify the family after removal, unless reasonable efforts were not required.

(d) If at any review subsequent to the initial 75 day review the court finds that there is a lack of substantial progress towards completion of the case plan, the court shall order DFCS to develop a case plan for nonreunification or a concurrent case plan contemplating nonreunification.
(e) At the time of each review of a child in DFCS custody, DFCS shall notify the court whether and when it intends to proceed with the termination of parental rights.

15-11-217.
(a) In the event the periodic review of a case is conducted by a judicial citizen review panel, the panel shall transmit its report and that of DFCS, including its findings and recommendations together with DFCS proposed revised plan for reunification or other permanency plan, if necessary, to the court and the parent within five days after the review.
(b) DFCS shall provide the caregiver of the child, the foster parents of the child if there are foster parents, and any preadoptive parents or relatives providing care for the child with a copy of those portions of the report of the judicial citizen review panel that involve the recommended permanency goal and the recommended services to be provided to the child.
(c) Any party may request a hearing on the proposed revised plan in writing within five days after receiving a copy of the plan.
(d) If no hearing is requested or scheduled by the court on its own motion, the court shall review the proposed revised plan and enter a supplemental order incorporating the revised plan as part of its disposition in the case. In the event that a hearing is held, the court shall, after hearing evidence, enter a supplemental order incorporating all elements that the court finds essential in the proposed revised plan.
(e) Notwithstanding subsections (c) and (d) of this Code section, if the judicial citizen review panel finds that there is a lack of substantial progress towards completion of the case plan, the court shall schedule a hearing within 30 days of such finding to determine whether a case plan for nonreunification is appropriate.
(f) If the judicial citizen review panel determines that the parent has unjustifiably failed to comply with the ordered plan designed to reunite the family and that such failure is significant enough to warrant consideration of termination of parental rights, the panel may make a recommendation to DFCS and the child's attorney that a petition for termination of parental rights should be prepared.

15-11-218.
(a) At the conclusion of a periodic review hearing, or upon review of a report by a judicial citizen review panel, the court shall issue written findings of fact that include:
(1) Why the child continues to be a dependent child;
(2) Whether the existing case plan is still the best case plan for the child and the child's family and whether any changes need to be made to the case plan including whether a concurrent case plan for nonreunification is appropriate;
(3) The extent of compliance with the case plan by all participants;

(4) The basis for any changes to the child's placement;
(5) Whether visitation is or continues to be appropriate;
(6) A description of progress being made on the permanency plan;
(7) Whether all legally required services are being provided to the child, the foster parents if there are foster parents, and the child's parent, guardian, or legal custodian;
(8) Whether, for a child who is 14 years of age or older, the services needed to assist the child to make a transition from foster care to independent living are being provided; and
(9) Whether reasonable efforts continue to be made to prevent or eliminate the necessity of the child's removal and to reunify the family after removal, unless reasonable efforts were not required.

(b) At the conclusion of a periodic review hearing, or upon review of a report by a judicial citizen review panel, the court shall order one of the following dispositions:
(1) Return the child to the home of his or her parent, guardian, or legal custodian with or without court imposed conditions;
(2) Allow the child to continue in the current custodial placement because the current placement is appropriate for the child's needs;
(3) Allow the child to continue in the current custodial placement although the current placement is no longer appropriate for the child's needs and direct DFCS to devise another plan which shall:
(A) Be submitted within ten days for court approval;
(B) Be furnished to all parties after court approval of the revised plan; and
(C) Be provided to the caregiver of the child, the foster parents of the child if there are foster parents, and any preadoptive parents or relative providing care for the child with a copy of those portions of the court approved revised plan that involve the permanency goal and the services to be provided to the child; or
(4) Make additional orders regarding the treatment plan or placement of the child to protect the child's best interests if the court determines DFCS has failed in implementing any material provision of the case plan or abused its discretion in the placement or proposed placement of the child.

Part 12

15-11-230.
(a) The court shall hold a permanency plan hearing to determine the future permanent legal status of each child in DFCS custody.
(b) The permanency plan hearing, which considers in-state and out-of-state placement options for the child, shall be held:
(1) No later than 30 days after DFCS has submitted a written report to the court which does not contain a plan for reunification services;
(2) For children under seven years of age at the time a petition is filed, no later than nine months after the child has entered foster care;

(3) For children seven years of age and older at the time a petition is filed, no later than 12 months after the child has entered foster care; or

(4) For a child in a sibling group whose members were removed from the home at the same time and in which one member of the sibling group was under seven years of age at the time a petition for dependency was filed, the permanency plan hearing shall be held no later than nine months after the child has entered foster care.

(c) After the initial permanency plan hearing has occurred, a permanency plan hearing shall be held not less frequently than every six months during the time the child continues in DFCS custody or more frequently as deemed necessary by the court until the court determines that the child's permanency plan and goal have been achieved.

(d) The child, the child's parent, guardian, or legal custodian, the child's attorney, the child's guardian ad litem, if any, the foster parents of the child if there are foster parents, any preadoptive parent or relatives providing care for the child, and other parties shall be given written notice of a permanency plan hearing at least five days in advance of such hearing and shall be advised that the permanency plan recommended by DFCS will be submitted to the court for consideration as the order of the court.

(e) The court shall consult with the child, in an age-appropriate manner, regarding the proposed permanency plan for the child.

15-11-231.

At least five days prior to the permanency plan hearing, DFCS shall submit for the court's consideration a report recommending a permanency plan for the child. The report shall include documentation of the steps to be taken by DFCS to finalize the permanent placement for the child and shall include, but shall not be limited to:

(1) The name, address, and telephone number of the child's parent, guardian, or legal custodian;

(2) The date on which the child was removed from his or her home and the date on which the child was placed in foster care;

(3) The location and type of home or facility in which the child is currently held or placed and the location and type of home or facility in which the child will be placed;

(4) The basis for the decision to hold the child in protective custody or to place the child outside of his or her home;

(5) A statement as to the availability of a safe and appropriate placement with a fit and willing relative of the child or other person who has demonstrated an ongoing commitment to the child or a statement as to why placement with the relative or other person is not safe or appropriate;

(6) If as a result of the placement the child has been or will be transferred from the school in which the child is or most recently was enrolled, documentation that a placement that would maintain the child in that school is unavailable, inappropriate, or that the child's transfer to another school would be in the child's best interests;

(7) A plan for ensuring the safety and appropriateness of the placement and a description of the services provided to meet the needs of the child and family, including a discussion of services that have been investigated and considered and are

not available or likely to become available within a reasonable time to meet the needs of the child or, if available, why such services are not safe or appropriate;

(8) The goal of the permanency plan which shall include:

(A) Whether and, if applicable, when the child shall be returned to the child's parent;

(B) Whether and, if applicable, when the child shall be referred for termination of parental rights and adoption;

(C) Whether and, if applicable, when the child shall be placed with a permanent guardian; or

(D) In the case in which DFCS has documented a compelling reason that none of the foregoing options would be in the best interests of the child, whether, and if applicable, when the child shall be placed in another planned permanent living arrangement;

(9) If the child is 14 years of age or older, a description of the programs and services that are or will be provided to assist the child in preparing for the transition from foster care to independent living. The description shall include all of the following:

(A) The anticipated age at which the child will be discharged from foster care;

(B) The anticipated amount of time available in which to prepare the child for the transition from foster care to independent living;

(C) The anticipated location and living situation of the child on discharge from foster care;

(D) A description of the assessment processes, tools, and methods that have been or will be used to determine the programs and services that are or will be provided to assist the child in preparing for the transition from foster care to independent living; and

(E) The rationale for each program or service that is or will be provided to assist the child in preparing for the transition from foster care to independent living, the time frames for delivering such programs or services, and the intended outcome of such programs or services; and

(10) When the recommended permanency plan is referral for termination of parental rights and adoption or placement in another home, a description of specific recruitment efforts such as the use of state, regional, and national adoption exchanges, including electronic exchange systems, to facilitate orderly and timely in-state and interstate placements.

15-11-232.

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

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

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

(3) Compliance with the permanency plan by DFCS and any other service providers, the child's parent, and the child's guardian or legal custodian, if any;

(4) Efforts to involve appropriate service providers in addition to DFCS staff in planning to meet the special needs of the child and the child's parent, guardian, or legal custodian;

(5) Efforts to eliminate the causes for the child's placement outside of his or her home and toward returning the child safely to his or her home or obtaining a permanent placement for the child;

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

(7) Whether, in the case of child placed out-of-state, the out-of-state placement continues to be appropriate and in the best interests of the child; and

(8) In the case of a child who is 14 years of age or older, the services needed to assist the child to make a transition from foster care to independent living.

(b) The permanency plan incorporated in the court's order shall include:

(1) Whether and, if applicable, when the child shall be returned to the child's parent;

(2) Whether and, if applicable, when the child shall be referred for termination of parental rights and adoption;

(3) Whether and, if applicable, when the child shall be placed with a permanent guardian; or

(4) Whether there is a safe and appropriate placement with a fit and willing relative of the child or other person who has demonstrated an ongoing commitment to the child or a statement as to why placement with the relative or other person is not safe or appropriate.

(c) If the court finds that there is a compelling reason that it would not be in the child's best interests to be returned to the parent, referred for termination of parental rights and adoption, or placed with a permanent guardian, then the court's order shall document the compelling reason and provide that the child should be placed in another planned permanent living arrangement as defined in the court's order.

(d) A supplemental order of the court adopting the permanency plan including all requirements of the permanency plan as provided in Code Section 15-11-231 shall be entered following the permanency hearing and in no case later than 30 days after the court has determined that reunification efforts shall not be made by DFCS. The supplemental order shall include a requirement that the DFCS case manager and staff and, as appropriate, other representatives of the child provide the child with assistance and support in developing a transition plan that is personalized at the direction of the child; includes specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, and work force supports and employment services; and is as detailed as the child may elect in the 90 day period immediately prior to the date on which the child will attain 18 years of age.

15-11-233.

(a) Except as provided in subsection (b) of this Code section, DFCS shall file a petition to terminate the parental rights of the child's parent or, if such a petition has been filed

by another party, seek to be joined as a party to the petition, and, concurrently, to identify, recruit, process, and approve a qualified family for an adoption if:

(1) A child has been in foster care under the responsibility of DFCS for 15 of the most recent 22 months;

(2) The court has made a determination that the parent has subjected the child to aggravated circumstances;

(3) The court has made a determination that the child is an abandoned infant; or

(4) The court has made a determination that the parent has been convicted of:

(A) The murder of another child of the parent;

(B) Voluntary manslaughter of another child of the parent;

(C) Voluntary manslaughter of the other parent of the child;

(D) Aiding or abetting, attempting, conspiring, or soliciting to commit murder or voluntary manslaughter of another child of the parent;

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

(F) Committing felony assault that has resulted in serious bodily injury to the child or to another child of the parent.

(b) Termination of parental rights may not be in the best interests of the child when:

(1) The child is being cared for by a relative;

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

(A) The parent is successfully participating in services that will make it possible for the child to safely return home;

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

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

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

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

(iv) The child is in a residential treatment facility that provides services specifically designed to address the child's treatment needs, and the court determines that the child's needs could not be served by a less restrictive placement;

(C) The child is living with a relative who is unable or unwilling to adopt the child, but who is willing and capable of providing the child with a stable and permanent

home environment, and the removal of the child from the physical custody of his or her relative would be detrimental to the child's emotional well-being;

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

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

(3) DFCS has not provided to the family of the child services deemed necessary for the safe return of the child to the child's home, consistent with the specific time frames for the accomplishment of the case plan goals.

(c) The recommendation by DFCS that termination of parental rights is not in the best interests of the child shall be based on the present family circumstances of the child and shall not preclude a different recommendation at a later date if the child's family circumstances change.

Part 13

15-11-240.

(a) In addition to the jurisdiction to appoint guardians pursuant to Code Section 15-11-13, the juvenile court shall be vested with jurisdiction to appoint a permanent guardian for a child whose custody is a subject of controversy before the court as a result of an adjudication that the child is dependent in accordance with this article. Prior to the entry of such an order, the court shall:

(1) Find that reasonable efforts to reunify the child with his or her parents would be detrimental to the child or find that the living parents of the child have consented to the permanent guardianship;

(2) Find that termination of parental rights and adoption is not in the best interests of the child;

(3) Find that the proposed permanent guardian can provide a safe and permanent home for the child;

(4) Find that the appointment of a permanent guardian for the child is in the best interests of the child and that the individual chosen as the child's permanent guardian is the individual most appropriate to be the child's permanent guardian taking into consideration the best interests of the child; and

(5) If the child is 14 years of age or older, find that the appointment of a permanent guardian for the child is in the best interests of the child and that the individual chosen by such child as the child's permanent guardian is the individual most appropriate to be the child's permanent guardian taking into consideration the best interests of the child.

(b) The court may enter an order of support on behalf of the child against the parents of the child in accordance with paragraph (7) of subsection (a) of Code Section 15-11-212.

15-11-241.

The petition for the appointment of a permanent guardian pursuant to this part shall set forth:

(1) The facts upon which the court's jurisdiction is based;

(2) The name and date of birth of the child;

(3) The name, address, and county of domicile of the petitioner and the petitioner's relationship to the child, if any, and, if different from the petitioner, the name, address, and county of domicile of the individual nominated by the petitioner to serve as guardian and that individual's relationship to the child, if any;

(4) A statement that:

(A) Reasonable efforts to reunify the child with his or her parents would be detrimental to the child;

(B) Termination of parental rights and adoption is not in the best interests of the child;

(C) The proposed guardian can provide a safe and permanent home for the child;

(D) The appointment of a permanent guardian for the child is in the best interests of the child and that the individual chosen as the child's guardian is the individual most appropriate to be the child's permanent guardian taking into consideration the best interests of the child; and

(E) If the child is 14 years of age or older, that the appointment of a permanent guardian for the child is in the best interests of the child and that the individual chosen by such child as the child's permanent guardian is the most appropriate individual to be the child's permanent guardian taking into consideration the best interests of the child;

(5) Whether the child was born out of wedlock and, if so, the name and address of the biological father, if known;

(6) Whether, to the petitioner's knowledge, there exists any notarized or witnessed document made by a parent of the child that deals with the guardianship of the child and the name and address of any designee named in the document;

(7) In addition to the petitioner and the nominated guardian and, if the parent has not consented to the permanent guardianship, the names and addresses of the following relatives of the child whose whereabouts are known:

(A) The adult siblings of the child; provided, however, that not more than three adult siblings need to be listed;

(B) If there is no adult sibling of the child, the grandparents of the child; provided, however, that not more than three grandparents need to be listed; or

(C) If there is no grandparent of the child, any three of the nearest adult relatives of the child determined according to Code Section 53-2-1;

(8) Whether a temporary guardian has been appointed for the child or a petition for the appointment of a temporary guardian has been filed or is being filed; and

(9) The reason for any omission in the petition for appointment of a permanent guardian for the child in the event full particulars are lacking.

15-11-242.
(a) Permanent guardianship orders entered pursuant to Code Section 15-11-240 shall:
(1) Remain in effect until the child reaches the age of 18 or becomes emancipated;
(2) Not be subject to review by the court except as provided in Code Section 15-11-244; and
(3) Establish a reasonable visitation schedule which allows the child to maintain meaningful contact with his or her parents through personal visits, telephone calls, letters, or other forms of communication or specifically include any restriction on a parent's right to visitation.
(b) A permanent guardian shall have the rights and duties of a permanent guardian as provided in Code Sections 29-2-21, 29-2-22, and 29-2-23 and shall take the oath required of a guardian as provided in Code Section 29-2-24.

15-11-243.
(a) Notice of a guardianship petition pursuant to this part shall be given in accordance with subsection (c) of Code Section 29-2-17 except that, if the parents have consented to the guardianship, notice of the petition shall not be required to be given to:
(1) The adult siblings of the child;
(2) The grandparents of the child; or
(3) The nearest adult relatives of the child as determined in accordance with Code Section 53-2-1.
(b) The hearing shall be conducted in accordance with Code Section 29-2-18, to determine the best interests of the child, and in reaching its determination the court shall consider Code Section 15-11-240.

15-11-244.
(a) The court shall retain jurisdiction over a guardianship action under this part for the sole purpose of entering an order following the filing of a petition to modify, vacate, or revoke the guardianship and appoint a new guardian.
(b) The superior courts shall have concurrent jurisdiction for enforcement or modification of any child support or visitation order entered pursuant to Code Section 15-11-240.
(c) The guardianship shall be modified, vacated, or revoked based upon a finding, by clear and convincing evidence, that there has been a material change in the circumstances of the child or the guardian and that such modification, vacation, or revocation of the guardianship order and the appointment of a new guardian is in the best interests of the child. Appointment of a new guardian shall be subject to the provisions of Code Sections 15-11-240 and 15-11-241.

ARTICLE 4
Part 1

15-11-260.

(a) The purpose of this article is:

(1) To protect a child whose parent is unwilling or unable to provide safety and care adequate to meet his or her physical, emotional, and mental health needs by providing a judicial process for the termination of all parental rights and responsibilities;

(2) To eliminate the need for a child to wait unreasonable periods of time for his or her parent to correct the conditions which prevent a return to the family;

(3) To ensure that the continuing needs of a child for proper physical, mental, and emotional growth and development are the decisive considerations in all proceedings;

(4) To ensure that the constitutional rights of all parties are recognized and enforced in all proceedings conducted pursuant to this article while ensuring that the fundamental needs of a child are not subjugated to the interests of others; and

(5) To encourage stability in the life of a child who has been adjudicated dependent and has been removed from his or her home by ensuring that all proceedings are conducted expeditiously to avoid delays in resolving the status of the parent and in achieving permanency for a child.

(b) Nothing in this article shall be construed as affecting the rights of a parent other than the parent who is the subject of the proceedings.

15-11-261.

(a) An order terminating the parental rights of a parent shall be without limit as to duration and shall divest the parent and the child of all legal rights, powers, privileges, immunities, duties, and obligations with respect to each other, except:

(1) The right of the child to receive child support from his or her parent until a final order of adoption is entered;

(2) The right of the child to inherit from and through his or her parent. The right of inheritance of the child shall be terminated only by a final order of adoption;

(3) The right of the child to benefits due to him or her from any third person, agency, state, or the United States based on the child's status as a child of his or her parent. This right shall be terminated only by a final order of adoption; and

(4) The right of the child to pursue any civil action against his or her parent.

(b) When an order terminating the parent and child relationship has been issued, the parent whose right has been terminated shall not thereafter be entitled to notice of proceedings for the adoption of the child by another, nor has the parent any right to object to the adoption or otherwise to participate in such proceedings.

(c) The relationship between the child and his or her siblings shall not be severed until that relationship is terminated by final order of adoption.

(d) A relative whose relationship to the child is derived through the parent whose parental rights are terminated shall be considered to be a relative of the child for purposes of placement of, and permanency plan for, the child until such relationship is terminated by final order of adoption.

15-11-262.
(a) The child and any other party to a proceeding under this article shall have the right to a qualified and independent attorney at all stages of the proceedings under this article.
(b) The court shall appoint an attorney for the child in a termination of parental rights proceeding. The appointment shall be made as soon as practicable to ensure adequate representation of the child and, in any event, before the first court hearing that may substantially affect the interests of the child.
(c) A child's attorney owes to the child the duties imposed by the law of this state in an attorney-client relationship.
(d) The court shall appoint a guardian ad litem for the child in a termination proceeding:
(1) At the request of the child's attorney; or
(2) Upon the court's own motion if it determines that a guardian ad litem is necessary to assist the court in determining the best interests of the child.
(e) The role of a guardian ad litem in a termination of parental rights proceeding shall be the same role as provided for in all dependency proceedings under Article 3 of this chapter.
(f) A person appointed as a child's attorney shall have received training that is administered or approved by the Office of the Child Advocate for the Protection of Children prior to being appointed. Such preappointment training shall be satisfied within an attorney's existing continuing legal education obligations and shall not require the attorney to complete additional training hours in addition to those currently required by the State Bar of Georgia.
(g) If an attorney has been appointed to represent a child in a prior proceeding under this chapter, the court, when possible, shall appoint the same attorney to represent the child in any subsequent proceeding.
(h) An attorney appointed to represent a child in a termination proceeding shall continue the representation in any subsequent appeals unless excused by the court.
(i) Neither the child nor a representative of the child may waive the right to an attorney in a termination proceeding.
(j) A party other than a child shall be informed of his or her right to an attorney prior to the adjudication hearing and prior to any other hearing at which a party could be subjected to the loss of residual parental rights. A party other than a child shall be given an opportunity to:
(1) Obtain and employ an attorney of the party's own choice;
(2) To obtain a court appointed attorney if the court determines that the party is an indigent person; or
(3) Waive the right to an attorney.

15-11-263.
(a) Upon motion of any party or the court, the court may require a physical or mental evaluation of any parent, stepparent, guardian, legal custodian, or child.

(b) The cost of any ordered evaluation shall be paid by the moving party unless apportioned by the court, in its discretion, to any other party or parties.

15-11-264.

(a) In all cases under this article, any party shall, upon written request to the party having actual custody, control, or possession of the material to be produced, have full access to the following for inspection, copying, or photographing:

(1) The names and telephone numbers of each witness likely to be called to testify at the hearing by another party;

(2) A copy of any formal written statement made by the child who is alleged to be dependent or any witness that relates to the subject matter concerning the testimony of the witness that a party intends to call as a witness at the hearing;

(3) Except as otherwise provided in subsection (b) of this Code section, any scientific or other report which is intended to be introduced at any hearing or that pertains to physical evidence which is intended to be introduced;

(4) Any drug screen concerning the child who is alleged to be dependent or his or her parent, guardian, or legal custodian;

(5) Any case plan concerning the child who is alleged to be dependent or his or her parent, guardian, or legal custodian;

(6) Any visitation schedule related to the child who is alleged to be dependent;

(7) Photographs and any physical evidence which are intended to be introduced at any hearing;

(8) Copies of the police incident report regarding an occurrence which forms part or all of the basis of the petition; and

(9) Any other relevant evidence not requiring consent or a court order under subsection (b) of this Code section.

(b) Upon presentation of a court order or written consent from the appropriate person or persons permitting access to the party having actual custody, control, or possession of the material to be produced, any party shall have access to the following for inspection, copying, or photographing:

(1) Any psychological, developmental, physical, mental or emotional health, or other assessments of the child who is alleged to be dependent or the family, parent, guardian, or legal custodian of such child;

(2) Any school record concerning the child who alleged to be dependent;

(3) Any medical record concerning the child who is alleged to be dependent;

(4) Transcriptions, recordings, and summaries of any oral statement of the child who is alleged to be dependent or of any witness, except child abuse reports that are confidential pursuant to Code Section 19-7-5 and work product of counsel;

(5) Any family team meeting report or multidisciplinary team meeting report concerning the child who is alleged to be dependent or his or her parent, guardian, or legal custodian;

(6) Supplemental police reports, if any, regarding an occurrence which forms part of all of the basis of the petition; and

(7) Immigration records concerning the child who is alleged to be dependent.

(c) If a party requests disclosure of information pursuant to subsection (a) or (b) of this Code section, it shall be the duty of such party to promptly make the following available for inspection, copying, or photographing to every other party:

(1) The names and last known addresses and telephone numbers of each witness to the occurrence which forms the basis of the party's defense or claim;

(2) Any scientific or other report which is intended to be introduced at the hearing or that pertains to physical evidence which is intended to be introduced;

(3) Photographs and any physical evidence which are intended to be introduced at the hearing; and

(4) A copy of any written statement made by any witness that relates to the subject matter concerning the testimony of the witness that the party intends to call as a witness.

(d) A request for discovery or reciprocal discovery shall be complied with promptly and not later than five days after the request is received or 72 hours prior to any hearing except when later compliance is made necessary by the timing of the request. If the request for discovery is made fewer than 48 hours prior to an adjudicatory hearing, the discovery response shall be produced in a timely manner. If, subsequent to providing a discovery response in compliance with this Code section, the existence of additional evidence is found, it shall be promptly provided to the party making the discovery request.

(e) If a request for discovery or consent for release is refused, application may be made to the court for a written order granting discovery. Motions for discovery shall certify that a request for discovery or consent was made and was unsuccessful despite good faith efforts made by the requesting party. An order granting discovery shall require reciprocal discovery. Notwithstanding the provisions of subsection (a) or (b) of this Code section, the court may deny, in whole or in part, or otherwise limit or set conditions concerning the discovery response upon a sufficient showing by a person or entity to whom a request for discovery is made that disclosure of the information would:

(1) Jeopardize the safety of a party, witness, or confidential informant;

(2) Create a substantial threat of physical or economic harm to a witness or other person;

(3) Endanger the existence of physical evidence;

(4) Disclose privileged information; or

(5) Impede the criminal prosecution of a minor who is being prosecuted as an adult or the prosecution of an adult charged with an offense arising from the same transaction or occurrence.

(f) No deposition shall be taken of a child unless the court orders the deposition, under such conditions as the court may order, on the ground that the deposition would further the purposes of this part.

(g) If at any time during the course of the proceedings it is brought to the attention of the court that a person or entity has failed to comply with an order issued pursuant to

this Code section, the court may grant a continuance, prohibit the party from introducing in evidence the information not disclosed, or enter such other order as the court deems just under the circumstances.
(h) Nothing contained in this Code section shall prohibit the court from ordering the disclosure of any information that the court deems necessary for proper adjudication.
(i) Any material or information furnished to a party pursuant to this Code section shall remain in the exclusive custody of the party and shall only be used during the pendency of the case and shall be subject to such other terms and conditions as the court may provide.

15-11-265.
Once a petition to terminate parental rights has been filed, the parent shall thereafter be without authority to execute an act of surrender or otherwise to affect the custody of the child except the parent may:
(1) Execute an act of surrender in favor of DFCS; and
(2) Consent to a judgment terminating his or her parental rights.

Part 2

15-11-270.
(a) A proceeding under this article shall be commenced in the county that has jurisdiction over the related dependency proceedings.
(b) For the convenience of the parties, the court may transfer proceedings to the county in which the parent legally resides. If a proceeding is transferred, certified copies of all legal and social documents and records pertaining to the proceeding on file with the clerk of court shall accompany the transfer.

Part 3

15-11-280.
(a) A petition to terminate parental rights and all subsequent court documents in such proceeding shall be entitled 'In the interest of _____, a child.', except upon appeal, in which event the anonymity of the child shall be preserved by use of appropriate initials. The petition shall be in writing.
(b) The petition to terminate parental rights shall be made, verified, and endorsed by the court as provided in Article 3 of this chapter for a petition alleging dependency.
(c) The petition to terminate parental rights shall:
(1) State clearly that an order for termination of parental rights is requested and that the effect of the order will be as stated in Code Section 15-11-260;
(2) State the statutory ground, as provided in Code Section 15-11-310, on which the petition is based; and
(3) Set forth plainly and with particularity:

(A) The facts which bring the child within the jurisdiction of the court, with a statement that it is in the best interests of the child and the public that the proceeding be brought;

(B) The name, age, date of birth, and residence address of the child on whose behalf the petition is brought;

(C) The name and residence address of the parent, guardian, or legal custodian of the child; or, if neither the child's parent nor the child's guardian nor the child's legal custodian resides or can be found within the state or if such place of residence address is unknown, the name of any known adult relative residing within the county or, if there is none, the known adult relative residing nearest to the location of the court;

(D) Whether the child is in protective custody and, if so, the place of his or her foster care and the time the child was taken into protective custody; and

(E) Whether any of the matters required by this paragraph are unknown.

(d) When a petition seeks termination of the rights of a biological father who is not the legal father and who has not surrendered his rights to the child, the petition shall include a certificate from the putative father registry disclosing the name, address, and social security number of any registrant acknowledging paternity of the child or indicating the possibility of paternity of a child of the child's mother for a period beginning no later than two years immediately preceding the child's date of birth. The certificate shall document a search of the registry on or after the date of the filing of the petition and shall include a statement that the registry is current as to filings of registrants as of the date of the petition or as of a date later than the date of the petition to terminate parental rights.

(e) A copy of a voluntary surrender or written consent, if any, previously executed by the parent shall be attached to the petition to terminate parental rights.

15-11-281.

(a) The court shall direct the issuance of a summons to the child's mother, legal father or biological father, guardian, legal custodian, the child's attorney, the child's guardian ad litem, if any, and any other persons who appear to the court to be proper or necessary parties to the proceeding, requiring them to appear before the court at the time fixed to answer the allegations of the petition to terminate parental rights. A copy of such petition shall accompany the summons unless the summons is served by publication, in which case the published summons shall indicate the general nature of the allegations and where a copy of such petition can be obtained.

(b) The court shall direct notice and a copy of the petition be provided to the child if the child is 14 years of age or older.

(c) The summons shall include the notice of effect of a termination judgment as set forth in Code Section 15-11-284 and shall state that a party is entitled to an attorney in the proceedings and that the court will appoint an attorney if the party is an indigent person.

(d) The court may endorse upon the summons an order directing the parent, guardian, or legal custodian of the child to appear personally at the hearing or directing the person having the physical custody or control of the child to bring the child to the hearing.
(e) A party other than the child may waive service of summons by written stipulation or by voluntary appearance at the hearing.

15-11-282.
(a) If a party to be served with a summons is within this state and can be found, the summons shall be served upon him or her personally as soon as possible and at least 30 days before the termination of parental rights hearing.
(b) If a party to be served is within this state and cannot be found but his or her address is known or can be ascertained with reasonable diligence, the summons shall be served upon such party at least 30 days before the termination of parental rights hearing by mailing him or her a copy by registered or certified mail or statutory overnight delivery, return receipt requested.
(c) If a party to be served is outside this state but his or her address is known or can be ascertained with reasonable diligence, service of the summons shall be made at least 30 days before the termination of parental rights hearing either by delivering a copy to such party personally or by mailing a copy to him or her by registered or certified mail or statutory overnight delivery, return receipt request.
(d) If, after justifiable effort, a party to be served with a summons cannot be found and such party's address cannot be ascertained, whether he or she is within or outside this state, the court may order service of the summons upon him or her by publication. The termination of parental rights hearing shall not be earlier than 31 days after the date of the last publication.

(e)(1) Service by publication shall be made once a week for four consecutive weeks in the official organ of the county where the petition to terminate parental rights has been filed. Service shall be deemed complete upon the date of the last publication.
(2) When served by publication, the notice shall contain the names of the parties, except that the anonymity of the child shall be preserved by the use of appropriate initials, and the date the petition to terminate parental rights was filed. The notice shall indicate the general nature of the allegations and where a copy of the petition to terminate parental rights can be obtained and require the party to be served by publication to appear before the court at the time fixed to answer the allegations of the petition to terminate parental rights.
(3) A free copy of the petition to terminate parental rights shall be available to the parent from the court during business hours or, upon request, shall be mailed to the parent.
(4) Within 15 days after the filing of the order of service by publication, the clerk of court shall mail a copy of the notice, a copy of the order of service by publication, and a copy of the petition to terminate parental rights to the absent parent's last known address.

(f) Service of the summons may be made by any suitable person under the direction of the court.
(g) The court may authorize the payment from county funds of the costs of service and of necessary travel expenses incurred by persons summoned or otherwise required to appear at the hearing.

15-11-283.
(a) Unless he has surrendered all parental rights to the child, a summons shall be served on:
(1) A biological father who is the legal father of the child;
(2) A biological father whose paternity has been previously established in a judicial proceeding to which the father was a party;
(3) A biological father whose identity is known to the petitioner or the petitioner's attorney;
(4) A biological father who is a registrant on the putative father registry and has acknowledged paternity of the child;
(5) A biological father who is a registrant on the putative father registry who has indicated possible paternity of a child born to the child's mother during a period beginning two years immediately preceding the child's date of birth; or
(6) A biological father who, if the court finds from the evidence including but not limited to the affidavit of the child's mother, has performed any of the following acts:
(A) Lived with the child;
(B) Contributed to the child's support;
(C) Made any attempt to legitimate the child; or
(D) Provided support or medical care for the mother either during her pregnancy or during her hospitalization for the birth of the child.
(b) Notice shall be given to a biological father by the following methods:
(1) If a biological father is within this state and can be found, the summons shall be served upon him personally as soon as possible and least 30 days before the termination of parental rights hearing;
(2) If a biological father is outside this state but his address is known or can be ascertained with reasonable diligence, service of summons shall be made at least 30 days before the termination of parental rights hearing either by delivering a copy to him personally or by mailing a copy to him by registered or certified mail or statutory overnight delivery, return receipt requested; or
(3) If, after justifiable effort, a biological father to be served with summons cannot be found and his address cannot be ascertained, whether he is within or outside this state, the court may order service of summons upon him by publication. The termination of parental rights hearing shall not be earlier than 31 days after the date of the last publication. Service by publication shall be as follows:
(A) Service by publication shall be made once a week for four consecutive weeks in the official organ of the county where the petition to terminate parental rights has

been filed and of the county of the biological father's last known address. Service shall be deemed complete upon the date of the last publication;

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

(C) A free copy of the petition to terminate parental rights shall be available to the biological father from the court during business hours or, upon request, shall be mailed to the biological father; and

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

(c) The notice shall advise the biological father who is not the legal father that he may lose all rights to the child and will not be entitled to object to the termination of his rights to the child unless, within 30 days of receipt of notice, he files:

(1) A petition to legitimate the child; and

(2) Notice of the filing of the petition to legitimate with the court in which the termination of parental rights proceeding is pending.

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

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

(1) Who fails to file a timely petition to legitimate the child and notice in accordance with subsection (c) of this Code section;

(2) Whose petition to legitimate is subsequently dismissed for failure to prosecute; or

(3) Whose petition to legitimate does not result in a court order finding that he is the legal father of the child.

15-11-284.

The notice required to be given to the mother, the biological father, and legal father of the child shall state:

'NOTICE OF EFFECT OF TERMINATION JUDGMENT

Georgia law provides that you can permanently lose your rights as a parent. A petition to terminate parental rights has been filed requesting the court to terminate your parental rights to your child. A copy of the petition to terminate parental rights is attached to this notice. A court hearing of your case has been scheduled for the _____ day of _____, _____ at the _____ Court of _____ County.

If you fail to appear, the court can terminate your rights in your absence.

If the court at the trial finds that the facts set out in the petition to terminate parental rights are true and that termination of your rights will serve the best interests of your child, the court can enter a judgment ending your rights to your child.

If the judgment terminates your parental rights, you will no longer have any rights to your child. This means that you will not have the right to visit, contact, or have custody of your child or make any decisions affecting your child or your child's earnings or property. Your child will be legally freed to be adopted by someone else.

Even if your parental rights are terminated:

(1) You will still be responsible for providing financial support (child support payments) for the child's care unless and until the child is adopted;

(2) The child can still inherit from you unless and until the child is adopted; and

(3) The child can still receive benefits based on his or her status as your child unless and until the child is adopted.

This is a very serious matter. You should contact an attorney immediately so that you can be prepared for the court hearing. You have the right to hire an attorney and to have him or her represent you. If you cannot afford to hire an attorney, the court will appoint an attorney if the court finds that you are an indigent person. Whether or not you decide to hire an attorney, you have the right to attend the hearing of your case, to call witnesses on your behalf, and to question those witnesses brought against you.

If you have any questions concerning this notice, you may call the telephone number of the clerk's office which is _____.'

15-11-285.

(a) If any person named in and properly served with summons shall without reasonable cause fail to appear or, when directed in the summons, to bring the child before the court, then the court may issue a rule nisi against the person, directing the person to appear before the court to show cause why he or she should not be held in contempt of court.

(b) If the summons cannot be served or if the person to whom the summons is directed fails to obey it, the court may issue an order to take the child into protective custody.

Part 4

15-11-300.

(a) In advance of each hearing to terminate parental rights, DFCS shall give written notice of the date, time, place, and purpose of the hearing to the caregiver of the child, the foster parents of the child if there are foster parents, any preadoptive parent, or any

relative providing care for the child, including the right to be heard. The written notice shall be delivered to the recipient at least 72 hours before the review or hearing by United States mail, e-mail, or hand delivery.
(b) This Code section shall not be construed to require a caregiver, foster parent, preadoptive parent, or relative caring for the child to be made a party to the hearing solely on the basis of such notice and right to be heard.

15-11-301.
(a) If no just cause has been shown for delay, all hearings contemplated by this article shall be conducted within 90 days of the date a petition to terminate parental rights is filed.
(b) If no just cause for delay has been shown by written finding of fact by the court, an order of disposition shall be issued by the juvenile court no later than 30 days after the conclusion of the hearing on the petition to terminate parental rights.
(c) All hearings contemplated by this article shall be recorded by stenographic notes or by electronic, mechanical, or other appropriate means capable of accurately capturing a full and complete record of all words spoken during the hearings. If no just cause for delay has been shown, the court reporter shall provide a transcript of the hearings no later than 30 days after a notice of appeal is filed.
(d) This Code section shall not affect the right to request a rehearing or the right to appeal the juvenile court's order.
(e) Failure to comply with the time requirements of this Code section shall not be grounds to invalidate an otherwise proper order terminating parental rights unless the court determines that such delay resulted in substantial prejudice to a party.

15-11-302.
The record of the testimony of the parties adduced in any proceeding under this article shall not be admissible in any civil, criminal, or any other cause or proceedings in any court against a person named as respondent for any purpose whatsoever, except in subsequent dependency or termination proceedings involving the same child or dependency or termination proceedings involving the same respondent.

15-11-303.
In all proceedings under this article, the standard of proof to be adduced to terminate parental rights shall be by clear and convincing evidence.

Part 5

15-11-310.
(a) In considering the termination of parental rights, the court shall first determine whether one of the following statutory grounds for termination of parental rights has been met:

(1) The parent has given written consent to termination which has been acknowledged by the court or has voluntarily surrendered the child for adoption;

(2) The parent has subjected the child to aggravated circumstances;

(3) The parent has wantonly and willfully failed to comply for a period of 12 months or longer with a decree to support the child that has been entered by a court of competent jurisdiction of this or any other state;

(4) The child is abandoned by the parent; or

(5) The child is dependent due to lack of proper parental care or control by the parent, reasonable efforts to remedy the circumstances have been unsuccessful or were not required, such cause of dependency is likely to continue or will not likely be remedied, and the continued dependency will cause or is likely to cause serious physical, mental, emotional, or moral harm to the child.

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

(1) The child's sense of attachments, including the child's sense of security, the child's sense of familiarity, and continuity of affection for the child;

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

(3) The child's need for permanence which includes the child's need for stability and continuity of relationships with a parent, siblings, and other relatives; and

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

(c) If the court determines that the parent has subjected the child to aggravated circumstances because the parent has committed the murder of the other parent of the child, the court shall presume that termination of parental rights is in the best interests of the child.

15-11-311.

(a) In determining whether the child is without proper parental care and control, the court shall consider, without being limited to, the following:

(1) A medically verified deficiency of the parent's physical, mental, or emotional health of such duration or nature as to render the parent unable to provide adequately for the child;

(2) Excessive use of or history of chronic unrehabilitated substance abuse with the effect of rendering the parent incapable of providing adequately for the physical, mental, emotional, or moral condition and needs of the child;

(3) A felony conviction and imprisonment of the parent for an offense which has a demonstrably negative effect on the quality of the parent-child relationship including, but not limited to, any of the following:

(A) Murder of another child of the parent;

(B) Voluntary manslaughter of another child of the parent;

(C) Voluntary manslaughter of the other parent of the child;

(D) Aiding or abetting, attempting, conspiring, or soliciting to commit murder or voluntary manslaughter of another child of the parent;

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

(F) Committing a felony assault that results in serious bodily injury to the child or another child of the parent;

(4) Egregious conduct or evidence of past egregious conduct of a physically, emotionally, or sexually cruel or abusive nature by the parent toward the child or toward another child of the parent;

(5) Physical, mental, or emotional neglect of the child or evidence of past physical, mental, or emotional neglect by the parent of the child or another child of the parent; and

(6) Serious bodily injury or death of a sibling of a child under circumstances which constitute substantial evidence that such injury or death resulted from parental neglect or abuse.

(b) In determining whether the child who is not in the custody and care of a parent is without proper parental care and control, the court shall also consider, without being limited to, whether the parent, without justifiable cause, has failed significantly for a period of six months prior to the date of the termination hearing:

(1) To develop and maintain a parental bond with the child in a meaningful, supportive manner;

(2) To provide for the care and support of the child as required by law or judicial decree; and

(3) To comply with a court ordered plan designed to reunite the child with the parent.

(c) A parent's reliance on prayer or other religious nonmedical means for healing in lieu of medical care, in the exercise of religious beliefs, shall not be the sole basis for determining the parent to be unwilling or unable to provide safety and care adequate to meet the child's physical, emotional, and mental health needs as provided in paragraph (1) of subsection (a) of this Code section or as depriving the child of proper parental care or control for purposes of this Code section and Code Section 15-11-310.

Part 6

15-11-320.

(a) When the court finds that any ground set out in Code Section 15-11-310 is proved by clear and convincing evidence and that termination of parental rights is in the child's best interests, it shall order the termination of the parent's rights.

(b) The court's order shall:

(1) Contain written findings on which the order is based, including the factual basis for a determination that grounds for termination of parental rights exist and that termination is in the best interests of the child;

(2) Be conclusive and binding on all parties from the date of entry;

(3) Grant custody of the child in accordance with Code Section 15-11-321; and

(4) Inform the parent of his or her right to use the services of the Georgia Adoption Reunion Registry although failure to include such information shall not affect the validity of the judgment.

(c) If the court does not order the termination of parental rights but the court finds that there is clear and convincing evidence that the child is dependent, the court may enter a disposition order in accordance with the provisions of Article 3 of this chapter.

(d) The court shall transmit a copy of every final order terminating the parental rights of a parent to the Office of Adoptions of the department within 15 days of the filing of such order.

15-11-321.

(a) Upon entering of an order terminating the parental rights of a parent, a placement may be made only if the court finds that such placement is in the best interests of the child and in accordance with the child's court approved permanency plan created pursuant to Code Sections 15-11-231 and 15-11-232. In determining which placement is in the child's best interests, the court shall enter findings of fact reflecting its consideration of the following:

(1) The child's need for a placement that offers the greatest degree of legal permanence and security;

(2) The least disruptive placement for the child;

(3) The child's sense of attachment and need for continuity of relationships;

(4) The value of biological and familial connections; and

(5) Any other factors the court deems relevant to its determination.

(b) A guardian or legal custodian shall submit to the jurisdiction of the court for purposes of placement.

(c) A placement effected under the provisions of this Code section shall be conditioned upon the person who is given custody or who is granted an adoption of the child agreeing to abide by the terms and conditions of the order of the court.

(d) In addition to its rights as a legal custodian, the department has the authority to consent to the adoption of the child.

15-11-322.

(a) If a petition seeking the adoption of the child is not filed within six months after the date of the disposition order, the court shall then, and at least every six months thereafter as long as the child remains unadopted, review the circumstances of the child to determine what efforts have been made to assure that the child will be adopted. The court shall:

(1) Make written findings regarding whether reasonable efforts have been made to move the child to permanency;

(2) Evaluate whether, in light of any change in circumstances, the permanency plan for the child remains appropriate; and

(3) Enter such orders as it deems necessary to further adoption or if appropriate, other permanency options, including, but not limited to, another placement.

(b) In those cases in which the child was placed with a guardian of the child's person, within 60 days after such appointment and within 60 days after each anniversary date of such appointment, the guardian shall file with the court a personal status report of the child which shall include:

(1) A description of the child's general condition, changes since the last report, and the child's needs;

(2) All addresses of the child during the reporting period and the living arrangements of the child for all addresses; and

(3) Recommendations for any modification of the guardianship order.

15-11-323.

(a) A child who has not been adopted after the passage of at least three years from the date the court terminated parental rights or the parent voluntarily surrendered parental rights to DFCS and for whom the court has determined that adoption is no longer the permanent plan may petition the court to reinstate parental rights pursuant to the modification of orders procedure prescribed by Code Section 15-11-32. The child may file the petition to reinstate parental rights prior to the expiration of such three-year period if the department or licensed child-placing agency that is responsible for the custody and supervision of the child and the child stipulate that the child is no longer likely to be adopted. A child 14 years of age or older shall sign the petition in the absence of a showing of good cause as to why the child could not do so.

(b) If it appears that the best interests of the child may be promoted by reinstatement of parental rights, the court shall order that a hearing be held and shall cause notice to be served by United States mail to DFCS, the child's attorney of record, guardian ad litem, if any, foster parents, if any, and the child's former parent whose parental rights were terminated. The parent and foster parents, if any, shall have a right to be heard at the hearing to reinstate parental rights but shall not be parties at such hearing, and such hearing may be conducted in their absence. The child's motion shall be dismissed if the parent cannot be located or if the parent objects to the reinstatement.

(c) The court shall grant the petition if it finds by clear and convincing evidence that the child is no longer likely to be adopted and that reinstatement of parental rights is in the child's best interests. In determining whether reinstatement is in the child's best interests the court shall consider, but shall not be limited to, the following:

(1) Whether the parent whose rights are to be reinstated is a fit parent and has remedied his or her deficits as provided in the record of the prior termination proceedings and prior termination order;

(2) The age and maturity of the child and the ability of the child to express his or her preference;

(3) Whether the reinstatement of parental rights will present a risk to the child's health, welfare, or safety; and

(4) Other material changes in circumstances, if any, that may have occurred which warrant the granting of the petition.

(d) If the court grants the petition to reinstate parental rights, a review hearing will be scheduled within six months. During such period, the court may order that the child be immediately placed in the custody of the parent or, if the court determines that a transition period is necessary and the child is in DFCS custody at the time of the order, order DFCS to provide transition services to the family as appropriate.
(e) An order granted under this Code section reinstates the parental rights to the child. Such reinstatement shall be a recognition that the situation of the parent and child has changed since the time of the termination of parental rights and reunification is now appropriate.
(f) This Code section is intended to be retroactive and applied to any child who is under the jurisdiction of the court at the time of the hearing regardless of the date parental rights were terminated.

ARTICLE 5

15-11-350.
The purpose of this article is:
(1) To enable children who have come into the care of the state due to abuse or neglect to enjoy as much normalcy as possible, by facilitating their participation in activities and opportunities appropriate to their ages and goals;
(2) To prepare children who experience foster care to become independent and self-sufficient adults;
(3) To assist children in foster care in planning for their future, including postsecondary education and the workplace; and
(4) To provide support to older children who are leaving the state's care to ensure that their basic health, education, and safety needs are met as they transition to adulthood.

15-11-351.
As used in this article, the term:
(1) 'Independent life skills assessment' means an assessment of a child upon reaching 16 years of age to determine the specific life skills services that are most appropriate for such child.
(2) 'Independent living assessment' means a comprehensive assessment conducted during the month following a child's seventeenth birthday to determine such child's skills and abilities to live independently and become self-sufficient.
(3) 'Life skills services' includes, but shall not be limited to, independent living skills training, including training to develop banking and budgeting skills, interviewing skills, parenting skills, educational support, employment training, basic legal skills, and counseling.
(4) 'Preindependent living assessment' means an initial assessment of a child's strengths and needs to determine the preindependent living services that are most appropriate for such child.

(5) 'Preindependent living services' includes, but shall not be limited to, life skills training, educational field trips, and mentoring.
(6) 'Subsidized independent living services' means living arrangements that allow the child to live independently of the daily care and supervision of an adult in a setting that is not required to be licensed.
(7) 'Young adult' means a person who has reached the age of 18 but is not yet 23 years of age.

15-11-352.
(a) DFCS shall administer a system of independent living transition services to enable adolescents and young adults in foster care and young adults who exit foster care at age 18 to make the transition to self-sufficiency as adults.
(b) The goals of independent living transition services shall be to assist adolescents and young adults in foster care and young adults who were formerly in foster care to obtain life skills and education for independent living and employment, to enjoy a quality of life appropriate for their age, and to assume personal responsibility for becoming self-sufficient adults.
(c) In providing independent living services for children, DFCS shall balance the goals of normalcy and safety for a child and provide caregivers with as much flexibility as possible to enable such child to live as normal a life as possible and participate in age-appropriate extracurricular, enrichment, and social activities.
(d) DFCS shall establish a continuum of services for eligible children in foster care and eligible young adults who were formerly in foster care which accomplish the goals for the system of independent living transition services.
(e) For children in foster care, independent living transition services shall not be a permanency plan. Independent living transition services may occur concurrently with continued efforts to locate and achieve placement in adoptive families for adolescents in foster care or to achieve another court approved permanency plan.

15-11-353.
(a) DFCS shall provide independent living services to children who have reached 14 years of age but are not yet 18 years of age and who are in foster care. Children to be served shall meet the eligibility requirements set forth for specific services as provided in this article.
(b) DFCS shall provide independent living services to young adults who were in foster care when they turned 18 years of age. Young adults to be served shall meet the eligibility requirements set forth for specific services in this article.
(c) DFCS shall develop objective criteria for determining eligibility benefits and services available under this article.

15-11-354.
(a) DFCS shall provide adolescents and young adults with opportunities to participate in life skills activities in their foster families and communities which are reasonable and

appropriate for their respective ages and shall provide them with services to build such skills and increase their ability to live independently and become self-sufficient. In providing these services DFCS may:

(1) Develop a list of age-appropriate activities and responsibilities to be offered to all children involved in independent living transition services and their foster parents;

(2) Provide training for staff and foster parents to address the issues of adolescents in foster care in transitioning to adulthood, which shall include information on supporting education and employment and providing opportunities to participate in appropriate daily activities;

(3) Develop procedures to maximize participation in age-appropriate activities of children in foster care;

(4) Provide opportunities for adolescents in foster care to interact with mentors; and

(5) Develop and implement procedures for adolescents to directly access and manage the personal allowance they receive from DFCS in order to learn responsibility and participate in age-appropriate life skills activities.

(b) Each child in foster care, his or her foster parents, and DFCS or the community based provider shall set early achievement and career goals for the child's postsecondary educational and work experience. DFCS and community based providers shall implement a model to help ensure that children in foster care are ready for postsecondary education and the workplace as follows:

(1) A child in foster care entering the ninth grade, the child's foster parents, and DFCS or a community based provider shall be active participants in choosing a postsecondary goal based upon both the abilities and interests of the child. Such goal shall accommodate the needs of the child served in exceptional education programs to the extent appropriate for the child. A child in foster care, with the assistance of the child's foster parents, and DFCS or a community based provider shall set a postsecondary goal including, but not limited to:

(A) Attending a four-year college or university, a community college plus university, or a military academy;

(B) Receiving a two-year postsecondary degree;

(C) Attaining a postsecondary career and technical certificate or credential;

(D) Beginning immediate employment after completion of a high school diploma or its equivalent; or

(E) Enlisting in the military;

(2) In order to assist a child in achieving his or her chosen goal, DFCS or a community based provider shall, with the participation of the child and foster parents, identify:

(A) The core courses necessary to qualify for a chosen goal;

(B) Any elective courses which would provide additional help in reaching a chosen goal;

(C) The grade point requirement and any additional information necessary to achieve a specific goal; and

(D) A teacher, other school staff member, employee of DFCS or a community based care provider, or community volunteer who would be willing to work with the child as an academic advocate or mentor if foster parent involvement is insufficient or unavailable;

(3) In order to complement educational goals, DFCS and community based providers are encouraged to form partnerships with the business community to support internships, apprenticeships, or other work related opportunities; and

(4) DFCS and community based providers shall ensure that a child and the child's foster parents are made aware of the postsecondary goals available and shall assist in identifying the coursework necessary to enable the child to reach the chosen goal.

(c) A child in foster care and a young adult formerly in foster care shall be encouraged to take part in learning opportunities that result from participation in community service activities.

(d) A child in foster care and a young adult formerly in foster care shall be provided with the opportunity to change from one postsecondary goal to another, and each postsecondary goal shall allow for changes in each individual's needs and preferences. Any change, particularly a change that will result in additional time required to achieve a goal, shall be made with the guidance and assistance of DFCS or a community based provider.

15-11-355.

DFCS shall provide transition to independence services to children in foster care who meet prescribed conditions and are determined eligible by DFCS. DFCS may allow a child who is between the ages of 18 and 21 years to remain in foster care. The service categories available to children in foster care which facilitate successful transition into adulthood are:

(1) Preindependent living services;

(2) Life skills services; and

(3) Subsidized independent living services.

15-11-356.

(a) A child who has reached 14 years of age but is not yet 16 years of age who is in foster care shall be eligible for preindependent living services. The specific services to be provided to a child shall be determined using a preindependent living assessment.

(b) DFCS shall conduct an annual staffing for each child who has reached 14 years of age but is not yet 16 years of age to ensure that the preindependent living training and services to be provided as determined by the preindependent living assessment are being received and to evaluate the progress of the child in developing the needed independent living skills.

(c) At the first annual staffing that occurs following a child's fourteenth birthday, and at each subsequent staffing, DFCS shall provide to each child detailed information on any grants, scholarships, and waivers that are available and should be sought by the child with assistance from DFCS.

(d) Information related to both the preindependent living assessment and all staffings, which shall be reduced to writing and signed by the child, shall be included as a part of the written report required to be provided to the court at each periodic review hearing.

15-11-357.
(a) A child who has reached 16 years of age but is not yet 18 years of age who is in foster care shall be eligible for life skills services.
(b) Children receiving such life skills services shall also be provided with information related to social security insurance benefits and public assistance. The specific services to be provided to a child shall be determined using an independent life skills assessment
(c) DFCS shall conduct a staffing at least once every six months for each child who has reached 16 years of age but is not yet 18 years of age to ensure that the appropriate independent living training and services as determined by the independent life skills assessment are being received and to evaluate the progress of the child in developing the needed independent living skills.
(d) DFCS shall provide to each child in foster care during the calendar month following the child's seventeenth birthday an independent living assessment to determine the child's skills and abilities to live independently and become self-sufficient. Based on the results of the independent living assessment, services and training shall be provided in order for the child to develop the necessary skills and abilities prior to the child's eighteenth birthday.
(e) Information related to both the independent life skills assessment and all staffings, which shall be reduced to writing and signed by the child, shall be included as a part of the written report required to be provided to the court at each periodic review hearing.

15-11-358.
(a) A child who has reached 17 years of age but is not yet 21 years of age may be eligible for subsidized independent living services if:
(1) The child has been adjudicated dependent under Article 3 of this chapter; has been placed in licensed out-of-home care for at least six months prior to entering subsidized independent living; and has a permanency goal of independent living or long-term licensed care; and
(2) The child is able to demonstrate independent living skills, as determined by DFCS using established procedures and assessments.
(b) Independent living arrangements established for a child shall be part of an overall plan leading to the total independence of the child from DFCS supervision. Such plan shall include, but shall not be limited to:
(1) A description of the skills of the child and a plan for learning additional identified skills;
(2) The behavior that the child has exhibited which indicates an ability to be responsible and a plan for developing additional responsibilities, as appropriate;
(3) A plan for future educational, vocational, and training skills;

(4) Present financial and budgeting capabilities and a plan for improving resources and ability;
(5) A description of a proposed residence;
(6) Documentation that the child understands the specific consequences of his or her conduct in an independent living program;
(7) Documentation of proposed services to be provided by DFCS and other agencies, including the type of service and the nature and frequency of contact; and
(8) A plan for maintaining or developing relationships with family, other adults, friends, and the community, as appropriate.
(c) Subsidy payments in an amount established by DFCS may be made directly to a child under the direct supervision of a caseworker or other responsible adult approved by DFCS.

15-11-359.
DFCS shall provide or arrange for the following services to young adults formerly in foster care who meet the prescribed conditions and are determined eligible by DFCS:
(1) Aftercare support services which are available to such young adults in their efforts to continue to develop the skills and abilities necessary for independent living; and
(2) Transitional short-term services.

15-11-360.
(a) A young adult who left foster care at 18 years of age but who requests services prior to reaching 23 years of age shall be eligible for aftercare support services.
(b) Aftercare support services may include, but shall not be limited to:
(1) Mentoring and tutoring;
(2) Mental health services and substance abuse counseling;
(3) Life skills classes, including, but not limited to, credit management, preventive health activities, and basic legal skills;
(4) Parenting classes;
(5) Job skills training;
(6) Counselor consultations; and
(7) Temporary financial assistance.
(c) The specific services to be provided under this Code section shall be determined by an aftercare services assessment and may be provided by DFCS or through referrals in the community. Temporary assistance provided to prevent homelessness shall be provided as expeditiously as possible and within the limitations defined by DFCS.

15-11-361.
(a) In addition to any services provided through aftercare support, in DFCS's discretion, a young adult formerly in foster care may receive other appropriate transitional services, which may include financial, housing, counseling, employment, education, mental health, disability, and other services, if the young adult demonstrates

that the services are critical to the young adult's own efforts to achieve self-sufficiency and to develop a personal support system.

(b) A young adult shall be eligible to apply for transitional support services if he or she was a dependent child, was living in licensed foster care or in subsidized independent living at the time of his or her eighteenth birthday, and had spent at least six months living in foster care before his or her eighteenth birthday.

(c) If at any time transitional support services are no longer critical to the young adult's own efforts to achieve self-sufficiency and to develop a personal support system, the provision of such services may be terminated.

15-11-362.

Payment of aftercare or transitional support funds shall be made directly to the recipient unless the recipient requests in writing to the community based provider or DFCS that the payments or a portion of the payments be made directly on the recipient's behalf to a third party in order to secure services such as housing, counseling, education, or employment training as part of the young adult's own efforts to achieve self-sufficiency.

15-11-363.

(a) A judicial review of the independent living services being provided to a child shall be held:

(1) For a child who has reached 14 years of age but is not 18 years of age, during the periodic review and permanency plan hearings under Article 3 of this chapter; or

(2) For a young adult, at least annually.

(b) In addition to the periodic review and permanency plan hearings under Article 3 of this chapter, the court shall hold a hearing to review the status of the child within 90 days after a child's seventeenth birthday. Such hearing may be held concurrently with a periodic review or permanency plan hearing. If necessary, the court may review the status of the child more frequently during the year prior to the child's eighteenth birthday.

(c) At each periodic review, in addition to any information or report provided to the court, the foster parent, legal custodian, guardian ad litem, if any, and the child shall be given the opportunity to provide the court with any information relevant to the child's best interests as it relates to independent living transition services. In addition to any information or report provided to the court, DFCS shall include in its social study report written verification that the child has been:

(1) Provided with a current Medicaid card and has been provided all necessary information concerning the Medicaid program sufficient to prepare the child to apply for coverage upon reaching 18 years of age, if such application would be appropriate;

(2) Provided with a certified copy of his or her birth certificate and, if the child does not have a valid driver's license, a valid Georgia identification card;

(3) Provided information relating to federal social security insurance benefits if the child is eligible for such benefits. If the child has received such benefits and the

benefits are being held in trust for the child, a full accounting of such funds shall be provided and the child shall be informed about how to access such funds;

(4) Provided with information and training related to budgeting skills, interviewing skills, parenting skills, and basic legal skills;

(5) Provided with essential banking skills including an open bank account or identification necessary to open an account;

(6) Provided with information on public assistance and how to apply;

(7) Provided a clear understanding of where he or she will be living on his or her eighteenth birthday, how living expenses will be paid, and what educational program or school he or she will be enrolled in; and

(8) Encouraged to attend all judicial review hearings occurring after his or her seventeenth birthday.

(d) At the first judicial review hearing held subsequent to a child's seventeenth birthday, DFCS shall provide the court with an updated case plan that includes specific information related to independent living services that have been provided since the child's fourteenth birthday or since the date the child came into foster care, whichever came later.

(e) At the time of a periodic review hearing if, in the opinion of the court, DFCS has not complied with its obligations as specified in the written case plan or in the provision of independent living services, the court shall issue a show cause order. If cause is shown for failure to comply, the court shall give DFCS 30 days within which to comply and, on failure to comply with this or any subsequent order, DFCS may be held in contempt.

15-11-364.

The department shall promulgate regulations to administer this article and shall follow the requirements of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The department shall complete the development of all procedures, systems, assessments, and other items required by this article by January 1, 2014.

15-11-365.

Nothing in this article shall be interpreted to limit a child's eligibility for postsecondary tuition, ancillary fees, or living expenses under Code Section 20-3-660.

ARTICLE 6

Part 1

15-11-380.

The purpose of this article is:

(1) To acknowledge that certain behaviors or conditions occurring within a family or school environment indicate that a child is experiencing serious difficulties and is in need of services and corrective action in order to protect the child from the irreversibility of certain choices and to protect the integrity of the family;

(2) To make other family members aware of their contributions to their family's problems and to encourage family members to accept the responsibility to participate in any program of care ordered by the court;

(3) To provide a child with a program of treatment, care, guidance, counseling, structure, supervision, and rehabilitation which the child needs to assist him or her in becoming a responsible and productive member of society; and

(4) To ensure the cooperation and coordination of all agencies having responsibility to supply services to any member of the family referred to the court.

15-11-381.

As used in this article, the term:

(1) 'Comprehensive services plan' means an interagency treatment, habilitation, support, or supervision plan developed at an interagency meeting of state or local agency representatives, parties, and other interested persons following a court's finding that a child is incompetent to proceed. A comprehensive services plan shall be submitted to the court for approval as part of the disposition of the child's case.

(2) 'Habilitation' means the process by which a child is helped to acquire and maintain those life skills which will enable him or her to cope more effectively with the demands of his or her own person and of his or her environment and to raise the level of his or her physical, mental, social, and vocational abilities.

(3) 'Home detention' means court ordered confinement of a child with his or her parent, guardian, legal custodian, or in some other specified home for 24 hours a day unless otherwise prescribed by written court order, under which the child is permitted out of the residence only at such hours and in the company of persons specified in the court order establishing the home detention. Home detention shall be monitored by DJJ or court based probation.

(4) 'Nonsecure facility' means a public or private facility which does not include construction fixtures such as locked rooms and buildings, fences, or other physical structures designed to physically restrict the movements and activities of a child in custody.

(5) 'Plan manager' means a person who is under the supervision of the court and is appointed by the court to convene a meeting of all relevant parties for the purpose of developing a comprehensive services plan. A plan manager shall be responsible for collecting all previous histories of the child including, but not limited to, evaluations, assessments, treatment summaries, and school records.

(6) 'Runaway' means a child who without just cause and without the consent of his or her parent, guardian, or legal custodian is absent from his or her home or place of abode for at least 24 hours.

(7) 'Status offense' means an act prohibited by law which would not be an offense if committed by an adult.

(8) 'Truant' means having ten or more days of unexcused absences from school in the current academic year.

(9) 'Valid court order' means a court order issued by a judge to a child alleged or found to have committed a status offense and:

(A) Who was brought before the court and made subject to the order;

(B) Whose future conduct is regulated by the order;

(C) Who was given verbal and written warning of the consequences of violating the order at the time the order was issued and whose attorney, parent, guardian, or legal custodian was also provided with written notice of the consequences of violating the order, and the notice is reflected in the court record; and

(D) Who was afforded due process prior to the issuance of the order.

Part 2

15-11-390.

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

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

(1) The name, date of birth, and residence address of the child on whose behalf the complaint is being filed;

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

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

(4) Whether any of the matters required by this subsection are unknown.

(c) When a school official is filing a complaint, information shall be included which shows that:

(1) The legally liable school district has sought to resolve the expressed problem through available educational approaches; and

(2) The school district has sought to engage the parent, guardian, or legal custodian in solving the problem but such person has been unwilling or unable to do so, that the problem remains, and that court intervention is needed.

(d) When a school official is filing a complaint involving a child who is eligible or suspected to be eligible for services under the federal Individuals with Disabilities Education Act or Section 504 of the federal Rehabilitation Act of 1973, information shall be included which demonstrates that the legally liable school district:

(1) Has determined that the child is eligible or suspected to be eligible under the federal Individuals with Disabilities Education Act or Section 504 of the federal Rehabilitation Act of 1973; and

(2) Has reviewed for appropriateness the child's current Individualized Education Program (IEP) and placement and has made modifications where appropriate.

(e) The juvenile court intake officer shall be responsible for receiving complaints alleging that a child is in need of services.

15-11-391.

(a) Upon the filing of a complaint alleging that a child is in need of services, the juvenile court intake officer shall convene a multidisciplinary conference to be attended by the child, the child's parent, guardian, or legal custodian, DFCS, and any other agency or public institution having legal responsibility or discretionary authority to supply services to the family except in emergencies or when the court or the juvenile court intake officer determines it to be inappropriate or futile.

(b) The juvenile court intake officer shall determine whether a mandatory conference is inappropriate or futile based on:

(1) A screening of the child; and

(2) If a parent, guardian, or legal custodian has filed the complaint, the nature of that parent, guardian, or legal custodian's participation in and compliance with previous mandatory conferences or informal family services plan agreements, if any.

(c) Upon application to the court by the plan manager or upon the motion of any party or upon the court's own motion, the court shall issue an order for good cause to any person determined by the court to be a required participant in the mandatory multidisciplinary conference and who is required by federal or state law to protect the privacy of health information in his or her possession relating to the child alleged to be in need of services or to such child's primary caregiver. Such order shall require such person to comply with the convening of the multidisciplinary conference and to cooperate with the plan manager by disclosing relevant protected health information as ordered by the court. The relevant health information required to be disclosed by the court order shall be used only for the purposes of developing and implementing a comprehensive services plan that is reasonably related to the promotion of the care, guidance, counseling, structure, supervision, treatment, or rehabilitation of the child or the child's primary caregiver for the benefit of such child. For the purposes of this subsection, good cause shall exist when the protected health information being sought is reasonably related to the child alleged to be in need of services.

15-11-392.

(a) After the mandatory multidisciplinary conference, the child, the child's parent, guardian, or legal custodian, DFCS, and any other member of the conference may effect an informal family services plan agreement.

(b) An informal family services plan agreement shall include:

(1) The identification of the conduct of the child, the child's parent, guardian, or legal custodian, or any family member which is causing serious harm to the child and the services needed by that individual to mitigate or eliminate the problems within the family;

(2) A description of the services which are needed for the child, the child's parent, guardian, or legal custodian, or other family members, the availability of such services within the community, and a plan for ensuring that any such services that are available will be secured and delivered;

(3) A description of all expected action to be taken by the child, the child's parent, guardian, or legal custodian, or other family members;
(4) The identification of DFCS caseworker assigned to the case and who is directly responsible for assuring that the informal family services plan agreement is implemented; and
(5) An estimate of the time anticipated to be necessary in order to accomplish the goals set out in the informal family services plan agreement.
(c) The informal family services plan agreement shall set forth in writing the terms and conditions agreed to by the parties as evidenced by their signature thereto.
(d) The informal family services plan agreement shall demonstrate that the child and the child's parent, guardian, or legal custodian understand their right to an adjudication hearing on their need for services and shall also demonstrate that they consent to its terms with knowledge that consent is not obligatory and with knowledge of the effect of such agreement.
(e) The duration of the informal family services plan agreement shall not exceed six months; however, the court may extend such agreement for one additional period not to exceed six months.

Part 3

15-11-400.
DFCS shall be the lead agency and shall have the primary responsibility for the monitoring and management of child in need of services cases under this article.

15-11-401.
(a) The continued custody hearing for a child in need of services shall be held promptly and no later than:
(1) Twenty-four hours after a child is taken into temporary custody if the child is being held in a secure juvenile detention facility; or
(2) Seventy-two hours after the child is placed in foster care, provided that, if the 72 hour time frame expires on a weekend or legal holiday, the hearing shall be held on the next day which is not a weekend or legal holiday.
(b) If a child was never taken into temporary custody or is released from temporary custody at the continued custody hearing, the following time frames apply:
(1) The petition for a child in need of services shall be filed:
(A) Within 30 days of the juvenile court intake officer's determination that a mandatory conference would be inappropriate or futile;
(B) Within 30 days of the child's release from temporary custody if the court determines that the mandatory conference would be inappropriate or futile;
(C) Within 30 days of a court determination that continuing participation in the informal family services plan procedure would be inappropriate or futile; or
(D) Within 30 days of the conclusion of the period governed by the informal family services plan agreement if the child and family have not achieved the goals set out

in such agreement and there are reasonable grounds to believe that the child is still in need of services. If no petition for a child in need of services is filed within the required time frame, the complaint may be dismissed without prejudice;

(2) Summons shall be served at least 24 hours before the adjudication hearing;

(3) The adjudication hearing shall be scheduled to be held no later than 60 days after the filing of the petition for a child in need of services; and

(4) If not held in conjunction with the adjudication hearing, the disposition hearing shall be held and completed within 30 days after the conclusion of the adjudication hearing.

(c) If a child is not released from temporary custody at the continued custody hearing, the following time frames apply:

(1) The petition for a child in need of services shall be filed within five days of the continued custody hearing;

(2) Summons shall be served at least 72 hours before the adjudication hearing;

(3) The adjudication hearing shall be scheduled to be held no later than ten days after the filing of the petition for a child in need of services; and

(4) If not held in conjunction with the adjudication hearing, the disposition hearing shall be held and completed within 30 days after the conclusion of the adjudication hearing.

15-11-402.

(a) A proceeding under this article may be commenced in the county in which the act complained of took place.

(b) If a proceeding is commenced in the county in which the act complained of took place, the court shall transfer the case to the county in which the child legally resides for further proceedings.

(c) When a proceeding is transferred, certified copies of all legal and social documents and records pertaining to the proceeding on file with the clerk of court shall accompany such transfer.

15-11-403.

(a) A child shall have the right to a qualified and independent attorney at all stages of proceedings under this article.

(b) The court shall appoint an attorney for a child alleged to be a child in need of services.

(c) The court shall appoint a guardian ad litem for a child alleged to be a child in need of services:

(1) At the request of the child's attorney; or

(2) Upon the court's own motion if it determines that a guardian ad litem is necessary to assist the court in determining the best interests of the child.

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

(e) If an attorney or a guardian ad litem has previously been appointed for the child in a dependency or delinquency proceeding, the court, when possible, shall appoint the same attorney or guardian ad litem.
(f) An attorney appointed to represent the child in a proceeding for a child in need of services shall continue the representation in any subsequent appeals unless excused by the court.
(g) Neither the child nor a representative of the child may waive the right to an attorney in a proceeding for a child in need of services.
(h) A child shall be informed of his or her right to an attorney at or prior to the first mandatory conference and prior to the first court proceeding for a child in need of services. A child shall be given an opportunity to:
(1) Obtain and employ an attorney of the child's own choice; or
(2) To obtain a court appointed attorney if the court determines that the child is an indigent person.

15-11-404.
A continuance shall be granted only upon a showing of good cause and only for that period of time shown to be necessary by the moving party at the hearing on such motion. Whenever any continuance is granted, the facts which require the continuance shall be entered into the court record.

15-11-405.
If a child is alleged or found to be a child in need of services and is placed in foster care, the child shall be required to have a case plan. In addition to the case plan requirements of Code Section 15-11-201, a case plan shall include:
(1) A description of the child's strengths and needs;
(2) A description of specific parental strengths and needs;
(3) A description of other personal, family, or environmental problems that may contribute to the child's behaviors;
(4) A description of the safety, physical, and mental health needs of the child;
(5) Identification of the least restrictive placement to safeguard the child's best interests and protect the community;
(6) An assessment of the availability of community resources to address the child's and family's needs;
(7) An assessment of the availability of court diversion services; and
(8) An assessment of the availability of other preventive measures.

15-11-406.
Any proceeding or other processes or actions alleging for the first time that a child is a runaway shall be terminated or dismissed upon the request of the parent, guardian, or legal custodian of the child.

Part 4

15-11-410.
(a) A child may be taken into temporary custody under this article:
(1) Pursuant to a court order; or
(2) By a law enforcement officer when there are reasonable grounds to believe that a child has run away from his or her parent, guardian, or legal custodian or the circumstances are such as to endanger the child's health or welfare unless immediate action is taken.
(b) Before entering an order authorizing temporary custody, the court shall determine whether continuation in the home is contrary to the child's welfare and whether there are available services that would prevent the need for custody. The court shall make such determination on a case-by-case basis and shall make written findings of fact referencing any and all evidence relied upon in reaching its decision.
(c) A person taking a child into temporary custody shall deliver the child, with all reasonable speed and without first taking the child elsewhere, to a medical facility if the child is believed to suffer from a serious physical condition or illness which requires prompt treatment and, upon delivery, shall promptly contact a juvenile court intake officer. Immediately upon being notified by the person taking a child into custody, the juvenile court intake officer shall determine if such child should be released, remain in temporary custody, or be brought before the court.

15-11-411.
(a) A person taking a child into temporary custody shall not exercise custody over the child except for a period of 12 hours. A child taken into temporary custody may be placed in a nonsecure facility for a child in need of services.
(b) Counties and municipalities shall be authorized to establish nonsecure facilities where a child who is suspected of being a child in need of services may be placed until the parent, guardian, or legal custodian assumes custody of the child.
(c) Immediately after a child is brought into a nonsecure facility, every effort shall be made to contact the parents, guardian, or legal custodian of the child.
(d) If a parent, guardian, or legal custodian has not assumed custody of the child in a nonsecure facility at the end of the 12 hour period, the court shall be notified and shall place the child in the least restrictive placement consistent with the child's needs for protection or control in the custody of the child's parents, guardian, or legal custodian upon such person's promise to bring the child before the court when requested by the court; provided, however, that if such placement is not available, the child shall be placed in the custody of DFCS which shall promptly arrange for foster care of the child.

15-11-412.
(a) A child may be held in a secure juvenile detention facility until a continued custody hearing is held, provided that such child is not held in a secure detention facility for more than 24 hours and any of the following apply:

(1) It is alleged that the child is a runaway;
(2) It is alleged that the child is habitually disobedient of the reasonable and lawful commands of his or her parent, guardian, or legal custodian and is ungovernable; or
(3) The child has previously failed to appear at a scheduled hearing.
(b) A child placed in a secure detention facility pursuant to subsection (a) of this Code section shall be appointed an attorney prior to the continued custody hearing.
(c) In no case shall a child in custody be detained in a jail, adult lock-up, or other adult detention facility.

15-11-413.
(a) If the child is being held in a secure juvenile detention facility, a continued custody hearing shall be held within 24 hours. If such hearing is not held within the time specified, the child shall be released from temporary detention in accordance with subsection (d) of Code Section 15-11-411 and with authorization of the detaining authority.
(b) If a child is not being held in a secure juvenile detention facility and has not been released to the custody of the child's parent, guardian, or legal custodian, a hearing shall be held promptly and not later than 72 hours after the child is placed in foster care, provided that, if the 72 hour time frame expires on a weekend or legal holiday, the hearing shall be held on the next day which is not a weekend or legal holiday.
(c) At the commencement of the continued custody hearing, the court shall inform the parties of:
(1) The nature of the allegations;
(2) The nature of the proceedings;
(3) The possible consequences or dispositions that may apply to the child's case following adjudication; and
(4) Due process rights, including the right to an attorney and to an appointed attorney; the privilege against self-incrimination; that the child may remain silent and that anything said may be used against the child; the right to confront anyone who testifies against the child and to cross-examine any persons who appear against the child; the right of the child to testify and to compel other witnesses to attend and testify in his or her own behalf; the right of the child to a speedy adjudication hearing; and the right to appeal and be provided with a transcript for such purpose.

15-11-414.
(a) At the continued custody hearing, the court shall determine whether there is probable cause to believe that the child has committed a status offense or is otherwise a child in need of services and that continued custody is necessary.
(b) If the court determines there is probable cause to believe that the child has committed a status offense or is otherwise in need of services, the court may order that the child:
(1) Be released to the custody of a parent, guardian, or legal custodian; or

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

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

(1) Refer the child and the child's family for a mandatory conference;

(2) Order that a petition for a child in need of services be filed and set a date for an adjudication hearing if the court determines that a mandatory conference would be inappropriate or futile; or

(3) When a child and his or her family are already participating in informal family services plan procedures, order that a petition for a child in need of services be filed and set a date for an adjudication hearing if the court determines that continuing participation in the informal family services plan procedures would be inappropriate or futile.

(d) Following the continued custody hearing, the court may detain a child in a secure juvenile detention facility for up to 24 hours, excluding weekends and legal holidays, only for the purpose of providing adequate time to arrange for an appropriate alternative placement pending the adjudication hearing.

(e) All orders shall contain written findings as to the form or conditions of release. If a child cannot be returned to the custody of his or her parent, guardian, or legal custodian at the hearing, the court shall state the facts upon which the continued custody is based. The court shall make the following findings of fact referencing any and all evidence relied upon to make its determinations:

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

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

15-11-415.

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

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

(2) The child's detention is necessary to secure the child's presence in court to protect the jurisdiction and processes of the court; or

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

(b) A child shall not be detained:

(1) To punish, treat, or rehabilitate the child;

(2) To allow a parent, guardian, or legal custodian to avoid his or her legal responsibilities;
(3) To satisfy demands by a victim, law enforcement, or the community;
(4) To permit more convenient administrative access to the child;
(5) To facilitate further interrogation or investigation; or
(6) Due to a lack of a more appropriate facility.

(c) Whenever a child cannot be unconditionally released, conditional or supervised release that results in the least necessary interference with the liberty of the child shall be favored over more intrusive alternatives.

(d) Whenever the curtailment of a child's freedom is permitted, the exercise of authority shall reflect the following values:
(1) Respect for the privacy, dignity, and individuality of the child and his or her family;
(2) Protection of the psychological and physical health of the child;
(3) Tolerance of the diverse values and preferences among different groups and individuals;
(4) Assurance of equality of treatment by race, class, ethnicity, and sex;
(5) Avoidance of regimentation and depersonalization of the child;
(6) Avoidance of stigmatization of the child; and
(7) Assurance that the child has been informed of his or her right to consult with an attorney and that, if the child is an indigent person, an attorney will be provided.

(e) Before entering an order authorizing detention, the court shall determine whether continuation in the home is contrary to the child's welfare and whether there are available services that would prevent or eliminate the need for detention. The court shall make such determination on a case-by-case basis and shall make written findings of fact referencing any and all evidence relied upon in reaching its decision.

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

15-11-416.

(a) A child alleged or found to have committed a status offense may be held in a secure juvenile detention facility for more than 24 hours if:
(1) The child is alleged to have violated a valid court order; and
(2) At the continued custody hearing, the court finds that there is probable cause to believe that the child violated the court order.

(b) If there is probable cause to believe that the child violated a valid court order, the child may be held in a secure juvenile detention facility until a violation hearing is held but in no event shall a child's detention prior to a violation hearing exceed 72 hours, excluding weekends and legal holidays.

(c) At a violation hearing, the court may order that the child be placed in a secure juvenile detention facility if the court:

(1) Affirms that the requirements for a valid court order were met at the time the original order finding the child to have committed a status offense was issued;
(2) Finds that the child was afforded due process rights; and
(3) Received and reviewed a written report prepared by DFCS that described the behavior of the child and the circumstances under which the child was brought before the court and made subject to such order; determined the reasons for the child's behavior; and determined whether all dispositions other than secure confinement have been exhausted or are clearly inappropriate.

(d) A child in need of services who is alleged or found to have violated a valid court order remains a child in need of services and shall not be considered a delinquent child by virtue of such conduct.

(e) If a child is to be held in secure detention under the valid court order exception, the report prepared by DFCS in accordance with subsection (c) of this Code section shall be provided to DJJ as the detention agency.

Part 5

15-11-420.

All proceedings seeking an adjudication that a child is in need of services shall be initiated by a petition filed by an attorney.

15-11-421.

(a) If a child is not released from temporary custody at the continued custody hearing, a petition seeking an adjudication that a child is in need of services shall be filed within five days of the continued custody hearing.

(b) If the child was never taken into temporary custody or is released from temporary custody at the continued custody hearing, the petition seeking an adjudication that a child is in need of services shall be filed:
(1) Within 30 days of the juvenile court intake officer's determination that a mandatory conference would be inappropriate or futile;
(2) Within 30 days of the child's release from temporary custody if the court determines that the mandatory conference would be inappropriate or futile;
(3) Within 30 days of a court determination that continuing participation in the informal family services plan procedure would be inappropriate or futile; or
(4) Within 30 days of the conclusion of the period governed by the informal family services plan agreement if the child and family have not achieved the goals set out in such agreement and there are reasonable grounds to believe that the child is still in need of services.

(c) Upon a showing of good cause and notice to all parties, the court may grant a requested extension of time for filing a petition seeking an adjudication that a child is in need of services in accordance with the best interests of the child. The court shall issue a written order reciting the facts justifying the extension.

(d) If no petition seeking an adjudication that a child is in need of services is filed within the required time frame, the complaint may be dismissed without prejudice.

15-11-422.

(a) The petition seeking an adjudication that a child is in need of services shall be verified and may be on information and belief. It shall set forth plainly and with particularity:

(1) The facts which bring the child within the jurisdiction of the court, with a statement that it is in the best interests of the child and the public that the proceeding be brought;

(2) The name, date of birth, and residence address of the child on whose behalf such petition is being brought;

(3) The name and residence address of the parent, guardian, or legal custodian of the child; or, if neither the child's parent nor the child's guardian nor the child's legal custodian resides or can be found within the state or if such place of residence address is unknown, the name of any known adult relative residing within the county or, if there is none, the known adult relative residing nearest to the location of the court;

(4) The name, age, and residence address of any other family member living within the child's home;

(5) Whether all available and appropriate attempts to encourage voluntary use of community services by the family have been exhausted; and

(6) Whether any of the matters required by this subsection are unknown.

(b) If a petition seeking an adjudication that a child is in need of services is based on a complaint filed by a school official, such petition shall be dismissed unless it includes information which shows that:

(1) The legally liable school district has sought to resolve the expressed problem through available educational approaches; and

(2) The school district has sought to engage the parent, guardian, or legal custodian in solving the problem but any such individual has been unwilling or unable to do so; that the problem remains; and that court intervention is needed.

(c) If a petition seeking an adjudication that a child is in need of services is based on a complaint filed by a school official involving a child who is eligible or suspected to be eligible for services under the federal Individuals with Disabilities Education Act or Section 504 of the federal Rehabilitation Act, such petition shall be dismissed unless it includes information which demonstrates that the legally liable school district:

(1) Has determined that the child is eligible or suspected to be eligible under the federal Individuals with Disabilities Education Act or Section 504 of the federal Rehabilitation Act; and

(2) Has reviewed for appropriateness the child's current Individualized Education Program (IEP) and placement and has made modifications where appropriate.

15-11-423.
(a) The court shall direct the issuance of a summons to the child, the child's parent, guardian, or legal custodian, DFCS and any other public agencies or institutions providing services, and any other persons who appear to the court to be proper or necessary parties to the child in need of services proceeding requiring them to appear before the court at the time fixed to answer the allegations of the petition seeking an adjudication that a child is in need of services. A copy of such petition shall accompany the summons.
(b) The summons shall state that a party is entitled to an attorney in the proceedings and that the court will appoint an attorney if the party is an indigent person.
(c) A party other than the child may waive service of summons by written stipulation or by voluntary appearance at the hearing.

15-11-424.
(a) If a party to be served with a summons is within this state and can be found, the summons shall be served upon him or her personally as soon as possible and at least 24 hours before the adjudication hearing.
(b) If a party to be served is within this state and cannot be found but his or her address is known or can be ascertained with reasonable diligence, the summons shall be served upon such party at least five days before the adjudication hearing by mailing him or her a copy by registered or certified mail or statutory overnight delivery, return receipt requested.
(c) If a party to be served is outside this state but his or her address is known or can be ascertained with reasonable diligence, service of the summons shall be made at least five days before the adjudication hearing either by delivering a copy to such party personally or by mailing a copy to him or her by registered or certified mail or statutory overnight delivery, return receipt requested.
(d) Service of the summons may be made by any suitable person under the direction of the court.
(e) The court may authorize payment from county funds of the costs of service and of necessary travel expenses incurred by persons summoned or otherwise required to appear at the hearing on the petition seeking an adjudication that a child is in need of services.

15-11-425.
(a) In the event a parent, guardian, or legal custodian of the child willfully fails to appear personally at a hearing on the petition seeking an adjudication that a child is in need of services after being ordered to so appear or the parent, guardian, or legal custodian of the child willfully fails to bring the child to such hearing after being so directed, the court may issue a rule nisi against the person directing the person to appear before the court to show cause why he or she should not be held in contempt of court.
(b) If the parent, guardian, or legal custodian fails to appear in response to an order to show cause, the court may issue a bench warrant directing that the parent, guardian, or

legal custodian be brought before the court without delay to show cause why he or she should not be held in contempt and the court may enter any order authorized by the provisions of Code Section 15-11-31.
(c) In the event an agency representative willfully fails to appear at a mandatory conference or a hearing on the petition seeking an adjudication that a child is in need of services after being ordered to so appear, the court may direct the appropriate agency representative to appear before the court to show cause why a contempt order should not issue.
(d) If a child 16 years of age or older fails to appear at a hearing on the petition seeking an adjudication that a child is in need of services after being ordered to so appear, the court may issue a bench warrant requiring that the child be brought before the court without delay and the court may enter any order authorized by and in accordance with the provisions of Code Section 15-11-31.
(e) If there is sworn testimony that a child 14 years of age but not yet 16 years of age willfully refuses to appear at a hearing on the petition seeking an adjudication that a child is in need of services after being ordered to so appear, the court may issue a bench warrant requiring that the child be brought before the court and the court may enter any order authorized by and in accordance with the provisions of Code Section 15-11-31.

Part 6

15-11-440.
The petitioner has the burden of proving the allegations of a child in need of services petition beyond a reasonable doubt.

15-11-441.
(a) If a child is in continued custody but not in secure detention, the adjudication hearing shall be scheduled to be held no later than ten days after the filing of the petition seeking an adjudication that a child is in need of services. If the child is not in continued custody, the adjudication hearing shall be scheduled to be held no later than 60 days after the filing of such petition.
(b) At the conclusion of the adjudication hearing, the court shall determine whether the child is a child in need of services.

15-11-442.
(a) If the court finds the child is in need of services, a final disposition hearing shall be held and completed within 30 days of the conclusion of the adjudication hearing.
(b) The court shall order the least restrictive and most appropriate disposition. Such disposition may include:
(1) Permitting the child to remain with the child's caregiver without limitations or conditions;
(2) Permitting the child to remain with the child's caregiver subject to such limitations and conditions as the court may prescribe, including ordering the child, the

family, or both to undergo physical examination or treatment, accept individual or family counseling, or submit to psychiatric examination or treatment or psychological examination or treatment as determined by the court;

(3) Placing the child on probation on such terms and conditions as deemed in the best interests of the child and the public. An order granting probation to a child in need of services may be revoked on the ground that the terms and conditions of the probation have not been observed;

(4) Requiring that the child perform community service in a manner prescribed by the court and under the supervision of an individual designated by the court;

(5) Requiring that the child make restitution. A restitution order may remain in force and effect simultaneously with another order of the court. Payment of funds shall be made by the child or the child's family or employer directly to the clerk of the juvenile court entering the order or another employee of that court designated by the judge, and such court shall disburse such funds in the manner authorized in the order. While an order requiring restitution is in effect, the court may transfer enforcement of its order to:

(A) The juvenile court of the county of the child's residence and its probation staff, if the child changes his or her place of residence; or

(B) A superior court once the child reaches 18 years of age if the child thereafter comes under the jurisdiction of the superior court;

(6) Imposing a fine on a child who has committed an offense which, if committed by an adult, would be a violation under the criminal laws of this state or has violated an ordinance or bylaw of a county, city, town, or consolidated government. Such fine shall not exceed the fine which may be imposed against an adult for the same offense;

(7) Requiring the child to attend structured after-school or evening programs or other court approved programs as well as requiring supervision of the child during the time of the day in which the child most often used to perform the acts complained of in the petition alleging that the child is in need of services;

(8) Any order authorized for the disposition of a dependent child;

(9) Assigning the child to the custody of a private or public institution or agency including committing the child to DJJ. A child shall not be placed in a secure detention facility designed and operated exclusively for delinquent children, nor shall such facility accept the child, unless the child has violated a valid court order; or

(10) Any combination of the dispositions set forth in paragraphs (1) through (9) of this subsection as the court deems to be in the best interests of the child and the public.

(c) The court may make orders relative to the support and maintenance of the child during the period after the child's eighteenth birthday as permitted by law.

(d) All disposition orders shall include written findings as to the basis for the disposition and such conditions as the court imposes and a specific plan of the services to be provided.

15-11-443.

(a) An order of disposition shall be in effect for the shortest time necessary to accomplish the purposes of the order and for not more than two years. A written disposition order shall state the length of time the order is to be in effect. An order of extension may be made if:

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

(2) Reasonable notice of the factual basis of the motion and of the hearing and opportunity to be heard are given to the parties affected;

(3) The court finds that the extension is necessary to accomplish the purposes of the order extended; and

(4) The extension does not exceed two years from the expiration of the prior order.

(b) The court may terminate an order of disposition or an extension of such a disposition order prior to its expiration, on its own motion or an application of a party, if it appears to the court that the purposes of the order have been accomplished.

(c) When a child reaches 18 years of age, all orders affecting him or her then in force shall terminate and he or she shall be discharged from further obligation or control.

15-11-444.

(a) An order granting probation to a child found to be a child in need of services may be revoked on the ground that the conditions of probation have been violated.

(b) Any violation of a condition of probation may be reported to the prosecuting attorney who may file a motion in court for revocation of probation. A motion for revocation of probation shall contain specific factual allegations constituting each violation of a condition of probation.

(c) The motion shall be served upon the child, his or her attorney, and parent, guardian, or legal custodian in accordance with the provisions of Code Section 15-11-424.

(d) If a child is taken into custody because of the alleged violation of probation, the provisions governing the detention of a child under this article shall apply.

(e) A revocation hearing shall be scheduled to be held no later than 30 days after the filing of a motion to revoke probation or, if the child has been detained as a result of the filing of the motion for revocation, in accordance with Code Section 15-11-416.

(f) If the court finds, beyond a reasonable doubt, that a child violated the terms and conditions of probation, the court may:

(1) Extend probation;

(2) Impose additional conditions of probation;

(3) Impose the secure probation sanctions program as defined in Code Section 15-11-471; or

(4) Make any disposition that could have been made at the time probation was imposed.

15-11-445.
The court shall review the disposition of a child in need of services at least once within three months after such disposition and at least every six months thereafter so long as the order of disposition is in effect.

Part 7

15-11-450.
The periodic review hearing requirements under Article 3 of this chapter shall apply to proceedings involving a child alleged or found to be a child in need of services and placed in foster care.

15-11-451.
(a) The permanency plan requirements under Article 3 of this chapter shall apply to proceedings involving a child alleged or found to be a child in need of services and placed in foster care.
(b) In addition to those compelling reasons set forth in Code Section 15-11-233, a compelling reason for determining that filing a termination of parental rights petition is not in the best interests of a child in need of services may include, but shall not be limited to:
(1) The child needs continued out-of-home placement for an additional number of months and the parent, guardian, or legal custodian has cooperated with referrals, visitation, and family conferences as well as therapy;
(2) The child is habitually truant and absconds from the home, the current placement setting has an on-site school with therapeutic intervention and restricted leave policies, and the child and parent are cooperative with services and referrals; or
(3) The child is uncooperative with services or referrals.

Part 8

15-11-460.
(a) After determining, in accordance with the provisions of Article 8 of this chapter, that a child who is alleged to be a child in need of services in a petition under this article or who has been alleged to have committed a delinquent act is unrestorably incompetent to proceed and the court makes a finding that the child is a child in need of services, the court shall appoint a plan manager, if one has not already been appointed, to direct the development of a comprehensive services plan for such child.
(b) A comprehensive services plan shall be developed at a meeting of all relevant parties convened by the plan manager. The plan manager shall request that the following persons attend such meeting:
(1) The parent, guardian, or legal custodian of the child;
(2) The child's attorney;
(3) The prosecuting attorney;

(4) The child's guardian ad litem, if any;
(5) Mental health or mental retardation representatives;
(6) The child's caseworker;
(7) A representative from the child's school; and
(8) Any family member of the child who has shown an interest and involvement in the child's well-being.

(c) The plan manager may request that other relevant persons attend the comprehensive services plan meeting including but not limited to the following:
(1) A representative from the Department of Public Health;
(2) A DFCS caseworker; and
(3) Representatives of the public and private resources to be utilized in the plan.

(d) The plan manager shall be responsible for collecting all previous histories of the child, including, but not limited to, previous evaluations, assessments, and school records and for making such histories available for consideration by the persons at the comprehensive services plan meeting.

(e) Unless a time extension is granted by the court, the plan manager shall submit the comprehensive services plan to the court within 30 days of the entry of the court's disposition order for a child found to be unrestorably incompetent to proceed under Article 8 of this chapter. The plan shall include the following:
(1) An outline of the specific provisions for supervision of the child for protection of the community and the child;
(2) An outline of a plan designed to provide treatment, habilitation, support, or supervision services in the least restrictive environment;
(3) If the child's evaluation recommends treatment in a secure environment, certification by the plan manager that all other appropriate community based treatment options have been exhausted; and
(4) Identification of all parties, including the child, agency representatives, and other persons responsible for each element of the plan.

(f) The plan manager shall also be responsible for:
(1) Convening a meeting of all parties and representatives of all agencies prior to the comprehensive services plan hearing and review hearings;
(2) Identifying to the court any person who should provide testimony at the comprehensive services plan hearing; and
(3) Monitoring the comprehensive services plan, presenting to the court amendments to the plan as needed, and presenting evidence to the court for the reapproval of the plan at subsequent review hearings.

15-11-461.

(a) The court shall hold a comprehensive services plan hearing within 30 days after the comprehensive services plan has been submitted to the court for the purpose of approving the plan. Thereafter, the court shall hold a comprehensive services plan hearing every six months for the purpose of reviewing the child's condition and approving the comprehensive services plan.

(b) The persons required to be notified of the comprehensive services plan hearing and witnesses identified by the plan manager shall be given at least ten days' prior notice of the hearing and any subsequent hearing to review the child's condition and shall be afforded an opportunity to be heard at any such hearing. The victim, if any, of the child's alleged delinquent act shall also be provided with the same ten days' prior notice and shall be afforded an opportunity to be heard and to present a victim impact form to the court at the comprehensive services plan hearing. The judge shall make a determination regarding sequestration of witnesses in order to protect the privileges and confidentiality rights of the child.

(c) At the comprehensive services plan hearing, the court shall enter an order incorporating a comprehensive services plan as part of the disposition of the comprehensive services plan hearing. At the time of the disposition, the child shall be placed in an appropriate treatment setting, as recommended by the examiner, unless the child has already been placed in an appropriate treatment setting pursuant to subsection (g) of Code Section 15-11-656.

(d) If, during the comprehensive services plan hearing or any subsequent review hearing, the court determines that the child meets criteria for civil commitment, the child may be committed to a secure treatment facility.

(e) At any time, in the event of a change in circumstances regarding the child, the court on its own motion or on the motion of the attorney representing the child, any guardian ad litem for the child, the prosecuting attorney, or the plan manager may set a hearing for review of the comprehensive services plan and any proposed amendments to such plan. The court may issue an appropriate order incorporating an amended plan.

(f) If a child is under a comprehensive services plan when he or she reaches the age of 18, the plan manager shall make a referral for appropriate adult services.

ARTICLE 7

Part 1

15-11-470.

The purpose of this article is:

(1) Consistent with the protection of the public interest, to hold a child committing delinquent acts accountable for his or her actions, taking into account the child's age, education, mental and physical condition, background, and all other relevant factors but to mitigate the adult consequences of criminal behavior;

(2) To accord due process of law to each child who is accused of having committed a delinquent act;

(3) To provide for a child committing delinquent acts programs of supervision, care, and rehabilitation which ensure balanced attention to the protection of the community, the imposition of accountability, and the development of competencies to enable a child to become a responsible and productive member of the community;

(4) To promote a continuum of services for a child and his or her family from prevention to aftercare, considering, whenever possible, prevention, diversion, and early intervention, including an emphasis on community based alternatives;
(5) To provide effective sanctions to acts of juvenile delinquency; and
(6) To strengthen families and to successfully reintegrate children into homes and communities.

15-11-471.
As used in this article, the term:
(1) 'AIDS transmitting crime' means aggravated child molestation, aggravated sodomy, child molestation, incest, prostitution, rape, sodomy, solicitation of sodomy, statutory rape, or any offense involving a violation of Article 2 of Chapter 13 of Title 16 if such offense involves heroin, cocaine, derivatives of either, or any other controlled substance in Schedule I, II, III, IV, or V and that other substance is commonly intravenously injected, as determined by the regulations of the department.
(2) 'Arraignment' means the formal act of calling the child into court, informing him or her of the allegations of the petition alleging delinquency, and the entry of a preliminary statement, if any, indicating whether the child shall admit or deny the allegations of such petition.
(3) 'Behavioral health evaluation' means a court ordered evaluation completed by a licensed psychologist or psychiatrist of a child alleged to have committed or adjudicated of a delinquent act so as to provide the juvenile court with information and recommendations relevant to the behavioral health status and mental health treatment needs of the child.
(4) 'Community rehabilitation center' means a rehabilitation and custodial center established within a county for the purpose of assisting in the rehabilitation of delinquent children and children in need of services in a neighborhood and family environment in cooperation with community educational, medical, and social agencies. Such center shall:
(A) Be located within any county having a juvenile court presided over by at least one full-time judge exercising jurisdiction exclusively over juvenile matters; and
(B) Be operated by a nonprofit corporation organized under Chapter 3 of Title 14, the 'Georgia Nonprofit Corporation Code,' and have a full-time chief executive officer. The charter, bylaws, and method of selecting the board of directors and chief executive officer of such nonprofit corporation shall be subject to the unanimous approval of the chief judge of the judicial circuit in which the county is located, the judge or judges of the juvenile court, the superintendent of the county school district, and the commissioner of juvenile justice, which approval shall be in writing and shall be appended to the charter and bylaws of the nonprofit organization. Any amendment of the charter or bylaws of the nonprofit corporation shall be subject to the same written approval as the original charter and bylaws.

(5) 'Determined to be infected with HIV' means having a confirmed positive human immunodeficiency virus ('HIV') test or having been clinically diagnosed as having AIDS.

(6) 'Graduated sanctions' means:

(A) Verbal and written warnings;

(B) Increased restrictions and reporting requirements;

(C) Community service;

(D) Referral to treatment and counseling programs in the community;

(E) Weekend programming;

(F) Electronic monitoring, as such term is defined in Code Section 42-8-151;

(G) Curfew;

(H) An intensive supervision program; or

(I) A home confinement program.

(7) 'Hearing officer' means a DJJ employee or county juvenile probation office employee, as applicable, who has been selected and appointed by DJJ or the county juvenile probation office, as applicable, to hear cases alleging violations of probation for administrative sanctioning. A hearing officer shall not be a probation officer who has direct supervision over the child who is the subject of the hearing.

(8) 'HIV test' means any antibody, antigen, viral particle, viral culture, or other test to indicate the presence of HIV in the human body, which test has been approved for such purposes by the regulations of the department.

(9) 'Intensive supervision' means the monitoring of a child's activities on a more frequent basis than regular aftercare supervision, pursuant to regulations of the commissioner of juvenile justice.

(10) 'Preadjudication custody' begins when a juvenile court intake officer authorizes the placement of a child in a regional youth detention center.

(11) 'Probation management program' means a special condition of probation that includes graduated sanctions.

(12) 'Secure probation sanctions program' means secure confinement of seven, 14, or 30 days.

15-11-472.

(a) A detention hearing shall be held promptly and no later than:

(1) Two business days after the child is placed in preadjudication custody if the child is taken into custody without an arrest warrant; or

(2) Three business days after the child is placed in preadjudication custody if the child is taken into custody pursuant to an arrest warrant.

(b) If a child is placed in preadjudication custody without an arrest warrant and the detention hearing cannot be held within 48 hours because the expiration of the 48 hours falls on a weekend or legal holiday, the court shall review the decision to detain a child and make a finding based on probable cause within 48 hours of the child being placed in preadjudication custody.

(c) If a child is released from preadjudication custody at the detention hearing or was never taken into custody, the following time frames apply:

(1) Any petition alleging delinquency shall be filed within 30 days of the filing of the complaint or within 30 days of the child's release from preadjudication custody;

(2) Summons shall be served at least 72 hours before the adjudication hearing;

(3) The arraignment hearing shall be scheduled no later than 30 days after the filing of the petition alleging delinquency;

(4) The adjudication hearing shall be held no later than 60 days from the filing of the petition alleging delinquency; and

(5) The disposition hearing shall be held within 30 days of the adjudication hearing unless the court makes written findings of fact explaining the delay.

(d) If a child is not released from preadjudication custody at the detention hearing, the following time frames apply:

(1) The petition alleging delinquency shall be filed within 72 hours of the detention hearing;

(2) Summons shall be served at least 72 hours before the adjudication hearing;

(3) The adjudication hearing shall be held no later than ten days after the filing of the petition alleging delinquency; and

(4) The disposition hearing shall be held within 30 days of the adjudication hearing unless the court makes written findings of fact explaining the delay.

15-11-473.

(a) A prosecuting attorney shall conduct delinquency proceedings on behalf of the state.

(b) Except as provided in Article 10 of this chapter, in any delinquency proceeding, the prosecuting attorney shall be entitled to complete access to all court files, probation files, hearing transcripts, delinquency reports, and any other juvenile court records. It shall be the duty of the clerk, probation officers of the juvenile court, and DJJ to assist the prosecuting attorney in obtaining any requested items.

15-11-474.

(a) The child and the state shall be parties at all stages of delinquency proceedings.

(b) The child's parent, guardian, or legal custodian shall have the right to notice, the right to be present in the courtroom, and the opportunity to be heard at all stages of delinquency proceedings.

(c) DJJ shall receive notice of the disposition hearing.

15-11-475.

(a) A child shall have the right to be represented by an attorney at all proceedings under this article.

(b) A child's parent, guardian, or legal custodian shall not waive the child's right to be represented by an attorney.

(c) A child may waive the right to an attorney only after consultation with an attorney.

(d) Prior to the detention hearing, if any, the court shall appoint a qualified and competent attorney to represent the child unless an attorney has been retained and appears on behalf of the child. Nothing in this subsection shall prohibit a judge from releasing a child from detention prior to appointment of an attorney.
(e) Upon a motion by an attorney for the child, together with written permission of the child, a judge shall issue an order providing that attorney with access to all dependency, school, hospital, physician, or other health or mental health care records relating to the child.

15-11-476.
(a) The court shall appoint a separate guardian ad litem whenever:
(1) A child appears before the court without a parent, guardian, or legal custodian;
(2) It appears to the court that the child's parent, guardian, or legal custodian is incapable or unwilling to make decisions in the best interests of the child with respect to proceedings under this article such that there may be a conflict of interest between the child and his or her parent, guardian, or legal custodian; or
(3) The court finds that it is otherwise in the child's best interests to do so.
(b) The role of a guardian ad litem in a delinquency proceeding shall be the same role as provided for in all dependency proceedings under Article 3 of this chapter.
(c) Neither the child's attorney nor the child's parent, guardian, or legal custodian shall prohibit or impede access to the child by the guardian ad litem.

15-11-477.
(a) At any time prior to the issuance of a final dispositional order, the court may order a behavioral health evaluation of the child which may be conducted by DBHDD or a private psychologist or psychiatrist.
(b) The court shall order and give consideration to the results of a child's behavioral health evaluation before ordering any final disposition confining such child in a secure detention facility; provided, however, that such order shall not be required if the court has considered the results of a prior behavioral health evaluation of the child that had been completed in the preceding six months.
(c) Statements made by the child during a behavioral health evaluation shall only be admissible into evidence as provided in Code Section 15-11-479.

15-11-478.
A continuance shall be granted only upon a showing of good cause and only for that period of time shown to be necessary by the moving party at the hearing on the motion. Whenever any continuance is granted, the facts which require the continuance shall be entered into the court record.

15-11-479.
Voluntary statements made in the course of intake screening of a child or in the course of treatment, any evaluation, or any other related services shall be inadmissible in any

adjudication hearing in which the child is the accused and shall not be considered by the court except such statement shall be admissible as rebuttal or impeachment evidence.

15-11-480.
(a) When a child enters a denial to the petition alleging delinquency, jeopardy attaches when the first witness is sworn at the adjudication hearing.
(b) When a child enters an admission to the petition alleging delinquency, jeopardy attaches when the court accepts the admission.

15-11-481.
(a) When a child is adjudicated delinquent and is placed in foster care, DJJ shall develop and complete the child's case plan. When the child is in DFCS custody, DJJ shall cooperate with DFCS in developing and completing the child's case plan.
(b) In addition to the case plan requirements of Code Section 15-11-201, the case plan for a child in delinquency proceedings shall include:
(1) A description of the child's strengths and needs;
(2) A description of specific parental strengths and needs;
(3) A description of other personal, family, or environmental problems that contribute to the child's delinquent behaviors;
(4) A description of the safety, physical, and mental health needs of the child;
(5) Identification of the least restrictive placement to safeguard the child's best interests and protect the community;
(6) An assessment of the availability of community resources to address the child's and family's needs;
(7) An assessment of the availability of court diversion services; and
(8) An assessment of the availability of other preventive measures.

15-11-482.
(a) In any delinquency proceeding in which a petition has been filed, the juvenile court shall notify any victim of a delinquent child's alleged delinquent act that the victim may submit a victim impact form as provided in Code Section 17-10-1.1 if:
(1) The allegedly delinquent child, in conduct which would constitute a felony if committed by an adult, caused physical, psychological, or economic injury to the victim; or
(2) The allegedly delinquent child, in conduct which would constitute a misdemeanor if committed by an adult, caused serious physical injury or death to the victim.
(b) The provisions of subsection (e) of Code Section 17-10-1.1 shall apply to the use and disclosure of the victim impact form.
(c) The victim may complete the victim impact form and submit such form to the juvenile court. If the victim is unable to do so because of such victim's mental, emotional, or physical incapacity, or because of such victim's age, the victim's attorney or a family member may complete the victim impact form on behalf of the victim.

(d) Prior to the imposition of a dispositional order for an allegedly delinquent child, the juvenile court shall permit the victim to address the juvenile court and present any information or opinions that concern the victim or the victim's family, including the impact of the delinquent act on the victim, the harm caused by the allegedly delinquent child and the delinquent act, the need for restitution, or the terms of the disposition order. Such statement shall be given in the presence of the allegedly delinquent child and shall be subject to cross-examination. The prosecuting attorney and the allegedly delinquent child shall be afforded the opportunity to explain, support, or deny the victim's statement. It shall be the duty of the juvenile court to advise the victim of the right to address the court prior to the entry of a dispositional order for a delinquent child. The victim shall have the discretion to exercise the right to be present and be heard at the dispositional hearing. If the victim is voluntarily absent from the dispositional hearing, such absence shall constitute a waiver of the rights provided by this subsection.

(e) Except as provided in subsection (d) of this Code section, no disposition of the child shall be invalidated because of failure to comply with the provisions of this Code section. This Code section shall not be construed to create any cause of action or any right of appeal on behalf of the victim, the state, or the accused; provided, however, that if the court intentionally fails to comply with this Code section, the victim may file a complaint with the Judicial Qualifications Commission.

Part 2

15-11-490.

(a) A proceeding under this article may be commenced:

(1) In the county in which the child legally resides; or

(2) In any county in which the alleged delinquent acts occurred.

(b) If the adjudicating court finds that a nonresident child has committed a delinquent act, the adjudicating court may retain jurisdiction over the disposition of the nonresident child or may transfer the proceeding to the county of the child's residence for disposition. Like transfer may be made if the residence of the child changes pending the proceeding.

(c) If the adjudicating court retains jurisdiction, prior to making any order for disposition of the nonresident child, the adjudicating court shall communicate to the court of the county of the child's residence the fact that the child has been found to have committed a delinquent act. Such communication shall state the date upon which the adjudicating court plans to enter an order for disposition of the nonresident child and shall request any information or recommendations relevant to the disposition of the nonresident child. Any such recommendation shall be considered by but shall not be binding upon the adjudicating court in making its order for disposition.

(d) When any case is transferred, certified copies of all documents and records pertaining to the case on file with the clerk of the court shall accompany the transfer

order. Compliance with this subsection shall terminate jurisdiction in the transferring court and initiate jurisdiction in the receiving court.

Part 3

15-11-500.
If it appears from a filed affidavit or from sworn testimony before the court that the conduct, condition, or surroundings of the child are endangering the child's health or welfare or those of others or that the child may abscond or be removed from the jurisdiction of the court or will not be brought before the court, notwithstanding the service of the summons, the court may endorse upon the summons an order that a law enforcement officer shall serve the summons and take the child into immediate custody and bring the child forthwith before the court.

15-11-501.
(a) A child may be taken into custody:
(1) Pursuant to an order of the court under this article, including an order to a DJJ employee to apprehend:
(A) A child who has escaped from an institution or facility operated by DJJ; or
(B) A child who has been placed under supervision and who has violated its conditions;
(2) Pursuant to the laws of arrest; or
(3) By a law enforcement officer or duly authorized officer of the court if there are reasonable grounds to believe that the child has committed a delinquent act.
(b) A law enforcement officer taking a child into custody shall promptly give notice together with a statement of the reasons for taking the child into custody to a parent, guardian, or legal custodian and to the court.
(c) When a child who is taken into custody has committed an act which would constitute a felony if committed by an adult, the juvenile court, within 48 hours after it learns of the child having been taken into custody, shall notify the prosecuting attorney of the judicial circuit in which the juvenile proceedings are to be instituted.

15-11-502.
(a) A person taking a child into custody, with all reasonable speed and without first taking the child elsewhere, shall:
(1) Immediately release the child, without bond, to the child's parent, guardian, or legal custodian upon such person's promise to bring the child before the court when requested by the court;
(2) Immediately deliver the child to a medical facility if the child is believed to suffer from a serious physical condition or illness which requires prompt treatment and, upon delivery, shall promptly contact a juvenile court intake officer. Immediately upon being notified by the person taking a child into custody, the juvenile court intake

officer shall determine if the child should be released, remain in protective custody, or be brought before the court; or

(3) Bring the child immediately before the juvenile court or promptly contact a juvenile court intake officer. The court or juvenile court intake officer shall determine if the child should be released or detained. All determinations and court orders regarding detention shall comply with the requirements of this article and shall be based on an individual assessment of the child and the child's circumstances. Such assessment shall include completion and review of a detention assessment instrument developed by the Governor's Office for Children and Families in consultation with DJJ and the Council of Juvenile Court Judges.

(b) Notwithstanding subsection (a) of this Code section, a law enforcement officer may detain a child for a reasonable period of time sufficient to conduct interrogations and perform routine law enforcement procedures including, but not limited to, fingerprinting, photographing, and the preparation of any necessary records.

(c) Prior to a detention hearing, a child shall be placed in detention, if necessary, only in such places as are authorized by Code Section 15-11-504.

15-11-503.

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

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

(2) The child has a demonstrated pattern of theft or destruction of property such that detention is required to protect the property of others;

(3) The child's detention is necessary to secure the child's presence in court to protect the jurisdiction and processes of the court; or

(4) An order for the child's detention has been made by the court.

(b) All children who are detained shall be informed of their right to bail as provided by Code Section 15-11-507.

(c) A child shall not be detained:

(1) To punish, treat, or rehabilitate the child;

(2) To allow a parent to avoid his or her legal responsibilities;

(3) To satisfy demands by a victim, law enforcement, or the community;

(4) To permit more convenient administrative access to the child;

(5) To facilitate further interrogation or investigation; or

(6) Due to a lack of a more appropriate facility.

(d) Whenever a child cannot be unconditionally released, conditional or supervised release that results in the least necessary interference with the liberty of the child shall be favored over more intrusive alternatives.

(e) Whenever the curtailment of a child's freedom is permitted, the exercise of authority shall reflect the following values:

(1) Respect for the privacy, dignity, and individuality of the child and his or her family;
(2) Protection of the psychological and physical health of the child;
(3) Tolerance of the diverse values and preferences among different groups and individuals;
(4) Assurance of equality of treatment by race, class, ethnicity, and sex;
(5) Avoidance of regimentation and depersonalization of the child;
(6) Avoidance of stigmatization of the child; and
(7) Assurance that the child has been informed of his or her right to consult with an attorney and that, if the child is an indigent person, an attorney will be provided.

(f) Before entering an order authorizing detention, the court shall determine whether continuation in the home is contrary to the child's welfare and whether there are available services that would prevent or eliminate the need for detention. The court shall make that determination on a case-by-case basis and shall make written findings of fact referencing any and all evidence relied upon in reaching its decision.

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

15-11-504.

(a) A child alleged to be delinquent may be detained only in:
(1) A licensed foster home;
(2) A home approved by the court which may be a public or private home;
(3) The home of a noncustodial parent or of a relative;
(4) A facility operated by a licensed child welfare agency; or
(5) A detention home or center for delinquent children which is under the direction or supervision of the court or other public authority or of a private agency approved by the court.

(b) Placement shall be made in the least restrictive facility available consistent with the best interests of the child.

(c) A child 15 years of age or older and alleged to be delinquent may be held in a jail or other facility for the detention of adults for identification or processing procedures or while awaiting transportation only as long as necessary to complete such activities for up to six hours, or for up to 24 hours in nonmetropolitan areas, if all of the following apply:
(1) The child is detained for the commission of a crime that would constitute a designated felony or a serious violent felony as defined in Code Section 17-10-6.1;
(2) The child is awaiting a detention hearing;
(3) The child's detention hearing is scheduled within 24 hours after being taken into custody, excluding weekends and legal holidays;
(4) There is no existing acceptable alternative placement for the child; and
(5) The jail or other facility for the detention of adults provides sight and sound separation for juveniles which includes:

(A) Total separation between juveniles and adult facility spatial areas such that there is no verbal, visual, or physical contact and there could be no haphazard or accidental contact between juvenile and adult residents in the respective facilities;

(B) Total separation in all juvenile and adult program activities within the facilities, including recreation, education, counseling, health care, dining, sleeping, and general living activities;

(C) Continuous visual supervision of the child; and

(D) Separate juvenile and adult staff, specifically direct care staff such as recreation, education, and counseling, although specialized services staff, such as cooks, bookkeepers, and medical professionals who are not normally in contact with detainees or whose infrequent contacts occur under conditions of separation of juvenile and adults, can serve both.

(d) A child shall not be transported with adults who have been charged with or convicted of a crime. DJJ may transport a child with children who have been charged with or convicted of a crime in superior court.

(e) The official in charge of a jail or other facility for the detention of adult offenders or persons charged with crime shall inform the court or the juvenile court intake officer immediately when a child, who appears to be under the age of 17 years, is received at such facility and shall deliver the child to the court upon request or transfer the child to the facility designated by the juvenile court intake officer or the court.

(f) All facilities shall maintain data on each child detained and such data shall be recorded and retained by the facility for three years and shall be made available for inspection during normal business hours by any court exercising juvenile court jurisdiction, by DJJ, and by the Council of Juvenile Court Judges. The required data are:

(1) Name;

(2) Date of birth;

(3) Sex;

(4) Race;

(5) Offense or offenses for which being detained;

(6) Date of and authority for confinement;

(7) Date of and authority for release or transfer; and

(8) Where transferred or to whom released.

15-11-505.

If a child is brought before the court or delivered to a detention or foster care facility designated by the court, the juvenile court intake officer shall immediately make an investigation and release the child unless it appears that the child's detention is warranted.

15-11-506.

(a) A detention hearing shall be held to determine whether preadjudication custody of a child is required. If such hearing is not held within the time specified, the child shall be released from detention or foster care.

(b) If a child is detained and is not released from preadjudication custody, a detention hearing shall be held promptly and not later than:

(1) Two business days after the child is placed in preadjudication custody if the child is taken into custody without an arrest warrant; or

(2) Three business days after the child is placed in preadjudication custody if the child is taken into custody pursuant to an arrest warrant.

(c) If the detention hearing cannot be held within two business days, in accordance with paragraph (1) of subsection (b) of this Code section, because the date for the hearing falls on a weekend or legal holiday, the court shall review the decision to detain a child and make a finding based on probable cause within 48 hours of the child being placed in preadjudication custody.

(d) Reasonable oral or written notice of the detention hearing, stating the time, place, and purpose of the hearing, shall be given to the child and to the child's parent, guardian, or legal custodian, if he or she can be found. In the event the child's parent, guardian, or legal custodian cannot be found, the court shall forthwith appoint a guardian ad litem for the child.

(e) If the child alleged to be delinquent is not released from preadjudication custody and a parent, guardian, or legal custodian or guardian ad litem, if any, has not been notified of the hearing and did not appear or waive appearance at the hearing and thereafter files the affidavit showing such party was not notified of such hearing, the court shall rehear the matter without unnecessary delay and shall order the child's release unless it appears from the hearing that the child's detention or foster care is required.

(f) At the commencement of the detention hearing, the court shall inform the child of:

(1) The contents of the complaint or petition;

(2) The nature of the proceedings;

(3) The right to make an application for bail, as provided by Code Section 15-11-507 and Title 17;

(4) The possible consequences or dispositions that may apply to the child's case following adjudication; and

(5) Due process rights, including the right to an attorney and to an appointed attorney; the privilege against self-incrimination; that the child may remain silent and that anything said may be used against the child; the right to confront anyone who testifies against the child and to cross-examine any persons who appear against the child; the right of the child to testify and to compel other witnesses to attend and testify in his or her own behalf; the right of the child to a speedy adjudication hearing; and the right to appeal and be provided with a transcript for such purpose.

(g) If the child can be returned to the custody of his or her parent, guardian, or legal custodian through the provision of services to eliminate the need for removal, the court

shall release the child to the physical custody of the parent, guardian, or legal custodian and order that those services shall be provided.

(h) If the child cannot be returned to the custody of the parent, guardian, or legal custodian, the court shall state the facts upon which the detention is based. The court shall make the following findings of fact referencing any and all evidence relied upon to make its determinations:

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

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

(i) If the child cannot be returned to the custody of the parent, guardian, or legal custodian, the probation officer shall provide referrals for services as soon as possible to enable the child's parent, guardian, or legal custodian to obtain any assistance that may be needed to effectively provide the care and control necessary for the child to return home.

15-11-507.

(a) All children alleged to be delinquent shall have the same right to bail as adults.

(b) The judge shall admit to bail all children in the same manner and under the same circumstances and procedures as are applicable to adults accused of the commission of crimes, with the exception that applying for, holding a hearing on the application, and granting bail for children alleged to have committed a delinquent offense may only occur:

(1) At intake in accordance with Code Section 15-11-503; or

(2) At the detention hearing in accordance with Code Section 15-11-506.

(c) A court shall be authorized to release a child on bail if the court finds that the child:

(1) Poses no significant risk of fleeing from the jurisdiction of the court or failing to appear in court when required;

(2) Poses no significant threat or danger to any person, to the community, or to any property in the community;

(3) Poses no significant risk of committing any felony pending trial; and

(4) Poses no significant risk of intimidating witnesses or otherwise obstructing the administration of justice.

(d) If the child is accused of committing an offense that would be a serious violent felony, as defined in Code Section 17-10-6.1, if committed by an adult and the child has previously been adjudicated delinquent for committing an act that would be a serious violent felony if committed by an adult, there shall be a rebuttable presumption that no condition or combination of conditions will reasonably assure the appearance of the child as required or assure the safety of any other person or the community.

(e) Any person having legal custody or an adult blood relative or stepparent shall be entitled to post bail but shall be required immediately to return the child to the individual or entity having legal custody of the child.
(f) For the purposes of this Code section, the term 'bail' shall include the releasing of a person on such person's own recognizance.

15-11-508.
(a) As used in this Code section, the term:
(1) 'Notice' shall have the same meaning as set forth in Code Section 17-17-3.
(2) 'Victim' shall have the same meaning as set forth in Code Section 17-17-3.
(3) 'Violent delinquent act' means the commission, attempt to commit, conspiracy to commit, or solicitation of another to commit a delinquent act which if committed by an adult would constitute:
(A) A serious violent felony as defined by Code Section 17-10-6.1;
(B) A designated felony act;
(C) Stalking or aggravated stalking as provided by Article 7 of Chapter 5 of Title 16; or
(D) Any attempt to commit, conspiracy to commit, or solicitation of another to commit an offense enumerated in subparagraphs (A) through (C) of this paragraph.
(b) If a child accused of a violent delinquent act is detained pending adjudication, the juvenile court intake officer shall provide notice to the victim, whenever practicable, that such child is to be released from detention not less than 24 hours prior to such child's release from detention.
(c) Not less than 48 hours prior to the release from detention of a child who has been adjudicated to have committed a violent delinquent act, the juvenile court intake officer shall, whenever practicable, provide notice to the victim of such pending release.
(d) Notification need not be given unless the victim has expressed a desire for such notification and has provided the juvenile court intake officer with a current address and telephone number. It shall be the duty of the juvenile court intake officer to advise the victim of his or her right to notification and of the requirement of the victim's providing a primary and personal telephone number to which such notification shall be directed.

Part 4

15-11-510.
(a) If a child has not been detained after the filing of a complaint, he or she shall be promptly referred to intake or given a date for arraignment.
(b) At intake, the court, the juvenile court intake officer, or other officer designated by the court shall inform the child of:
(1) The contents of the complaint;
(2) The nature of the proceedings;

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

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

(c) A juvenile court intake officer may elect to pursue a case through informal adjustment or other nonadjudicatory procedure in accordance with the provisions of Code Section 15-11-515.

(d) If a case is to be prosecuted further and handled other than by informal adjustment or other nonadjudicatory procedure, a referral shall be made to the prosecuting attorney and a petition for delinquency shall be filed within 30 days of the filing of a complaint.

15-11-511.

(a) At arraignment, the court shall inform the child of:

(1) The contents of the petition for delinquency;

(2) The nature of the proceedings;

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

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

(b) If a child is represented by counsel at arraignment or if a child has waived the right to counsel after consultation with an attorney as to the wisdom of making an admission or denial at arraignment, the child may make a preliminary statement indicating whether he or she plans to admit or deny the allegations of the complaint at the adjudication hearing; otherwise, the court shall not accept an admission from a child at arraignment.

Part 5

15-11-515.

(a) Before a petition for informal adjustment is filed, a probation officer or other officer designated by the court, subject to the court's direction, may inform the parties of informal adjustment if it appears that:

(1) The admitted facts bring the case within the jurisdiction of the court;

(2) Counsel and advice without an adjudication would be in the best interests of the public and the child, taking into account at least the following factors:

(A) The nature of the alleged offense;

(B) The age and individual circumstances of the child;

(C) The child's prior record, if any;

(D) Recommendations for informal adjustment made by the complainant or the victim; and

(E) Services to meet the child's needs and problems may be unavailable within the formal court system or may be provided more effectively by alternative community programs; and

(3) The child and the child's parent, guardian, or legal custodian consent with knowledge that consent is not obligatory.

(b) The giving of counsel and advice shall not extend beyond three months unless extended by the court for an additional period not to exceed three months and shall not authorize the detention of the child if not otherwise permitted by this article.

(c) An incriminating statement made by a participant to the person giving counsel or advice and in the discussion or conferences incident thereto shall not be used against the declarant over objection in any hearing except in a hearing on disposition in a juvenile court proceeding or in a criminal proceeding upon conviction for the purpose of a presentence investigation.

(d) If a child is alleged to have committed a felony, the case shall not be subject to informal adjustment, counsel, or advice without the prior consent of the district attorney or his or her authorized representative.

Part 6

15-11-520.

A petition alleging delinquency shall be filed only by the prosecuting attorney.

15-11-521.

(a) If a child is in detention prior to adjudication, the petition alleging delinquency shall be filed not later than 72 hours after the detention hearing. If no petition alleging delinquency is filed within the applicable time, the child shall be released.

(b) If the child is not in detention prior to adjudication, the petition alleging delinquency shall be filed within 30 days of the filing of the complaint alleging violation of a criminal law or within 30 days of the child's release pursuant to a determination that detention is not warranted.

15-11-522.

(a) The petition alleging delinquency shall be verified and may be on information and belief. It shall set forth plainly and with particularity:

(1) The facts which bring the child within the jurisdiction of the court, with a statement that it is in the best interests of the child and the public that the proceeding

be brought and that the child is in need of supervision, treatment, or rehabilitation, as the case may be;

(2) The name, age, and residence address of the child on whose behalf such petition is brought;

(3) The name and residence address of the parent, guardian, or legal custodian of the child; or, if neither the child's parent nor the child's guardian nor the child's legal custodian resides or can be found within the state or if such place of residence address is unknown, the name of any known adult relative residing within the county or, if there is none, the known adult relative residing nearest to the location of the court;

(4) If the child is in custody and, if so, the place of his or her detention and the time the child was taken into custody; and

(5) If the child is being charged with a designated felony act.

(b) The petition alleging delinquency shall indicate if any of the matters required in this Code section are unknown.

15-11-523.

(a) The prosecuting attorney may amend the petition alleging delinquency at any time prior to the commencement of the adjudication hearing. However, if an amendment is made, the child may request a continuance of the adjudication hearing. A continuance may be granted by the court for such period as required in the interest of justice.

(b) When a petition alleging delinquency is amended to include material changes to the allegations or new charges of delinquency for adjudication, the petition shall be served in accordance with Code Sections 15-11-530 and 15-11-531.

(c) After jeopardy attaches, a petition alleging delinquency shall not be amended to include new charges of delinquency.

Part 7

15-11-530.

(a) The court shall direct the issuance of a summons to a child and the child's parent, guardian, or legal custodian requiring them to appear before the court at the time fixed to answer the allegations of the petition. A copy of the petition shall accompany the summons.

(b) The summons shall state that a party shall be entitled to have an attorney in the proceedings and that the court will appoint an attorney if the party is an indigent person.

15-11-531.

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

(b) If a party to be served is within this state and cannot be found but his or her address is known or can be ascertained with reasonable diligence, the summons shall be served upon such party at least five days before the adjudication hearing by mailing him or her

a copy by registered or certified mail or statutory overnight delivery, return receipt requested.
(c) If an individual to be served is outside this state but his or her address is known or can be ascertained with reasonable diligence, notice of the summons shall be made at least five days before the adjudication hearing either by delivering a copy to such party personally or by mailing a copy to him or her by registered or certified mail or statutory overnight delivery, return receipt requested.
(d) Service of the summons may be made by any suitable person under the direction of the court.
(e) The court may authorize payment from county funds of the costs of service and of necessary travel expenses incurred by persons summoned or otherwise required to appear at the hearing.

15-11-532.
(a) In the event a parent, guardian, or other legal custodian of a child willfully fails to appear personally at a hearing after being ordered to so appear or the parent, guardian, or other legal custodian of the child willfully fails to bring the child to a hearing after being so directed, the court may issue a rule nisi against the person directing the person to appear before the court to show cause why he or she should not be held in contempt of court.
(b) If the parent, guardian, or legal custodian fails to appear in response to an order to show cause, the court may issue a bench warrant directing that the parent, guardian, or legal custodian be brought before the court without delay to show cause why he or she should not be held in contempt and the court may enter any order authorized by and in accordance with the provisions of Code Section 15-11-31.
(c) If a child 16 years of age or older fails to appear at a hearing after being ordered to so appear, the court may issue a bench warrant requiring that the child be brought before the court without delay and the court may enter any order authorized by and in accordance with the provisions of Code Section 15-11-31.
(d) If there is sworn testimony that a child 14 years of age but not yet 16 years of age willfully refuses to appear at a hearing after being ordered to so appear, the court may issue a bench warrant requiring that the child be brought before the court and the court may enter any order authorized by and in accordance with the provisions of Code Section 15-11-31.

Part 8

15-11-540.
A delinquency petition shall be dismissed by the court upon the motion of the prosecuting attorney setting forth that there is not sufficient evidence to warrant further proceedings.

15-11-541.

(a) Except as limited by subsection (d) of Code Section 15-11-542, in all cases in which a child is charged with having committed a delinquent act, the child shall, upon filing a motion for discovery with the court and serving a copy of the motion to the prosecuting attorney, have full access to the following for inspection, copying, or photographing:

(1) A copy of the complaint;

(2) A copy of the petition for delinquency;

(3) The names and last known addresses and telephone numbers of each witness to the occurrence which forms the basis of the charge;

(4) A copy of any written statement made by the child or any witness that relates to the testimony of a person whom the prosecuting attorney intends to call as a witness;

(5) A copy of any written statement made by any alleged coparticipant which the prosecuting attorney intends to use at a hearing;

(6) Transcriptions, recordings, and summaries of any oral statement of the child or of any witness, except attorney work product;

(7) Any scientific or other report which is intended to be introduced at the hearing or that pertains to physical evidence which is intended to be introduced;

(8) Photographs and any physical evidence which are intended to be introduced at the hearing; and

(9) Copies of the police incident report and supplemental report, if any, regarding the occurrence which forms the basis of the charge.

(b) The prosecuting attorney shall disclose all evidence, known or that may become known to him or her, favorable to the child and material either to guilt or punishment.

(c) If the child requests disclosure of information pursuant to subsection (a) of this Code section, it shall be the duty of the child to promptly make the following available for inspection, copying, or photographing to the prosecuting attorney:

(1) The names and last known addresses and telephone numbers of each witness to the occurrence which forms the basis of the defense;

(2) Any scientific or other report which is intended to be introduced at the hearing or that pertains to physical evidence which is intended to be introduced;

(3) Photographs and any physical evidence which are intended to be introduced at the hearing; and

(4) A copy of any written statement made by any witness that relates to the testimony of a person whom the child intends to call as a witness.

(d) A request for discovery or reciprocal discovery shall be complied with promptly and not later than 48 hours prior to the adjudication hearing, except when later compliance is made necessary by the timing of the request. If the request for discovery is made fewer than 48 hours prior to the adjudication hearing, the discovery response shall be produced in a timely manner.

(e) Any material or information furnished to the child pursuant to a discovery request shall remain in the exclusive custody of the child and shall only be used during the

pendency of the case and shall be subject to such other terms and conditions as the court may provide.

15-11-542.
(a) If a request for discovery is refused, application may be made to the court for a written order granting discovery.
(b) Motions to compel discovery shall certify that a request for discovery was made and was refused.
(c) An order granting discovery shall require reciprocal discovery.
(d) The court may deny, in whole or in part, or otherwise limit or set conditions concerning discovery upon sufficient showing by a person or entity to whom a request for discovery is made that disclosure of the information would:
(1) Jeopardize the safety of a party, witness, or confidential informant;
(2) Create a substantial threat of physical or economic harm to a witness or other person;
(3) Endanger the existence of physical evidence;
(4) Disclose privileged information; or
(5) Impede the criminal prosecution of a child who is being prosecuted as an adult or the prosecution of an adult charged with an offense arising from the same transaction or occurrence.

15-11-543.
(a) Upon written request by the prosecuting attorney stating the time, date, and place at which the alleged delinquent act was committed, the child shall serve upon the prosecuting attorney a written notice of the child's intention to offer a defense of alibi.
(b) The notice shall state the specific place or places at which the child claims to have been at the time of the alleged delinquent act and the names, addresses, dates of birth, and telephone numbers of the witnesses, if known to the child, upon whom the child intends to rely to establish the child's alibi, unless previously supplied.
(c) A request for alibi evidence shall be complied with promptly and not later than 48 hours prior to the adjudication hearing, except when later compliance is made necessary by the timing of the request. If the request for alibi evidence is made fewer than 48 hours prior to the adjudication hearing, the alibi evidence shall be produced in a timely manner.
(d) If the defendant withdraws the notice of intention to rely upon an alibi defense, the notice and intention to rely upon an alibi defense shall not be admissible; provided, however, that the prosecuting attorney or entity prosecuting the case may offer any other evidence regarding alibi.
(e) The prosecuting attorney shall serve upon the child a written notice stating the names, addresses, dates of birth, and telephone numbers of the witnesses, if known to the state, upon whom the state intends to rely to rebut the child's evidence of alibi, unless previously supplied.

15-11-544.
If, subsequent to providing a discovery response, the existence of additional evidence is found, it shall be promptly provided to the state or child making the discovery request.

15-11-545.
Nothing contained in the provisions governing discovery procedure under this part shall prohibit the court from ordering the disclosure of any information that the court deems necessary and appropriate for proper adjudication.

15-11-546.
If at any time during the course of the proceedings it is brought to the attention of the court that a person or entity has failed to comply with a discovery request, the court may grant a continuance, prohibit the party from introducing in evidence the information not disclosed, or enter such other order as the court deems just under the circumstances.

Part 9

15-11-560.
(a) Except as provided in subsection (b) of this Code section, the court shall have concurrent jurisdiction with the superior court over a child who is alleged to have committed a delinquent act which would be considered a crime if tried in a superior court and for which an adult may be punished by loss of life, imprisonment for life without possibility of parole, or confinement for life in a penal institution.
(b) The superior court shall have exclusive original jurisdiction over the trial of any child 13 to 17 years of age who is alleged to have committed any of the following offenses:
(1) Murder;
(2) Voluntary manslaughter;
(3) Rape;
(4) Aggravated sodomy;
(5) Aggravated child molestation;
(6) Aggravated sexual battery; or
(7) Armed robbery if committed with a firearm.
(c) The granting of bail or pretrial release of a child charged with an offense enumerated in subsection (b) of this Code section shall be governed by the provisions of Code Section 17-6-1.
(d) At any time before indictment, the district attorney may, after investigation and for cause, decline prosecution in the superior court of a child 13 to 17 years of age alleged to have committed an offense specified in subsection (b) of this Code section. Upon declining such prosecution in the superior court, the district attorney shall immediately cause a petition to be filed in the appropriate juvenile court for adjudication. Any case transferred by the district attorney to the juvenile court pursuant to this subsection shall

be subject to the designated felony provisions of Code Section 15-11-602 and the transfer of the case from superior court to juvenile court shall constitute notice to the child that such case is subject to the designated felony provisions of Code Section 15-11-602.

(e) After indictment, the superior court may after investigation and for extraordinary cause transfer any case involving a child 13 to 17 years of age alleged to have committed any offense enumerated in paragraph (2), (4), (5), or (6) of subsection (b) of this Code section. Any such transfer shall be appealable by the State of Georgia pursuant to Code Section 5-7-1. Upon such a transfer by the superior court, jurisdiction shall vest in the juvenile court and jurisdiction of the superior court shall terminate. Any case transferred by the superior court to the juvenile court pursuant to this subsection shall be subject to the designated felony provisions of Code Section 15-11-602 and the transfer of the case from superior court to juvenile court shall constitute notice to the child that such case is subject to the designated felony provisions of Code Section 15-11-602.

(f) The superior court may transfer any case involving a child 13 to 17 years of age alleged to have committed any offense enumerated in subsection (b) of this Code section and convicted of a lesser included offense not included in subsection (b) of this Code section to the juvenile court of the county of the child's residence for disposition. Upon such a transfer by the superior court, jurisdiction shall vest in the juvenile court and jurisdiction of the superior court shall terminate.

(g) Within 30 days of any proceeding in which a child 13 to 17 years of age is convicted of certain offenses over which the superior court has original jurisdiction as provided in subsection (b) of this Code section or adjudicated delinquent on the basis of conduct which if committed by an adult would constitute such offenses, the superior court shall provide written notice to the school superintendent or his or her designee of the school in which such child is enrolled or, if the information is known, of the school in which such child plans to be enrolled at a future date. Such notice shall include the specific criminal offense that such child committed. A local school system to which the child is assigned may request further information from the court's file.

15-11-561.

(a) After a petition alleging delinquency has been filed but before the adjudication hearing, on its own motion or on a motion by the prosecuting attorney, the court may convene a hearing to determine whether to transfer the offense to the appropriate superior court for criminal trial if the court determines that:

(1) There is probable cause to believe that the child committed the alleged offense;

(2) The child is not committable to an institution for the developmentally disabled or mentally ill; and

(3) The petition alleges that the child:

(A) Was at least 15 years of age at the time of the commission of the offense and committed an act which would be a felony if committed by an adult; or

(B) Was 13 or 14 years of age and either committed an act for which the punishment is loss of life or confinement for life in a penal institution or committed aggravated battery resulting in serious bodily injury to a victim.

(b) At least three days prior to the scheduled transfer hearing, written notice shall be given to the child and the child's parent, guardian, or legal custodian. The notice shall contain a statement that the purpose of the hearing is to determine whether the child is to be tried in the juvenile court or transferred for trial as an adult in superior court. The child may request and the court shall grant a continuance to prepare for the transfer hearing.

(c) After consideration of a probation report and any other evidence the court deems relevant, including any evidence offered by the child, the court may determine that because of the seriousness of the offense or the child's prior record, the welfare of the community requires that criminal proceedings against the child be instituted.

(d) No child, either before or after reaching age 17 years of age shall be prosecuted in superior court for an offense committed before the child turned 17, unless the case has been transferred as provided in this part. In addition, no child shall be subject to criminal prosecution at any time for an offense arising out of a criminal transaction for which the juvenile court retained jurisdiction in its transfer order.

15-11-562.

(a) The criteria which the court shall consider in determining whether to transfer the child to superior court includes, but shall not be limited to:

(1) The age of the child;

(2) The seriousness of the alleged offense, especially if personal injury resulted;

(3) Whether the protection of the community requires transfer of jurisdiction;

(4) Whether the alleged offense involved violence or was committed in an aggressive or premeditated manner;

(5) The culpability of the child including the child's level of planning and participation in the alleged offense;

(6) Whether the alleged offense is a part of a repetitive pattern of offenses which indicates that the child may be beyond rehabilitation in the juvenile justice system;

(7) The record and history of the child, including experience with the juvenile justice system, other courts, supervision, commitments to juvenile institutions, and other placements;

(8) The sophistication and maturity of the child as determined by consideration of the child's home and environmental situation, emotional condition, and pattern of living;

(9) The program and facilities available to the juvenile court in considering disposition; and

(10) Whether or not the child can benefit from the treatment or rehabilitative programs available to the juvenile court.

(b) The probation officer shall prepare a written report developing fully all available information relevant to the transfer criteria. The probation officer shall submit such report to the parties and the court as soon as practicable but not later than 24 hours

before the scheduled hearing. The child and the prosecuting attorney shall have the right to review such report and cross-examine the individual making such report.
(c) The court may order a transfer evaluation of the child's clinical status as it may impact the criteria in subsection (a) of this Code section. The transfer evaluation shall be completed by DBHDD or by a licensed psychologist or psychiatrist. If ordered to be performed by DBHDD, the transfer evaluation shall be completed by a DBHDD forensic evaluator. Statements made by the child in a transfer evaluation shall only be admissible into evidence in an adjudication hearing or in a criminal proceeding as provided by Code Sections 15-11-479 and 15-11-563.

15-11-563.
Statements made by the child at the transfer hearing shall not be admissible against the child over objection in the criminal proceedings if transfer is ordered except as impeachment or rebuttal evidence.

15-11-564.
(a) The decision of the court regarding transfer of the case shall only be an interlocutory judgment which either the child or the prosecuting attorney, or both, have the right to have reviewed by the Court of Appeals.
(b) The pendency of an interlocutory appeal shall stay criminal proceedings in superior court. A child transferred for trial as an adult in superior court shall be detained only in those places authorized for the preadjudication detention of a child.

15-11-565.
(a) Prior to the entry of a judgment ordering a child's transfer or during the pendency of an appeal of a judgment ordering a child's transfer, the child shall be detained only in those places authorized for the preadjudication detention of a child.
(b) After the entry of a judgment ordering transfer, a child shall be detained only in those places authorized for the detention of a child until the child reaches 17 years of age.

15-11-566.
(a) If the court decides to transfer the child for trial in superior court, it shall dismiss the juvenile court petition alleging delinquency, set forth the offense or offenses which are being transferred, and make the following findings of fact in its dismissal order:
(1) That the court had jurisdiction of the cause and the parties;
(2) That the child was represented by an attorney; and
(3) That the hearing was held in the presence of the child and the child's attorney.
(b) The dismissal order shall also recount the reasons underlying the decision to transfer jurisdiction.
(c) A dismissal of the petition alleging delinquency terminates the jurisdiction of the juvenile court over the child as to those offenses which are transferred. If the petition alleging delinquency alleges multiple offenses that constitute a single criminal

transaction, the court shall either retain or transfer all offenses relating to a single criminal transaction.

(d) Once juvenile court jurisdiction is terminated, the superior court shall retain jurisdiction even though, thereafter, the child pleads guilty to, or is convicted of, a lesser included offense. The plea to, or conviction of, a lesser included offense shall not revest juvenile jurisdiction over the child.

(e) A copy of the petition alleging delinquency and order of dismissal shall be sent to the district attorney of the judicial circuit in which the proceeding is taking place.

(f) If the court decides not to transfer the child for trial in superior court, it shall set a date for an adjudication hearing in juvenile court on the petition alleging delinquency.

15-11-567.

(a) Except in those cases in which the superior court has exclusive original jurisdiction or juvenile court jurisdiction has been terminated and the child has been transferred to superior court, if it appears to any court in a criminal proceeding or a quasi-criminal proceeding that the accused is a child, the case shall forthwith be transferred to the juvenile court together with a copy of the accusatory pleading and all other papers, documents, and transcripts of testimony relating to the case.

(b) The transferring court shall order that the child be taken forthwith to the juvenile court or to a place of detention designated by the court or shall release him or her to the custody of his or her parent, guardian, legal custodian, or other person legally responsible for him or her to be brought before the juvenile court at a time designated by that court. The accusatory pleading may not serve in lieu of a petition alleging delinquency in the juvenile court.

Part 10

15-11-580.

(a) At the commencement of the adjudication hearing, the court shall address the child, in language understandable to the child, and determine whether the child is capable of understanding statements about his or her rights under this chapter.

(b) If a child is capable, the court shall inquire how the child responds to the allegations of the delinquency petition. The child may:

(1) Deny the allegations of such petition, in which case the court shall proceed to hear evidence on such petition; or

(2) Admit the allegations of such petition, in which case the court shall further inquire to determine whether there is a factual basis for adjudication. If so, the court may then adjudge the child to have committed a delinquent act.

(c) If the child stands mute, refuses to answer, or answers evasively, the court shall enter a denial of the allegations.

15-11-581.
The state shall have the burden of proving the allegations of a delinquency petition beyond a reasonable doubt.

15-11-582.
(a) The court shall fix a time for the adjudication hearing. If the child is in detention, the hearing shall be scheduled to be held no later than ten days after the filing of the delinquency petition. If the child is not in detention, the hearing shall be scheduled to be held no later than 60 days after the filing of such petition.
(b) Adjudication hearings shall be conducted:
(1) By the court without a jury;
(2) In accordance with Title 24 and Title 17; and
(3) In language understandable to the child and participants, to the fullest extent practicable.
(c) The court shall determine if the allegations of the petition alleging delinquency are admitted or denied in accordance with the provisions of Code Section 15-11-580.
(d) After hearing all of the evidence, the court shall make and record its findings on whether the delinquent acts ascribed to the child were committed by the child. If the court finds that the allegations of delinquency have not been established, it shall dismiss the delinquency petition and order the child released from any detention or legal custody imposed in connection with the proceedings.
(e) The court shall make a finding that the child has committed a delinquent act based on a valid admission made in open court of the allegations of the delinquency petition or on the basis of proof beyond a reasonable doubt. If the court finds that the child has committed a delinquent act, the court may proceed immediately or at a postponed hearing to make disposition of the case.

Part 11

15-11-590.
(a) After an adjudication that the child has committed a delinquent act, the court may direct that a written predisposition investigation report be prepared by the probation officer or other person designated by the court.
(b) The predisposition investigation report shall contain information about the child's characteristics, family, environment, and the circumstances affecting the child's behavior as may be helpful in determining the need for treatment or rehabilitation and a proper disposition of the case, including but not limited to:
(1) A summary of the facts with respect to the conduct of the child that led to the adjudication;
(2) The sophistication and maturity of the child;
(3) A summary of the child's home environment, family relationships, and background;

(4) A summary of the child's prior contacts with the juvenile court and law enforcement agencies, including the disposition following each contact and the reasons therefor;

(5) A summary of the child's educational status, including, but not limited to, the child's strengths, abilities, and special educational needs. The report shall identify appropriate educational and vocational goals for the child. Examples of appropriate goals include:

(A) Attainment of a high school diploma or its equivalent;

(B) Successful completion of literacy courses;

(C) Successful completion of vocational courses;

(D) Successful attendance and completion of the child's current grade if enrolled in school; or

(E) Enrollment in an apprenticeship or a similar program;

(6) A summary of the results and recommendations of any significant physical and mental examinations;

(7) The seriousness of the offense to the community;

(8) The nature of the offense; and

(9) Whether the offense was against persons or against property with greater weight being given to offenses against persons.

(c) If the court has ordered a physical or mental examination to be conducted, the report shall include a copy of the results of the examination.

(d) All information shall be presented in a concise and factual manner. The report shall indicate the sources of information in the report.

(e) The original report and any other material to be disclosed shall be furnished to the court, and copies shall be furnished to the child's attorney and to the prosecuting attorney at least five days prior to the disposition hearing.

Part 12

15-11-600.

(a) After a finding that a child has committed a delinquent act, the court shall conduct a hearing for the purpose of hearing evidence as to whether the child is in need of treatment, rehabilitation, or supervision and shall make and file its findings thereon.

(b) The court may proceed immediately to the disposition hearing after the adjudication hearing or conduct the disposition hearing within 30 days of the adjudication hearing. The hearing may occur later than 30 days after the adjudication hearing only if the court makes and files written findings of fact explaining the need for delay.

(c) In the absence of evidence to the contrary, evidence sufficient to warrant a finding that acts have been committed which constitute a felony shall also be sufficient to sustain a finding that the child is in need of treatment or rehabilitation.

(d) If the court finds that the child is not in need of treatment, rehabilitation, or supervision, it shall dismiss the proceeding and discharge the child from any detention or other restriction previously ordered.
(e) If the court finds that the child is in need of supervision but not of treatment or rehabilitation, it shall find that the child is a child in need of services and enter any disposition authorized by Code Section 15-11-442.
(f) The court may consider any evidence, including hearsay evidence, that the court finds to be relevant, reliable, and necessary to determine the needs of the child and the most appropriate disposition.
(g)(1) Prior to the disposition hearing, and upon request, the parties and their attorneys shall be afforded an opportunity to examine any written reports received by the court.
(2) Portions of such reports not relied on by the court in reaching its decision which, if revealed would be prejudicial to the interests of the child or any party to the proceeding, may be withheld in the court's discretion. Confidential sources of information need not be disclosed.
(3) Parties and their attorneys shall be given the opportunity to controvert written reports received by the court and to cross-examine individuals making such reports.
(h) In scheduling investigations and hearings, the court shall give priority to proceedings in which a child is in detention or has otherwise been removed from his or her home.

15-11-601.
(a) At the conclusion of the disposition hearing, if the child is determined to be in need of treatment or rehabilitation, the court shall enter the least restrictive disposition order appropriate in view of the seriousness of the delinquent act, the child's culpability as indicated by the circumstances of the particular case, the age of the child, the child's prior record, and the child's strengths and needs. The court may make any of the following orders of disposition, or combination of them, best suited to the child's treatment, rehabilitation, and welfare:
(1) Any order authorized for the disposition of a dependent child other than placement in the temporary custody of DFCS unless the child is also found to be a dependent child;
(2) An order requiring the child and the child's parent, guardian, or legal custodian to participate in counseling or in counsel and advice. Such counseling and counsel and advice may be provided by the court, court personnel, probation officers, professional counselors or social workers, psychologists, physicians, qualified volunteers, or appropriate public, private, or volunteer agencies and shall be designed to assist in deterring future delinquent acts or other conduct or conditions which would be harmful to the child or society;
(3) An order placing the child on probation under conditions and limitations the court prescribes and which may include the probation management program. The court may place a child on probation under the supervision of:

(A) The probation officer of the court or the court of another state;

(B) Any public agency authorized by law to receive and provide care for the child; or

(C) Any community rehabilitation center if its chief executive officer has acknowledged in writing its willingness to accept the responsibility for the supervision of the child;

(4) In any case in which a child who has not achieved a high school diploma or the equivalent is placed on probation, the court shall consider and may order as a condition of probation that the child pursue a course of study designed to lead to achieving a high school diploma or the equivalent;

(5) An order requiring that the child perform community service in a manner prescribed by the court and under the supervision of an individual designated by the court;

(6) An order requiring that the child make restitution. Such order may remain in force and effect simultaneously with another order of the court, including, but not limited to an order of commitment to DJJ. However, no order of restitution shall be enforced while the child is in placement at a youth development center unless the commissioner of juvenile justice certifies that a restitution program is available at such center. Payment of funds shall be made by the child or the child's family or employer directly to the clerk of the juvenile court entering the order or to another employee of such court designated by the judge, and that court shall disburse such funds in the manner authorized in the order. While an order requiring restitution is in effect, the court may transfer enforcement of its order to:

(A) DJJ;

(B) The juvenile court of the county of the child's residence and its probation staff, if the child changes his or her place of residence; or

(C) The superior court once the child reaches 17 years of age if the child thereafter comes under the jurisdiction of such court;

(7) An order requiring the child remit to the general fund of the county a sum not to exceed the maximum fine applicable to an adult for commission of any of the following offenses:

(A) Any felony in the commission of which a motor vehicle is used;

(B) Driving under the influence of alcohol or drugs;

(C) Driving without proof of minimum required motor vehicle insurance;

(D) Fraudulent or fictitious use of a driver's license;

(E) Hit and run or leaving the scene of an accident;

(F) Homicide by vehicle;

(G) Manslaughter resulting from the operation of a motor vehicle;

(H) Possession of controlled substances or marijuana;

(I) Racing on highways or streets;

(J) Using a motor vehicle in fleeing or attempting to elude an officer; or

(K) Any violation of the provisions contained in Title 40 which is properly adjudicated as a delinquent act;

(8) An order suspending the child's driver's license for a period not to exceed the date on which the child reaches 18 years of age or, in the case of a child who does not have a driver's license, an order prohibiting the issuance of a driver's license to the child for a period not to exceed the date on which the child reaches 18 years of age. The court shall retain the driver's license during such period of suspension and return it to the child at the end of such period. The court shall notify the Department of Driver Services of any actions taken pursuant to this paragraph;

(9) An order placing the child in an institution, camp, or other facility for delinquent children operated under the direction of the court or other local public authority; or

(10) An order committing the child to DJJ.

(b)(1) This subsection shall apply to cases involving:

(A) An offense that would be a felony if committed by an adult; or

(B) An offense that would be a misdemeanor of a high and aggravated nature if committed by an adult and involving bodily injury or harm or substantial likelihood of bodily injury or harm.

(2) In addition to any other treatment or rehabilitation, the court may order the child to serve up to a maximum of 30 days in a youth development center or, after assessment and with the court's approval, in a treatment program provided by DJJ or the juvenile court.

(3) On and after July 1, 2013, the maximum number of days that the court may order a child to serve in a youth development center under this subsection shall be increased to 60 days.

(c) A child ordered to a youth development center under subsection (b) of this Code section and detained after the adjudication hearing in a secure facility pending placement in a youth development center shall be given credit for time served in the secured facility awaiting placement.

(d) Notwithstanding the provisions of subsections (a) and (b) of this Code section, if a child is found to have committed the offense of driving under the influence, the court may make an order of disposition which, for purposes of the child's rehabilitation, imposes the same penalty, period of confinement, and period of community service which are applicable to an adult convicted of violating Code Section 40-6-391. The child shall serve any period of confinement in an institution, camp, or other facility for delinquent children operated under the direction of the court or other local public authority or, if no such facility is available, in a regional youth detention center. A previous finding that the child committed the offense of driving under the influence shall be deemed a previous conviction for purposes of this subsection. The court shall have the same authority and discretion regarding allowing service of confinement on weekends or during nonworking hours as is provided under subsection (a) of Code Section 17-10-3.1.

(e) The child shall be given adequate information concerning the obligations and conditions imposed upon him or her by the disposition ordered by the court and the consequences of failure to meet such obligations and conditions. Such information

shall be given in terms understandable to the child to enable the child to conform his or her conduct to the requirements of the disposition.

15-11-602.

(a) When a child is found to have committed a designated felony act, the order of disposition shall be made within 20 days of the conclusion of the disposition hearing. The court may make one of the following orders of disposition best suited to provide for the rehabilitation of the child and the protection of the community:

(1) Any order authorized by Code Section 15-11-601 if the court finds that restrictive custody is not required; or

(2) An order placing the child in restrictive custody.

(b) Every order shall include a finding, based on a preponderance of the evidence, of whether the child requires restrictive custody. In determining whether restrictive custody is required, the court shall consider and make specific written findings of fact as to each of the following factors:

(1) The age and maturity of the child;

(2) The needs and best interests of the child;

(3) The record and background of the child including but not limited to information disclosed in the probation investigation, diagnostic assessment, school records, and dependency records;

(4) The nature and circumstances of the offense, including whether any injury involved was inflicted by the child or another participant, the culpability of the child or another participant in planning and carrying out of the offense, and the existence of any aggravating or mitigating factors;

(5) The need for protection of the community; and

(6) The age and physical condition of the victim.

(c) A restrictive custody order may provide that:

(1) The child be placed in DJJ custody for an initial period of up to five years;

(2) The child be confined in a youth development center for a period set by the order, not to be less than six months nor to exceed 60 months. All time spent in secure detention subsequent to the date of the disposition hearing and prior to placement in a youth development center shall be counted toward the period set by the order;

(3) After a period of confinement set by the court, the child may be placed under intensive supervision not to exceed 12 months; and

(4) If the child is confined in a youth development center, the child may not be released or transferred to a nonsecure facility unless by court order pursuant to Code Section 15-11-32. Such child may not be released from intensive supervision unless by court order and with the written approval of the commissioner of juvenile justice or a designated deputy. All home visits shall be carefully arranged and monitored while a child is confined in a youth development center.

(d) During the child's placement order or any extension of the restrictive custody order:

(1) While in a youth development center, the child shall be permitted to participate in all youth development center services and programs and shall be eligible to receive

special medical and treatment services, regardless of the time of confinement in the youth development center. A child may be eligible to participate in programs sponsored by the youth development center including community work programs and sheltered workshops under the general supervision of a youth development center staff outside of the youth development center. In cooperation and coordination with the department, the child shall be allowed to participate in state sponsored programs for evaluation and services under the Division of Rehabilitation Services of the Department of Labor and DBHDD;

(2)(A) A child adjudicated to have committed a designated felony act shall not be discharged from restrictive custody prior to the period of time provided in the court's order unless a motion therefor is granted by the court. After a court order denying a motion to discharge a child from restrictive custody, a subsequent such motion shall not be filed until at least six months have elapsed. Notwithstanding Code Section 15-11-32, DJJ or any party may file a motion with the court seeking the child's release from restrictive custody, an order modifying the court's order requiring restrictive custody, or termination of an order of disposition for a child committed for a designated felony act.

(B) All motions filed under this paragraph shall be accompanied by a written recommendation for release, modification, or termination from the child's DJJ counselor or placement supervisor, filed in the court that committed the child to DJJ, and served on the prosecuting attorney for such jurisdiction.

(C) At least 14 days prior to the date of the hearing on the motion, the moving party shall serve a copy of the motion, by first-class mail, upon the victim of the designated felony act, if any, at the victim's last known address, the child's attorney, if any, the child's parents or guardian, and the law enforcement agency that investigated the designated felony act. In addition to the parties to the motion, the prosecuting attorney and the victim, if any, shall have a right to be heard and to present evidence to the court relative to any motion filed pursuant to this paragraph.

(D) A court hearing a motion filed under this paragraph shall determine the disposition of the child based upon a preponderance of the evidence. In determining whether a motion for release from custody, modification of a restrictive custody order, or termination of an order of disposition should be granted or denied due to changed circumstances, the court shall be required to find that the child has been rehabilitated and shall consider and make specific findings of fact as to each of the following factors:

(i) The needs and best interests of the child;

(ii) The record and background of the child, including the disciplinary history of the child during the period of restrictive custody and subsequent offense history;

(iii) The academic progress of the child during the period of restrictive custody, including, if the child is receiving services under the federal Individuals with Disabilities Education Act, a review of the child's Individualized Education Program (IEP) and the child's progress toward IEP goals;

(iv) The victim's impact statement submitted for purposes of a hearing conducted pursuant to this paragraph;

(v) The safety risk to the community if the child is released; and

(vi) The child's acknowledgment to the court and victim, if any, of his or her conduct being the cause of harm to others; and

(3) Unless otherwise specified in the order, DJJ shall report in writing to the court not less than once every six months during the placement on the status, adjustment, and progress of the child.

(e) The period of placement in a youth development center may be extended on motion by DJJ, after a disposition hearing, for two additional periods not to exceed 12 months each, provided that no placement or extension of custody may continue beyond the child's twenty-first birthday.

(f) The court shall identify the school last attended by the child and the school which the child intends to attend and shall transmit a copy of the adjudication to the principals of both schools within 15 days of the adjudication. Such information shall be subject to notification, distribution, and requirements as provided in Code Section 20-2-671.

15-11-603.

(a) As part of any order of disposition regarding a child adjudged to have committed a delinquent act constituting an AIDS transmitting crime, the court may in its discretion and after conferring with the director of the health district, order that the child submit to an HIV test within 45 days following the adjudication of delinquency. The court shall mail DJJ a copy of the order within three days following its issuance.

(b) Within 30 days following receipt of the copy of the order, DJJ shall arrange for the HIV test for the child.

(c) Any child placed in the custody and control of DJJ shall be HIV tested in accordance with DJJ's policies and procedures.

(d) If a child is determined to be infected with HIV, that determination and the name of the child shall be deemed to be AIDS confidential information and shall only be reported to:

(1) DJJ or the Department of Corrections, as the case may be, and the Department of Public Health, which may disclose the name of the child if necessary to provide counseling and which shall provide counseling to each victim of the AIDS transmitting crime or to any parent, guardian, or legal custodian of any victim who is a minor or incompetent person, if DJJ or the Department of Corrections believes the crime posed a reasonable risk of transmitting HIV to the victim. Counseling shall include providing the person with information and explanations medically appropriate for such person which may include all or part of the following: accurate information regarding AIDS and HIV; an explanation of behaviors that reduce the risk of transmitting AIDS and HIV; an explanation of the confidentiality of information relating to AIDS diagnoses and HIV tests; an explanation of information regarding both social and medical implications of HIV tests; and disclosure of commonly recognized treatment or treatments for AIDS and HIV;

(2) The court which ordered the HIV test; and

(3) Those persons in charge of any facility to which the child has been confined by order of the court. In addition to any other restrictions regarding the confinement of a child, a child determined to be an HIV infected person may be confined separately from any other children in that facility other than those who have been determined to be infected with HIV if:

(A) That child is reasonably believed to be sexually active while confined;

(B) That child is reasonably believed to be sexually predatory either during or prior to detention; or

(C) The commissioner of juvenile justice reasonably determines that other circumstances or conditions exist which indicate that separate confinement would be warranted.

15-11-604.

(a) A child found to have committed a delinquent act shall be given credit for each day spent in secure confinement awaiting adjudication and for each day spent in secure confinement, in connection with and resulting from a court order entered in the proceedings for which the disposition was imposed, and in any institution or facility for treatment or examination of a physical or mental disability. Such credit shall be applied toward the child's disposition.

(b) Subsection (a) of this Code section shall apply to dispositions for all offenses, whether classified as violations, misdemeanors, or felonies.

15-11-605.

(a) In addition to any other terms or conditions of probation provided for under this article, the court may require that children who receive a disposition of probation:

(1) Be ordered to a probation management program; or

(2) Be ordered to a secure probation sanctions program by a probation officer or hearing officer.

(b) Where a child has been ordered to a probation management program or secure probation sanctions program, the court shall retain jurisdiction throughout the period of the probated sentence and may modify or revoke any part of a probated sentence as provided in Code Section 15-11-32.

(c)(1) DJJ in jurisdictions where DJJ is authorized to provide probation supervision, or the county juvenile probation office in jurisdictions where probation supervision is provided directly by the county, as applicable, shall be authorized to establish rules and regulations for graduated sanctions as an alternative to judicial modifications or revocations for probationers who violate the terms and conditions of a probation management program.

(2) DJJ or the county juvenile probation office, as applicable, shall not sanction probationers for violations of conditions of probation if the court has expressed an intention in a written order that such violations be heard by the court.

(d) DJJ or the county juvenile probation office, as applicable, shall impose only those restrictions equal to or less restrictive than the maximum sanction established by the court.

(e) The secure probation sanctions program shall be established by DJJ. Exclusion of a child from a secure probation sanctions program otherwise authorized by this Code section to enter such program shall be mutually agreed upon by the Council of Juvenile Court Judges and DJJ. The secure probation sanctions program shall be available to the juvenile courts to the extent that each secure facility has capacity for such offenders within its facilities. Prior to reaching full capacity, DJJ shall inform the various juvenile courts of its capacity constraints.

(f)(1) When requesting the secure probation sanctions program, probation officers supervising a child under a probation management program shall provide an affidavit to the court specifying:

(A) The elements of the child's probation program;

(B) The child's failures to respond to graduated sanctions in the community; and

(C) The child's number of violations and the nature of each violation.

(2) If a probation officer fails to document the violations and specify how the child has failed to complete a probation management program, such child shall be ineligible to enter the secure probation sanctions program.

(3) A child may enter the secure probation sanctions program if ordered by the court and:

(A) The probation officer has complied with the provisions of paragraph (1) of this subsection and the criteria set by the department for entrance into such program and the child has had three or more violations of probation; or

(B) A child in a probation management program and his or her parent or guardian, or a child in such program and his or her attorney, admit to three or more violations of such program and sign a waiver accepting the sanction proposed by the probation officer.

(4) Each new violation of a condition of a probated sentence may result in a child being sentenced to the secure probation sanctions program; provided, however, that if a child is sentenced to the secure probation sanctions program and completes all program components in the seven, 14, and 30 day programs, such child shall be ineligible to attend the secure probation sanctions program for a future violation of a condition of the same probated sentence.

(g)(1) When a violation of a condition of probation occurs, a child may have an administrative hearing conducted by a hearing officer. If the hearing officer determines by a preponderance of the evidence that such child violated the conditions of probation, the probation officer shall be authorized to impose graduated sanctions. A child's failure to comply with a sanction imposed under this paragraph shall constitute another violation of probation.

(2) The hearing officer's decision shall be final unless such child files, within five days of the service of such decision, a written demand with the hearing officer for review of such decision. Such demand shall not stay the sanction decision. The

hearing officer shall issue a response to such demand within five days of receiving such demand.

(3) If the hearing officer insists on the sanction, such decision shall be final unless the child files an appeal in the court that originally adjudicated the child. Such appeal shall be filed within ten days of the date of the decision of the hearing officer.

(4) The appeal shall first be reviewed by the court upon the record. At the court's discretion, a de novo hearing may be held on the decision. The filing of the appeal shall not stay the sanction decision.

(5) Where the court does not act on the appeal within 15 days of the date of the filing of the appeal, the sanction decision shall be affirmed by operation of law.

15-11-606.

An order of disposition or adjudication shall not be a conviction of a crime and shall not impose any civil disability ordinarily resulting from a conviction nor operate to disqualify the child in any civil service application or appointment.

15-11-607.

(a) Except as otherwise provided in Code Section 15-11-602, an order of disposition committing a child adjudicated delinquent to DJJ shall continue in force for two years or until the child is sooner discharged by DJJ. The court which made the order may extend its duration for a period not to exceed two years subject to like discharge, if:

(1) A hearing is held upon DJJ's motion prior to the expiration of the order;

(2) Reasonable notice of the factual basis of the motion and of the hearing and an opportunity to be heard are given to the child and the parent, guardian, or legal custodian; and

(3) The court finds that the extension is necessary for the treatment or rehabilitation of the child.

(b) Any other order of disposition except an order of restitution as allowed by paragraph (6) or (7) of subsection (a) of Code Section 15-11-601 shall continue in force for not more than two years. An order of extension may be made if:

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

(2) Reasonable notice of the factual basis of the motion and of the hearing and opportunity to be heard are given to the parties affected;

(3) The court finds that the extension is necessary to accomplish the purposes of the order extended; and

(4) The extension does not exceed two years from the expiration of the prior order.

(c) The court may terminate an order of disposition or an extension of such a disposition order prior to its expiration, on its own motion or an application of a party, if it appears to the court that the purposes of the order have been accomplished.

(d) When a child reaches 21 years of age, all orders affecting him or her then in force terminate and he or she is discharged from further obligation or control.

15-11-608.

(a) An order granting probation to a child found to be delinquent may be revoked on the ground that the conditions of probation have been violated.

(b) Any violation of a condition of probation may be reported to the prosecuting attorney who may file a motion in the court for revocation of probation. A motion for revocation of probation shall contain specific factual allegations constituting each violation of a condition of probation.

(c) The motion for revocation of probation shall be served upon the child, his or her attorney, and his or her parent, guardian, or legal custodian in accordance with the provisions of Code Section 15-11-531.

(d) If a child is taken into custody because of an alleged violation of probation, the provisions governing the detention of a child shall apply.

(e) A revocation hearing shall be scheduled to be held no later than 30 days after the filing of such motion or, if the child has been detained as a result of the filing of such motion for revocation, no later than ten days after the filing of the motion.

(f) If the court finds, beyond a reasonable doubt, that the child violated the terms and conditions of probation, the court may:

(1) Extend probation;

(2) Impose additional conditions of probation;

(3) Make any disposition that could have been made at the time probation was imposed; or

(4) Upon finding that graduated alternative sanctions have failed, order the child to serve up to a maximum of 60 days in a youth development center or, after assessment and with the court's approval, in a treatment program provided by DJJ or the juvenile court.

(g) In the case of a designated felony, if the court finds that the child violated the terms and conditions of probation, the court shall reconsider and make specific findings of fact as to each of the factors in subsection (b) of Code Section 15-11-602 to determine whether restrictive custody is required.

(h) In the case of a designated felony, if the court finds, beyond a reasonable doubt, that the child violated the terms and conditions of probation and that the order granting probation to the child shall be revoked, the child shall be given credit for time served on probation.

Part 13

15-11-620.

(a) When a child is alleged to be both delinquent and dependent, the date the child is considered to have entered foster care shall be the date of the first judicial finding that the child has been subjected to child abuse or neglect or the date that is 60 days after the date on which the child is removed from his or her home, whichever is earlier.

(b) If a child alleged or adjudicated to be delinquent is first placed in a noneligible placement but is later placed in foster care within 60 days of the child's removal from

the home, then the date of entry into foster care shall be 60 days from the date of removal.
(c) If a child is detained in a facility operated primarily for the detention of a child determined to be delinquent pending placement in foster care and remains detained for more than 60 days, then the date of entry into foster care shall be the date the child is placed in foster care.

15-11-621.
The periodic review hearing requirements under Code Sections 15-11-216, 15-11-217, and 15-11-218 shall apply to proceedings involving a child alleged or adjudicated to be delinquent and placed in foster care.

15-11-622.
(a) The permanency plan requirements under Code Sections 15-11-230, 15-11-231, and 15-11-232 shall apply to proceedings involving a child alleged or adjudicated to be delinquent and placed in foster care.
(b) In addition to the compelling reasons set forth in Code Section 15-11-233 under Article 3 of this chapter, a compelling reason for determining that filing a termination of parental rights petition is not in the best interests of a child alleged or adjudicated to be delinquent may include but shall not be limited to:
(1) The child's developmental needs require continued out-of-home placement for an additional number of months, and the parent, guardian, or legal custodian has cooperated with referrals, visitation, and family conferences, as well as therapy;
(2) The child is uncooperative with services or referrals; and
(3) The length of the delinquency disposition affects the permanency plan.

Part 14

15-11-630.
(a) A juvenile traffic offense consists of a violation by a child of:
(1) A law or local ordinance governing the operation of a moving motor vehicle upon the streets or highways of this state or upon the waterways within or adjoining this state; or
(2) Any other motor vehicle traffic law or local ordinance if the child is taken into custody and detained for its violation or is transferred to the juvenile court by the court hearing the charge.
(b) The following offenses shall be acts of delinquency and shall not be handled as juvenile traffic offenses: aggressive driving, reckless driving, a four-point speeding offense, homicide by vehicle, manslaughter resulting from the operation of a vehicle, any felony in the commission of which a motor vehicle is used, racing on highways and streets, using a motor vehicle in fleeing or attempting to elude an officer, fraudulent or fictitious use of a driver's license, hit and run or leaving the scene of an accident,

driving under the influence of alcohol or drugs, and any offense committed by an unlicensed driver under 16 years of age.

(c) A juvenile traffic offense shall not be an act of delinquency unless the case is transferred to the delinquency calendar.

(d) The summons, notice to appear, or other designation of a citation accusing a child of committing a juvenile traffic offense constitutes the commencement of the proceedings in the court of the county in which the alleged violation occurred and serves in place of a summons and petition under this article. These cases shall be filed and heard separately from other proceedings of the court. If the child is taken into custody on the charge, Code Sections 15-11-503 and 15-11-505 shall apply. If the child is, or after commencement of the proceedings becomes, a resident of another county of this state, the court in the county where the alleged traffic offense occurred may retain jurisdiction over the entire case.

(e) The court shall fix a time for a hearing and shall give reasonable notice thereof to the child and, if his or her address is known, to the parent, guardian, or legal custodian. If the accusation made in the summons, notice to appear, or other designation of a citation is denied, a hearing shall be held at which the parties shall have the right to subpoena witnesses, present evidence, cross-examine witnesses, and appear by their attorney. The hearing shall be open to the public.

(f) If the court finds on the admission of the child or upon the evidence that the child committed the offense charged, it may make one or more of the following orders:

(1) Reprimand, counsel, or warn the child and the child's parent, guardian, or legal custodian; provided, however, that this disposition order shall not be available for any act of delinquency;

(2) As a matter of probation or if the child is committed to the custody of the state, order the Department of Driver Services to suspend the child's privilege to drive under stated conditions and limitations for a period not to exceed 12 months;

(3) Require the child to attend a traffic school approved by the Department of Driver Services or a substance abuse clinic or program approved by either DBHDD or the Council of Juvenile Court Judges for a reasonable period of time;

(4) Assess a fine and order the child to remit to the general fund of the county a sum not exceeding the maximum applicable to an adult for a like offense. The fine shall be subject to all additions and penalties as specified under this title and Title 47;

(5) Require the child to participate in a program of community service as specified by the court;

(6) Impose any sanction authorized by Code Section 15-11-442 or 15-11-601; or

(7) Place the child on probation subject to the conditions and limitations imposed by Title 40 governing probation granted to adults for like offenses, but such probation shall be supervised by the court.

(g) In lieu of the preceding orders, if the evidence warrants, the court may transfer the case to the delinquency calendar of the court and direct the filing and service of a summons and delinquency petition.

(h) Upon finding that the child has committed a juvenile traffic offense or an act of delinquency which would be a violation of Title 40 if committed by an adult, the court shall forward, within ten days, a report of the final adjudication and disposition of the charge to the Department of Driver Services; provided, however, that this procedure shall not be applicable to those cases which have been dismissed or in which the child and the child's parent, guardian, or legal custodian have been reprimanded, counseled, or warned by the court. The Department of Driver Services shall record the adjudication and disposition of the offense on the child's permanent record, and such adjudication and disposition shall be deemed a conviction for the purpose of suspending or revoking the individual's driver's license. Such record shall also be available to law enforcement agencies and courts as are the permanent traffic records of adults.

ARTICLE 8

15-11-650.
The purpose of this article is to:
(1) Set forth procedures for a determination of whether a child is incompetent to proceed; and
(2) Provide a mechanism for the development and implementation of competency remediation services, when appropriate, including treatment, habilitation, support, or supervision services.

15-11-651.
As used in this article, the term:
(1) 'Competency remediation services' means outpatient interventions directed only at facilitating the attainment of competence to proceed for a child found to be incompetent to proceed. Such term may include mental health treatment to reduce interfering symptoms, specialized psychoeducational programming, or a combination of these interventions.
(2) 'Comprehensive services plan' shall have the same meaning as set forth in Code Section 15-11-381.
(3) 'Developmental disability' shall have the same meaning as set forth in Code Section 37-1-1.
(4) 'Incompetent to proceed' means lacking sufficient present ability to understand the nature and object of the proceedings, to comprehend his or her own situation in relation to the proceedings, and to assist his or her attorney in the preparation and presentation of his or her case in all adjudication, disposition, or transfer hearings. The child's age or immaturity may be used as the basis for determining a child's competency.
(5) 'Mental competency proceedings' means hearings conducted to determine whether a child is incompetent to proceed in adjudication, a disposition hearing, or a transfer proceeding.

(6) 'Plan manager' shall have the same meaning as set forth in Code Section 15-11-381.
(7) 'Treatment facility' means a facility that receives patients for psychiatric treatment as provided in Code Sections 37-3-80 through 37-3-84 and shall not include a secure detention facility.

15-11-652.
(a) If at any time after the filing of a petition alleging delinquency or that the child is a child in need of services the court has reason to believe that the child named in the petition may be incompetent to proceed, the court on its own motion or on the motion of the attorney representing the child, any guardian ad litem for the child, the child's parent, guardian, or legal custodian, or the prosecuting attorney shall stay all proceedings relating to such petition and, unless the court accepts a stipulation by the parties as to the child's incompetency, shall order a competency evaluation of and report on the child's mental condition.
(b) When a delinquency petition is filed alleging a child under the age of 13 has committed a serious violent felony, as defined in Code Section 17-10-6.1, the court shall stay all delinquency proceedings relating to such petition and, unless the court accepts a stipulation by the parties as to the child's incompetency, shall order a competency evaluation and report concerning the child's mental condition.
(c) Any motion, notice of hearing, order, or other pleading relating to a child's incompetency to proceed shall be served upon the child, the child's attorney, the child's guardian ad litem, if any, the child's parent, guardian, or legal custodian and the prosecuting attorney.
(d) Prior to the administration of any evaluation, the court shall appoint an attorney to represent a child if the child is not yet represented by an attorney.
(e) All time limits set forth in Articles 6 and 7 of this chapter for adjudication and disposition of a delinquency or child in need of services proceeding shall be tolled during the evaluation, adjudication, and disposition phases of the mental competency proceeding and during provision of competency remediation services.

15-11-653.
(a) The court ordered evaluation and report shall be conducted by an examiner who shall consider whether a child is incompetent to proceed. The court shall provide the examiner with any law enforcement or court records necessary for understanding the petition alleging delinquency. The attorney for the child and the prosecuting attorney shall provide the examiner with any records from any other available sources that are deemed necessary for the competency evaluation.
(b) The competency evaluation shall be performed on an outpatient basis; provided, however, that if the child is in an out of home placement, the evaluation shall be performed at the child's location.
(c) An examiner who conducts the evaluation shall submit a written report to the court within 30 days from receipt of the court order for evaluation. The court may, in its

discretion, grant the examiner an extension in filing such report. The report shall contain the following:

(1) The specific reason for the evaluation, as provided by the court or the party requesting the evaluation;

(2) The evaluation procedures used, including any psychometric instruments administered, any records reviewed, and the identity of any persons interviewed;

(3) Any available pertinent background information;

(4) The results of a mental status exam, including the diagnosis if any and description of any psychiatric symptoms, cognitive deficiency, or both;

(5) A description of the child's abilities and deficits in the following mental competency functions:

(A) The ability to understand and appreciate the nature and object of the proceedings;

(B) The ability to comprehend his or her situation in relation to the proceedings; and

(C) The ability to assist his or her attorney in the preparation and presentation of his or her case;

(6) An opinion regarding the potential significance of the child's mental competency, strengths, and deficits;

(7) An opinion regarding whether or not the child should be considered incompetent to proceed; and

(8) A specific statement explaining the reasoning supporting the examiner's final determination.

(d) If, in the opinion of the examiner, the child should be considered incompetent to proceed, the report shall also include the following:

(1) An opinion as to whether the primary cause of incompetency to proceed is immaturity, mental illness, developmental disability, or combination of mental illness and developmental disability;

(2) An opinion as to whether there is a substantial probability that the child will attain the mental competency necessary to participate in adjudication, a disposition hearing, or a transfer hearing in the foreseeable future;

(3) If the examiner believes that the child will attain mental competency, recommendations for the general level and type of competency remediation services necessary for significant deficits;

(4) A recommendation as to the appropriate treatment or services;

(5) When appropriate, recommendations for modifications of court procedure which may help compensate for mental competency weaknesses; and

(6) Any relevant medication history.

(e) If the examiner determines that the child is currently competent because of ongoing treatment with medication or other services, the report shall address the necessity of continuing such treatment and shall include a description of any limitation such treatment may have on competency.

(f) Copies of the written evaluation report shall be provided by the court to the attorney representing the child, the prosecuting attorney or a member of his or her staff, and any guardian ad litem for the child no later than five days after receipt of the report by the court.
(g) Upon a showing of good cause by any party or upon the court's own motion, the court may order additional evaluations by other licensed psychologists or psychiatrists. In no event shall more than one evaluation be conducted by an examiner employed by DBHDD.

15-11-654.
(a) If at any time following a finding that a child is incompetent to proceed, the court determines that the child is a resident of a county of this state other than the county in which the court sits, the court may transfer the proceeding to the county of the child's residence.
(b) When any case is transferred, certified copies of all legal, social history, health, or mental health records pertaining to the case on file with the clerk of the court shall accompany the transfer. Compliance with this subsection shall terminate jurisdiction in the transferring court and initiate jurisdiction in the receiving court.
(c) If the child's competency is remediated, jurisdiction of the case may be returned to the transferring court for the adjudication hearing and any subsequent proceedings.

15-11-655.
(a) A hearing to determine if a child is incompetent to proceed shall be conducted within 60 days after the initial court order for evaluation. The hearing may be continued by the court for good cause shown.
(b) Written notice shall be given to all parties and the victim at least ten days prior to such hearing.
(c) The burden of proving that the child is incompetent to proceed shall be on the child. The standard of proof necessary for proving mental competency shall be a preponderance of the evidence.
(d) At the hearing to determine incompetency to proceed, the child's attorney and the prosecuting attorney shall have the right to:
(1) Present evidence;
(2) Call and examine witnesses;
(3) Cross-examine witnesses; and
(4) Present arguments.
(e) The examiner appointed by the court shall be considered the court's witness and shall be subject to cross-examination by both the child's attorney and the prosecuting attorney.
(f) The court's findings of fact shall be based on any evaluations of the child's mental condition conducted by licensed psychologists or psychiatrists appointed by the court, any evaluations of the child's mental condition conducted by independent licensed

psychologists or psychiatrists hired by the parties, and any additional evidence presented.

(g) If the court finds that the child is not incompetent to proceed, the proceedings which have been suspended shall be resumed. The time limits under Article 6 or 7 of this chapter for adjudication and disposition of the petition shall begin to run from the date of the order finding the child mentally competent.

(h) Copies of the court's findings shall be given to the parties within ten days following the issuance of such findings.

15-11-656.

(a) If the court finds that the child is incompetent to proceed but the child's incompetence may be remediated, the court may order competency remediation services for the child.

(b) In determining whether to order competency remediation services, the court shall consider:

(1) Whether there is probable cause to believe the allegations in the petition are true;

(2) The nature of the incompetency;

(3) The child's age; and

(4) The nature of the act alleged to have been committed by the child, in particular whether the act is a serious violent felony as such term is defined in Code Section 17-10-6.1.

(c) If a child is determined to be incompetent to proceed, the court has ordered that competency remediation services should be provided, and:

(1) The child is alleged to have committed an act that would be a felony if committed by an adult, the court may retain jurisdiction of the child for up to two years after the date of the order of incompetency, with review hearings at least every six months to redetermine competency or proceed as provided in subsection (f) of this Code section; or

(2) The child is alleged to be a child in need of services or to have committed an act that would be a misdemeanor if committed by an adult, the court may retain jurisdiction of the child for up to 120 days after the date of the order of incompetency or proceed as provided in subsection (f) of this Code section.

(d) All court orders determining incompetency shall include specific written findings by the court as to the nature of the incompetency and the mandated outpatient competency remediation services. If the child is in an out of home placement, the court shall specify the type of competency remediation services to be performed at the child's location. A child may be placed in a secure treatment facility or program, not to include DJJ facilities, if the court makes a finding by clear and convincing evidence that:

(1) The child is mentally ill or developmentally disabled and meets the requirements for civil commitment pursuant to Chapters 3 and 4 of Title 37; and

(2) All available less restrictive alternatives, including treatment in community residential facilities or community settings which would offer an opportunity for improvement of the child's condition, are inappropriate.

(e) A child who is incompetent to proceed shall not be subject to transfer to superior court, adjudication, disposition, or modification of disposition so long as the mental incompetency exists.

(f) If the court determines that a child is incompetent to proceed, the court may dismiss the petition without prejudice.

(g) If a child is detained in a secure detention facility and the court determines that the child is incompetent to proceed, within five days of such determination the court shall issue an order to immediately release the child to the appropriate parent, guardian, or legal custodian.

15-11-657.

(a) All competency remediation service orders issued by the court shall contain:

(1) The name of the competency remediation service program provider and the location of the program;

(2) A statement of the arrangements for the child's transportation to the program site;

(3) The length of the competency remediation service program;

(4) A statement of the arrangements for the child's transportation after the program ends; and

(5) A direction concerning the frequency of reports required by the court.

(b) DBHDD or a licensed psychologist or psychiatrist shall file a written report with the court:

(1) Not later than six months after the date the court orders that competency remediation be attempted but prior to the first review hearing;

(2) Every six months after the first review hearing if the child remains incompetent to proceed and under an order for remediation;

(3) At any time DBHDD or a licensed psychologist or psychiatrist opines the child has attained competency; or

(4) At shorter intervals designated by the court in its competency remediation order.

(c) DBHDD or the licensed psychologist or psychiatrist written report shall include, but shall not be limited to:

(1) Whether the child's competency can be remediated or whether the child is likely to remain incompetent to proceed for the foreseeable future;

(2) Whether additional time is needed to remediate the child's competency; and

(3) If the child has attained competency, the effect, if any, of any limitations that are imposed by any medication or other treatment used in the effort to remediate competency.

15-11-658.

(a) If the court initially finds that a child is unrestorably incompetent to proceed, the court shall dismiss the petition, appoint a plan manager, and order that procedures for a

comprehensive services plan be initiated under Article 6 of this chapter. When appropriate, the court may:

(1) Order that the child be referred for civil commitment pursuant to Chapters 3 and 4 of Title 37. Such proceedings shall be instituted not less than 60 days prior to the dismissal of the delinquency or child in need of services petition; or

(2) Order that referral be made for appropriate adult services if the child has reached the age of 18 years at the time of the competency determination.

(b) If at any time after the child is ordered to undergo competency remediation services DBHDD or a licensed psychologist or psychiatrist opines that the child is likely to remain incompetent to proceed for the foreseeable future, DBHDD or the licensed psychologist or psychiatrist shall submit a report to the court so stating.

(c) Upon receipt of the report specified in subsection (b) of this Code section, the court shall make a competency determination and shall dismiss the delinquency petition, appoint a plan manager, and order that procedures for a comprehensive services plan be initiated under Article 6 of this chapter. When appropriate, the court may:

(1) Order that the child be referred for civil commitment pursuant to Chapters 3 and 4 of Title 37. Such proceedings shall be instituted not less than 60 days prior to the dismissal of the delinquency or child in need of services petition; or

(2) Order that referral be made for appropriate adult services if the child has reached the age of 18 years at the time of the competency determination.

15-11-659.

If at any time after a child is found to be incompetent to proceed due to age, immaturity, or for any reason other than mental illness or developmental disability and is ordered to undergo competency remediation services and DBHDD determines that the child is likely to remain incompetent to proceed for the foreseeable future, DBHDD shall submit a report and its conclusions to the court. Upon receipt of such report, the court shall:

(1) Make a competency determination;

(2) Order that the petition be dismissed; and

(3) Order that a plan manager be appointed and that the procedures for a comprehensive services plan be initiated under Article 6 of this chapter.

15-11-660.

(a) The court shall hold a hearing to review a child's progress toward competency:

(1) At least every six months;

(2) At any time, on its own motion or on the motion of the prosecuting attorney, the child's attorney, or the child's guardian ad litem, if any;

(3) On receipt of a report submitted by DBHDD; or

(4) Not less than three months before the child's eighteenth birthday.

(b) If at a review hearing the court finds that the child has attained competency, the suspended proceedings shall be resumed and the time limits as applicable under Article

6 or 7 of this chapter shall begin to run from the date of the order finding the child mentally competent.

(c) If at a review hearing held following the court's receipt of a DBHDD or licensed psychologist or psychiatrist's report the court finds that the child's incompetency has not been remediated but that the child has made substantial progress toward remediation, the court may extend the competency remediation program period for an additional 60 days if the court determines by clear and convincing evidence that further participation is likely to lead to remediation of competency.

(d) If at a review hearing the court finds that the child's competency is not remediated and is not likely to be remediated within the time left before the child's eighteenth birthday, the court shall dismiss the petition with prejudice if the child is alleged to be a child in need of services or to have committed a delinquent act which would be a misdemeanor if committed by an adult.

(e) At each review hearing, the court shall also consider whether the petition alleging delinquency or that a child is in need of services should be withdrawn, maintained, or dismissed, without prejudice, upon grounds other than the child's being incompetent to proceed. If the court dismisses the petition, the prosecuting attorney may seek to refile a petition alleging a delinquent act which would be a felony if committed by an adult if the child is later determined to be mentally competent. The prosecuting attorney may also seek transfer to superior court if the child is later determined to be mentally competent and otherwise meets all the requirements for transfer under Article 7 of this chapter.

ARTICLE 9

15-11-680.

This article shall be known and may be cited as the 'Parental Notification Act.'

15-11-681.

As used in this article, the term:

(1) 'Abortion' means the use or prescription of any instrument, medicine, drug, or any other substance or device with the intent to terminate the pregnancy of a female known to be pregnant. The term 'abortion' shall not include the use or prescription of any instrument, medicine, drug, or any other substance or device employed solely to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead unborn child who died as a result of a spontaneous abortion. The term 'abortion' also shall not include the prescription or use of contraceptives.

(2) 'Proper identification' means any document issued by a governmental agency containing a description of the person, the person's photograph, or both, including, but not limited to, a driver's license, an identification card authorized under Code Sections 40-5-100 through 40-5-104 or similar identification card issued by another state, a military identification card, a passport, or an appropriate work authorization issued by

the United States Immigration and Customs Enforcement Division of the Department of Homeland Security.

(3) 'Unemancipated minor' means any person under the age of 18 who is not or has not been married or who is under the care, custody, and control of such person's parent or parents, guardian, or the juvenile court of competent jurisdiction.

15-11-682.

(a) No physician or other person shall perform an abortion upon an unemancipated minor under the age of 18 years unless:

(1)(A) The minor seeking an abortion shall be accompanied by a parent or guardian who shall show proper identification and state that the parent or guardian is the lawful parent or guardian of the minor and that the parent or guardian has been notified that an abortion is to be performed on the minor;

(B) The physician or the physician's qualified agent gives at least 24 hours' actual notice, in person or by telephone, to a parent or guardian of the pending abortion and the name and address of the place where the abortion is to be performed; provided, however, that, if the person so notified indicates that he or she has been previously informed that the minor was seeking an abortion or if the person so notified has not been previously informed and he or she clearly expresses that he or she does not wish to consult with the minor, then in either event the abortion may proceed in accordance with Chapter 9A of Title 31; or

(C) The physician or a physician's qualified agent gives written notice of the pending abortion and the address of the place where the abortion is to be performed, sent by registered or certified mail or statutory overnight delivery, return receipt requested with delivery confirmation, addressed to a parent or guardian at the usual place of abode of the parent or guardian. Unless proof of delivery is otherwise sooner established, such notice shall be deemed delivered 48 hours after mailing. The time of mailing shall be recorded by the physician or agent in the minor's file. The abortion may be performed 24 hours after the delivery of the notice; provided, however, that, if the person so notified certifies in writing that he or she has been previously informed that the minor was seeking an abortion or if the person so notified has not been previously informed and he or she certifies in writing that he or she does not wish to consult with the minor, then in either event the abortion may proceed in accordance with Chapter 9A of Title 31; and

(2) The minor signs a consent form stating that she consents, freely and without coercion, to the abortion.

(b) If the unemancipated minor or the physician or a physician's qualified agent, as the case may be, elects not to comply with any one of the requirements of subparagraph (a)(1)(A), (a)(1)(B), or (a)(1)(C) of this Code section, or if the parent or legal guardian of the minor cannot be located, the minor may petition, on the minor's own behalf or by next friend, any juvenile court in the state for a waiver of such requirement pursuant to the procedures provided for in Code Section 15-11-684. The juvenile court shall assist the minor or next friend in preparing the petition and notices required pursuant to this

Code section. Venue shall be lawful in any county, notwithstanding Code Section 15-11-30.

(c) No abortion shall be performed unless the requirements of subparagraph (a)(1)(A), (a)(1)(B), or (a)(1)(C) of this Code section have been met or the minor has obtained a court order waiving such requirements.

15-11-683.

Notwithstanding Code Sections 15-11-40, 15-11-150, 15-11-152, 15-11-160, 15-11-281, 15-11-424, and 15-11-531, the unemancipated minor or next friend shall be notified of the date, time, and place of the hearing in such proceedings at the time of filing the petition. The hearing shall be held within three days of the date of filing, excluding weekends and legal holidays. The parent, guardian, or legal custodian of the unemancipated minor shall not be served with the petition or with a summons or otherwise notified of the proceeding. If a hearing is not held within the time prescribed in this Code section, the petition shall be deemed granted.

15-11-684.

(a) An unemancipated minor may participate in proceedings in the court on such minor's own behalf and the court shall advise such minor of the right to court appointed counsel and shall provide such minor with such counsel upon request or if such minor is not already adequately represented.

(b) All court proceedings under this Code section shall be conducted in a manner to preserve the complete anonymity of the parties and shall be given such precedence over other pending matters as is necessary to ensure that a decision is reached by the court as expeditiously as is possible under the circumstances of the case. In no event shall the name, address, birth date, or social security number of such minor be disclosed.

(c) The requirement of subparagraph (a)(1)(A), (a)(1)(B), or (a)(1)(C) of Code Section 15-11-682 shall be waived if the court finds either:

(1) That the unemancipated minor is mature enough and well enough informed to make the abortion decision in consultation with her physician, independently of the wishes of such minor's parent or guardian; or

(2) That the notice to a parent or, if the minor is subject to guardianship, the legal guardian pursuant to Code Section 15-11-682 would not be in the best interests of the minor.

(d) A court that conducts proceedings under this Code section shall issue written and specific factual findings and legal conclusions supporting its decision and shall order that a record of the evidence be maintained. The juvenile court shall render its decision within 24 hours of the conclusion of the hearing and a certified copy of same shall be furnished immediately to the minor. If the juvenile court fails to render its decision within 24 hours after the conclusion of the hearing, then the petition shall be deemed granted. All juvenile court records shall be sealed in a manner which will preserve anonymity.

(e) An expedited appeal completely preserving the anonymity of the parties shall be available to any unemancipated minor to whom the court denies a waiver of notice. The appellate courts are authorized and requested to issue promptly such rules as are necessary to preserve anonymity and to ensure the expeditious disposition of procedures provided by this Code section. In no event shall the name, address, birth date, or social security number of such minor be disclosed during the expedited appeal or thereafter.
(f) No filing fees shall be required of any unemancipated minor who uses the procedures provided by this Code section.

15-11-685.
The requirements and procedures of this article shall apply to all unemancipated minors within this state whether or not such persons are residents of this state.

15-11-686.
This article shall not apply when, in the best clinical judgment of the attending physician on the facts of the case before him or her, a medical emergency exists that so complicates the condition of the minor as to require an immediate abortion. A person who performs an abortion as a medical emergency under the provisions of this Code section shall certify in writing the medical indications on which this judgment was based when filing such reports as are required by law.

15-11-687.
Any physician or any person employed or connected with a physician, hospital, or health care facility performing abortions who acts in good faith shall be justified in relying on the representations of the unemancipated minor or of any other person providing the information required under this article. No physician or other person who furnishes professional services related to an act authorized or required by this article and who relies upon the information furnished pursuant to this article shall be held to have violated any criminal law or to be civilly liable for such reliance, provided that the physician or other person acted in good faith.

15-11-688.
Any person who violates the provisions of this article shall be guilty of a misdemeanor and any person who intentionally encourages another to provide false information pursuant to this article shall be guilty of a misdemeanor.

ARTICLE 10

15-11-700.
(a) As used in this Code section, the term 'dependency proceeding' means a court proceeding stemming from a petition alleging that a child is a dependent child.
(b) The general public shall be admitted to:

(1) An adjudicatory hearing involving an allegation of a designated felony;

(2) An adjudicatory hearing involving an allegation of delinquency brought in the interest of any child who has previously been adjudicated delinquent; provided, however, the court shall close any delinquency hearing on an allegation of sexual assault or any delinquency hearing at which any party expects to introduce substantial evidence related to matters of dependency;

(3) Any child support hearing;

(4) Any hearing in a legitimation action filed pursuant to Code Section 19-7-22;

(5) At the court's discretion, any dispositional hearing involving any proceeding under this article; or

(6) Any hearing in a dependency proceeding, except as otherwise provided in subsection (c) of this Code section.

(c) The court may close the hearing in a dependency proceeding only upon making a finding upon the record and issuing a signed order as to the reason or reasons for closing all or part of a hearing in such proceeding and stating that:

(A) The proceeding involves an allegation of an act which, if done by an adult, would constitute a sexual offense under Chapter 6 of Title 16; or

(B) It is in the best interests of the child. In making such a determination, the court shall consider such factors as:

(i) The age of the child;

(ii) The nature of the allegations;

(iii) The effect that an open court proceeding will have on the court's ability to reunite and rehabilitate the family unit; and

(iv) Whether the closure is necessary to protect the privacy of a child, of a foster parent or other caretaker of a child, or of a victim of domestic violence.

(d) The court may close a hearing or exclude a person from a hearing in any proceeding on its own motion, by motion of a party to the proceeding, or by motion of a child who is the subject of the proceeding or the child's attorney or guardian ad litem.

(e) Only the parties, their counsel, witnesses, persons accompanying a party for his or her assistance, the victim, and any other persons as the court finds have a proper interest in the proceeding or in the work of the court may be admitted by the court to hearings from which the public is excluded; provided, however, that when the conduct alleged in the dependency proceeding could give rise to a criminal or delinquent prosecution, attorneys for the prosecution and the defense shall be admitted.

(f) The court may refuse to admit a person to a hearing in any proceeding upon making a finding upon the record and issuing a signed order that the person's presence at the hearing would:

(1) Be detrimental to the best interests of a child who is a party to the proceeding;

(2) Impair the fact-finding process; or

(3) Be otherwise contrary to the interest of justice.

(g) The court may temporarily exclude any child from a termination of parental rights hearing except while allegations of his or her delinquency or unruly conduct are being heard.

(h) Any request for installation and use of electronic recording, transmission, videotaping, or motion picture or still photography of any judicial proceeding shall be made to the court at least two days in advance of the hearing. The request shall be evaluated by the court pursuant to the standards set forth in Code Section 15-1-10.1.
(i) The judge may order the media not to release identifying information concerning any child or family members or foster parent or other caretaker of a child involved in hearings open to the public.
(j) The general public shall be excluded from proceedings in juvenile court unless such hearing has been specified as one in which the general public shall be admitted to pursuant to this Code section.

15-11-701.
(a) Upon dismissal of a petition or complaint alleging delinquency or that a child is a child in need of services or completion of the process in a case handled through informal adjustment, mediation, or other nonadjudicatory procedure, the court shall order the sealing of the files and records in the case.
(b) On application of a person who has been adjudicated delinquent or a child in need of services or on the court's own motion, and after a hearing, the court shall order the sealing of the files and records in the proceeding if the court finds that:
(1) Two years have elapsed since the final discharge of the person;
(2) Since the final discharge of the person he or she has not been convicted of a felony or of a misdemeanor involving moral turpitude or adjudicated a delinquent child or a child in need of services and no proceeding seeking conviction or adjudication is pending against the person; and
(3) The person has been rehabilitated.
(c) Reasonable notice of the hearing required by subsection (b) of this Code section shall be given to:
(1) The district attorney;
(2) DJJ, when appropriate;
(3) The authority granting the discharge if the final discharge was from an institution or from parole; and
(4) The law enforcement officers or department having custody of the files and records if the files and records specified in Code Sections 15-11-702 and 15-11-708 are included in the application or motion.
(d) Upon the entry of the order the proceeding shall be treated as if it had never occurred. All index references shall be deleted and the person, the court, the law enforcement officers, and the departments shall properly reply that no record exists with respect to the person upon inquiry in any matter. Copies of the order shall be sent to each agency or designated official and shall also be sent to the deputy director of the Georgia Crime Information Center. Inspection of the sealed files and records thereafter may be permitted by an order of the court upon petition by the person who is the subject of the records and otherwise only by those persons named in the order or to

criminal justice officials upon petition to the court for official judicial enforcement or criminal justice purposes.

(e) The court may seal any record containing information identifying a victim of an act which, if done by an adult, would constitute a sexual offense under Chapter 6 of Title 16.

15-11-702.

(a)(1) Every child charged with an offense which would be a felony if committed by an adult, shall be fingerprinted and photographed upon being taken into custody.

(2) Fingerprints and photographs of children shall be taken and filed separately from those of adults by law enforcement officials to be used in investigating the commission of crimes and to be made available as provided in this article and as may be directed by the court.

(b) Fingerprint files and photographs of children may be inspected by law enforcement officers when necessary for criminal justice purposes and for the discharge of their official duties. Other inspections may be authorized by the court in individual cases upon a showing that it is necessary in the public interest.

(c) If a child has been charged with an offense that if committed by an adult would be a felony or if the case is transferred to another court for prosecution, the child's fingerprints, personal identification data, and other pertinent information shall be forwarded to the Georgia Crime Information Center of the Georgia Bureau of Investigation. The center shall create a juvenile fingerprint file and enter the data into the computerized criminal history files. The Georgia Bureau of Investigation shall act as the official state repository for juvenile history data and shall be authorized to disseminate such data for the purposes specified in Code Section 15-11-708.

(d) Upon application of a child, fingerprints and photographs of the child shall be removed from the file and destroyed if a petition alleging delinquency is not filed or the proceedings are dismissed after either such petition is filed or the case is transferred to the juvenile court or the child is adjudicated not to be a delinquent child. The court shall notify the deputy director of the Georgia Crime Information Center when fingerprints and photographs are destroyed, and the Georgia Bureau of Investigation shall treat such records in the same manner as expunged records pursuant to subsection (c) of Code Section 35-3-37.

(e) Except as provided in subsection (a) of this Code section, without the consent of the judge, a child shall not be photographed after he or she is taken into custody unless the case is transferred to another court for prosecution.

(f) Upon request, the judge or his or her designee shall release the name of any child with regard to whom a petition has been filed alleging the child committed a designated felony or alleging the child committed a delinquent act if the child has previously been adjudicated delinquent or if the child has previously been before the court on a delinquency charge and adjudication was withheld.

15-11-703.
Except as provided in subsection (d) of Code Section 24-6-609, the disposition of a child and evidence adduced in a hearing in the juvenile court may not be used against such child in any proceeding in any court other than for a proceeding for delinquency or a child in need of services, whether before or after reaching majority, except in the establishment of conditions of bail, plea negotiations, and sentencing in felony offenses; and, in such excepted cases, such records of dispositions and evidence shall be available to prosecuting attorneys and superior court judges and the accused and may be used in the same manner as adult records.

15-11-704.
(a) Except as provided in subsection (b) of this Code section and Code Sections 15-11-705 and 15-11-706, all files and records of the court in a proceeding under this chapter shall be open to inspection only upon order of the court.
(b) The general public shall be allowed to inspect court files and records for any proceeding that was open to the public pursuant to paragraphs (1) through (5) of subsection (b) of Code Section 15-11-700.
(c) The judge may permit authorized representatives of recognized organizations compiling statistics for proper purposes to inspect and make abstracts from official records under whatever conditions upon their use and distribution the judge may deem proper and may punish by contempt any violation of those conditions.
(d) The judge shall permit authorized representatives of DJJ, the Governor's Office for Children and Families, and the Council of Juvenile Court Judges to inspect and extract data from any court files and records for the purpose of obtaining statistics on children and to make copies pursuant to the order of the court.
(e) Except as otherwise provided in Code Sections 15-11-701 and 15-11-703, the complaint, petition, order of adjudication, and order of disposition in any delinquency case shall be disclosed upon request of the prosecuting attorney or the accused for use preliminarily to or in conjunction with a subsequent juvenile or criminal proceeding in a court of record.

15-11-705.
(a) Notwithstanding other provisions of this article, the court records of proceedings under Article 6 of this chapter shall be withheld from public inspection but shall be open to inspection by the child, juvenile probation and parole officers, a parent, guardian, or legal custodian, the child's attorney, and others entrusted with the supervision of the child. Additional access to court records may be granted by court order.
(b) It shall be unlawful for any person to disclose court records, or any part thereof, to persons other than those entitled to access under subsection (a) of this Code section, except by court order. Any person who knowingly violates this subsection shall be guilty of contempt and the court may enter any order authorized by the provisions of Code Section 15-11-31.

15-11-706.
(a) When a decision is made to handle a case through informal adjustment, mediation, or other nonadjudicatory procedure, the juvenile court intake officer shall file with the court in the county in which the child legally resides all of the following information:
(1) The child's name, address, and date of birth;
(2) The act or offense for which the child was apprehended;
(3) The diversion decision made;
(4) The nature of the child's compliance with an informal adjustment agreement; and
(5) If an informal adjustment agreement is revoked, the fact of and reasons for the revocation.
(b) Notwithstanding subsection (a) of Code Section 15-11-701, the court in the county in which the child resides shall keep a separate record for that child which shall be open to the court, the prosecuting attorney, or an officer designated by the court only for the purpose of deciding whether to handle a subsequent case through informal adjustment, mediation, or other nonadjudicatory procedure or for use in disposition of a subsequent proceeding. Any person who knowingly violates this subsection shall be guilty of contempt and the court may enter any order authorized by the provisions of Code Section 15-11-31.

15-11-707.
Within 30 days of any proceeding in which a child is adjudicated delinquent for a second or subsequent time or is found to have committed a designated felony act, the court shall provide written notice to the school superintendent of the school in which the child is enrolled or his or her designee or, if the information is known, of the school in which such child plans to be enrolled at a future date. Such notice shall include the specific delinquent act or designated felony that the child committed.

15-11-708.
(a) Law enforcement records and files concerning a child shall be kept separate from the records and files of arrests of adults.
(b) Unless a charge of delinquency is transferred for criminal prosecution or the interest of national security requires or the case is one in which the general public may not be excluded from the hearings or the court otherwise orders in the best interests of the child, the records and files shall not be open to public inspection nor shall their contents be disclosed to the public.
(c) Inspection of the records and files shall be permitted by:
(1) A juvenile court having the child before it in any proceeding;
(2) The attorney for a party to the proceedings, with the consent of the court;
(3) The officers of public institutions or agencies to whom the child is committed;
(4) Law enforcement officers of this state, the United States, or any other jurisdiction when necessary for the discharge of their official duties;
(5) A court in which the child is convicted of a criminal offense, for the purpose of a presentence report or other disposition proceeding;

(6) Officials of penal institutions and other penal facilities to which the child is committed; or

(7) A parole board in considering the child's parole or discharge or in exercising supervision over the child.

(d) The court shall allow authorized representatives of DJJ, the Governor's Office for Children and Families, and the Council of Juvenile Court Judges to inspect and copy law enforcement records for the purpose of obtaining statistics on children.

(e) Access to fingerprint records submitted to the Georgia Bureau of Investigation shall be limited to the administration of criminal justice purposes as defined in Code Section 15-11-2.

15-11-709.

(a) Subject to the earlier sealing of certain records pursuant to Code Section 15-11-701, the juvenile court shall make and keep records of all cases brought before it and shall preserve the records pertaining to a child in accordance with the common records retention schedules for courts approved by the State Records Committee pursuant to Code Section 50-18-92.

(b) Thereafter, the court may destroy such records, except that the records of cases in which a court terminates the parental rights of a parent and the records of cases involving a petition for legitimation of a child shall be preserved permanently.

(c) The juvenile court shall make official minutes consisting of all petitions and orders filed in a case and any other pleadings, certificates, proofs of publication, summonses, warrants, and other writs which may be filed and shall make social records consisting of records of investigation and treatment and other confidential information.

(d) Identification data shall be maintained and shall be disseminated to criminal justice officials for official judicial enforcement or criminal justice purposes as provided in Code Section 35-3-33.

(e) Nothing in this chapter shall restrict or otherwise prohibit a juvenile court clerk from electing to store for computer retrieval any or all records, dockets, indexes, or files; nor shall a juvenile court clerk be prohibited from combining or consolidating any books, dockets, files, or indexes in connection with the filing for record of papers of the kind specified in this chapter or any other law, provided that any automated or computerized record-keeping method or system shall provide for the systematic and safe preservation and retrieval of all books, dockets, records, or indexes. When the clerk of a juvenile court elects to store for computer retrieval any or all records, the same data elements used in a manual system shall be used, and the same integrity and security shall be maintained.

15-11-710.

(a) As used in this Code section, the term 'governmental entity' shall mean the court, superior court, the DJJ, DBHDD, DFACS, county departments of family and children services, or public school, as such term is defined in Code Section 16-11-35.

(b) Governmental entities and state, county, municipal, or consolidated government departments, boards, or agencies shall exchange with each other all information not held as confidential pursuant to federal law and relating to a child which may aid a governmental entity in the assessment, treatment, intervention, or rehabilitation of a child, notwithstanding Code Section 15-1-15, 15-11-40, 15-11-105, 15-11-170, 15-11-264, 15-11-541, 15-11-542, 15-11-603, 15-11-708, 15-11-709, 15-11-744, 20-2-751.2, 20-14-40, 24-12-10, 24-12-11, 24-12-20, 26-4-5, 26-4-80, 26-5-17, 31-5-5, 31-33-6, 37-1-53, 37-2-9.1, 42-5-36, 42-8-40, 42-8-106, 49-5-40, 49-5-41, 49-5-41.1, 49-5-44, 49-5-45, 49-5-183, 49-5-184, 49-5-185, or 49-5-186, in order to serve the best interests of the child. Information which is shared pursuant to this subsection shall not be utilized to assist in the prosecution of the child in juvenile court or superior court or utilized to the detriment of the child.

(c) Information released pursuant to this Code section shall not change or rescind the confidential nature of such information and such information shall not be subject to public disclosure or inspection unless otherwise provided by law.

ARTICLE 11

15-11-720.

(a) Emancipation may occur by operation of law or pursuant to a petition filed with the court as provided in this article by a child who is at least 16 years of age.

(b) An emancipation occurs by operation of law:

(1) When a child is validly married;

(2) When a child reaches the age of 18 years; or

(3) During the period when the child is on active duty with the armed forces of the United States.

(c) An emancipation occurs by court order pursuant to a petition filed by a child with the juvenile court.

15-11-721.

A child seeking emancipation shall file a petition for emancipation in the juvenile court in the county where the child resides. The petition shall be signed and verified by the child, and shall include:

(1) The child's full name and birth date and the county and state where the child was born;

(2) A certified copy of the child's birth certificate;

(3) The name and last known address of the child's parent, guardian, or legal custodian and, if no parent, guardian, or legal custodian can be found, the name and address of the child's nearest living relative residing within this state;

(4) The child's present address and length of residency at that address;

(5) A declaration by the child demonstrating the ability to manage his or her financial affairs together with any information necessary to support the declaration;

(6) A declaration by the child demonstrating the ability to manage his or her personal and social affairs together with any information necessary to support the declaration; and

(7) The names of individuals who have personal knowledge of the child's circumstances and believe that under those circumstances emancipation is in the best interests of the child. Such individuals may include any of the following:

(A) A licensed physician or osteopath;

(B) A registered professional nurse or licensed practical nurse;

(C) A licensed psychologist;

(D) A licensed professional counselor, social worker, or marriage and family therapist;

(E) A school guidance counselor, school social worker, or school psychologist;

(F) A school administrator, school principal, or school teacher;

(G) A member of the clergy;

(H) A law enforcement officer; or

(I) An attorney.

15-11-722.

(a) Upon filing the petition, a copy of the petition for emancipation and a summons to appear at the hearing shall be served on all persons named in the petition and upon any individual who provided an affidavit for the emancipation.

(b) A person served with a petition may file an answer in the juvenile court in which the petition was filed within 30 days of being served.

15-11-723.

(a) After a petition for emancipation is filed, the court may:

(1) Appoint a guardian ad litem to investigate the allegations of the petition and to file a report with the court, including a recommendation as to whether it is in the best interests of the child that the petition for emancipation be granted;

(2) Appoint an attorney for the child; and

(3) Appoint an attorney for the child's parent, guardian, or legal custodian if he or she is an indigent person and if he or she opposes the petition.

(b) After a petition for emancipation is filed, the court shall seek an affidavit from each person identified in the petition pursuant to paragraph (7) of Code Section 15-11-721 which describes why that person believes the child should be emancipated.

15-11-724.

A child who petitions the court for emancipation shall have the burden of showing that emancipation should be ordered by a preponderance of evidence.

15-11-725.

(a) The court shall issue an emancipation order if, after a hearing, it determines that emancipation is in the best interests of the child and the child has established:

(1) That the child's parent, guardian, or legal custodian does not object to the petition; or, if a parent, guardian, or legal custodian objects to the petition, that the best interests of the child are served by allowing the emancipation to occur by court order;
(2) That the child is a resident of this state;
(3) That the child has demonstrated the ability to manage his or her financial affairs, including proof of employment or other means of support. 'Other means of support' shall not include general assistance or aid received from means-tested public assistance programs such as Temporary Assistance for Needy Families as provided in Article 9 of Chapter 4 of Title 49 or similar programs under Title IV-A of the federal Social Security Act;
(4) That the child has the ability to manage his or her personal and social affairs, including, but not limited to, proof of housing; and
(5) That the child understands his or her rights and responsibilities under this article as an emancipated child.

(b) If the court issues an emancipation order, the court shall retain a copy of the order until the emancipated child becomes 25 years of age.
(c) An emancipation obtained by fraud is voidable. Voiding an emancipation order shall not affect an obligation, responsibility, right, or interest that arose during the period of time the order was in effect.
(d) The child or the child's parent, guardian, or legal custodian may appeal the court's grant or denial of an emancipation petition.

15-11-726.
(a) A child emancipated by court order may petition the juvenile court that issued the emancipation order to rescind such order.
(b) A copy of the petition for rescission and a summons shall be served on the child's parent, guardian, or legal custodian.
(c) The court shall grant the petition and rescind the order of emancipation if it finds:
(1) That the child is an indigent person and has no means of support;
(2) That the child and the child's parent, guardian, or legal custodian agree that the order should be rescinded; or
(3) That there is a resumption of family relations inconsistent with the existing emancipation order.

(d) If a petition for rescission is granted, the court shall issue an order rescinding the emancipation order and retain a copy of the order until the child becomes 25 years of age.
(e) Rescission of an emancipation order shall not alter any contractual obligations or rights or any property rights or interests that arose during the period of time that the emancipation order was in effect.
(f) The child or a parent, guardian, or legal custodian of the child may appeal the court's grant or denial of a petition for rescission of an emancipation order. The appeal shall be filed in the Court of Appeals.

15-11-727.

(a) A child emancipated by operation of law or by court order shall be considered to have the rights and responsibilities of an adult, except for those specific constitutional and statutory age requirements regarding voting, use of alcoholic beverages, and other health and safety regulations relevant to the child because of his or her age. The rights of a child to receive any transfer of property or money pursuant to 'The Georgia Transfers to Minors Act' under Article 5 of Chapter 5 of Title 44; under the Uniform Transfers to Minors Act, the Uniform Gift to Minors Act, or other substantially similar act of another state; or pursuant to a trust agreement shall not be affected by a declaration of an emancipation under this article.

(b) A child shall be considered emancipated for the purposes of, but not limited to:

(1) The right to enter into enforceable contracts, including apartment leases;

(2) The right to sue or be sued in his or her own name;

(3) The right to retain his or her own earnings;

(4) The right to establish a separate domicile;

(5) The right to act autonomously, and with the rights and responsibilities of an adult, in all business relationships, including, but not limited to, property transactions and obtaining accounts for utilities, except for those estate or property matters that the court determines may require a conservator or guardian ad litem;

(6) The right to earn a living, subject only to the health and safety regulations designed to protect those under the age of 18 regardless of their legal status;

(7) The right to authorize his or her own preventive health care, medical care, dental care, and mental health care, without parental knowledge or liability;

(8) The right to apply for a driver's license or other state licenses for which he or she might be eligible;

(9) The right to register for school;

(10) The right to apply for medical assistance programs and for other welfare assistance, if needed;

(11) The right, if a parent, to make decisions and give authority in caring for his or her own minor child; and

(12) The right to make a will.

(c) The parent, guardian, or legal custodian of a child emancipated by court order shall not be liable for any debts incurred by the child during the period of emancipation.

15-11-728.

(a) The duty to provide support for a child shall continue until an emancipation order is granted.

(b) A child emancipated under this article shall not be considered a dependent child.

(c) The provisions set forth in Code Section 19-3-2 regarding age limitations to contract for marriage shall apply to a child who has become emancipated under this article.

ARTICLE 12

15-11-740.
(a) This article shall be known and may be cited as the 'Georgia Child Advocate for the Protection of Children Act.'
(b) In keeping with this article's purpose of assisting, protecting, and restoring the security of children whose well-being is threatened, it is the intent of the General Assembly that the mission of protection of the children of this state should have the greatest legislative and executive priority. Recognizing that the needs of children must be attended to in a timely manner and that more aggressive action should be taken to protect children from abuse and neglect, the General Assembly creates the Office of the Child Advocate for the Protection of Children to provide independent oversight of persons, organizations, and agencies responsible for providing services to or caring for children who are victims of child abuse and neglect, or whose domestic situation requires intervention by the state. The Office of the Child Advocate for the Protection of Children will provide children with an avenue through which to seek relief when their rights are violated by state officials and agents entrusted with their protection and care.

15-11-741.
As used in this article, the term:
(1) 'Advocate' or 'child advocate' means the Child Advocate for the Protection of Children established under Code Section 15-11-742.
(2) 'Agency' shall have the same meaning and application as provided for in paragraph (1) of subsection (a) of Code Section 50-14-1.
(3) 'Child' or 'children' means an individual receiving protective services from DFCS, for whom DFCS has an open case file, or who has been, or whose siblings, parents, or other caretakers have been the subject of a report to DFCS within the previous five years.

15-11-742.
(a) There is created the Office of the Child Advocate for the Protection of Children. The Governor, by executive order, shall create a nominating committee which shall consider nominees for the position of the advocate and shall make a recommendation to the Governor. Such person shall have knowledge of the child welfare system, the juvenile justice system, and the legal system and shall be qualified by training and experience to perform the duties of the office as set forth in this article.
(b) The advocate shall be appointed by the Governor from a list of at least three names submitted by the nominating committee for a term of three years and until his or her successor is appointed and qualified and may be reappointed. The salary of the advocate shall not be less than $60,000.00 per year, shall be fixed by the Governor, and shall come from funds appropriated for the purposes of the advocate.

(c) The Office of the Child Advocate for the Protection of Children shall be assigned to the Office of Planning and Budget for administrative purposes only, as described in Code Section 50-4-3.
(d) The advocate may appoint such staff as may be deemed necessary to effectively fulfill the purposes of this article, within the limitations of the funds available for the purposes of the advocate. The duties of the staff may include the duties and powers of the advocate if performed under the direction of the advocate. The advocate and his or her staff shall receive such reimbursement for travel and other expenses as is normally allowed to state employees from funds appropriated for the purposes of the advocate.
(e) The advocate shall have the authority to contract with experts in fields including but not limited to medicine, psychology, education, child development, juvenile justice, mental health, and child welfare, as needed to support the work of the advocate, utilizing funds appropriated for the purposes of the advocate.
(f) Notwithstanding any other provision of state law, the advocate shall act independently of any state official, department, or agency in the performance of his or her duties.
(g) The advocate or his or her designee shall be an ex officio member of the State-wide Child Abuse Prevention Panel.

15-11-743.
The advocate shall perform the following duties:
(1) Identify, receive, investigate, and seek the resolution or referral of complaints made by or on behalf of children concerning any act, omission to act, practice, policy, or procedure of an agency or any contractor or agent thereof that may adversely affect the health, safety, or welfare of the children;
(2) Refer complaints involving abused children to appropriate regulatory and law enforcement agencies;
(3) Coordinate and supervise the work of the Georgia Child Fatality Review Panel created by Code Section 19-15-4 and provide such staffing and administrative support to the panel as may be necessary to enable the panel to carry out its statutory duties;
(4) Report the death of any child to the chairperson of the child fatality review subcommittee of the county in which such child resided at the time of death, unless the advocate has knowledge that such death has been reported by the county medical examiner or coroner, pursuant to Code Section 19-15-3, and to provide such subcommittee access to any records of the advocate relating to such child;
(5) Provide periodic reports on the work of the Office of the Child Advocate for the Protection of Children, including but not limited to an annual written report for the Governor and the General Assembly and other persons, agencies, and organizations deemed appropriate. Such reports shall include recommendations for changes in policies and procedures to improve the health, safety, and welfare of children and shall be made expeditiously in order to timely influence public policy;
(6) Establish policies and procedures necessary for the Office of the Child Advocate for the Protection of Children to accomplish the purposes of this article including

without limitation providing DFCS with a form of notice of availability of the Office of the Child Advocate for the Protection of Children. Such notice shall be posted prominently, by DFCS, in DFCS offices and in facilities receiving public moneys for the care and placement of children and shall include information describing the Office of the Child Advocate for the Protection of Children and procedures for contacting that office; and

(7) Convene quarterly meetings with organizations, agencies, and individuals who work in the area of child protection to seek opportunities to collaborate and improve the status of children in Georgia.

15-11-744.

(a) The advocate shall have the following rights and powers:

(1) To communicate privately, by mail or orally, with any child and with each child's parent, guardian, or legal custodian;

(2) To have access to all records and files of DFCS concerning or relating to a child, and to have access, including the right to inspect, copy, and subpoena records held by clerks of the various courts, law enforcement agencies, service providers, including medical and mental health, and institutions, public or private, with whom a particular child has been either voluntarily or otherwise placed for care or from whom the child has received treatment within the state. To the extent any such information provides the names and addresses of individuals who are the subject of any confidential proceeding or statutory confidentiality provisions, such names and addresses or related information which has the effect of identifying such individuals shall not be released to the public without the consent of such individuals. The Office of the Child Advocate for the Protection of Children shall be bound by all confidentiality safeguards provided in Code Sections 49-5-40 and 49-5-44. Anyone wishing to obtain records held by the Office of the Child Advocate shall petition the original agency of record where such records exist;

(3) To enter and inspect any and all institutions, facilities, and residences, public and private, where a child has been placed by a court or DFCS and is currently residing. Upon entering such a place, the advocate shall notify the administrator or, in the absence of the administrator, the person in charge of the facility, before speaking to any children. After notifying the administrator or the person in charge of the facility, the advocate may communicate privately and confidentially with children in the facility, individually or in groups, or the advocate may inspect the physical plant. To the extent possible, entry and investigation provided by this Code section shall be conducted in a manner which will not significantly disrupt the provision of services to children;

(4) To apply to the Governor to bring legal action in the nature of a writ of mandamus or application for injunction pursuant to Code Section 45-15-18 to require an agency to take or refrain from taking any action required or prohibited by law involving the protection of children;

(5) To apply for and accept grants, gifts, and bequests of funds from other states, federal and interstate agencies, independent authorities, private firms, individuals, and foundations for the purpose of carrying out the lawful responsibilities of the Office of the Child Advocate for the Protection of Children;

(6) When less formal means of resolution do not achieve appropriate results, to pursue remedies provided by this article on behalf of children for the purpose of effectively carrying out the provisions of this article; and

(7) To engage in programs of public education and legislative advocacy concerning the needs of children requiring the intervention, protection, and supervision of courts and state and county agencies.

(b)(1) Upon issuance by the advocate of a subpoena in accordance with this article for law enforcement investigative records concerning an ongoing investigation, the subpoenaed party may move a court with appropriate jurisdiction to quash said subpoena.

(2) The court shall order a hearing on the motion to quash within five days of the filing of the motion to quash, which hearing may be continued for good cause shown by any party or by the court on its own motion. Subject to any right to an open hearing in contempt proceedings, such hearing shall be closed to the extent necessary to prevent disclosure of the identity of a confidential source; disclosure of confidential investigative or prosecution material which would endanger the life or physical safety of any person or persons; or disclosure of the existence of confidential surveillance, investigation, or grand jury materials or testimony in an ongoing criminal investigation or prosecution. Records, motions, and orders relating to a motion to quash shall be kept sealed by the court to the extent and for the time necessary to prevent public disclosure of such matters, materials, evidence, or testimony.

(c) The court shall, at or before the time specified in the subpoena for compliance therewith, enter an order:

(1) Enforcing the subpoena as issued;

(2) Quashing or modifying the subpoena if it is unreasonable and oppressive; or

(3) Conditioning enforcement of the subpoena on the advocate maintaining confidential any evidence, testimony, or other information obtained from law enforcement or prosecution sources pursuant to the subpoena until the time the criminal investigation and prosecution are concluded. Unless otherwise ordered by the court, an investigation or prosecution shall be deemed to be concluded when the information becomes subject to public inspection pursuant to Code Section 50-18-72. The court shall include in its order written findings of fact and conclusions of law.

15-11-745.

(a) No person shall discriminate or retaliate in any manner against any child, parent, guardian, or legal custodian of a child, employee of a facility, agency, institution or other type of provider, or any other person because of the making of a complaint or providing of information in good faith to the advocate or willfully interfere with the advocate in the performance of his or her official duties.

(b) Any person violating subsection (a) of this Code section shall be guilty of a misdemeanor.

15-11-746.
The advocate shall be authorized to request an investigation by the Georgia Bureau of Investigation of any complaint of criminal misconduct involving a child.

15-11-747.
(a) There is established a Child Advocate Advisory Committee. The advisory committee shall consist of:
(1) One representative of a not for profit children's agency appointed by the Governor;
(2) One representative of a for profit children's agency appointed by the Lieutenant Governor;
(3) One pediatrician appointed by the Speaker of the House of Representatives;
(4) One social worker with experience and knowledge of child protective services who is not employed by the state appointed by the Governor;
(5) One psychologist appointed by the Lieutenant Governor;
(6) One attorney appointed by the Speaker of the House of Representatives from the Children and the Courts Committee of the State Bar of Georgia; and
(7) One juvenile court judge appointed by the Chief Justice of the Supreme Court of Georgia.
Each member of the advisory committee shall serve a two-year term and until the appointment and qualification of such member's successor. Appointments to fill vacancies in such offices shall be filled in the same manner as the original appointment.
(b) The advisory committee shall meet a minimum of three times a year with the advocate and his or her staff to review and assess the following:
(1) Patterns of treatment and service for children;
(2) Policy implications; and
(3) Necessary systemic improvements.
The advisory committee shall also provide for an annual evaluation of the effectiveness of the Office of the Child Advocate for the Protection of Children.

ARTICLE 13

15-11-760.
(a) There is created the Georgia Juvenile Code Commission for the purpose of conducting periodic comprehensive reviews of this chapter. The Georgia Juvenile Code Commission shall be responsible for studying and collecting information and data relating to the efficacy of this chapter, current best practices in the field of juvenile law, and all matters relevant to maintaining an effective and efficient Juvenile Code that will promote public safety and serve the best interests of Georgia's children.

(b) As used in this article, the term 'commission' means the Georgia Juvenile Code Commission.

15-11-761.
(a) The commission shall be composed of 13 members, as follows:
(1) The Governor shall appoint five members as follows:
(A) One member who shall be a judge in a superior court;
(B) Two members who shall be judges in a juvenile court;
(C) One member who shall be a Justice of the Supreme Court or a Judge of the Court of Appeals or the Justice's or Judge's designee; and
(D) One other member;
(2) The Lieutenant Governor shall appoint one member who shall be a member of the Senate;
(3) The Speaker of the House of Representatives shall appoint one member who shall be a member of the House of Representatives;
(4) The commissioner of juvenile justice or his or her designee;
(5) The commissioner of human services or his or her designee;
(6) The commissioner of behavioral health and developmental disabilities or his or her designee;
(7) The director of the Division of Family and Children Services within the Department of Human Services or his or her designee;
(8) The director of the Georgia Public Defender Standards Council shall appoint one member who shall be a criminal defense attorney who routinely defends juvenile offenders; and
(9) The chairperson of the Prosecuting Attorneys' Council of the State of Georgia shall appoint a prosecuting attorney who routinely prosecutes juvenile offenders.
(b) Each member of the commission shall be appointed to serve for a term of four years or until his or her successor is duly appointed, except the members of the General Assembly, who shall serve until completion of their current terms of office. A member may be appointed to succeed himself or herself on the commission. If a member of the commission is an elected or appointed official, the member, or his or her designee, shall be removed from the commission if the member no longer serves as such elected or appointed official.
(c) The Governor shall designate the chairperson of the commission. The commission may elect other officers as it deems necessary. The chairperson of the commission may designate and appoint committees from among the membership of the commission as well as appoint other persons to perform such functions as he or she may determine to be necessary as relevant to and consistent with this article. The chairperson shall only vote to break a tie.
(d) The commission shall be attached for administrative purposes only to the Governor's Office for Children and Family Services. The Governor's Office for Children and Family Services shall provide staff support for the commission. The

Governor's Office for Children and Family Services shall use any funds specifically appropriated to it to support the work of the commission.

15-11-762.
(a) The commission may conduct such meetings at such places and at such times as it may deem necessary or convenient to enable it to exercise fully and effectively its powers, perform its duties, and accomplish the objectives and purposes of this article. The commission shall hold meetings at the call of the chairperson. The commission shall meet not less than once every year.
(b) A quorum for transacting business shall be a majority of the members of the commission.
(c) Any legislative members of the commission shall receive the allowances provided for in Code Section 28-1-8. Citizen members shall receive a daily expense allowance in the amount specified in subsection (b) of Code Section 45-7-21 as well as the mileage or transportation allowance authorized for state employees. Members of the commission who are state officials, other than legislative members, or state employees shall receive no compensation for their services on the commission, but they shall be reimbursed for expenses incurred by them in the performance of their duties as members of the commission in the same manner as they are reimbursed for expenses in their capacities as state officials or state employees. The funds necessary for the reimbursement of the expenses of state officials, other than legislative members, and state employees shall come from funds appropriated to or otherwise available to their respective departments. All other funds necessary to carry out the provisions of this article shall come from funds appropriated to the House of Representatives and the Senate.

15-11-763.
(a) The commission shall have the following duties:
(1) To periodically, and at least every two years, review the conditions, needs, issues, and problems related to this chapter; issue a report on the same to the Executive Council of the Governor, the Governor's Office of Planning and Budget, and the chairpersons of the House Committee on Appropriations, the Senate Appropriations Committee, the House Committee on Judiciary, and the Senate Judiciary Committee; and recommend any action or proposed legislation which the commission deems necessary or appropriate. Nothing contained in the commission's report shall be considered to authorize or require a change in this chapter or any law affecting juveniles without action by the General Assembly;
(2) To evaluate and consider the best practices, experiences, and results of legislation in other states with regard to children and families involved in the juvenile court or equivalent systems; and
(3) To identify and recommend whether and when this chapter or any other state law should be modified to conform, whenever desirable, to federal legislation regarding juvenile law.

(b) The commission shall have the following powers:

(1) To evaluate how the laws and programs contained in this chapter are working;

(2) To request and receive data from and review the records of appropriate agencies to the greatest extent allowed by state and federal law;

(3) To accept public or private grants, devises, and bequests;

(4) To authorize entering into contracts or agreements through the commission's chairperson necessary or incidental to the performance of its duties;

(5) To establish rules and procedures for conducting the business of the commission; and

(6) To conduct studies, hold public meetings, collect data, or take any other action the commission deems necessary to fulfill its responsibilities.

(c) The commission shall be authorized to retain the services of attorneys, consultants, subject matter experts, economists, budget analysts, data analysts, statisticians, and other individuals or firms as determined appropriate by the commission.

15-11-764.

This article shall be repealed effective June 30, 2024, unless continued in effect by the General Assembly prior to that date."

PART II
CHILDREN AND YOUTH SERVICES
SECTION 2-1.

Article 1 of Chapter 5 of Title 49 of the Official Code of Georgia Annotated, relating to children and youth services, is amended by adding two new Code sections to read as follows:

"49-5-24.

(a) The department shall adopt a procedure by which a child or young adult as such terms are defined in Code Sections 15-11-2 and 15-11-351, respectively, formerly in foster care may appeal an eligibility determination or the failure of the Division of Family and Children Services of the department to provide aftercare or transitional support services, as set forth in Article 5 Chapter 11 of Title 15, or the termination of such services.

(b) The appeal procedure developed by the department shall be readily available to a child or a young adult formerly in foster care, shall provide timely decisions, and shall provide for an administrative appeal and judicial review of the administrative decision.

49-5-25.

The department shall develop outcome and other performance measures for the independent living skills program, as set forth in Article 5 Chapter 11 of Title 15, in order to maintain oversight of such program."

PART III
CROSS REFERENCES
SECTION 3-1.

Code Section 1-2-8 of the Official Code of Georgia Annotated, relating to rights of minors, is revised as follows:

"1-2-8.

The law prescribes certain ages at which persons shall be considered of sufficient maturity to discharge certain civil functions, to make contracts, and to dispose of property. Prior to those ages they are minors and are, on account of that disability, unable to exercise these rights as citizens unless such minor becomes emancipated by operation of law or pursuant to Article ~~6~~ 11 of Chapter 11 of Title 15."

SECTION 3-2.

Code Section 5-7-1 of the Official Code of Georgia Annotated, relating to orders, decisions, or judgments appealable by the state, is amended by revising paragraph (6) of subsection (a) as follows:

"(6) From an order, decision, or judgment of a superior court transferring a case to the juvenile court pursuant to ~~subparagraph (b)(2)(B) of~~ Code Section ~~15-11-28~~ 15-11-567;"

SECTION 3-3.

Code Section 13-3-20 of the Official Code of Georgia Annotated, relating to minors and contracts for property or valuable consideration and contracts for necessities, is revised as follows:

"13-3-20.

(a) Generally the contract of a minor is voidable. If in a contractual transaction a minor receives property or other valuable consideration and, after arrival at the age of 18, retains possession of such property or continues to enjoy the benefit of such other valuable consideration, the minor shall have thereby ratified or affirmed the contract and it shall be binding on him or her. Such contractual transaction shall also be binding upon any minor who becomes emancipated by operation of law or pursuant to Article ~~6~~ 11 of Chapter 11 of Title 15.

(b) The contract of a minor for necessaries shall be binding on the minor as if the minor were 18 years of age except that the party furnishing them to the minor shall prove that the parent or guardian of such minor had failed or refused to supply sufficient necessaries for the minor, that the minor was emancipated by operation of law, or the minor was emancipated pursuant to Article ~~6~~ 11 of Chapter 11 of Title 15."

SECTION 3-4.

Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by revising subsection (e) of Code Section 15-23-7, relating to collection of additional legal

costs in civil actions for purposes of providing court-connected or court-referred alternative dispute resolution programs, as follows:

"(e) Juvenile court supervision fees collected pursuant to Code Section ~~15-11-71~~ 15-11-37 may be used for mediation services provided by court programs pursuant to this chapter."

SECTION 3-5.

Said title is further amended by revising Code Section 15-23-10, relating to the determination of need as prerequisite to establishment of program, as follows:

"15-23-10.

No alternative dispute resolution program shall be established for any court unless the judge or a majority of the judges of such court determine that there is a need for such program in that court. The funding mechanism set forth in this chapter shall be available to any court, including the juvenile court, which, having determined that a court-annexed or court-referred alternative dispute resolution program would make a positive contribution to the ends of justice in that court, has developed a program meeting the standards of the Georgia Supreme Court's Uniform Rule for Alternative Dispute Resolution Programs. Pursuant to the standards set forth in the Georgia Supreme Court's Uniform Rule for Alternative Dispute Resolutions Programs, the funding mechanism set forth in this chapter shall be available to court programs in which cases are screened by the judge or by the program director under the supervision of the judge on a case-by-case basis to determine whether:

(1) The case is appropriate for the process;

(2) The parties are able to compensate the neutral if compensation is required; and

(3) A need for emergency relief makes referral inappropriate until the request for relief is heard by the court."

SECTION 3-6.

Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is amended by revising paragraphs (1) and (3) of subsection (a) of Code Section 16-5-45, relating to interference with custody, as follows:

"(1) 'Child' means any individual who is under the age of 17 years or any individual who is under the age of 18 years who is alleged to be a ~~deprived~~ dependent child or ~~an unruly child~~ a child in need of services as such terms are defined in Code Section 15-11-2."

"(3) 'Lawful custody' means that custody inherent in the natural parents, that custody awarded by proper authority as provided in Code Section ~~15-11-45~~ 15-11-133, or that custody awarded to a parent, guardian, or other person by a court of competent jurisdiction."

SECTION 3-7.

Said title is further amended by revising paragraph (3) of subsection (a) of Code Section 16-10-52, relating to escape, as follows:

"(3) Having been adjudicated of a delinquent ~~or unruly~~ act or a juvenile traffic offense, or as a child in need of services subject to lawful custody or lawful confinement, intentionally escapes from lawful custody or from any place of lawful confinement;"

SECTION 3-8.

Said title is further amended by revising paragraph (3) of subsection (c) of Code Section 16-11-101.1, relating to furnishing a pistol or revolver to a person under the age of 18 years, as follows:

"(3) In addition to any other act which violates this subsection, a parent or legal guardian shall be deemed to have violated this subsection if such parent or legal guardian furnishes to or permits possession of a pistol or revolver by any minor who has been convicted of a forcible felony or forcible misdemeanor, as defined in Code Section 16-1-3, or who has been adjudicated delinquent under the provisions of Article ~~1~~ 7 of Chapter 11 of Title 15 for an offense which would constitute a forcible felony or forcible misdemeanor, as defined in Code Section 16-1-3, if such minor were an adult."

SECTION 3-9.

Said title is further amended by revising subsection (b) of Code Section 16-11-127.1, relating to carrying weapons within school safety zones, at school functions, or on school property, as follows:

"(b)(1) Except as otherwise provided in subsection (c) of this Code section, it shall be unlawful for any person to carry to or to possess or have under such person's control while within a school safety zone or at a school building, school function, or school property or on a bus or other transportation furnished by the school any weapon or explosive compound, other than fireworks the possession of which is regulated by Chapter 10 of Title 25.

(2) Any license holder who violates this subsection shall be guilty of a misdemeanor. Any person who is not a license holder who violates this subsection shall be guilty of a felony and, upon conviction thereof, be punished by a fine of not more than $10,000.00, by imprisonment for not less than two nor more than ten years, or both.

(3) Any person convicted of a violation of this subsection involving a dangerous weapon or machine gun, as such terms are defined in Code Section 16-11-121, shall be punished by a fine of not more than $10,000.00 or by imprisonment for a period of not less than five nor more than ten years, or both.

(4) A child who violates this subsection may be subject to the provisions of Code Section ~~15-11-63~~ 15-11-601."

SECTION 3-10.

Said title is further amended by revising subsection (d) of Code Section 16-11-132, relating to possession of a pistol or revolver by a person under the age of 18 years, as follows:

"(d) Subsection (c) of this Code section shall not apply to any person under the age of 18 years who has been convicted of a forcible felony or forcible misdemeanor, as defined in Code Section 16-1-3, or who has been adjudicated delinquent under the provisions of Article ~~1~~ 7 of Chapter 11 of Title 15 for an offense which would constitute a forcible felony or forcible misdemeanor, as defined in Code Section 16-1-3, if such person were an adult."

SECTION 3-11.

Said title is further amended by revising paragraph (3) of subsection (a) and subsections (b) and (c) of Code Section 16-12-1, relating to contributing to the delinquency, unruliness, or deprivation of a minor, as follows:

"(3) 'Minor' means any individual who is under the age of 17 years who is alleged to have committed a delinquent act or any individual under the age of 18 years ~~who is alleged to be a deprived child or an unruly child as such terms are defined in Code Section 15-11-2~~."

"(b) A person commits the offense of contributing to the delinquency~~, unruliness,~~ or ~~deprivation~~ dependancy of a minor or causing a child to be in need of services when such person:

(1) Knowingly and willfully encourages, causes, abets, connives, or aids a minor in committing a delinquent act;

(2) Knowingly and willfully encourages, causes, abets, connives, or aids a minor in committing an act which would cause such minor to be ~~found to be an unruly~~ a child in need of services as such term is defined in Code Section 15-11-2; provided, however, that this paragraph shall not apply to a service provider that notifies the minor's parent, guardian, or legal custodian of the minor's location and general state of ~~well being~~ well-being as soon as possible but not later than 72 hours after the minor's acceptance of services; provided, further, that such notification shall not be required if:

(A) The service provider has reasonable cause to believe that the minor has been abused or neglected and makes a child abuse report pursuant to Code Section 19-7-5;

(B) The minor will not disclose the name of the minor's parent, guardian, or legal custodian, and the Division of Family and Children Services within the Department of Human Services is notified within 72 hours of the minor's acceptance of services; or

(C) The minor's parent, guardian, or legal custodian cannot be reached, and the Division of Family and Children Services within the Department of Human Services is notified within 72 hours of the minor's acceptance of services;

(3) Willfully commits an act or acts or willfully fails to act when such act or omission would cause a minor to be found to be a ~~deprived~~ dependant child as such term is defined in Code Section 15-11-2;

(4) Knowingly and willfully hires, solicits, engages, contracts with, conspires with, encourages, abets, or directs any minor to commit any felony which encompasses

force or violence as an element of the offense or delinquent act which would constitute a felony which encompasses force or violence as an element of the offense if committed by an adult;

(5) Knowingly and willfully provides to a minor any weapon as defined in paragraph (2) of subsection (a) of Code Section 16-11-127.1 or any weapon as defined in Code Section 16-11-121 to commit any felony which encompasses force or violence as an element of the offense or delinquent act which would constitute a felony which encompasses force or violence as an element of the offense if committed by an adult; or

(6) Knowingly and willfully hires, solicits, engages, contracts with, conspires with, encourages, abets, or directs any minor to commit any smash and grab burglary which would constitute a felony if committed by an adult.

(c) It shall not be a defense to the offense provided for in this Code section that the minor has not been formally adjudged to have committed a delinquent act or has not been found to be ~~unruly or deprived~~ dependent or a child in need of services."

SECTION 3-12.

Said title is further amended by revising subsections (c), (e), and (g) of Code Section 16-12-141.1, relating to disposal of aborted fetuses, as follows:

"(c) Within 90 days after May 10, 2005, the Department of Human Resources (now known as the Department of Public Health for these purposes) shall prepare a reporting form for physicians which shall include:

(1) The number of females whose parent or guardian was provided the notice required in paragraph (1) of subsection (a) of Code Section ~~15-11-112~~ 15-11-682 by the physician or such physician's agent; of that number, the number of notices provided personally under subparagraphs (a)(1)(A) and (a)(1)(B) of Code Section ~~15-11-112~~ 15-11-682 and the number of notices provided by mail under subparagraph (a)(1)(C) of Code Section ~~15-11-112~~ 15-11-682; and, of each of those numbers, the number of females who, to the best of the reporting physician's information and belief, went on to obtain the abortion;

(2) The number of females upon whom the physician performed an abortion without providing to the parent or guardian of a minor the notice required by subsection (a) of Code Section ~~15-11-112~~ 15-11-682; and of that number, the number of females for which subsection (b) of Code Section ~~15-11-112~~ 15-11-682 and Code Section ~~15-11-116~~ 15-11-686 were applicable;

(3) The number of abortions performed upon a female by the physician after receiving judicial authorization pursuant to subsection (b) of Code Section ~~15-11-112~~ 15-11-682 and Code Section ~~15-11-114~~ 15-11-684; and

(4) The same information described in paragraphs (1), (2), and (3) of this subsection with respect to females for whom a guardian or conservator has been appointed."

"(e) By February 28 of each year following a calendar year in any part of which this subsection was in effect, each physician who provided, or whose agent provided, the notice described in subsection (a) of Code Section ~~15-11-112~~ 15-11-682 and any

physician who knowingly performed an abortion upon a female or upon a female for whom a guardian or conservator had been appointed because of a finding of incompetency during the previous calendar year shall submit to the Department of Public Health a copy of the form described in subsection (c) of this Code section with the requested data entered accurately and completely."

"(g) By June 30 of each year, the Department of Public Health shall issue a public report providing statistics for the previous calendar year compiled from all the reports covering that year submitted in accordance with this Code section for each of the items listed in subsection (c) of this Code section. The report shall also include statistics which shall be obtained by the Administrative Office of the Courts giving the total number of petitions or motions filed under subsection (b) of Code Section ~~15-11-112~~ 15-11-682 and, of that number, the number in which the court appointed a guardian ad litem, the number in which the court appointed counsel, the number in which the judge issued an order authorizing an abortion without notification, the number in which the judge denied such an order, and, of the last, the number of denials from which an appeal was filed, the number of such appeals that resulted in the denials being affirmed, and the number of such appeals that resulted in reversals of such denials. Each report shall also provide the statistics for all previous calendar years for which such a public statistical report was required to be issued, adjusted to reflect any additional information from late or corrected reports. The Department of Public Health shall ensure that none of the information included in the public reports could reasonably lead to the identification of any individual female or of any female for whom a guardian or conservator has been appointed."

SECTION 3-13.

Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is amended by revising subsection (a) of Code Section 17-7-50.1, relating to time for presentment of child's case to a grand jury, as follows:

"(a) Any child who is charged with a crime that is within the jurisdiction of the superior court, as provided in Code Section ~~15-11-28~~ 15-11-560 or ~~15-11-30.2~~ 15-11-561, who is detained shall within 180 days of the date of detention be entitled to have the charge against him or her presented to the grand jury. The superior court shall, upon motion for an extension of time and after a hearing and good cause shown, grant one extension to the original 180 day period, not to exceed 90 additional days."

SECTION 3-14.

Said title is further amended by revising paragraph (1) of subsection (a) of Code Section 17-7-130, relating to proceedings upon a plea of mental incompetency to stand trial, as follows:

"(1) 'Child' means an accused person under the jurisdiction of the superior court pursuant to Code Section ~~15-11-28~~ 15-11-560."

SECTION 3-15.

Said title is further amended by revising subsection (e) of Code Section 17-10-1, relating to fixing of sentence, as follows:

"(e) In any case involving a felony in which the defendant previously appeared before a juvenile court, the records of the dispositions of the defendant as well as any evidence used in any juvenile court hearing shall be available to the district attorney, the defendant, and the superior court judge in determining sentencing as provided in Code Section ~~15-11-79.1~~ 15-11-703."

SECTION 3-16.

Said title is further amended by revising Code Section 17-10-14, relating to committal of person under 17 convicted of a felony, as follows:

"17-10-14.

(a) Notwithstanding any other provisions of this article and except as otherwise provided in ~~subsections (b) and (c)~~ subsection (b) of this Code section, in any case where a person under the age of 17 years is convicted of a felony and sentenced as an adult to life imprisonment or to a certain term of imprisonment, such person shall be committed to the Department of Juvenile Justice to serve such sentence in a detention center of such department until such person is 17 years of age at which time such person shall be transferred to the Department of Corrections to serve the remainder of the sentence. This Code section shall apply to any person convicted on or after July 1, 1987, and to any person convicted prior to such date who has not been committed to an institution operated by the Department of Corrections.

(b) If a child is transferred to superior court according to subsection (b) of Code Section ~~15-11-30.2~~ 15-11-561 and convicted of aggravated assault as defined in Chapter 5 of Title 16, the court may sentence such child to the Department of Corrections. Such child shall be housed in a designated youth confinement unit until such person is 17 years of age, at which time such person may be housed in any other unit designated by the Department of Corrections.

~~(c) In any case where a child 13 to 17 years of age is convicted of a felony provided under subparagraph (b)(2)(A) of Code Section 15-11-28, such child shall be committed to the custody of the Department of Corrections and shall be housed in a designated youth confinement unit until such person is 17 years of age, at which time such person may be housed in any other unit designated by the Department of Corrections.~~"

SECTION 3-17.

Said title is further amended by revising paragraph (5) of Code Section 17-14-2, relating to definitions regarding restitution, as follows:

"(5) 'Parent' means a person who is the legal mother as defined in ~~paragraph (10.2) of~~ Code Section 15-11-2, the legal father as defined in ~~paragraph (10.1) of~~ Code Section 15-11-2, or the legal guardian. Such term shall not include a foster parent."

SECTION 3-18.

Said title is further amended by revising subsection (d) of Code Section 17-15-13, relating to debt to state created, as follows:

"(d) When a child is adjudicated delinquent in a juvenile court proceeding involving a crime upon which a claim under this chapter can be made, the juvenile court in its discretion may order that the child pay the debt to the state as an adult would have to pay had an adult committed the crime. Any assessments so ordered may be made a condition of probation as provided in ~~paragraph (2) of subsection (a) of~~ Code Section ~~15-11-66~~ 15-11-601."

SECTION 3-19.

Said title is further amended by revising subsection (c) of Code Section 17-16-2, relating to applicability of rules of discovery, as follows:

"(c) This article shall be deemed to have been automatically invoked, without the written notice provided for in subsection (a) of this Code section, when a defendant has sought discovery pursuant to Chapter 11 of Title 9, the 'Georgia Civil Practice Act,' pursuant to ~~Code Section 15-11-75~~ Part 8 of Article 7 of Chapter 11 of Title 15, or pursuant to the Uniform Rules for the Juvenile Courts of Georgia where such discovery material is the same as the discovery material that may be provided under this article when a written notice is filed pursuant to subsection (a) of this Code section."

SECTION 3-20.

Said title is further amended by revising subsection (d) of Code Section 19-7-22, relating to petition for legitimation of a child, as follows:

"(d) A legitimation petition may be filed, pursuant to ~~paragraph (2) of subsection (e) of~~ Code Section ~~15-11-28~~ 15-11-11, in the juvenile court of the county in which a ~~deprivation~~ dependency proceeding regarding the child is pending."

SECTION 3-21.

Said title is further amended by revising paragraph (4) of subsection (a) of Code Section 19-8-10, relating to when surrender or termination of parental rights not required, as follows:

"(4) Parent has failed to exercise proper parental care or control due to misconduct or inability, as set out in paragraph ~~(2),~~ (3), ~~or~~ (4), or (5) of subsection ~~(b)~~ (a) of Code Section ~~15-11-94~~ 15-11-310,"

SECTION 3-22.

Said title is further amended by revising subparagraph (a)(3)(D) of Code Section 19-8-11, relating to petitioning superior court to terminate parental rights, as follows:

"(D) Parent has failed to exercise proper parental care or control due to misconduct or inability, as set out in paragraph ~~(2),~~ (3), ~~or~~ (4), or (5) of subsection ~~(b)~~ (a) of Code Section ~~15-11-94~~ 15-11-310,"

SECTION 3-23.

Said title is further amended by revising subsection (g) of Code Section 19-8-13, relating to petition for adoption, as follows:

"(g) Notwithstanding the provisions of Code Sections 19-8-5 and 19-8-7 and this Code section which require obtaining and attaching a written voluntary surrender and acknowledgment thereof and affidavits of the legal mother and a representative of the petitioner, where the adoption is sought under subsection (a) of Code Section 19-8-5 or 19-8-7 following the termination of parental rights and the placement of the child by the juvenile court pursuant to ~~paragraph (1) of subsection (a) of~~ Code Section ~~15-11-103~~ 15-11-321, obtaining and attaching to the petition a certified copy of the order terminating parental rights of the parent shall take the place of obtaining and attaching those otherwise required surrenders, acknowledgments, and affidavits."

SECTION 3-24.

Said title is further amended by revising Code Section 19-10A-4, relating to no criminal prosecution for leaving a child in the custody of a medical facility, as follows:

"19-10A-4.

A mother shall not be prosecuted for ~~the crimes of cruelty to a child,~~ violating Code Section 16-5-70~~; contributing to the delinquency, unruliness, or deprivation of a child~~, ~~Code Section~~ 16-12-1~~; or abandonment of a dependent child~~, or ~~Code Section~~ 19-10-1~~,~~ because of the act of leaving her newborn child in the physical custody of an employee, agent, or member of the staff of a medical facility who is on duty, whether there in a paid or volunteer position, provided that the newborn child is no more than one week old and the mother shows proof of her identity, if available, to the person with whom the newborn is left and provides her name and address."

SECTION 3-25.

Said title is further amended by revising Code Section 19-10A-6, relating to reimbursement of medical costs, as follows:

"19-10A-6.

A medical facility which accepts for inpatient admission a child left pursuant to Code Section 19-10A-4 shall be reimbursed by the Department of Human Services for all reasonable medical and other reasonable costs associated with the child prior to the child being placed in the care of the department. A medical facility shall notify the Department of Human Services at such time as the child is left and at the time the child is medically ready for discharge. Upon notification that the child is medically ready for discharge, the Department of Human Services shall take physical custody of the child within six hours. The Department of Human Services upon taking physical custody shall promptly bring the child before the juvenile court as required by Code Section ~~15-11-47~~ 15-11-145."

SECTION 3-26.

Said title is further amended by revising Code Section 19-13-20, relating to definitions regarding family violence shelters, as follows:

"(5) 'Family violence shelter' means a facility approved by the department for the purpose of receiving, on a temporary basis, persons who are subject to family violence. Family violence shelters are distinguished from shelters operated for detention or placement of children only, as provided in subsection (a) of Code Section ~~15-11-48~~ 15-11-504 and subsection (c) of Code Section 15-11-135."

SECTION 3-27.

Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by revising paragraph (3) of Code Section 20-1A-30, relating to definitions for background checks, as follows:

"(3) 'Crime' means any felony; a violation of Code Section 16-5-23~~, relating to simple battery,~~ when the victim is a minor; a violation of Code Section 16-12-1~~, relating to contributing to the delinquency of a minor~~; a violation of Chapter 6 of Title 16~~, relating to sexual offenses~~; a violation of Code Section 16-4-1~~, relating to criminal attempt~~ when the crime attempted is any of the crimes specified by this paragraph; or any other offenses committed in another jurisdiction which, if committed in this state, would be one of the enumerated crimes listed in this paragraph."

SECTION 3-28.

Said title is further amended by revising subsection (b) of Code Section 20-2-670, relating to requirements for transferring students beyond sixth grade, as follows:

"(b) In lieu of complying with the provision of subsection (a) of this Code section, a transferring student may be admitted on a conditional basis if he or she and his or her parent or legal guardian executes a document providing the name and address of the school last attended and authorizing the release of all academic and disciplinary records to the school administration. The parent or guardian shall be notified of the transfer of such records and shall, upon written request made within ten days of such notice, be entitled to receive a copy of such records. Within five days of the receipt of a copy of such records, the parent or guardian may make a written request for and shall be entitled to a hearing before the principal of the school or his or her designee which is the custodian of such records for the purpose of challenging the content of the records. The student or his or her parent or legal guardian shall also disclose on the same document as the release whether the child has ever been adjudicated guilty of the commission of a designated felony act as defined in Code Section ~~15-11-63~~ 15-11-2 and, if so, the date of such adjudication, the offense committed, the jurisdiction in which such adjudication was made, and the sentence imposed. Any form document to authorize the release of records which is provided by a school to a transferring student or such student's parent or legal guardian shall include a list of designated felony acts. The student or his or her parent or legal guardian shall also disclose on the document whether the student is currently serving a suspension or expulsion from another school,

the reason for such discipline, and the term of such discipline. If a student so conditionally admitted is found to be ineligible for enrollment pursuant to the provisions of Code Section 20-2-751.2, or is subsequently found to be so ineligible, he or she shall be dismissed from enrollment until such time as he or she becomes so eligible."

SECTION 3-29.

Said title is further amended by revising Code Section 20-2-671, relating to transfer students who have committed felony acts, as follows:

"20-2-671.

If any school administrator determines from the information obtained pursuant to Code Section ~~15-11-63~~ 15-11-602 or 20-2-670 or from any other source that a student has committed a designated felony act, such administrator shall so inform all teachers to whom the student is assigned that they may review the information in the student's file provided pursuant to subsection (b) of Code Section 20-2-670 received from other schools or from the juvenile courts. Such information shall be kept confidential."

SECTION 3-30.

Said title is further amended by revising paragraph (14) of subsection (c) and subsection (g) of Code Section 20-2-690.2, relating to establishment of student attendance protocol committee, membership and protocol, summary of penalties for failure to comply, and reporting, as follows:

"(14) The court approved community based risk reduction program established by the juvenile court in accordance with Code Section ~~15-11-10~~ 15-11-38, if such a program has been established."

"(g) The committee shall write the summary of possible consequences and penalties for failing to comply with compulsory attendance under Code Section 20-2-690.1 for children and their parents, guardians, or other persons who have control or charge of children for distribution by schools in accordance with Code Section 20-2-690.1. The summary of possible consequences for children shall include possible dispositions for ~~unruly~~ children in need of services and possible denial or suspension of a driver's license for a child in accordance with Code Section 40-5-22."

SECTION 3-31.

Said title is further amended by revising Code Section 20-2-699, relating to the disposition of children taken into custody, as follows:

"20-2-699.

Any person assuming temporary custody of a child pursuant to Code Section 20-2-698 shall immediately deliver the child either to the parent, guardian, or other person having control or charge of the child or to the school from which the child is absent, or if the child is found to have been adjudged a delinquent or ~~unruly~~ in need of services, ~~he~~ the person shall cause the child to be brought before the probation officer of the county having jurisdiction over such child."

SECTION 3-32.

Said title is further amended by revising subsection (d) of Code Section 20-2-751.2, relating to students subject to disciplinary orders of other school systems, as follows:

"(d) If any school administrator determines from the information obtained pursuant to this Code section or from Code Section ~~15-11-28 or 15-11-80~~ 15-11-599, 15-11-602, or 15-11-707 that a student has been convicted of or has been adjudicated to have committed an offense which is a designated felony act under Code Section ~~15-11-63~~ 15-11-2, such administrator shall so inform all teachers to whom the student is assigned and other school personnel to whom the student is assigned. Such teachers and other certificated professional personnel as the administrator deems appropriate may review the information in the student's file provided pursuant to this Code section that has been received from other schools or from the juvenile courts or superior courts. Such information shall be kept confidential."

SECTION 3-33.

Said title is further amended by revising Code Section 20-2-766.1, relating to proceeding against parents for failure to cooperate in educational programs, as follows:

"20-2-766.1.

The local board of education may, by petition to the juvenile court, proceed against a parent or guardian as provided in this Code section. If the court finds that the parent or guardian has willfully and unreasonably failed to attend a conference requested by a principal pursuant to Code Section 20-2-765 or 20-2-766, the court may order the parent or guardian to attend such a conference, order the parent or guardian to participate in such programs or such treatment as the court deems appropriate to improve the student's behavior, or both. After notice and opportunity for hearing, the court may impose a fine, not to exceed $500.00, on a parent or guardian who willfully disobeys an order of the court entered under this Code section. The court may use its contempt and other powers specified in Code Section ~~15-11-5~~ 15-11-31 to enforce any order entered under this Code section."

SECTION 3-34.

Said title is further amended by revising subsection (a) of Code Section 20-2-768, relating to expulsion or suspension of students for felonies, as follows:

"(a) Each local board of education is authorized to refuse to readmit or enroll any student who has been suspended or expelled for being convicted of, being adjudicated to have committed, being indicted for, or having information filed for the commission of any felony or any delinquent act under Code ~~Section 15-11-28~~ Sections 15-11-602 and 15-11-707 which would be a felony if committed by an adult. If refused readmission or enrollment, the student or the student's parent or legal guardian has the right to request a hearing pursuant to the procedures provided for in Code Section 20-2-754."

SECTION 3-35.

Said title is further amended by revising subparagraph (B) of paragraph (1) of Code Section 20-3-660, relating to program of grants for foster children created, as follows:

"(B) The student is currently committed to the Division of Family and Children Services within the Department of Human Services under Code Section ~~15-11-55~~ 15-11-212 and placed in a family foster home or is placed in accordance with subparagraph (a)(2)(C) of Code Section ~~15-11-2~~ 15-11-212;"

SECTION 3-36.

Title 24 of the Official Code of Georgia Annotated, relating to evidence, is amended by revising subsection (b) of Code Section 24-6-603, relating to oath or affirmation, as follows:

"(b) Notwithstanding the provisions of subsection (a) of this Code section, in all proceedings involving ~~deprivation~~ dependency as defined by Code Section 15-11-2 and in all criminal proceedings in which a child was a victim of or witness to any crime, the child shall be competent to testify, and the child's credibility shall be determined as provided in this chapter."

SECTION 3-37.

Said title is further amended by revising subsection (q) of Code Section 24-12-21, relating to disclosure of AIDS confidential information, as follows:

"(q) A public safety agency or prosecuting attorney may obtain the results from an HIV test to which the person named in the request has submitted under Code Section ~~15-11-66.1~~ 15-11-603, 17-10-15, 42-5-52.1, or 42-9-42.1, notwithstanding that the results may be contained in a sealed record."

SECTION 3-38.

Code Section 31-22-9.2 of the Official Code of Georgia Annotated, relating to HIV tests and reports of positive results, is amended by revising subsection (c) as follows:

"(c) Unless exempted under this Code section, each health care provider who orders an HIV test for any person shall do so only after counseling the person to be tested. Unless exempted under this subsection, the person to be tested shall have the opportunity to refuse the test. The provisions of this subsection shall not be required if the person is required to submit to an HIV test pursuant to Code Section ~~15-11-66.1~~ 15-11-603, 17-10-15, 31-17-4.2, 31-17A-3, 42-5-52.1, or 42-9-42.1. The provisions of this subsection shall not be required if the person is a minor or incompetent and the parent or guardian thereof permits the test after compliance with this subsection. The provisions of this subsection shall not be required if the person is unconscious, temporarily incompetent, or comatose and the next of kin permits the test after compliance with this subsection. The provisions of this subsection shall not apply to emergency or life-threatening situations. The provisions of this subsection shall not apply if the physician ordering the test is of the opinion that the person to be tested is in such a medical or emotional state that disclosure of the test would be injurious to the

person's health. The provisions of this subsection shall only be required prior to drawing the body fluids required for the HIV test and shall not be required for each test performed upon that fluid sample."

SECTION 3-39.

Title 35 of the Official Code of Georgia Annotated, relating to law enforcement officers and agencies, is amended by revising subsection (c) of Code Section 35-3-33, relating to powers and duties of the Georgia Crime Information Center, as follows:

"(c) The provisions of this article notwithstanding, information and records of children shall only be inspected and disclosed as provided in Code Sections ~~15-11-82~~ 15-11-702 and ~~15-11-83~~ 15-11-708. Such records and information shall be sealed or destroyed according to the procedures outlined in Code Sections ~~15-11-79.2~~ 15-11-701 and ~~15-11-81~~ 15-11-709."

SECTION 3-40.

Said title is further amended by revising subparagraph (B) of paragraph (7) of Code Section 35-8-2, relating to definitions regarding peace officers, as follows:

"(B) The Office of Permits and Enforcement of the Department of Transportation, the Department of Juvenile Justice and its institutions and facilities for the purpose of personnel who are authorized to exercise the power of arrest and who are employed or appointed by said department or institutions, and the office or section in the Department of Juvenile Justice in which persons are assigned who have been designated by the commissioner to investigate and apprehend ~~unruly and~~ delinquent children and any child with a pending juvenile court case alleging the child to be in need of services; and"

SECTION 3-41.

Code Section 36-32-10 of the Official Code of Georgia Annotated, relating to jurisdiction in cases of furnishing alcoholic beverages, is amended by revising subsection (e) as follows:

"(e) Nothing in this Code section shall affect the original and exclusive jurisdiction of the juvenile court as set forth in Code Section ~~15-11-28~~ 15-11-10."

SECTION 3-42.

Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is amended by revising subsection (g) of Code Section 40-5-75, relating to suspension of licenses by operation of law, as follows:

"(g) Notwithstanding the provisions of Code Section ~~15-11-72~~ 15-11-606 and except as provided in subsection (c) of this Code section, an adjudication of a minor child as a delinquent child ~~or an unruly child~~ for any offense listed in subsection (a) of this Code section shall be deemed a conviction for purposes of this Code section."

SECTION 3-43.

Said title is further amended by revising subsection (l) of Code Section 40-6-391, relating to driving under the influence of alcohol, drugs, or other intoxicating substances, as follows:

"(l) A person who violates this Code section while transporting in a motor vehicle a child under the age of 14 years is guilty of the separate offense of endangering a child by driving under the influence of alcohol or drugs. The offense of endangering a child by driving under the influence of alcohol or drugs shall not be merged with the offense of driving under the influence of alcohol or drugs for the purposes of prosecution and sentencing. An offender who is convicted of a violation of this subsection shall be punished in accordance with the provisions of subsection (d) of Code Section 16-12-1~~, relating to the offense of contributing to the delinquency, unruliness, or deprivation of a child~~."

SECTION 3-44.

Code Section 44-5-41 of the Official Code of Georgia Annotated, relating to voidance and ratification of conveyance to or by a minor, is revised as follows:

"44-5-41.

A deed, security deed, bill of sale to secure debt, or any other conveyance of property or interest in property to or by a minor is voidable unless such minor has become emancipated by operation of law or pursuant to Article ~~6~~ 11 of Chapter 11 of Title 15. If a minor has conveyed property or an interest in property, the minor may void the conveyance upon arrival at the age of 18; and, if the minor makes another conveyance at that time, it will void the first conveyance without reentry or repossession. If property or an interest in property has been conveyed to a minor and, after arrival at the age of 18, the minor retains the possession or benefit of the property or interest in property, the minor shall have thereby ratified or affirmed the conveyance."

SECTION 3-45.

Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees, is amended by revising paragraph (7) of Code Section 45-9-81, relating to definitions regarding certain indemnification, as follows:

"(7) 'Law enforcement officer' means any agent or officer of this state, a political subdivision or municipality of this state, or an authority of this state or a political subdivision of this state who, as a full-time or part-time employee, is vested either expressly by law or by virtue of public employment or service with authority to enforce the criminal or traffic laws with the power of arrest and whose duties include the preservation of public order, the protection of life and property, or the prevention, detection, or investigation of crime. Such term also includes the employees designated by the commissioner of juvenile justice ~~of the Department of Juvenile Justice~~ pursuant to paragraph (2) of subsection (i) of Code Section 49-4A-8, which employees have the duty to investigate and apprehend delinquent ~~and unruly~~ children and any child with a pending juvenile court case alleging the child to be in need of

services who ~~have~~ has escaped from a facility under the jurisdiction of the Department of Juvenile Justice or who ~~have~~ has broken the conditions of supervision. Such term also includes members of the Georgia National Guard, the composition of which is set forth in Code Section 38-2-3, who have been called into active state service by the Governor."

SECTION 3-46.

Said title is further amended by revising paragraph (7) of Code Section 45-9-101, relating to definitions regarding certain compensation, as follows:

"(7) 'Law enforcement officer' means any agent or officer of this state, or a political subdivision or municipality thereof, who, as a full-time or part-time employee, is vested either expressly by law or by virtue of public employment or service with authority to enforce the criminal or traffic laws and whose duties include the preservation of public order, the protection of life and property, or the prevention, detection, or investigation of crime. Such term also includes the employees designated by the commissioner of juvenile justice ~~of the Department of Juvenile Justice~~ pursuant to paragraph (2) of subsection (i) of Code Section 49-4A-8, which employees have the duty to investigate and apprehend delinquent ~~and unruly~~ children and any child with a pending juvenile court case alleging the child to be in need of services who ~~have~~ has escaped from a facility under the jurisdiction of the Department of Juvenile Justice or who ~~have~~ has broken the conditions of supervision. Such term also includes members of the Georgia National Guard, the composition of which is set forth in Code Section 38-2-3, who have been called into active state service by the Governor."

SECTION 3-47.

Said title is further amended by revising subsection (a) of Code Section 45-20-1, relating to purposes and principles of personnel administration, as follows:

"(a) It is the purpose of this article to establish in the state a system of personnel administration which will attract, select, and retain the best employees based on merit, free from coercive political influences, with incentives in the form of equal opportunities for all; which will provide technically competent and loyal personnel to render impartial service to the public at all times and to render such service according to the dictates of ethics and morality; and which will remove unnecessary and inefficient employees. It is specifically the intent of the General Assembly to promote this purpose by allowing agencies greater flexibility in personnel management so as to promote the overall effectiveness and efficiency of state government. To this end, and in accordance with Code Sections 45-20-2 and 45-20-6, all positions filled after July 1, 1996, shall be included in the unclassified service of the State Personnel Administration, except as provided in Code Section ~~15-11-24.3~~ 15-11-68. It is also specifically the intent of the General Assembly that employees in the classified service prior to July 1, 1996, shall continue to be employees in the classified service so long as they remain in classified positions or as otherwise provided by law. It is further

specifically the intent of the General Assembly that state government operate within a framework of consistent core personnel policies and practices across all state agencies and entities and that the state's most valued resource, its employees, be managed in a manner to promote work force productivity and sound business practices."

SECTION 3-48.

Said title is further amended by revising subsection (a) of Code Section 45-20-6, relating to composition of classified and unclassified service, as follows:

"(a) The classified service as defined by Code Section 45-20-2 shall consist of only those employees who were in the classified service on June 30, 1996, and who have remained in a classified position without a break in service since that date. Any officer or employee who occupies a classified position under the State Personnel Administration prior to July 1, 1996, or as provided in Code Section ~~15-11-24.3~~ 15-11-68 shall remain in the classified service so long as such officer or employee shall remain in a classified position or as otherwise provided by law. Employees in the classified service shall have, upon completing a working test period, appeal rights as provided in Code Sections 45-20-8 and 45-20-9."

SECTION 3-49.

Title 49 of the Official Code of Georgia Annotated, relating to social services, is amended by revising paragraph (3) of Code Section 49-4A-1, relating to definitions regarding the Department of Juvenile Justice, as follows:

"(3) 'Delinquent ~~or unruly~~ child or youth or a child in need of services' means any person so adjudged under Article ~~1~~ 6 or 7 of Chapter 11 of Title 15."

SECTION 3-50.

Said title is further amended by revising subsection (b) of Code Section 49-4A-2, relating to the creation of the Board of Juvenile Justice, as follows:

"(b) The board shall provide leadership in developing programs to successfully rehabilitate ~~juvenile delinquents and unruly~~ children adjudicated delinquent or in need of services committed to the state's custody and to provide technical assistance to private and public entities for prevention programs for children at risk."

SECTION 3-51.

Said title is further amended by revising Code Section 49-4A-4, relating to purpose of chapter, as follows:

"49-4A-4.

It is the purpose of this chapter to establish the department as the agency to administer, supervise, and manage juvenile detention facilities. Except for the purposes of administration, supervision, and management as provided in this chapter, juvenile detention facilities shall continue to be detention care facilities for delinquent ~~and unruly~~ children and youth and children in need of services who have violated a valid

court order for the purposes of Article ~~1~~ 6 or 7 of Chapter 11 of Title 15~~, relating to juvenile courts and juvenile proceedings~~."

SECTION 3-52.

Said title is further amended by revising paragraphs (1) and (2) of subsection (a) and the introductory language of subsection (b) of Code Section 49-4A-7, relating to powers and duties of the department, as follows:

"(1) Accept for detention in a youth development center or other juvenile detention facility any child who is committed to the department under Article ~~1~~ 7 of Chapter 11 of Title 15;

(2) Provide probation and parole and other court services for children and youth pursuant to a request from a court under Article ~~1~~ 7 of Chapter 11 of Title 15;"

"(b) When given legal custody over a child or youth for detention in a youth development center or other facility under court order under Article ~~1~~ 7 of Chapter 11 of Title 15, the department shall have:"

SECTION 3-53.

Said title is further amended by revising Code Section 49-4A-8, relating to commitment of delinquent or unruly children, as follows:

"49-4A-8.

(a) When any child or youth is adjudged to be in a state of delinquency ~~or unruliness~~ or a child in need of services who has violated a valid court order under Article ~~1~~ 6 or 7 of Chapter 11 of Title 15 and the court does not release such child or youth unconditionally or place him or her on probation or in a suitable public or private institution or agency, the court may commit ~~him~~ such child to the department as provided in said Article ~~1~~ 6 or 7 of Chapter 11 of Title 15; provided, however, that no delinquent ~~or unruly~~ child or youth or child in need of services who has violated a valid court order shall be committed to the department until the department certifies to the Governor that it has facilities available and personnel ready to assume responsibility for delinquent ~~or unruly~~ children and youths and children in need of services who have violated a valid court order.

(b) When the court commits a delinquent ~~or unruly~~ child or a child in need of services who has violated a valid court order to the department, it may order the child conveyed forthwith to any facility designated by the department or direct that the child be left at liberty until otherwise ordered by the department under such conditions as will ensure his or her availability and submission to any orders of the department. If such delinquent ~~or unruly~~ child or child in need of services who has violated a valid court order is ordered conveyed to the department, the court shall assign an officer or other suitable person to convey such child to any facility designated by the department, provided that the person assigned to convey a girl must be a female. The cost of conveying such child committed to the department to the facility designated by the department shall be paid by the county from which such child is committed, provided

that no compensation shall be allowed beyond the actual and necessary expenses of the party conveying and the child conveyed.

(c) When a court commits a delinquent ~~or unruly~~ child or a child in need of services who has violated a valid court order to the department, the court shall at once forward to the department a certified copy of the order of commitment and the court, the probation officer, the prosecuting and police authorities, the school authorities, and other public officials shall make available to the department all pertinent information in their possession with respect to the case. Such reports shall, if the department so requests, be made upon forms furnished by the department or according to an outline provided by the department.

(d)(1) When a delinquent ~~or unruly~~ child or a child in need of services who has violated a valid court order has been committed to the department, the department shall, under rules and regulations established by the board, forthwith examine and study the child and investigate all pertinent circumstances of his or her life and behavior. The department shall make periodic reexaminations of all ~~delinquent or unruly~~ such children within its control, except those on release under supervision of the department. Such reexaminations may be made as frequently as the department considers desirable and shall be made with respect to every child at intervals not exceeding one year. Failure of the department to examine ~~a delinquent or unruly child~~ such a child committed to it or to reexamine him or her within one year of a previous examination shall not of itself entitle the child to discharge from control of the department but shall entitle the child to petition the committing court for an order of discharge; and the court shall discharge him or her unless the department, upon due notice, satisfies the court of the necessity of further control.

(2) The department shall keep written records of all examinations and reexaminations, of conclusions based thereon, and of all orders concerning the disposition or treatment of every delinquent ~~or unruly~~ child and every child in need of services who has violated a valid court order subject to its control. Records as may be maintained by the department with respect to a delinquent ~~or unruly~~ child or a child in need of services who has violated a valid court order committed to the department shall not be public records but shall be privileged records and may be disclosed by direction of the commissioner pursuant to federal law in regard to disseminating juvenile criminal history records only to those persons having a legitimate interest therein; provided, however, that the commissioner shall permit the Council of Juvenile Court Judges to inspect and copy such records for the purposes of obtaining statistics on juveniles.

(e) Except as provided by subsection (e.1) of this Code section and subsection ~~(b)~~ (c) of Code Section ~~15-11-70~~ 15-11-602, when a delinquent ~~or unruly~~ child or a child in need of services who has violated a valid court order has been committed to the department for detention and a diagnostic study for the purpose of determining the most satisfactory plan for the child's care and treatment has been completed, the department may:

(1) Permit the child liberty under supervision and upon such conditions as the department may believe conducive to acceptable behavior;

(2) Order the child's confinement under such conditions as the department may believe best designed to serve the child's welfare and as may be in the best interest of the public;

(3) Order reconfinement or renewed release as often as conditions indicate to be desirable;

(4) Revoke or modify any order of the department affecting the child, except an order of final discharge, as often as conditions indicate to be desirable; or

(5) Discharge the child from control of the department pursuant to Code Section 15-11-32 and subsection ~~(a)~~ (c) of Code Section ~~15-11-70~~ 15-11-607 when it is satisfied that such discharge will best serve the child's welfare and the protection of the public.

(e.1)(1) When a child who has been adjudicated delinquent for the commission of a designated felony act as defined in Code Section ~~15-11-63~~ 15-11-2 is released from confinement or custody of the department, it shall be the responsibility of the department to provide notice to any person who was the victim of the child's delinquent acts that the child is being released from confinement or custody.

(2) As long as a good faith attempt to comply with paragraph (1) of this subsection has been made, the department and employees of the department shall not be liable for damages incurred by reason of the department's failure to provide the notice required by paragraph (1) of this subsection.

(3) When a child convicted of a felony offense in a superior court is released from confinement or custody of the department, the department shall provide written notice, including the delinquent or designated felony act committed, to the superintendent of the school system in which such child was enrolled or, if the information is known, the school in which such child was enrolled or plans to be enrolled.

(4) As long as a good faith attempt to comply with paragraph (3) of this subsection has been made, the department and employees of the department shall not be liable for damages incurred by reason of the department's failure to provide notice required by paragraph (3) of this subsection.

(f) As a means of correcting the socially harmful tendencies of a delinquent ~~or unruly~~ child or a child in need of services who has violated a valid court order committed to it, the department may:

(1) Require participation by youth in moral, academic, vocational, physical, and correctional training and activities, and provide youth the opportunity for religious activities where practicable in the institutions under the control and supervision of the department;

(2) Require such modes of life and conduct as may seem best adapted to fit and equip him or her for return to full liberty without danger to the public;

(3) Provide such medical, psychiatric, or casework treatment as is necessary; or

(4) Place him or her, if physically fit, in a park, maintenance camp, or forestry camp or on a ranch owned by the state or by the United States and require any child so

housed to perform suitable conservation and maintenance work, provided that the children shall not be exploited and that the dominant purpose of such activities shall be to benefit and rehabilitate the children rather than to make the camps self-sustaining.

(g) When funds are available, the department may:

(1) Establish and operate places for detention and diagnosis of all delinquent ~~or unruly~~ children or children in need of services who have violated a valid court order committed to it;

(2) Establish and operate additional treatment and training facilities, including parks, forestry camps, maintenance camps, ranches, and group residences necessary to classify and handle juvenile delinquents of different ages and habits and different mental and physical conditions, according to their needs; and

(3) Establish parole or aftercare supervision to aid children given conditional release to find homes and employment and otherwise to assist them to become reestablished in the community and to lead socially acceptable lives.

(h) Whenever the department finds that any ~~delinquent or unruly~~ child committed to the department is mentally ill or ~~mentally retarded~~ developmentally disabled, the department shall have the power to return such ~~delinquent or unruly~~ child to the court of original jurisdiction for appropriate disposition by that court or may, if it so desires, request the court having jurisdiction in the county in which the youth development center or other facility is located to take such action as the condition of the child may require.

(i)(1) A child who has been committed to the department ~~as a delinquent or unruly child~~ for detention in a youth development center or who has been otherwise taken into custody and who has escaped therefrom or who has been placed under supervision and broken the conditions thereof may be taken into custody without a warrant by a sheriff, deputy sheriff, constable, police officer, probation officer, parole officer, or any other officer of this state authorized to serve criminal process, upon a written request made by an employee of the department having knowledge of the escape or of the violation of conditions of supervision. Before a child may be taken into custody for violation of the conditions of supervision, the written request mentioned above must be reviewed by the commissioner or his or her designee. If the commissioner or his or her designee finds that probable cause exists to believe that the child has violated his or her conditions of supervision, he or she may issue an order directing that the child be picked up and returned to custody.

(2) The commissioner may designate as a peace officer who is authorized to exercise the power of arrest any employee of the department whose full-time duties include the preservation of public order, the protection of life and property, the detection of crime, or the supervision of delinquent ~~and unruly~~ children or children in need of services who have violated a valid court order in its institutions, facilities, or programs, or any employee who is a line supervisor of any such employee. The commissioner also may designate as a peace officer who is authorized to exercise the power of arrest any employee of a person or organization which contracts with the

department pertaining to the management, custody, care, and control of delinquent children or children in need of services who have violated a valid court order retained by the person or organization, if that employee's full-time duties include the preservation of public order, the protection of life and property, the detection of crime, or the supervision of delinquent ~~and unruly~~ children or children in need of services who have violated a valid court order in the department's institutions, facilities, or programs, or any employee who is a line supervisor of such employee. The commissioner may designate one or more employees of the department to investigate and apprehend delinquent ~~and unruly~~ children or children in need of services who have violated a valid court order who have escaped from an institution or facility or who have broken the conditions of supervision; provided, however, that the employees so designated shall only be those with primary responsibility for the security functions of youth development centers or whose primary duty consists of the apprehension of youths who have escaped from such institutions or facilities or who have broken the conditions of supervision. An employee of the department so designated shall have the police power to investigate, to apprehend such children, and to arrest any person physically interfering with the proper apprehension of such children. An employee of the department so designated in the investigative section of the department shall have the power to obtain a search warrant for the purpose of locating and apprehending such children. Additionally, such employee, while on the grounds or in the buildings of the department's institutions or facilities, shall have the same law enforcement powers, including the power of arrest, as a law enforcement officer of the local government with police jurisdiction over such institutions or facilities. Such employee shall be authorized to carry weapons, upon written approval of the commissioner, notwithstanding Code Sections 16-11-126 and 16-11-129. The commissioner shall also be authorized to designate any person or organization with whom the department contracts for services pertaining to the management, custody, care, and control of delinquent ~~and unruly~~ children or children in need of services who have violated a valid court order detained by the person or organization as a law enforcement unit under paragraph (7) of Code Section 35-8-2. Any employee or person designated under this subsection shall be considered to be a peace officer within the meaning of Chapter 8 of Title 35 and must be certified under that chapter.

(3) For the purposes of investigation of delinquent ~~or unruly~~ children or children in need of services who have violated a valid court order who have escaped from institutions or facilities of the department or of delinquent ~~or unruly~~ children or children in need of services who have violated a valid court order who are alleged to have broken the conditions of supervision, the department is empowered and authorized to request and receive from the Georgia Crime Information Center, established by Chapter 3 of Title 35, any information in the files of the Georgia Crime Information Center which will aid in the apprehension of such children.

(4) An employee designated pursuant to paragraph (2) of this subsection may take a child into custody without a warrant upon personal knowledge or written request of a person having knowledge of the escape or violation of conditions of supervision, or a

child may be taken into custody pursuant to Code Section ~~15-11-45~~ 15-11-501. When taking a child into custody pursuant to this paragraph, a designated employee of the department shall have the power to use all force reasonably necessary to take the child into custody.

(5) The child shall be kept in custody in a suitable place designated by the department and there detained until such child may be returned to the custody of the department.

(6) Such taking into custody shall not be termed an arrest; provided, however, that any person taking a child into custody pursuant to this subsection shall have the same immunity from civil and criminal liability as a peace officer making an arrest pursuant to a valid warrant.

(j) The department shall ensure that each delinquent ~~or unruly~~ child or child in need of services who has violated a valid court order it releases under supervision or otherwise has suitable clothing, transportation to his or her home or to the county in which a suitable home or employment has been found for him or her, and such an amount of money as the rules and regulations of the board may authorize. The expenditure for clothing and for transportation and the payment of money to a delinquent ~~or unruly~~ child or a child in need of services who has violated a valid court order released may be made from funds for support and maintenance appropriated by the General Assembly to the department or to the institution from which such child is released or from local funds.

(k) Every child committed to the department as delinquent ~~or unruly~~, if not already discharged, shall be discharged from custody of the department when he reaches his or her twenty-first birthday.

(l) Commitment of a ~~delinquent or unruly~~ child to the custody of the department shall not operate to disqualify such child in any future examination, appointment, or application for public service under the government either of the state or of any political subdivision thereof.

(m) A commitment to the department shall not be received in evidence or used in any way in any proceedings in any court, except in subsequent proceedings for delinquency or ~~unruliness~~ being in need of services involving the same child and except in imposing sentence in any criminal proceeding against the same person.

(n) The department shall conduct a continuing inquiry into the effectiveness of treatment methods it employs in seeking the rehabilitation of maladjusted children. To this end, the department shall maintain a statistical record of arrests and commitments of its wards subsequent to their discharge from the jurisdiction and control of the department and shall tabulate, analyze, and publish in print or electronically annually these data so that they may be used to evaluate the relative merits of methods of treatment. The department shall cooperate with courts and public and private agencies in the collection of statistics and information regarding juvenile delinquency; arrests made; complaints, informations, and petitions filed; the disposition made thereof; and other information useful in determining the amount and causes of juvenile delinquency in this state. In order to facilitate the collection of such information, the department

shall be authorized to inspect and copy all records of the court and law enforcement agencies pertaining to juveniles.

(o) When a child who is committed to the department is under court order to make certain restitution as a part of his or her treatment by the court, the requirement that the restitution be paid in full shall not cease with the order of commitment. The provision of the order requiring restitution shall remain in force and effect during the period of commitment and the department is empowered to enforce said restitution requirement and to direct that payment of funds or notification of service completed be made to the clerk of the juvenile court or another employee of that court designated by the judge."

SECTION 3-54.

Said title is further amended by revising subsection (b) of Code Section 49-4A-9, relating to sentence of youthful offenders, as follows:

"(b) Any final order of judgment by the court in the case of any such child shall be subject to such modification from time to time as the court may consider to be for the welfare of such child. No commitment of any child to any institution or other custodial agency shall deprive the court of jurisdiction to change the form of the commitment or transfer the custody of the child to some other institution or agency on such conditions as the court may see fit to impose, the duty being constant upon the court to give to all children subject to its jurisdiction such oversight and control in the premises as will be conducive to the welfare of the child and the best interests of the state; provided, however, that the release or parole of any child committed to the department for detention in any of its institutions under the terms of this chapter during the period of one year from the date of commitment shall be had only with the concurrence and recommendation of the commissioner or the commissioner's designated representative; provided, further, that upon releasing or paroling any child adjudicated delinquent for the commission of a designated felony act as defined in Code Section ~~15-11-63~~ 15-11-2 and committed to the department for detention in any of its institutions under the terms of this chapter, the department shall provide notice to any person who was the victim of the child's delinquent acts that the child is being released or paroled. As long as a good faith attempt to comply with the notice requirement of this subsection has been made, the department and employees of the department shall not be liable for damages incurred by reason of the department's failure to provide the notice required by this subsection."

SECTION 3-55.

Said title is further amended by revising paragraphs (3), (5), (12), and (16) of Code Section 49-5-3, relating to definitions regarding services for children and youth, as follows:

"(3) 'Child welfare and youth services' means duties and functions authorized or required by this article to be provided by the department with respect to:

(A) Establishment and enforcement of standards for social services and facilities for children and youths which supplement or substitute for parental care and

supervision for the purpose of preventing or remedying or assisting in the solution of problems which may result in neglect, abuse, exploitation, or delinquency of children and youths;

(B) Protecting and caring for ~~deprived~~ dependent children and youths;

(C) Protecting and promoting the welfare of children of working mothers;

(D) Providing social services to children and youths and their parents and care for children and youths born out of wedlock and their mothers;

(E) Promotion of coordination and cooperation among organizations, agencies, and citizen groups in community planning, organization, development, and implementation of such services; and

(F) Otherwise protecting and promoting the welfare of children and youths, including the strengthening of their homes where possible or, where needed, the provision of adequate care of children and youths away from their homes in foster family homes or day-care or other child care facilities."

"(5) '~~Deprived~~ Dependent child or youth' means any person so adjudged under Chapter 11 of Title 15."

"(12) 'Legal custody' means a legal status created by court order embodying the following rights and responsibilities:

(A) The right to have the physical possession of the child;

(B) The right and the duty to protect, train, and discipline the child;

(C) The responsibility to provide the child with food, clothing, shelter, education, and ordinary medical care; and

(D) The right to determine where and with whom the child shall live,

provided that these rights and responsibilities shall be exercised subject to the powers, rights, duties, and responsibilities of the guardian of the person of the child and subject to any residual parental rights and responsibilities. These rights shall be subject to judicial oversight and review pursuant to Code Section ~~15-11-55~~ 15-11-212."

"(16) 'Protective supervision' means a legal status created by court order following adjudication in a ~~deprivation~~ dependency case, whereby a child's place of abode is not changed but assistance directed at correcting the ~~deprivation~~ dependency is provided through the court or an agency designated by the court."

SECTION 3-56.

Said title is further amended by revising paragraphs (1) and (2) of subsection (a) of Code Section 49-5-8, relating to powers and duties of the department, as follows:

"(1) Preventive services as follows:

(A) Collecting and disseminating information about the problems of children and youths and providing consultative assistance to groups, public and private, interested in developing programs and services for the prevention, control, and treatment of dependency~~, deprivation,~~ and delinquency among the children of this state; and

(B) Research and demonstration projects designed to add to the store of information about the social and emotional problems of children and youths and improve the methods for dealing with these problems;

(2) Child welfare services as follows:

(A) Casework services for children and youths and for mothers bearing children out of wedlock, whether living in their own homes or elsewhere, to help overcome problems that result in dependency~~, deprivation,~~ or delinquency;

(B) Protective services that will investigate complaints of ~~deprivation,~~ abuse~~,~~ or abandonment of children and youths by parents, guardians, custodians, or persons serving in loco parentis and, on the basis of the findings of such investigation, offer social services to such parents, guardians, custodians, or persons serving in loco parentis in relation to the problem or bring the situation to the attention of a law enforcement agency, an appropriate court, or another community agency;

(C) Supervising and providing required services and care involved in the interstate placement of children;

(D) Homemaker service, or payment of the cost of such service, when needed due to the absence or incapacity of the mother;

(E) Boarding care, or payment of maintenance costs, in foster family homes or in group-care facilities for children and youths who cannot be adequately cared for in their own homes;

(F) Boarding care or payment of maintenance costs for mothers bearing children out of wedlock prior to, during, and for a reasonable period after childbirth; and

(G) Day-care services for the care and protection of children whose parents are absent from the home or unable for other reasons to provide parental supervision;"

SECTION 3-57.

Said title is further amended by revising subsection (e) of Code Section 49-5-41, relating to persons and agencies permitted access to records, as follows:

"(e) Notwithstanding any other provisions of law, with the exception of medical and mental health records made confidential by other provisions of law, child abuse and ~~deprivation~~ dependency records applicable to a child who at the time of his or her fatality or near fatality was:

(1) In the custody of a state department or agency or foster parent;

(2) A child as defined in paragraph (3) of Code Section ~~15-11-171~~ 15-11-741; or

(3) The subject of an investigation, report, referral, or complaint under Code Section ~~15-11-173~~ 15-11-743

shall not be confidential and shall be subject to Article 4 of Chapter 18 of Title 50, relating to open records; provided, however, that any identifying information, including but not limited to the child or caretaker's name, race, ethnicity, address, or telephone numbers and any other information that is privileged or confidential, shall be redacted to preserve the confidentiality of the child, other children in the household, and the child's parents, guardians, custodians, or caretakers. Upon the release of documents pursuant to this subsection, the department may comment publicly on the case."

SECTION 3-58.

Said title is further amended by revising paragraph (3) of Code Section 49-5-60, relating to definitions for employee record checks for day-care centers, as follows:

"(3) 'Crime' means any felony; a violation of Code Section 16-5-23~~, relating to simple battery,~~ when the victim is a minor; a violation of Code Section 16-12-1~~, relating to contributing to the delinquency of a minor~~; a violation of Chapter 6 of Title 16, ~~relating to sexual offenses,~~ excluding the offenses of bigamy or marrying a bigamist; a violation of Code Section 16-4-1~~, relating to criminal attempt~~ when the crime attempted is any of the crimes specified by this paragraph; or any other offenses committed in another jurisdiction which, if committed in this state, would be one of the enumerated crimes listed in this paragraph."

SECTION 3-59.

Said title is further amended by revising paragraph (2) of Code Section 49-5-110, relating to definitions for record checks for persons supervising children, as follows:

"(2) 'Crime' means a violation of Code Section 16-5-23~~, relating to simple battery,~~ when the victim is a minor; a violation of Code Section 16-5-24~~, relating to aggravated battery,~~ when the victim is a minor; a violation of Code Section 16-5-70~~, relating to cruelty to children~~; a violation of Code Section 16-12-1~~, relating to contributing to the delinquency of a minor~~; a violation of Chapter 6 of Title 16, ~~relating to sexual offenses,~~ excluding the offenses of bigamy or marrying a bigamist; a felony violation of Chapter 13 of Title 16; a violation of Code Section 16-5-1~~, relating to murder and felony murder~~; a violation of Code Section 16-4-1~~, relating to criminal attempt~~ as it concerns attempted murder; or any other offense committed in another jurisdiction which, if committed in this state, would be deemed to be one of the enumerated crimes listed in this paragraph."

SECTION 3-60.

Said title is further amended by revising paragraph (2) of Code Section 49-5-131, relating to definitions, as follows:

"(2) 'Child' means a person under the age of 17 years <u>who is alleged to have committed a delinquent act</u> or a person under the age of 18 years who is alleged to be ~~deprived~~ <u>dependent</u> or is alleged to be a ~~status offender~~ <u>child in need of services</u> as those terms are defined by Code Section 15-11-2."

SECTION 3-61.

Said title is further amended by revising paragraphs (15) and (18) of subsection (a) of Code Section 49-5-281, relating to bill of rights for foster parents, as follows:

"(15) The right to participate in the case planning and decision-making process with the Division of Family and Children Services regarding the child as provided in Code Section ~~15-11-58~~ <u>15-11-201</u>;"

"(18) The right to be notified in advance, in writing, by the Division of Family and Children Services or the court of any hearing or review where the case plan or

permanency of the child is an issue, including initial and periodic reviews held by the court in accordance with Code Section 15-11-216 or by the Judicial Citizen Review Panel in accordance with Code Section 15-11-217, hearings following revocation of the license of an agency which has permanent custody of a child in accordance with Code Section 31-2-6, and permanency plan hearings~~, and motions to extend custody, in accordance with Code Section 15-11-58~~ in accordance with Code Section 15-11-230;"

SECTION 3-62.

Code Section 52-7-12 of the Official Code of Georgia Annotated, relating to operation of watercraft while under the influence of alcohol or drugs, is amended by revising subsection (l) as follows:

"(l) A person who violates this Code section while transporting in a moving vessel or personal watercraft or towing on water skis, an aquaplane, a surfboard or similar device a child under the age of 14 years is guilty of the separate offense of endangering a child by operating a moving vessel or personal watercraft under the influence of alcohol or drugs. The offense of endangering a child by operating a moving vessel or personal watercraft under the influence of alcohol or drugs shall not be merged with the offense of operating a vessel under the influence of alcohol or drugs for the purposes of prosecution and sentencing. An offender who is convicted of a violation of this subsection shall be punished in accordance with the provisions of subsection (d) of Code Section 16-12-1~~, relating to the offense of contributing to the delinquency, unruliness, or deprivation of a child~~."

PART IV
EFFECTIVE DATE, APPLICABILITY, AND REPEALER
SECTION 4-1.

This Act shall become effective on July 1, 2013, and shall apply to all juvenile proceedings commenced on and after such date. The enactment of this Act shall not affect any prosecutions for acts occurring before July 1, 2013, and shall not act as an abatement of any such prosecutions.

SECTION 4-2.

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

The report of the Committee, which was favorable to the passage of the Bill, by substitute, was agreed to.

On the passage of the Bill, by substitute, the roll call was ordered and the vote was as follows:

Y Abdul-Salaam
Y Abrams
Y Allison
Y Amerson
Y Anderson
Y Ashe
Y Atwood
Y Baker
Y Battles
Y Beasley-Teague
Y Bell
Y Benfield
Y Benton
Y Beverly
Y Black
Y Braddock
Y Brockway
Y Brooks
Y Bruce
Y Bryant
Y Buckner
Y Burns
Y Byrd
Y Carson
Y Carter
Y Casas
Y Channell
Y Cheokas
Y Clark, J
Y Clark, V
Y Coleman
Y Collins
Y Cooke
Y Coomer
Y Cooper
Y Crawford
Y Davis
Y Dawkins-Haigler
Y Dempsey
Y Dickerson
Y Dickey
Y Dickson
Y Dobbs
Y Dollar
Y Drenner
Y Dudgeon
Y Dukes
Y Dunahoo
Y Dutton
Ehrhart
Y England
Y Epps, C
Y Epps, J
E Evans
Y Floyd
Y Fludd
Y Frazier
Y Fullerton
Y Gardner
Y Geisinger
Y Golick
Y Gordon
Y Greene
Y Hamilton
Y Hanner
Y Harbin
Y Harden, B
Y Harden, M
Y Harrell
Y Hatchett
Y Hatfield
Y Heard
Y Heckstall
Y Hembree
Y Henson
Y Hightower
Y Hill
Y Holcomb
Y Holmes
Y Holt
Y Horne
Y Houston
Y Howard
Y Hudson
Y Hugley
Y Jackson
Y Jacobs
Y James
Y Jasperse
Y Jerguson
Y Johnson
Y Jones, J
Y Jones, S
Y Jordan
Y Kaiser
Y Kendrick
E Kidd
Y Knight
Y Lane
Y Lindsey
Long
Y Maddox, B
Y Maddox, G
Y Manning
Y Marin
Y Martin
Y Maxwell
Y Mayo
Y McBrayer
Y McCall
Y McKillip
Y Meadows
Y Mitchell
Y Morgan
Y Morris
Y Mosby
Y Murphy
Y Neal, J
Y Neal, Y
Y Nimmer
Y Nix
Y Oliver
Y O'Neal
Y Pak
Y Parent
Y Parrish
Y Parsons
Y Peake
Y Powell, A
Y Powell, J
Y Pruett
Y Purcell
Y Ramsey
Y Randall
Y Reece
Y Rice
Y Riley
Y Roberts
Y Rogers, C
Y Rogers, T
Y Rynders
Y Scott, M
Y Scott, S
Y Setzler
Y Shaw
Y Sheldon
Y Sims, B
Y Sims, C
Y Smith, E
Y Smith, K
Y Smith, L
Y Smith, R
E Smith, T
Y Smyre
Y Spencer
Y Stephens, M
Y Stephens, R
Y Stephenson
Y Talton
Y Tankersley
Y Taylor, D
Y Taylor, R
Y Taylor, T
Y Teasley
Y Thomas
VACANT
Y Waites
Y Watson
Y Welch
Y Weldon
Y Wilkerson
E Wilkinson
Y Willard
Y Williams, A
Y Williams, C
Y Williams, E
Y Williams, R
Y Williamson
Y Yates
Ralston, Speaker

On the passage of the Bill, by substitute, the ayes were 172, nays 0.

The Bill, having received the requisite constitutional majority, was passed, by substitute.

Representative Long of the 61st stated that he had been called from the floor of the House during the preceding roll call. He wished to be recorded as voting "aye" thereon.

HB 289. By Representatives Welch of the 110th and Knight of the 126th:

A BILL to be entitled an Act to amend Part 1 of Article 2 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to ad valorem tax exemptions, so as to revise a definition; to provide for related matters; to repeal conflicting laws; and for other purposes.

The following Committee substitute was read and adopted:

A BILL TO BE ENTITLED
AN ACT

To amend Part 1 of Article 2 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to ad valorem tax exemptions, so as to change certain provisions relating to population brackets and the census relative to definitions regarding certain tax exemptions; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Part 1 of Article 2 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to ad valorem tax exemptions, is amended by revising subparagraph (L) of paragraph (3) of Code Section 48-5-40, relating to definitions, as follows:

"(L) In all counties having a population of not less than ~~19,200~~ 23,500 nor more than ~~19,750~~ 23,675, according to the United States decennial census of ~~2000~~ 2010 or any future such census, where the person who is the applicant holds real property subject to a written lease; the applicant has held the property subject to such a lease for not less than three years prior to the year for which application is made; and the applicant is the owner of all improvements located on the real property;"

SECTION 2.

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

The report of the Committee, which was favorable to the passage of the Bill, by substitute, was agreed to.

On the passage of the Bill, by substitute, the roll call was ordered and the vote was as follows:

Y Abdul-Salaam	Y Davis	Y Heckstall	Y McBrayer	Y Shaw
Y Abrams	Y Dawkins-Haigler	Y Hembree	Y McCall	Y Sheldon
Y Allison	Y Dempsey	Y Henson	Y McKillip	E Sims, B
Y Amerson	Y Dickerson	Y Hightower	Y Meadows	Y Sims, C
Y Anderson	Y Dickey	Y Hill	Y Mitchell	Y Smith, E
Y Ashe	Y Dickson	Y Holcomb	Y Morgan	Y Smith, K
Y Atwood	Y Dobbs	Y Holmes	Y Morris	Y Smith, L
Y Baker	Y Dollar	Y Holt	Y Mosby	Y Smith, R
Y Battles	Y Drenner	Y Horne	Y Murphy	Y Smith, T
Beasley-Teague	Y Dudgeon	E Houston	Y Neal, J	Y Smyre
Y Bell	Y Dukes	Y Howard	Y Neal, Y	Y Spencer
Y Benfield	Y Dunahoo	Y Hudson	Y Nimmer	Y Stephens, M
Y Benton	Y Dutton	Y Hugley	Y Nix	E Stephens, R

Y Beverly	Ehrhart	Y Jackson	Y Oliver	Y Stephenson
Y Black	Y England	Y Jacobs	Y O'Neal	Y Talton
Y Braddock	Y Epps, C	Y James	Y Pak	Y Tankersley
Y Brockway	Y Epps, J	Y Jasperse	Y Parent	Y Taylor, D
Y Brooks	E Evans	Y Jerguson	E Parrish	Y Taylor, R
Y Bruce	Y Floyd	Y Johnson	Y Parsons	Y Taylor, T
Y Bryant	Fludd	Y Jones, J	Y Peake	Y Teasley
Y Buckner	Y Frazier	Y Jones, S	Y Powell, A	Y Thomas
Y Burns	Y Fullerton	Y Jordan	Y Powell, J	VACANT
Y Byrd	Y Gardner	Y Kaiser	Y Pruett	Y Waites
Y Carson	Y Geisinger	Y Kendrick	Y Purcell	Y Watson
Y Carter	Y Golick	E Kidd	Y Ramsey	Y Welch
Y Casas	Y Gordon	Y Knight	Y Randall	Y Weldon
E Channell	Y Greene	Y Lane	Y Reece	Y Wilkerson
Y Cheokas	Y Hamilton	Y Lindsey	Y Rice	E Wilkinson
Y Clark, J	Y Hanner	Long	Y Riley	Willard
Y Clark, V	Y Harbin	Y Maddox, B	Y Roberts	Y Williams, A
Y Coleman	Y Harden, B	Y Maddox, G	Y Rogers, C	Y Williams, C
Y Collins	Y Harden, M	Y Manning	Y Rogers, T	Y Williams, E
Y Cooke	Y Harrell	Y Marin	Y Rynders	Y Williams, R
Y Coomer	Y Hatchett	Y Martin	Y Scott, M	Y Williamson
Y Cooper	Y Hatfield	Y Maxwell	Y Scott, S	Y Yates
Y Crawford	Y Heard	Y Mayo	Y Setzler	Ralston, Speaker

On the passage of the Bill, by substitute, the ayes were 165, nays 0.

The Bill, having received the requisite constitutional majority, was passed, by substitute.

HB 954. By Representatives McKillip of the 115th, Collins of the 27th, England of the 108th, Hamilton of the 23rd, Sheldon of the 105th and others:

A BILL to be entitled an Act to amend Article 5 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to abortion, so as to change certain provisions relating to criminal abortion; to change certain provisions relating to when abortion is legal; to amend Title 31 of the Official Code of Georgia Annotated, relating to health, so as to define certain terms; to require a determination of gestational age prior to abortion; to provide for certain reporting requirements with respect to performance of abortions; to state legislative findings; to provide for other related matters; to provide effective dates; to repeal conflicting laws; and for other purposes.

The following Committee substitute was read and adopted:

A BILL TO BE ENTITLED
AN ACT

To amend Article 5 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to abortion, so as to change certain provisions relating to criminal abortion; to change certain provisions relating to when abortion is legal; to amend Title 31 of the Official Code of Georgia Annotated, relating to health, so as to define certain terms; to require a determination of gestational age prior to abortion; to provide for certain reporting requirements with respect to performance of abortions; to change certain provisions relating to definitions relative to the "Woman's Right to Know Act"; to state legislative findings; to provide for other related matters; to provide effective dates; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

The General Assembly makes the following findings:

(1) At least by 20 weeks after fertilization there is substantial evidence that an unborn child has the physical structures necessary to experience pain;

(2) There is substantial evidence that, by 20 weeks after fertilization, unborn children seek to evade certain stimuli in a manner which in an infant or an adult would be interpreted as a response to pain;

(3) Anesthesia is routinely administered to unborn children who have developed 20 weeks or more past fertilization who undergo prenatal surgery;

(4) Even before 20 weeks after fertilization, unborn children have been observed to exhibit hormonal stress responses to painful stimuli. Such responses were reduced when pain medication was administered directly to such unborn children; and

(5) It is the purpose of the State of Georgia to assert a compelling state interest in protecting the lives of unborn children from the stage at which substantial medical evidence indicates that they are capable of feeling pain.

SECTION 2.

Article 5 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to abortion, is amended by revising Code Sections 16-12-140 and 16-12-141, relating to criminal abortion and when abortion is legal, respectively, as follows:

"16-12-140.

(a) ~~Except as otherwise provided in Code Section 16-12-141, a~~ A person commits the offense of criminal abortion when, in violation of Code Section 16-12-141, he or she administers any medicine, drugs, or other substance whatever to any woman or when he or she uses any instrument or other means whatever upon any woman with intent to produce a miscarriage or abortion.

(b) A person convicted of the offense of criminal abortion shall be punished by imprisonment for not less than one nor more than ten years.

16-12-141.

(a) ~~Nothing in this article shall be construed to prohibit an abortion performed by a physician duly licensed to practice medicine and surgery pursuant to Chapter 34 of Title 43, based upon his or her best clinical judgment that an abortion is necessary, except that Code Section 16-12-144 is a prohibition of a particular abortion method which shall apply to both duly licensed physicians and laypersons~~. No abortion is authorized or shall be performed in violation of subsection (a) of Code Section 31-9B-2.

(b)(1) No abortion is authorized or shall be performed after the first trimester unless the abortion is performed in a licensed hospital, in a licensed ambulatory surgical center, or in a health facility licensed as an abortion facility by the Department of Community Health.

(2) An abortion shall only be performed by a physician licensed under Article 2 of Chapter 34 of Title 43.

(c)(1) No abortion is authorized or shall be performed ~~after the second trimester~~ if the probable gestational age of the unborn child has been determined in accordance with Code Section 31-9B-2 to be 20 weeks or more unless ~~the physician and two consulting physicians certify that~~ in reasonable medical judgment the abortion is necessary ~~in their best clinical judgment to preserve the life or health of the woman~~ to:

(A) Avert the death of the pregnant woman or avert serious risk of substantial and irreversible physical impairment of a major bodily function of the pregnant woman. No such condition shall be deemed to exist if it is based on a diagnosis or claim of a mental or emotional condition of the pregnant woman or that the pregnant woman will purposefully engage in conduct which she intends to result in her death or in substantial and irreversible physical impairment of a major bodily function; or

(B) Preserve the life of an unborn child.

As used in this paragraph, the term 'probable gestational age of the unborn child' has the meaning provided by Code Section 31-9B-1.

(2) In any case described in subparagraph (A) or (B) of paragraph (1) of this subsection, the physician shall terminate the pregnancy in the manner which, in reasonable medical judgment, provides the best opportunity for the unborn child to survive unless, in reasonable medical judgment, termination of the pregnancy in that manner would pose a greater risk either of the death of the pregnant woman or of the substantial and irreversible physical impairment of a major bodily function of the pregnant woman than would another available method. No such greater risk shall be deemed to exist if it is based on a diagnosis or claim of a mental or emotional condition of the pregnant woman or that the pregnant woman will purposefully engage in conduct which she intends to result in her death or in substantial and irreversible physical impairment of a major bodily function. If the ~~product of the abortion~~ child is capable of ~~meaningful or~~ sustained life, medical aid then available must be rendered.

(d) ~~The performing physician shall file with the commissioner of public health within ten days after an abortion procedure is performed a certificate of abortion containing such statistical data as is determined by the Department of Public Health consistent with preserving the privacy of the woman.~~ Hospital or other licensed health facility records shall be available to the district attorney of the judicial circuit in which the hospital or health facility is located."

SECTION 3.

Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by adding a new Chapter 9B to read as follows:

"CHAPTER 9B

31-9B-1.

(a) As used in this chapter, the term:

(1) 'Abortion' has the meaning provided by Code Section 31-9A-2.

(2) 'Medical emergency' has the meaning provided by Code Section 31-9A-2.

(3) 'Physician' has the meaning provided by Code Section 31-9A-2.

(4) 'Probable gestational age of the unborn child' means what will, in reasonable medical judgment and with reasonable probability, be the postfertilization age of the unborn child at the time the abortion is planned to be performed or induced, as dated from the time of fertilization of the human ovum.

(5) 'Reasonable medical judgment' means a medical judgment that would be made by a reasonably prudent physician, knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.

(6) 'Unborn child' has the meaning provided by Code Section 31-9A-2.

31-9B-2.

(a) Except in the case of a medical emergency, no abortion shall be performed or attempted to be performed unless the physician performing it has first made a determination of the probable gestational age of the unborn child or relied upon such a determination made by another physician.

(b) Failure by any physician to conform to any requirement of this Code section constitutes unprofessional conduct for purposes of paragraph (7) of subsection (a) of Code Section 43-34-8 relating to medical licensing sanctions.

31-9B-3.

(a) Any physician who performs or attempts to perform an abortion shall report to the department, in conjunction with the reports required under Code Section 31-9A-6 and in accordance with forms and rules and regulations adopted and promulgated by the department:

(1) If a determination of probable gestational age was made, the probable gestational age determined and the method and basis of the determination;

(2) If a determination of probable gestational age was not made, the basis of the determination that a medical emergency existed;

(3) If the probable gestational age was determined to be 20 or more weeks, the basis of the determination that the pregnant woman had a condition which so complicated her medical condition as to necessitate the termination of her pregnancy to avert her death or to avert serious risk of substantial and irreversible physical impairment of a major bodily function, or the basis of the determination that it was necessary to preserve the life of an unborn child; and

(4) The method used for the abortion and, in the case of an abortion performed when the probable gestational age was determined to be 20 or more weeks, whether the method of abortion used was one that, in reasonable medical judgment, provided the best opportunity for the unborn child to survive or, if such a method was not used, the basis of the determination that termination of the pregnancy in that manner would pose a greater risk either of the death of the pregnant woman or of the substantial and irreversible physical impairment of a major bodily function of the pregnant woman than would other available methods.

(b) By June 30 of each year, the department shall issue a public report providing statistics for the previous calendar year compiled from all of the reports covering that year submitted in accordance with this Code section for each of the items listed in subsection (a) of this Code section. Each such report shall also provide the statistics for all previous calendar years during which this Code section was in effect, adjusted to reflect any additional information from late or corrected reports. The department shall take care to ensure that none of the information included in the public reports could reasonably lead to the identification of any pregnant woman upon whom an abortion was performed.

(c) Any physician who fails to submit a report by the end of the grace period of 30 days following the due date shall be subject to sanctions as specified in subsection (e) of Code Section 31-9A-6.

(d) The department shall adopt such rules and regulations as are reasonable and necessary to implement the provisions of this Code section."

SECTION 4.

Said title is further amended by revising paragraph (2) of Code Section 31-9A-2, relating to definitions relative to the "Woman's Right to Know Act," as follows:

"(2) ~~'Medical emergency' means any condition which, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of a pregnant female as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create serious risk of substantial or irreversible impairment of a major bodily function.~~ 'Medical emergency' means any condition which, in reasonable medical judgment, so complicates the medical condition of a pregnant female as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create serious risk of substantial or irreversible impairment of a major bodily function of the pregnant woman or death of the unborn child. No such

condition shall be deemed to exist if it is based on a diagnosis or claim of a mental or emotional condition of the pregnant woman or that the pregnant woman will purposefully engage in conduct which she intends to result in her death or in substantial and irreversible physical impairment of a major bodily function."

SECTION 5.

For purposes of promulgating rules and regulations, this Act shall become effective upon approval by the Governor or upon its becoming law without such approval. For all other purposes, this Act shall become effective on January 1, 2013.

SECTION 6.

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

The report of the Committee, which was favorable to the passage of the Bill, by substitute, was agreed to.

On the passage of the Bill, by substitute, the roll call was ordered and the vote was as follows:

N Abdul-Salaam	Y Davis	N Heckstall	Y McBrayer	Y Shaw
N Abrams	E Dawkins-Haigler	Y Hembree	Y McCall	Y Sheldon
Y Allison	Y Dempsey	N Henson	Y McKillip	Y Sims, B
Y Amerson	N Dickerson	Y Hightower	Y Meadows	E Sims, C
Y Anderson	Y Dickey	Y Hill	N Mitchell	N Smith, E
N Ashe	Y Dickson	N Holcomb	N Morgan	N Smith, K
Y Atwood	N Dobbs	Y Holmes	Y Morris	Y Smith, L
N Baker	Y Dollar	Y Holt	N Mosby	N Smith, R
Y Battles	N Drenner	Y Horne	N Murphy	Y Smith, T
N Beasley-Teague	Y Dudgeon	Y Houston	Y Neal, J	N Smyre
N Bell	N Dukes	N Howard	N Neal, Y	Y Spencer
N Benfield	Y Dunahoo	N Hudson	Y Nimmer	N Stephens, M
N Benton	Y Dutton	N Hugley	Y Nix	E Stephens, R
N Beverly	Ehrhart	Jackson	N Oliver	N Stephenson
Y Black	Y England	N Jacobs	Y O'Neal	Y Talton
Y Braddock	Epps, C	N James	Y Pak	Y Tankersley
Y Brockway	Y Epps, J	Y Jasperse	N Parent	Y Taylor, D
N Brooks	E Evans	Y Jerguson	N Parrish	N Taylor, R
N Bruce	N Floyd	Y Johnson	N Parsons	N Taylor, T
N Bryant	N Fludd	Y Jones, J	Y Peake	Y Teasley
N Buckner	N Frazier	N Jones, S	Y Powell, A	N Thomas
Y Burns	N Fullerton	N Jordan	N Powell, J	VACANT
Y Byrd	N Gardner	N Kaiser	Y Pruett	N Waites
Y Carson	Y Geisinger	N Kendrick	Y Purcell	Y Watson
Y Carter	Y Golick	E Kidd	Y Ramsey	Y Welch
Y Casas	N Gordon	Y Knight	N Randall	Y Weldon
N Channell	Y Greene	Y Lane	Y Reece	N Wilkerson
Y Cheokas	Y Hamilton	Y Lindsey	Y Rice	E Wilkinson
Y Clark, J	Y Hanner	N Long	Y Riley	N Willard
Y Clark, V	Y Harbin	Y Maddox, B	Y Roberts	N Williams, A
Y Coleman	Y Harden, B	Y Maddox, G	Y Rogers, C	Y Williams, C

Y Collins	Y Harden, M	Y Manning	Y Rogers, T	N Williams, E
Y Cooke	Y Harrell	N Marin	Y Rynders	Y Williams, R
Y Coomer	Y Hatchett	Y Martin	Y Scott, M	Y Williamson
E Cooper	Y Hatfield	Y Maxwell	N Scott, S	Y Yates
Y Crawford	Heard	N Mayo	Y Setzler	Ralston, Speaker

On the passage of the Bill, by substitute, the ayes were 102, nays 65.

The Bill, having received the requisite constitutional majority, was passed, by substitute.

Due to a mechanical malfunction, the vote of Representative Heard of the 114th was not recorded on the preceding roll call. He wished to be recorded as voting "nay" thereon.

Representative McKillip of the 115th asked unanimous consent that HB 954 be immediately transmitted to the Senate.

It was so ordered.

Representative Dickson of the 6th moved that the following Bill of the House be withdrawn from the Committee on Appropriations and recommitted to the Committee on Education:

HB 1178. By Representatives Dickson of the 6th, England of the 108th and Coleman of the 97th:

A BILL to be entitled an Act to amend Code Section 28-5-42 of the Official Code of Georgia Annotated, relating to introduction of bills having significant impact upon anticipated revenues or expenditures and furnishing of fiscal notes, so as to require a ten-year projection of costs for bills which would create a new program or funding category and which would have a significant impact upon anticipated revenues or expenditures of the Department of Education; to provide for related matters; to repeal conflicting laws; and for other purposes.

The motion prevailed.

Representative O'Neal of the 146th moved that the House do now adjourn until 10:00 o'clock, A.M., Monday, March 5, 2012, and the motion prevailed.

Pursuant to the adjournment Resolution previously adopted by the House and Senate, the Speaker announced the House adjourned until 10:00 o'clock, A.M., Monday, March 5, 2012.